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AB-1817 Family law omnibus. (2019-2020)

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Assembly Bill No. 1817

CHAPTER 115

An act to amend Sections 70, 216, 297.1, 298, 298.6, 304, 306.5, 400, 422, 781, 1102, 1615, 1816, 2024.7, 2033, 2034, 2040, 2102, 2104, 2106, 2124, 2610, 3011, 3012, 3025.5, 3027.5, 3041, 3042, 3044, 3047, 3048, 3105, 3110.5, 3111, 3115, 3118, 3180, 3192, 3651, 3664, 3691, 3751, 4014, 4053, 4059, 4063, 4076, 4205, 4251, 4325, 4330, 4331, 4351, 4400, 5246, 5601, 5603, 5611, 6228, 6275, 6302, 6303, 6306, 6320.5, 6323, 6343, 6345, 6380, 6381, 6383, 6389, 6404, 6454, 6750, 6752, 6924, 6929, 6930, 7120, 7541, 7554, 7572, 7573.5, 7574, 7577, 7580, 7611, 7613, 7613.5, 7630, 7635.5, 7643, 7646, 7648, 7662, 7663, 7664, 7666, 7667, 7822, 7825, 7851, 7882, 7901, 7911.1, 7950, 7960, 7962, 8502, 8545, 8603, 8604, 8606.5, 8613.7, 8619.5, 8620, 8625, 8632.5, 8700, 8700.5, 8712, 8715, 8730, 8800, 8801, 8801.3, 8801.5, 8811, 8814, 8814.5, 8908, 8920, 9000, 9101, 9203, 9205, 9208, 10005, 10014, 17000, 17212, 17300, 17309.5, 17400, 17400.5, 17404, 17404.1, 17406, 17416, 17422, 17430, 17433, 17450, 17514, 17518, 17520, 17522, 17525, 17528, 17530, 17550, 17552, 17600, 17602, 17703, 17801, 17803, 20026, and 20034 of the Family Code, relating to family law.

[Approved by Governor July 12, 2019. Filed with Secretary of State July 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1817, Committee on Judiciary. Family law omnibus.

(1) Existing law establishes a Domestic Violence Restraining Order System for purposes of registering restraining and protective orders and injunctions, as specified, which is administered by the Department of Justice.

This bill would rename the Domestic Violence Restraining Order System the California Restraining and Protective Order System.

(2) Existing law authorizes a court to issue various ex parte orders, including, among other orders, orders excluding a party from a dwelling or enjoining a party from specified behavior. Existing law authorizes a court to issue an ex parte order granting temporary sole legal and physical custody to a party to whom a restraining order has been issued when the person obtaining the order has established a parent and child relationship and the other person has not established that relationship. Existing law authorizes the person against whom the order was issued to establish a parent and child relationship only by offering specified means of proof, including a determination of paternity made in a proceeding to determine custody or visitation in a case brought by the district attorney in a child support enforcement action.

This bill, instead, would provide that paternity, for purposes of establishing a parent and child relationship for an ex parte order of temporary sole legal and physical custody, may be established by a determination of paternity made in a proceeding to determine custody or visitation in a case brought by the local child enforcement agency in a child support enforcement action.

(3) The Uniform Parentage Act defines the parent and child relationship as the legal relationship existing between a child and the child's parents, and provides rebuttable presumptions as to the parentage of a child born under certain circumstances, including that the child of spouses who cohabited at the time of conception is conclusively presumed to be the child of the marriage. Existing law requires an action to challenge parentage to be filed not later than 2 years from the child's date of birth if the court finds that the spouse who is a presumed parent on the basis of cohabitation with the birth parent at the time of conception is not a genetic parent.

This bill would require the action to challenge parentage in this case to be both filed and served within 2 years of the child's date of birth.

(4) Existing law regulates marriage, dissolution of marriage, custody of children, adoption, child support, and other aspects of family law.

This bill would make technical, nonsubstantive changes to those provisions, particularly relating to the elimination of gendered pronouns in the Family Code.

This bill would incorporate additional changes to Section 3011 of the Family Code proposed by SB 495 to be operative only if this bill and SB 495 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 70 of the Family Code is amended to read:

70. (a) "Date of separation" means the date that a complete and final break in the marital relationship has occurred, as evidenced by both of the following:

(1) The spouse has expressed to the other spouse the intent to end the marriage.

(2) The conduct of the spouse is consistent with the intent to end the marriage.

(b) In determining the date of separation, the court shall take into consideration all relevant evidence.

(c) It is the intent of the Legislature in enacting this section to abrogate the decisions in *In re Marriage of Davis* (2015) 61 Cal.4th 846 and *In re Marriage of Norviel* (2002) 102 Cal.App.4th 1152.

SEC. 2. Section 216 of the Family Code is amended to read:

216. (a) In the absence of a stipulation by the parties to the contrary, there shall be no ex parte communication between the attorneys for any party to an action and any court-appointed or court-connected evaluator or mediator, or between a court-appointed or court-connected evaluator or mediator and the court, in any proceedings under this code, except with regard to the scheduling of appointments.

(b) There shall be no ex parte communications between counsel appointed by the court pursuant to Section 3150 and a court-appointed or court-connected evaluator or mediator, except when it is expressly authorized by the court or undertaken pursuant to paragraph (5) of subdivision (c) of Section 3151.

(c) Subdivisions (a) and (b) shall not apply in the following situations:

(1) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Sections 3113, 3181, and 3192.

(2) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Rule 5.215 of the California Rules of Court.

(3) If the mediator or evaluator determines that ex parte communication is needed to inform the court of the mediator's or evaluator's belief that a restraining order is necessary to prevent an imminent risk to the physical safety of the child or the party.

(d) This section shall not be construed to limit the responsibilities a mediator or evaluator may have as a mandated reporter pursuant to Section 11165.9 of the Penal Code or the responsibilities a mediator or evaluator have to warn under *Tarasoff v. Regents of the University of California* (1976) 17 Cal.3d 425, *Hedlund v. Superior Court* (1983) 34 Cal.3d 695, and Section 43.92 of the Civil Code.

(e) The Judicial Council shall, by July 1, 2006, adopt a rule of court to implement this section.

SEC. 3. Section 297.1 of the Family Code is amended to read:

297.1. (a) A person under 18 years of age who, together with the other proposed domestic partner, otherwise meets the requirements for a domestic partnership other than the requirement of being at least 18 years of age, may establish a domestic partnership upon obtaining a court order granting permission to the underage person or persons to establish a domestic partnership.

(b) (1) The court order and written consent of the parents of each person under 18 years of age or of one of the parents or the guardian of each person under 18 years of age, except as provided in paragraph (2), shall be filed with the clerk of the court, and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

(2) If it appears to the satisfaction of the court by application of a person under 18 years of age that the person requires a written consent to establish a domestic partnership and that the minor has no parent or guardian, or has no parent or guardian capable of consenting, the court may make an order consenting to establishing the domestic partnership. The order shall be filed with the clerk of the court and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

(3) Notwithstanding any other law, immediately after the Secretary of State creates or updates the document described in Section 298.8 using the information required for the document and that is contained in a certified copy of a court order filed with the Secretary of State with the Declaration of Domestic Partnership pursuant to this subdivision, the Secretary of State may dispose of the certified copy of the court order.

(c) In determining whether to issue a court order granting permission to establish a domestic partnership, the court shall do all of the following:

(1) Require Family Court Services to separately interview the parties intending to establish a domestic partnership and, if applicable, at least one of the parents or the guardian of each party who is a minor. If more than one parent or guardian is interviewed, the parents or guardians shall be interviewed separately.

(2) Require Family Court Services to prepare and submit to the court a written report, containing any assessment of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to the intended domestic partnership. The report shall also contain recommendations of Family Court Services for either granting or denying the parties permission to establish a domestic partnership. If Family Court Services knows or reasonably suspects that either party is a victim of child abuse or neglect, Family Court Services shall submit a report of the known or suspected child abuse or neglect to the county child protective services agency.

(3) After receiving the report of the assessments of Family Court Services, as described in paragraph (2), separately interview in camera each of the parties prior to making a final determination regarding the court order.

(4) Consider whether there is evidence of coercion or undue influence on the minor.

(d) If the court issues an order granting the parties permission to establish a domestic partnership, and if one or both of the parties are 17 years of age or younger, the parties shall be eligible to file a Declaration of Domestic Partnership with the Secretary of State no earlier than 30 days from the time the court order was issued.

(e) As part of the court order granting permission to establish a domestic partnership, the court shall, if it considers it necessary, require the parties to the prospective domestic partnership of a minor to participate, before the domestic partnership is established, in counseling concerning social, economic, and personal responsibilities incident to the domestic partnership. The parties shall not be required to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

(f) (1) Only for purposes of completing the document described in Section 298.8, and not for purposes of making a determination regarding the court order, the gender of each party intending to establish a domestic partnership, if provided, shall be documented on the court order granting permission to establish the domestic partnership.

(2) The date of birth of each party intending to establish a domestic partnership shall also be documented on the court order granting permission to establish the domestic partnership.

(g) Upon issuance of the order granting permission to establish a domestic partnership, the minor shall be provided with the following information:

(1) The rights and responsibilities of an emancipated minor, including, but not limited to, the effects of emancipation as described in Chapter 2 (commencing with Section 7050) of Part 6 of Division 11.

(2) (A) The circumstances under which a domestic partnership may be determined by a court to be void or voidable and adjudged a nullity and the procedure for obtaining that judicial determination.

(B) The procedures for termination of a domestic partnership.

(3) Telephone numbers for the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(4) The conditions under which an unemancipated minor may leave home and seek to remain in a shelter or otherwise live separately from the minor's parent or guardian, and whether the consent or acquiescence of a parent or guardian is required to remain away from the home of the parent or guardian, the rights of an unemancipated minor to apply for a protective or restraining order to prevent abuse, and the rights of a minor to enter into contracts, including contracts for legal services and mental health counseling.

(h) (1) Subdivisions (c) and (d) do not apply to a minor who is 17 years of age and who has achieved a high school diploma or a high school equivalency certificate.

(2) Subdivision (d) does not apply to a minor who is 16 or 17 years of age and who is pregnant or whose prospective domestic partner is pregnant.

SEC. 4. Section 298 of the Family Code is amended to read:

298. (a) (1) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(2) When funding allows, the Secretary of State shall include on the form notice that a lesbian, gay, bisexual, and transgender specific domestic abuse brochure is available upon request.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(3) There is hereby established a fee of twenty-three dollars (\$23) to be charged in addition to the existing fees established by regulation to persons filing domestic partner registrations pursuant to Section 297 for development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence, conducted pursuant to Section 13823.15 of the Penal Code, and for the support of a grant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and transgender community. This paragraph does not apply to persons of opposite sexes filing a domestic partnership registration and who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297.

(4) The fee established by paragraph (3) shall be deposited in the Equality in Prevention and Services for Domestic Abuse Fund, which is hereby established. The fund shall be administered by the Office of Emergency Services, and expenditures from the fund shall be used to support the purposes of paragraph (3).

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that the person meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that the person consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge the signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

(d) The Declaration of Domestic Partnership form shall contain an optional section for either party or both parties to indicate a change in name pursuant to Section 298.6. The optional section shall require a party indicating a change in name to provide the party's date of birth.

SEC. 5. Section 298.6 of the Family Code is amended to read:

298.6. (a) Parties to a registered domestic partnership shall not be required to have the same name. Neither party shall be required to change their name. A person's name shall not change upon registration as a domestic partner unless that person elects to change their name pursuant to subdivision (b).

(b) (1) One party or both parties to a registered domestic partnership may elect to change the middle or last names by which that party wishes to be known after registration of the domestic partnership by entering the new name in the space provided on the Declaration of Domestic Partnership form without intent to defraud.

(2) A person may adopt any of the following middle or last names pursuant to paragraph (1):

(A) The current last name of the other domestic partner.

(B) The last name of either domestic partner given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either domestic partner given at birth.

(D) A hyphenated combination of last names.

(3) (A) An election by a person to change their name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of the Certificate of Registered Domestic Partnership containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a Certificate of Registered Domestic Partnership shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) This section does not prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a document that is substantially equivalent to a Certificate of Registered Domestic Partnership that records either of the following:

(i) A legal union of two persons that was validly formed in another jurisdiction and is recognized as a valid domestic partnership in this state pursuant to Section 299.2.

(ii) A legal union of domestic partners as defined by a local jurisdiction pursuant to Section 299.6.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(4) The adoption of a new name, or the choice not to adopt a new name, by means of a Declaration of Domestic Partnership pursuant to paragraph (1) shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) This section does not abrogate the common law right of a person to change their name, or the right of a person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

SEC. 6. Section 304 of the Family Code is amended to read:

304. (a) In determining whether to issue a court order granting permission to marry pursuant to Section 302 or 303, the court shall do all of the following:

(1) Require Family Court Services to separately interview the parties intending to marry and, if applicable, at least one of the parents or the guardian of each party who is a minor. If more than one parent or guardian is interviewed, the parents or guardians shall be interviewed separately.

(2) Require Family Court Services to prepare and submit to the court a written report, containing any assessment of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to the intended marriage. The report shall also contain recommendations of Family Court Services for either granting or denying the parties permission to marry. If Family Court Services knows or reasonably suspects that either party is a victim of child abuse or neglect, Family Court Services shall submit a report of the known or suspected child abuse or neglect to the county child protective services agency.

(3) After receiving the report of the assessments of Family Court Services, as described in paragraph (2), separately interview in camera each of the parties prior to making a final determination regarding the court order.

(4) Consider whether there is evidence of coercion or undue influence on the minor.

(b) If the court issues an order granting the parties permission to marry pursuant to Section 302 or 303, and if one or both of the parties are 17 years of age or younger, the parties shall be eligible to request a marriage license no earlier than 30 days from the time the court order was issued.

(c) As part of the court order granting permission to marry under Section 302 or 303, the court shall, if it considers it necessary, require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage. The parties shall not be required to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of premarital counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

(d) (1) Only for purposes of completing the document described in Section 102233 of the Health and Safety Code, and not for purposes of making a determination regarding the court order, the gender of each party intending to marry, if provided, shall be documented on the court order granting permission to marry.

(2) The date of birth of each party intending to marry shall also be documented on the court order granting permission to marry.

(3) For purposes of the requirements on the person solemnizing the marriage under subdivision (b) of Section 423, and the requirements on the local registrar under subdivision (a) of Section 102356 of the Health and Safety Code, the court shall provide parties who are granted permission to marry with a copy of the court order granting permission to marry.

(e) Upon issuance of the order granting permission to marry, the minor shall be provided with the following information:

(1) The rights and responsibilities of an emancipated minor, including, but not limited to, the effects of emancipation as described in Chapter 2 (commencing with Section 7050) of Part 6 of Division 11.

(2) (A) The circumstances under which a marriage may be determined by a court to be void or voidable and adjudged a nullity and the procedure for obtaining that judicial determination.

(B) The procedures for legal separation or dissolution of marriage.

(3) Telephone numbers for the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(4) The conditions under which an unemancipated minor may leave home and seek to remain in a shelter or otherwise live separately from the minor's parent or guardian, and whether the consent or acquiescence of a parent or guardian is required to remain away from the home of the parent or guardian, the rights of an unemancipated minor to apply for a protective or restraining order to prevent abuse, and the rights of a minor to enter into contracts, including contracts for legal services and mental health counseling.

(f) (1) Subdivisions (a) and (b) do not apply to a minor who is 17 years of age and who has achieved a high school diploma or a high school equivalency certificate.

(2) Subdivision (b) does not apply to a minor who is 16 or 17 years of age and who is pregnant or whose prospective spouse is pregnant.

SEC. 7. Section 306.5 of the Family Code is amended to read:

306.5. (a) Parties to a marriage shall not be required to have the same name. Neither party shall be required to change their name. A person's name shall not change upon marriage unless that person elects to change their name pursuant to subdivision (b).

(b) (1) One party or both parties to a marriage may elect to change the middle or last names, or both, by which that party wishes to be known after solemnization of the marriage by entering the new name in the spaces provided on the marriage license application without intent to defraud.

(2) A person may adopt any of the following last names pursuant to paragraph (1):

(A) The current last name of the other spouse.

(B) The last name of either spouse given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either spouse given at birth.

(D) A combination of last names.

(3) A person may adopt any of the following middle names pursuant to paragraph (1):

(A) The current last name of either spouse.

(B) The last name of either spouse given at birth.

(C) A combination of the current middle name and the current last name of the person or spouse.

(D) A combination of the current middle name and the last name given at birth of the person or spouse.

(4) (A) An election by a person to change their name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of a marriage certificate containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a marriage certificate shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) This section does not prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a marriage outside of this state.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(5) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate shall not be amended to add a new name or change the name adopted pursuant to paragraph (1). An amendment may be issued to correct a clerical error in the new name fields on the marriage license. In this instance, the amendment shall be signed by one of the parties to the marriage and the county clerk or a deputy clerk, and the reason for the amendment shall be stated as correcting a clerical error. A clerical error as used in this part is an error made by the county clerk, a deputy clerk, or a notary authorized to issue confidential marriage licenses, whereby the information shown in the new name field does not match the information shown on the marriage license application. This requirement does not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) This section does not abrogate the common law right of a person to change their name, or the right of a person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

SEC. 8. Section 400 of the Family Code is amended to read:

400. (a) Although marriage is a personal relation arising out of a civil, and not a religious, contract, a marriage may be solemnized by a priest, minister, rabbi, or authorized person of any religious denomination who is 18 years of age or older. A person authorized by this subdivision shall not be required to solemnize a marriage that is contrary to the tenets of the person's faith. Refusal to solemnize a marriage under this subdivision, either by an individual or by a religious denomination, shall not affect the tax-exempt status of any entity.

(b) Consistent with Section 94.5 of the Penal Code and provided that any compensation received is reasonable, including payment of actual expenses, a marriage may also be solemnized by any of the following persons:

(1) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state.

(2) A judge or magistrate who has resigned from office.

(3) Any of the following judges or magistrates of the United States:

(A) A justice or retired justice of the United States Supreme Court.

(B) A judge or retired judge of a court of appeals, a district court, or a court created by an act of the United States Congress the judges of which are entitled to hold office during good behavior.

(C) A judge or retired judge of a bankruptcy court or a tax court.

(D) A United States magistrate or retired magistrate.

(c) Except as provided in subdivision (d), a marriage may also be solemnized by any of the following persons who are 18 years of age or older:

(1) A Member of the Legislature or constitutional officer of this state or a Member of Congress of the United States who represents a district within this state, or a former Member of the Legislature or constitutional officer of this state or a former Member of Congress of the United States who represented a district within this state.

(2) A person that holds or formerly held an elected office of a city, county, or city and county.

(3) A city clerk of a charter city or serving in accordance with subdivision (b) of Section 36501 of the Government Code, while that person holds office.

(d) (1) A person listed in subdivision (c) shall not accept compensation for solemnizing a marriage while holding office.

(2) A person listed in subdivision (c) shall not solemnize a marriage pursuant to this section if they have been removed from office due to committing an offense or have been convicted of an offense that involves moral turpitude, dishonesty, or fraud.

SEC. 9. Section 422 of the Family Code is amended to read:

422. The person solemnizing a marriage shall sign and print or type upon the marriage license a statement, in the form prescribed by the State Department of Public Health, showing all of the following:

(a) The fact, date (month, day, year), and place (city and county) of solemnization.

(b) The printed names, signatures, and mailing addresses of at least one, and no more than two, witnesses to the ceremony.

(c) The official position of the person solemnizing the marriage, or of the denomination of which that person is a priest, minister, rabbi, or other authorized person of any religious denomination.

(d) The person solemnizing the marriage shall also type or print their name and mailing address.

SEC. 10. Section 781 of the Family Code is amended to read:

781. (a) Money or other property received or to be received by a married person in satisfaction of a judgment for damages for personal injuries, or pursuant to an agreement for the settlement or compromise of a claim for those damages, is the separate property of the injured person if the cause of action for the damages arose as follows:

(1) After the entry of a judgment of dissolution of a marriage or legal separation of the parties.

(2) While the injured spouse is living separate from the other spouse.

(b) Notwithstanding subdivision (a), if the spouse of the injured person has paid expenses by reason of the personal injuries from separate property or from the community property, the spouse is entitled to reimbursement of the separate property or the community property for those expenses from the separate property received by the injured person under subdivision (a).

(c) Notwithstanding subdivision (a), if one spouse has a cause of action against the other spouse that arose during the marriage of the parties, money or property paid or to be paid by or on behalf of a party to the party's spouse of that marriage in satisfaction of a judgment for damages for personal injuries to that spouse, or pursuant to an agreement for the settlement or compromise of a claim for the damages, is the separate property of the injured spouse.

SEC. 11. Section 1102 of the Family Code is amended to read:

1102. (a) Except as provided in Sections 761 and 1103, either spouse has the management and control of the community real property, whether acquired prior to, or on or after January 1, 1975, but both spouses, either personally or by a duly authorized agent, are required to join in executing an instrument by which that community real property or an interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered.

(b) This section does not apply to a lease, mortgage, conveyance, or transfer of real property, or of an interest in real property, between spouses.

(c) Notwithstanding subdivision (b), both of the following shall apply:

(1) The sole lease, contract, mortgage, or deed of the husband, holding the record title to community real property, to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if executed prior to January 1, 1975.

(2) The sole lease, contract, mortgage, or deed of either spouse, holding the record title to community real property to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation, shall be presumed to be valid if executed on or after January 1, 1975.

(d) An action to avoid an instrument mentioned in this section, affecting any property standing of record in the name of either spouse alone, executed by the spouse alone, shall not be commenced after the expiration of one year from the filing for record of that instrument in the recorder's office in the county in which the land is situated.

(e) This section does not preclude either spouse from encumbering that spouse's interest in community real property, as provided in Section 2033, to pay reasonable attorney's fees in order to retain or maintain legal counsel in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.

SEC. 12. Section 1615 of the Family Code is amended to read:

1615. (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves either of the following:

(1) That party did not execute the agreement voluntarily.

(2) The agreement was unconscionable when it was executed and, before execution of the agreement, all of the following applied to that party:

(A) That party was not provided a fair, reasonable, and full disclosure of the property or financial obligations of the other party.

(B) That party did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided.

(C) That party did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

(c) For the purposes of subdivision (a), it shall be deemed that a premarital agreement was not executed voluntarily unless the court finds in writing or on the record all of the following:

(1) The party against whom enforcement is sought was represented by independent legal counsel at the time of signing the agreement or, after being advised to seek independent legal counsel, expressly waived, in a separate writing, representation by independent legal counsel.

(2) The party against whom enforcement is sought had not less than seven calendar days between the time that party was first presented with the agreement and advised to seek independent legal counsel and the time the agreement was signed.

(3) The party against whom enforcement is sought, if unrepresented by legal counsel, was fully informed of the terms and basic effect of the agreement as well as the rights and obligations the party was giving up by signing the agreement, and was proficient in the language in which the explanation of the party's rights was conducted and in which the agreement was written. The explanation of the rights and obligations relinquished shall be memorialized in writing and delivered to the party prior to signing the agreement. The unrepresented party shall, on or before the signing of the premarital agreement, execute a document declaring that the party received the information required by this paragraph and indicating who provided that information.

(4) The agreement and the writings executed pursuant to paragraphs (1) and (3) were not executed under duress, fraud, or undue influence, and the parties did not lack capacity to enter into the agreement.

(5) Any other factors the court deems relevant.

SEC. 13. Section 1816 of the Family Code is amended to read:

1816. (a) For purposes of this section, the following definitions apply:

(1) "Eligible provider" means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts, or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.

(2) "Evaluator" means a supervising or associate counselor described in Section 1815, a mediator described in Section 3164, a court-connected or private child custody evaluator described in Section 3110.5, or a court-appointed investigator or evaluator as described in Section 3110 or Section 730 of the Evidence Code.

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

(1) The effects of domestic violence on children.

(2) The nature and extent of domestic violence.

(3) The social and family dynamics of domestic violence.

(4) Techniques for identifying and assisting families affected by domestic violence.

(5) Interviewing, documentation of, and appropriate recommendations for, families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the family being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

(A) Maximizing safety for clients, evaluators, and court personnel.

(B) Maintaining objectivity.

(C) Providing and gathering balanced information from the parties and controlling for bias.

(D) Providing separate sessions at separate times as described in Section 3113.

(E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

(A) Shelters for battered women.

(B) Counseling, including drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

(A) Certified treatment programs described in subdivision (c) of Section 1203.097 of the Penal Code.

(B) Drug and alcohol counseling.

(C) Legal assistance.

(D) Job training.

(E) Parenting classes.

(5) The unique issues in a family and psychological assessment in a domestic violence case, including all of the following:

(A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential family dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.

(B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.

(C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.

(D) The assessment of family history based on the type, severity, and frequency of violence.

(E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.

(F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.

(G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.

(H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.

(I) The importance of, and procedures for, obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.

(J) Accepted methods for structuring safe and enforceable child custody and parenting plans that ensure the health, safety, welfare, and best interest of the child, and safeguards for the parties.

(K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against a family member.

(e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:

(1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.

(2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.

(f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:

(1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.

(2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.

(3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.

(4) Develop a procedure to verify that an evaluator completes the education and training program.

(5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

(g) (1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1), an evaluator shall attach copies of the certificates of completion of the training described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and shall seek to develop training programs that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

SEC. 14. Section 2024.7 of the Family Code is amended to read:

2024.7. On and after January 1, 2014, upon the filing of a petition for dissolution of marriage, nullity of marriage, or legal separation, the court shall provide to the petitioner and the respondent a notice informing them that they may be eligible for reduced-cost coverage through the California Health Benefit Exchange established under Title 22 (commencing with Section 100500) of the Government Code or no-cost coverage through Medi-Cal. The notice shall include information on obtaining coverage pursuant to those programs, and shall be developed by the California Health Benefit Exchange.

SEC. 15. Section 2033 of the Family Code is amended to read:

2033. (a) Either party may encumber the party's interest in community real property to pay reasonable attorney's fees in order to retain or maintain legal counsel in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties. This encumbrance shall be known as a "family law attorney's real property lien" and attaches only to the encumbering party's interest in the community real property.

(b) Notice of a family law attorney's real property lien shall be served either personally or on the other party's attorney of record at least 15 days before the encumbrance is recorded. This notice shall contain a declaration signed under penalty of perjury containing all of the following:

- (1) A full description of the real property.
- (2) The party's belief as to the fair market value of the property and documentation supporting that belief.
- (3) Encumbrances on the property as of the date of the declaration.
- (4) A list of community assets and liabilities and their estimated values as of the date of the declaration.
- (5) The amount of the family law attorney's real property lien.

(c) The nonencumbering party may file an ex parte objection to the family law attorney's real property lien. The objection shall include a request to stay the recordation until further notice of the court and shall contain a copy of the notice received. The objection shall also include a declaration signed under penalty of perjury as to all of the following:

- (1) Specific objections to the family law attorney's real property lien and to the specific items in the notice.
- (2) The objector's belief as to the appropriate items or value and documentation supporting that belief.
- (3) A declaration specifically stating why recordation of the encumbrance at this time would likely result in an unequal division of property or would otherwise be unjust under the circumstances of the case.

(d) Except as otherwise provided by this section, general procedural rules regarding ex parte motions apply.

(e) An attorney for whom a family law attorney's real property lien is obtained shall comply with Rule 3-300 of the Rules of Professional Conduct of the State Bar of California.

SEC. 16. Section 2034 of the Family Code is amended to read:

2034. (a) On application of either party, the court may deny the family law attorney's real property lien described in Section 2033 based on a finding that the encumbrance would likely result in an unequal division of property because it would impair the encumbering party's ability to meet the party's fair share of the community obligations or would otherwise be unjust under the circumstances of the case. The court may also, for good cause, limit the amount of the family law attorney's real property lien. A limitation by the court is not to be construed as a determination of reasonable attorney's fees.

(b) On receiving an objection to the establishment of a family law attorney's real property lien, the court may, on its own motion, determine whether the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. If the court finds that the case involves one or more of these complex or substantial issues, the court may determine the appropriate, equitable allocation of fees and costs as provided in subdivision (d) of Section 2032.

(c) The court has jurisdiction to resolve any dispute arising from the existence of a family law attorney's real property lien.

SEC. 17. Section 2040 of the Family Code is amended to read:

2040. (a) In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:

(1) Restraining both parties from removing the minor child or children of the parties, if any, from the state, or from applying for a new or replacement passport for the minor child or children, without the prior written consent of the other party or an order of the court.

(2) (A) Restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of, any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life, and requiring each party to notify the other party of proposed extraordinary expenditures at least five business days before incurring those expenditures and to account to the court for all extraordinary expenditures made after service of the summons on that party.

(B) Notwithstanding subparagraph (A), the restraining order shall not preclude a party from using community property, quasi-community property, or the party's own separate property to pay reasonable attorney's fees and costs in order to retain legal counsel in the proceeding. A party who uses community property or quasi-community property to pay the party's attorney's retainer for fees and costs under this provision shall account to the community for the use of the property. A party who uses other property that is subsequently determined to be the separate property of the other party to pay the party's attorney's retainer for fees and costs under this provision shall account to the other party for the use of the property.

(3) Restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their child or children for whom support may be ordered.

(4) Restraining both parties from creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court.

(b) This section does not restrain any of the following:

(1) Creation, modification, or revocation of a will.

(2) Revocation of a nonprobate transfer, including a revocable trust, pursuant to the instrument, provided that notice of the change is filed and served on the other party before the change takes effect.

(3) Elimination of a right of survivorship to property, provided that notice of the change is filed and served on the other party before the change takes effect.

(4) Creation of an unfunded revocable or irrevocable trust.

(5) Execution and filing of a disclaimer pursuant to Part 8 (commencing with Section 260) of Division 2 of the Probate Code.

(c) In all actions filed on and after January 1, 1995, the summons shall contain the following notice:

"WARNING: California law provides that, for purposes of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language of how title is held in the deed (i.e., joint tenancy, tenants in common, or community property) will be controlling and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property."

(d) For the purposes of this section:

(1) "Nonprobate transfer" means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, pay on death account in a financial institution, Totten trust, transfer on death registration of personal property, revocable transfer on death deed, or other instrument of a type described in Section 5000 of the Probate Code.

(2) "Nonprobate transfer" does not include a provision for the transfer of property on death in an insurance policy or other coverage held for the benefit of the parties and their child or children for whom support may be ordered, to the extent that the provision is subject to paragraph (3) of subdivision (a).

(e) The restraining order included in the summons shall include descriptions of the notices required by paragraphs (2) and (3) of subdivision (b).

SEC. 18. Section 2102 of the Family Code is amended to read:

2102. (a) From the date of separation to the date of the distribution of the community or quasi-community asset or liability in question, each party is subject to the standards provided in Section 721, as to all activities that affect the assets and liabilities of the other party, including, but not limited to, the following activities:

(1) The accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses, including an immediate, full, and accurate update or augmentation to the extent there have been material changes.

(2) The accurate and complete written disclosure of any investment opportunity, business opportunity, or other income-producing opportunity that presents itself after the date of separation, but that results from any investment, significant business activity outside the ordinary course of business, or other income-producing opportunity of either spouse from the date of marriage to the date of separation, inclusive. The written disclosure shall be made in sufficient time for the other spouse to make an informed decision as to whether the spouse desires to participate in the investment opportunity, business, or other potential income-producing opportunity, and for the court to resolve any dispute regarding the right of the other spouse to participate in the opportunity. In the event of nondisclosure of an investment opportunity, the division of any gain resulting from that opportunity is governed by the standard provided in Section 2556.

(3) The operation or management of a business or an interest in a business in which the community may have an interest.

(b) From the date that a valid, enforceable, and binding resolution of the disposition of the asset or liability in question is reached, until the asset or liability has actually been distributed, each party is subject to the standards provided in Section 721 as to all activities that affect the assets or liabilities of the other party. Once a particular asset or liability has been distributed, the duties and standards set forth in Section 721 shall end as to that asset or liability.

(c) From the date of separation to the date of a valid, enforceable, and binding resolution of all issues relating to child or spousal support and professional fees, each party is subject to the standards provided in Section 721 as to all issues relating to the support and fees, including immediate, full, and accurate disclosure of all material facts and information regarding the income or expenses of the party.

SEC. 19. Section 2104 of the Family Code is amended to read:

2104. (a) Except by court order for good cause, as provided in Section 2107, or when service of the preliminary declaration of disclosure is not required pursuant to Section 2110, in the time period set forth in subdivision (f), each party shall serve on the other party a preliminary declaration of disclosure, executed under penalty of perjury on a form prescribed by the Judicial Council. The commission of perjury on the preliminary declaration of disclosure may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury. The preliminary declaration of disclosure shall include all tax returns filed by the declarant within the two years prior to the date that the party served the declaration.

(b) The preliminary declaration of disclosure shall not be filed with the court, except on court order. However, the parties shall file proof of service of the preliminary declaration of disclosure with the court.

(c) The preliminary declaration of disclosure shall set forth with sufficient particularity, that a person of reasonable and ordinary intelligence can ascertain, all of the following:

(1) The identity of all assets in which the declarant has or may have an interest and all liabilities for which the declarant is or may be liable, regardless of the characterization of the asset or liability as community, quasi-community, or separate.

(2) The declarant's percentage of ownership in each asset and percentage of obligation for each liability when property is not solely owned by one or both of the parties. The preliminary declaration may also set forth the declarant's characterization of each asset or liability.

(d) A declarant may amend the preliminary declaration of disclosure without leave of the court. Proof of service of an amendment shall be filed with the court.

(e) Along with the preliminary declaration of disclosure, each party shall provide the other party with a completed income and expense declaration unless an income and expense declaration has already been provided and is current and valid.

(f) The petitioner shall serve the other party with the preliminary declaration of disclosure either concurrently with the petition for dissolution or legal separation, or within 60 days of filing the petition. When a petitioner serves the summons and petition by publication or posting pursuant to court order and the respondent files a response prior to a default judgment being entered, the petitioner shall serve the other party with the preliminary declaration of disclosure within 30 days of the response being filed. The respondent shall serve the other party with the preliminary declaration of disclosure either concurrently with the response to the petition, or within 60 days of filing the response. The time periods specified in this subdivision may be extended by written agreement of the parties or by court order.

SEC. 20. Section 2106 of the Family Code is amended to read:

2106. Except as provided in subdivision (d) of Section 2105, Section 2110, or absent good cause as provided in Section 2107, judgment shall not be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration. Each party, or the party's attorney, shall execute and file with the court a declaration signed under penalty of perjury stating that service of the final declaration of disclosure and current income and expense declaration was made on the other party or that service of the final declaration of disclosure has been waived pursuant to subdivision (d) of Section 2105 or in Section 2110.

SEC. 21. Section 2124 of the Family Code is amended to read:

2124. The negligence of an attorney shall not be imputed to a client to bar an order setting aside a judgment, unless the court finds that the client knew, or should have known, of the attorney's negligence and unreasonably failed to self-protect.

SEC. 22. Section 2610 of the Family Code is amended to read:

2610. (a) Except as provided in subdivision (b), the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party's full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(1) Order the disposition of retirement benefits payable upon or after the death of either party in a manner consistent with Section 2550.

(2) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, when a retirement plan provides for that election, provided that no court shall order a retirement plan to provide increased benefits determined on the basis of actuarial value.

(3) Upon the agreement of the nonemployee spouse, order the division of accumulated community property contributions and service credit as provided in the following or similar enactments:

(A) Article 2 (commencing with Section 21290) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(B) Chapter 12 (commencing with Section 22650) of Part 13 of Division 1 of Title 1 of the Education Code.

(C) Article 8.4 (commencing with Section 31685) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(D) Article 2.5 (commencing with Section 75050) of Chapter 11 of Title 8 of the Government Code.

(E) Chapter 15 (commencing with Section 27400) of Part 14 of Division 1 of Title 1 of the Education Code.

(4) Order a retirement plan to make payments directly to a nonmember party of the nonmember party's community property interest in retirement benefits.

(b) A court shall not make an order that requires a retirement plan to do either of the following:

(1) Make payments in a manner that will result in an increase in the amount of benefits provided by the plan.

(2) Make the payment of benefits to a party at any time before the member retires, except as provided in paragraph (3) of subdivision (a), unless the plan so provides.

(c) This section shall not be applied retroactively to payments made by a retirement plan to a person who retired or died prior to January 1, 1987, or to payments made to a person who retired or died prior to June 1, 1988, for plans subject to paragraph (3) of subdivision (a).

SEC. 23. Section 3011 of the Family Code is amended to read:

3011. In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant and consistent with Section 3020, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) (1) A history of abuse by one parent or any other person seeking custody against any of the following:

(A) A child to whom the parent is related by blood or affinity or with whom the parent has had a caretaking relationship, no matter how temporary.

(B) The other parent.

(C) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

(2) As a prerequisite to considering allegations of abuse, the court may require independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse or neglect" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203.

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

(d) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(e) (1) When allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

(2) This subdivision does not apply if the parties stipulate in writing or on the record regarding custody or visitation.

SEC. 23.5. Section 3011 of the Family Code is amended to read:

3011. (a) In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant and consistent with Section 3020, consider all of the following:

(1) The health, safety, and welfare of the child.

(2) (A) A history of abuse by one parent or any other person seeking custody against any of the following:

(i) A child to whom the parent or person seeking custody is related by blood or affinity or with whom the parent or person seeking custody has had a caretaking relationship, no matter how temporary.

(ii) The other parent.

(iii) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

(B) As a prerequisite to considering allegations of abuse, the court may require independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this paragraph, "abuse against a child" means "child abuse and neglect" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in clause (ii) or (iii) of subparagraph (A) means "abuse" as defined in Section 6203.

(3) The nature and amount of contact with both parents, except as provided in Section 3046.

(4) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this paragraph, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(5) (A) When allegations about a parent pursuant to paragraphs (2) or (4) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

(B) This paragraph does not apply if the parties stipulate in writing or on the record regarding custody or visitation.

(b) Notwithstanding subdivision (a), the court shall not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child.

SEC. 24. Section 3012 of the Family Code is amended to read:

3012. (a) If a party's deportation or detention by the United States Immigration and Customs Enforcement of the Department of Homeland Security will have a material effect on the person's ability, or anticipated ability, to appear in person at a child custody proceeding, the court shall, upon motion of the party, allow the party to present testimony and evidence and participate in mandatory child custody mediation by electronic means, including, but not limited to, telephone, video teleconferencing, or other electronic means that provide remote access to the hearing, to the extent that this technology is reasonably available to the court and protects the due process rights of all parties.

(b) This section does not authorize the use of electronic recording for the purpose of taking the official record of these proceedings.

SEC. 25. Section 3025.5 of the Family Code is amended to read:

3025.5. (a) In a proceeding involving child custody or visitation rights, if a report containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child is submitted to the court, including, but not limited to, a report created pursuant to Chapter 6 (commencing with Section 3110) of this part and a recommendation made to the court pursuant to Section 3183, that information shall be contained in a document that shall be placed in the confidential portion of the court file of the proceeding, and may not be disclosed, except to the following persons:

(1) A party to the proceeding and the party's attorney.

(2) A federal or state law enforcement officer, the licensing entity of a child custody evaluator, a judicial officer, court employee, or family court facilitator of the superior court of the county in which the action was filed, or an employee or agent of that facilitator, acting within the scope of the facilitator's duties.

(3) Counsel appointed for the child pursuant to Section 3150.

(4) Any other person upon order of the court for good cause.

(b) Confidential information contained in a report prepared pursuant to Section 3111 that is disclosed to the licensing entity of a child custody evaluator pursuant to subdivision (a) shall remain confidential and shall only be used for purposes of investigating allegations of unprofessional conduct by the child custody evaluator, or in a criminal, civil, or administrative proceeding involving the child custody evaluator. All confidential information, including, but not limited to, the identity of any minors, shall retain their confidential nature in a criminal, civil, or administrative proceeding resulting from the investigation of unprofessional conduct and shall be sealed at the conclusion of the proceeding and shall not subsequently be released. Names that are confidential shall be listed in attachments separate from the general pleadings. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the licensing entity decides that no further action will be taken in the matter of suspected licensing violations.

SEC. 26. Section 3027.5 of the Family Code is amended to read:

3027.5. (a) A parent shall not be placed on supervised visitation, or be denied custody of or visitation with the parent's child, and custody or visitation rights shall not be limited, solely because the parent did any of the following:

- (1) Lawfully reported suspected sexual abuse of the child.
- (2) Otherwise acted lawfully, based on a reasonable belief, to determine if the child was the victim of sexual abuse.
- (3) Sought treatment for the child from a licensed mental health professional for suspected sexual abuse.

(b) The court may order supervised visitation or limit a parent's custody or visitation if the court finds substantial evidence that the parent, with the intent to interfere with the other parent's lawful contact with the child, made a report of child sexual abuse, during a child custody proceeding or at any other time, that the reporting parent knew was false at the time it was made. A limitation of custody or visitation, including an order for supervised visitation, pursuant to this subdivision, or a statute regarding the making of a false child abuse report, shall be imposed only after the court has determined that the limitation is necessary to protect the health, safety, and welfare of the child, and the court has considered the state's policy of ensuring that children have frequent and continuing contact with both parents as declared in subdivision (b) of Section 3020.

SEC. 27. Section 3041 of the Family Code is amended to read:

3041. (a) Before making an order granting custody to a person other than a parent, over the objection of a parent, the court shall make a finding that granting custody to a parent would be detrimental to the child and that granting custody to the nonparent is required to serve the best interest of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

(b) Subject to subdivision (d), a finding that parental custody would be detrimental to the child shall be supported by clear and convincing evidence.

(c) As used in this section, "detriment to the child" includes the harm of removal from a stable placement of a child with a person who has assumed, on a day-to-day basis, the role of the child's parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment does not require a finding of unfitness of the parents.

(d) Notwithstanding subdivision (b), if the court finds by a preponderance of the evidence that the person to whom custody may be given is a person described in subdivision (c), this finding shall constitute a finding that the custody is in the best interest of the child and that parental custody would be detrimental to the child absent a showing by a preponderance of the evidence to the contrary.

(e) Notwithstanding subdivisions (a) to (d), inclusive, if the child is an Indian child, when an allegation is made that parental custody would be detrimental to the child, before making an order granting custody to a person other than a parent, over the objection of a parent, the court shall apply the evidentiary standards described in subdivisions (d), (e), and (f) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Sections 224.6 and 361.7 of the Welfare and Institutions Code and the placement preferences and standards set out in Section 361.31 of the Welfare and Institutions Code and Section 1922 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

SEC. 28. Section 3042 of the Family Code is amended to read:

3042. (a) If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody or visitation, the court shall consider, and give due weight to, the wishes of the child in making an order granting or modifying custody or visitation.

(b) In addition to the requirements of subdivision (b) of Section 765 of the Evidence Code, the court shall control the examination of a child witness so as to protect the best interest of the child.

(c) If the child is 14 years of age or older and wishes to address the court regarding custody or visitation, the child shall be permitted to do so, unless the court determines that doing so is not in the child's best interest, in which case, the court shall state its reasons for that finding on the record.

(d) This section does not prevent a child who is less than 14 years of age from addressing the court regarding custody or visitation, if the court determines that is appropriate pursuant to the child's best interest.

(e) If the court precludes the calling of a child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences.

(f) To assist the court in determining whether the child wishes to express a preference or to provide other input regarding custody or visitation to the court, a minor's counsel, an evaluator, an investigator, or a mediator who provides recommendations to the judge pursuant to Section 3183 shall indicate to the judge that the child wishes to address the court, or the judge may make that inquiry in the absence of that request. A party or a party's attorney may also indicate to the judge that the child wishes to address the court or judge.

(g) This section does not require the child to express to the court a preference or to provide other input regarding custody or visitation.

(h) The Judicial Council shall, no later than January 1, 2012, promulgate a rule of court establishing procedures for the examination of a child witness, and include guidelines on methods other than direct testimony for obtaining information or other input from the child regarding custody or visitation.

(i) The changes made to subdivisions (a) to (g), inclusive, by the act adding this subdivision shall become operative on January 1, 2012.

SEC. 29. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 30. Section 3047 of the Family Code is amended to read:

3047. (a) A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military duty or temporary duty, mobilization in support of combat or other military operation, or military deployment out of state.

(b) (1) If a party with sole or joint physical custody or visitation receives temporary duty, deployment, or mobilization orders from the military that require the party to move a substantial distance from the party's residence or otherwise has a material effect on the ability of the party to exercise custody or visitation rights, any necessary modification of the existing custody order shall be deemed a temporary custody order made without prejudice, which shall be subject to review and reconsideration upon the return of the party from military deployment, mobilization, or temporary duty.

(2) If the temporary order is reviewed upon return of the party from military deployment, mobilization, or temporary duty, there shall be a presumption that the custody order shall revert to the order that was in place before the modification, unless the court determines that it is not in the best interest of the child. The court shall not, as part of its review of the temporary order upon the return of the deploying party, order a child custody evaluation under Section 3111 of this code or Section 730 of the Evidence Code, unless the party opposing reversion of the order makes a prima facie showing that reversion is not in the best interest of the child.

(3) (A) If the court makes a temporary custody order, it shall consider any appropriate orders to ensure that the relocating party can maintain frequent and continuing contact with the child by means that are reasonably available.

(B) Upon a motion by the relocating party, the court may grant reasonable visitation rights to a stepparent, grandparent, or other family member if the court does all of the following:

(i) Finds that there is a preexisting relationship between the family member and the child that has engendered a bond such that visitation is in the best interest of the child.

(ii) Finds that the visitation will facilitate the child's contact with the relocating party.

(iii) Balances the interest of the child in having visitation with the family member against the right of the parents to exercise parental authority.

(C) This paragraph does not increase the authority of the persons described in subparagraph (B) to seek visitation orders independently.

(D) The granting of visitation rights to a nonparent pursuant to subparagraph (B) shall not impact the calculation of child support.

(c) If a party's deployment, mobilization, or temporary duty will have a material effect on the party's ability, or anticipated ability, to appear in person at a regularly scheduled hearing, the court shall do either of the following:

(1) Upon motion of the party, hold an expedited hearing to determine custody and visitation issues prior to the departure of the party.

(2) Upon motion of the party, allow the party to present testimony and evidence and participate in court-ordered child custody mediation by electronic means, including, but not limited to, telephone, video conferencing, or the internet, to the extent that this technology is reasonably available to the court and protects the due process rights of all parties.

(d) A relocation by a nondeploying parent during a period of a deployed parent's absence while a temporary modification order for a parenting plan is in effect shall not, by itself, terminate the exclusive and continuing jurisdiction of the court for purposes of later determining custody or parenting time under this chapter.

(e) When a court of this state has issued a custody or visitation order, the absence of a child from this state during the deployment of a parent shall be considered a "temporary absence" for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with Section 3400)), and the court shall retain exclusive continuing jurisdiction under Section 3422.

(f) The deployment of a parent shall not be used as a basis to assert inconvenience of the forum under Section 3427.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Deployment" means the temporary transfer of a member of the Armed Forces in active-duty status in support of combat or some other military operation.

(2) "Mobilization" means the transfer of a member of the National Guard or Military Reserve to extended active-duty status, but does not include National Guard or Military Reserve annual training.

(3) "Temporary duty" means the transfer of a servicemember from one military base to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

(h) It is the intent of the Legislature that this section provide a fair, efficient, and expeditious process to resolve child custody and visitation issues when a party receives temporary duty, deployment, or mobilization orders from the military, as well as at the time that the party returns from service and files a motion to revert back to the custody order in place before the deployment. The Legislature intends that family courts shall, to the extent feasible within existing resources and court practices, prioritize the calendaring of these cases, avoid unnecessary delay or continuances, and ensure that parties who serve in the military are not penalized for their service by a delay in appropriate access to their children.

SEC. 31. Section 3048 of the Family Code is amended to read:

3048. (a) Notwithstanding any other law, in a proceeding to determine child custody or visitation with a child, every custody or visitation order shall contain all of the following:

(1) The basis for the court's exercise of jurisdiction.

(2) The manner in which notice and opportunity to be heard were given.

(3) A clear description of the custody and visitation rights of each party.

(4) A provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both.

(5) Identification of the country of habitual residence of the child or children.

(b) (1) In cases in which the court becomes aware of facts that may indicate that there is a risk of abduction of a child, the court shall, either on its own motion or at the request of a party, determine whether measures are needed to prevent the abduction of the child by one parent. To make that determination, the court shall consider the risk of abduction of the child, obstacles to location, recovery, and return if the child is abducted, and potential harm to the child if the child is abducted. To determine whether there is a risk of abduction, the court shall consider the following factors:

(A) Whether a party has previously taken, enticed away, kept, withheld, or concealed a child in violation of the right of custody or of visitation of a person.

(B) Whether a party has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of the right of custody or of visitation of a person.

(C) Whether a party lacks strong ties to this state.

(D) Whether a party has strong familial, emotional, or cultural ties to another state or country, including foreign citizenship. This factor shall be considered only if evidence exists in support of another factor specified in this section.

(E) Whether a party has no financial reason to stay in this state, including whether the party is unemployed, is able to work anywhere, or is financially independent.

(F) Whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling the primary residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, applying to obtain a birth certificate or school or medical records, or purchasing airplane or other travel tickets, with consideration given to whether a party is carrying out a safety plan to flee from domestic violence.

(G) Whether a party has a history of a lack of parental cooperation or child abuse, or there is substantiated evidence that a party has perpetrated domestic violence.

(H) Whether a party has a criminal record.

(2) If the court makes a finding that there is a need for preventative measures after considering the factors listed in paragraph (1), the court shall consider taking one or more of the following measures to prevent the abduction of the child:

(A) Ordering supervised visitation.

(B) Requiring a parent to post a bond in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to offset the cost of recovery of the child in the event there is an abduction.

(C) Restricting the right of the custodial or noncustodial parent to remove the child from the county, the state, or the country.

(D) Restricting the right of the custodial parent to relocate with the child, unless the custodial parent provides advance notice to, and obtains the written agreement of, the noncustodial parent, or obtains the approval of the court, before relocating with the child.

(E) Requiring the surrender of passports and other travel documents.

(F) Prohibiting a parent from applying for a new or replacement passport for the child.

(G) Requiring a parent to notify a relevant foreign consulate or embassy of passport restrictions and to provide the court with proof of that notification.

(H) Requiring a party to register a California order in another state as a prerequisite to allowing a child to travel to that state for visits, or to obtain an order from another country containing terms identical to the custody and visitation order issued in the United States (recognizing that these orders may be modified or enforced pursuant to the laws of the other country), as a prerequisite to allowing a child to travel to that country for visits.

(I) Obtaining assurances that a party will return from foreign visits by requiring the traveling parent to provide the court or the other parent or guardian with any of the following:

(i) The travel itinerary of the child.

(ii) Copies of round trip airline tickets.

(iii) A list of addresses and telephone numbers where the child can be reached at all times.

(iv) An open airline ticket for the left-behind parent in case the child is not returned.

(J) Including provisions in the custody order to facilitate use of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with Section 3400)) and the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to 42 U.S.C. Sec. 11601 et seq.), such as identifying California as the home state of the child or otherwise defining the basis for the California court's exercise of jurisdiction under Part 3 (commencing with Section 3400), identifying the United States as the country of habitual residence of the child pursuant to the Hague Convention, defining custody rights pursuant to the Hague Convention, obtaining the express agreement of the parents that the United States is the country of habitual residence of the child, or that California or the United States is the most appropriate forum for addressing custody and visitation orders.

(K) Authorizing the assistance of law enforcement.

(3) If the court imposes any or all of the conditions listed in paragraph (2), those conditions shall be specifically noted on the minute order of the court proceedings.

(4) If the court determines there is a risk of abduction that is sufficient to warrant the application of one or more of the prevention measures authorized by this section, the court shall inform the parties of the telephone number and address of the Child Abduction Unit in the office of the district attorney in the county where the custody or visitation order is being entered.

(c) The Judicial Council shall make the changes to its child custody order forms that are necessary for the implementation of subdivision (b).

(d) This section does not affect the applicability of Section 278.7 of the Penal Code.

SEC. 32. Section 3105 of the Family Code is amended to read:

3105. (a) The Legislature finds and declares that a parent's fundamental right to provide for the care, custody, companionship, and management of the parent's children, while compelling, is not absolute. Children have a fundamental right to maintain healthy, stable relationships with a person who has served in a significant, judicially approved parental role.

(b) The court may grant reasonable visitation rights to a person who previously served as the legal guardian of a child, if visitation is determined to be in the best interest of the minor child.

(c) In the absence of a court order granting or denying visitation between a former legal guardian and a former minor ward, and if a dependency proceeding is not pending, a former legal guardian may maintain an independent action for visitation with the former minor ward. If the child does not have at least one living parent, visitation shall not be determined in a proceeding under the Family Code, but shall instead be determined in a guardianship proceeding that may be initiated for that purpose.

SEC. 33. Section 3110.5 of the Family Code is amended to read:

3110.5. (a) A person may be a court-connected or private child custody evaluator under this chapter only if the person has completed the domestic violence and child abuse training program described in Section 1816 and has complied with Rules 5.220 and 5.230 of the California Rules of Court.

(b) (1) On or before January 1, 2002, the Judicial Council shall formulate a statewide rule of court that establishes education, experience, and training requirements for all child custody evaluators appointed pursuant to this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(A) The rule shall require a child custody evaluator to declare under penalty of perjury that the evaluator meets all of the education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements to be specified for court-connected evaluators shall include, but not be limited to, knowledge of the psychological and developmental needs of children and parent and child relationships.

(B) The rule shall require all evaluators to utilize comparable interview, assessment, and testing procedures for all parties that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(C) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court under the circumstances set forth in subdivision (d). The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(2) On or before January 1, 2004, the Judicial Council shall include in the statewide rule of court created pursuant to this section a requirement that all court-connected and private child custody evaluators receive training in the nature of child sexual abuse. The Judicial Council shall develop standards for this training that shall include, but not be limited to, the following:

(A) Children's patterns of hiding and disclosing sexual abuse occurring in a family setting.

(B) The effects of sexual abuse on children.

(C) The nature and extent of child sexual abuse.

(D) The social and family dynamics of child sexual abuse.

(E) Techniques for identifying and assisting families affected by child sexual abuse.

(F) Legal rights, protections, and remedies available to victims of child sexual abuse.

(c) In addition to the education, experience, and training requirements established by the Judicial Council pursuant to subdivision (b), on or after January 1, 2005, a person may be a child custody evaluator under this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure only if the person meets one of the following criteria:

(1) The person is licensed as a physician under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and either is a board certified psychiatrist or has completed a residency in psychiatry.

(2) The person is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(3) The person is licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(4) The person is licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(5) The person is licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code and is qualified to assess couples and families pursuant to paragraph (3) of subdivision (a) of Section 4999.20 of the Business and Professions Code.

(6) The person is a court-connected evaluator who has been certified by the court as meeting all of the qualifications for court-connected evaluators as specified by the Judicial Council pursuant to subdivision (b).

(d) Subdivision (c) does not apply in a case in which the court determines that there are no evaluators who meet the criteria of subdivision (c) who are willing and available, within a reasonable period of time, to perform child custody evaluations. In those cases, the parties may stipulate to an individual who does not meet the criteria of subdivision (c), subject to approval by the court.

(e) A child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that licensee.

(f) On or after January 1, 2005, a court-connected or private child custody evaluator may not evaluate, investigate, or mediate an issue of child custody in a proceeding pursuant to this division unless that person has completed child sexual abuse training as required by this section.

SEC. 34. Section 3111 of the Family Code is amended to read:

3111. (a) In a contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interest of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on the evaluation. At least 10 days before a hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. A child custody evaluation, investigation, or assessment, and a resulting report, may be considered by the court only if it is conducted in accordance with the requirements set forth in the standards adopted by the Judicial Council pursuant to Section 3117; however, this does not preclude the consideration of a child custody evaluation report that contains nonsubstantive or inconsequential errors or both.

(b) The report shall not be made available other than as provided in subdivision (a) or Section 3025.5, or as described in Section 204 of the Welfare and Institutions Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile court case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) of Section 827 of the Welfare and Institutions Code.

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

(d) If the court determines that an unwarranted disclosure of a written confidential report has been made, the court may impose a monetary sanction against the disclosing party. The sanction shall be in an amount sufficient to deter repetition of the conduct, and may include reasonable attorney's fees, costs incurred, or both, unless the court finds that the disclosing party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. The court shall not impose a

sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed.

(e) The Judicial Council shall, by January 1, 2010, do the following:

(1) Adopt a form to be served with every child custody evaluation report that informs the report recipient of the confidentiality of the report and the potential consequences for the unwarranted disclosure of the report.

(2) Adopt a rule of court to require that, when a court-ordered child custody evaluation report is served on the parties, the form specified in paragraph (1) shall be included with the report.

(f) For purposes of this section, a disclosure is unwarranted if it is done either recklessly or maliciously, and is not in the best interest of the child.

SEC. 35. Section 3115 of the Family Code is amended to read:

3115. A statement, whether written or oral, or conduct shall not be held to constitute a waiver by a party of the right to cross-examine the court-appointed investigator, unless the statement is made, or the conduct occurs, after the report has been received by a party or the party's attorney.

SEC. 36. Section 3118 of the Family Code is amended to read:

3118. (a) In a contested proceeding involving child custody or visitation rights, where the court has appointed a child custody evaluator or has referred a case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court shall require an evaluation, investigation, or assessment pursuant to this section. When the court has determined that there is a serious allegation of child sexual abuse, a child custody evaluation, investigation, or assessment conducted subsequent to that determination shall be considered by the court only if the evaluation, investigation, or assessment is conducted in accordance with the minimum requirements set forth in this section in determining custody or visitation rights, except as specified in paragraph (1). For purposes of this section, a serious allegation of child sexual abuse means an allegation of child sexual abuse, as defined in Section 11165.1 of the Penal Code, that is based, in whole or in part, on statements made by the child to law enforcement, a child welfare services agency investigator, a person required by statute to report suspected child abuse, or any other court-appointed personnel, or that is supported by substantial independent corroboration as provided for in subdivision (b) of Section 3011. When an allegation of child abuse arises in any other circumstances in a proceeding involving child custody or visitation rights, the court may require an evaluator or investigator to conduct an evaluation, investigation, or assessment pursuant to this section. The order appointing a child custody evaluator or investigator pursuant to this section shall provide that the evaluator or investigator have access to all juvenile court records pertaining to the child who is the subject of the evaluation, investigation, or assessment. The order shall also provide that juvenile court records or information gained from those records remain confidential and shall only be released as specified in Section 3111.

(1) This section does not apply to any emergency court-ordered partial investigation that is conducted for the purpose of assisting the court in determining what immediate temporary orders may be necessary to protect and meet the immediate needs of a child. This section does apply when the emergency is resolved and the court is considering permanent child custody or visitation orders.

(2) This section does not prohibit a court from considering evidence relevant to determining the safety and protection needs of the child.

(3) An evaluation, investigation, or assessment conducted pursuant to this section shall be conducted by an evaluator or investigator who meets the qualifications set forth in Section 3110.5.

(b) The evaluator or investigator shall, at a minimum, do all of the following:

(1) Consult with the agency providing child welfare services and law enforcement regarding the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child's safety and the child's need for protection.

(2) Review and summarize the child welfare services agency file. A document contained in the child welfare services agency file shall not be photocopied, but a summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded by the evaluator or investigator, except for the identity of the reporting party. The evaluator's or investigator's notes summarizing the child welfare services agency information shall be stored in a file separate from the evaluator's or investigator's file and may only be released to either party under order of the court.

(3) Obtain from a law enforcement investigator all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(4) Review the results of a multidisciplinary child interview team (hereafter MDIT) interview if available, or if not, or if the evaluator or investigator believes the MDIT interview is inadequate for purposes of the evaluation, investigation, or assessment, interview the child or request an MDIT interview, and shall, wherever possible, avoid repeated interviews of the child.

(5) Request a forensic medical examination of the child from the appropriate agency, or include in the report required by paragraph (6) a written statement explaining why the examination is not needed.

(6) File a confidential written report with the clerk of the court in which the custody hearing will be conducted and that shall be served on the parties or their attorneys at least 10 days prior to the hearing. This report may not be made available other than as provided in this subdivision. This report shall include, but is not limited to, the following:

(A) Documentation of material interviews, including any MDIT interview of the child or the evaluator or investigator, written documentation of interviews with both parents by the evaluator or investigator, and interviews with other witnesses who provided relevant information.

(B) A summary of any law enforcement investigator's investigation, including information obtained from the criminal background check of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(C) Relevant background material, including, but not limited to, a summary of a written report from a therapist treating the child for suspected child sexual abuse, excluding any communication subject to Section 1014 of the Evidence Code, reports from other professionals, and the results of any forensic medical examination and any other medical examination or treatment that could help establish or disprove whether the child has been the victim of sexual abuse.

(D) The written recommendations of the evaluator or investigator regarding the therapeutic needs of the child and how to ensure the safety of the child.

(E) A summary of the following information: whether the child and the child's parents are or have been the subject of a child abuse investigation and the disposition of that investigation; the name, location, and telephone number of the children's services worker; the status of the investigation and the recommendations made or anticipated to be made regarding the child's safety; and any dependency court orders or findings that might have a bearing on the custody dispute.

(F) Any information regarding the presence of domestic violence or substance abuse in the family that has been obtained from a child protective agency in accordance with paragraphs (1) and (2), a law enforcement agency, medical personnel or records, prior or currently treating therapists, excluding any communication subject to Section 1014 of the Evidence Code, or from interviews conducted or reviewed for this evaluation, investigation, or assessment.

(G) Which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence.

(H) Any other information the evaluator or investigator believes would be helpful to the court in determining what is in the best interests of the child.

(c) If the evaluator or investigator obtains information as part of a family court mediation, that information shall be maintained in the family court file, which is not subject to subpoena by either party. If, however, the members of the family are the subject of an ongoing child welfare services investigation, or the evaluator or investigator has made a child welfare services referral, the evaluator or investigator shall so inform the family law judicial officer in writing and this information shall become part of the family law file. This subdivision may not be construed to authorize or require a mediator to disclose any information not otherwise authorized or required by law to be disclosed.

(d) In accordance with subdivision (d) of Section 11167 of the Penal Code, the evaluator or investigator may not disclose any information regarding the identity of any person making a report of suspected child abuse. This section does not limit any disclosure of information by an agency that is otherwise required by law or court order.

(e) The evaluation, investigation, or assessment standards set forth in this section represent minimum requirements of evaluation and the court shall order further evaluation beyond these minimum requirements when necessary to determine the safety needs of the child.

(f) If the court orders an evaluation, investigation, or assessment pursuant to this section, the court shall consider whether the best interests of the child require that a temporary order be issued that limits visitation with the parent against whom the allegations have been made to situations in which a third person specified by the court is present or whether visitation will be suspended or denied in accordance with Section 3011.

(g) An evaluation, investigation, or assessment pursuant to this section shall be suspended if a petition is filed to declare the child a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and all information gathered by the evaluator or investigator shall be made available to the juvenile court.

(h) This section does not authorize a court to issue any orders in a proceeding pursuant to this division regarding custody or visitation with respect to a minor child who is the subject of a dependency hearing in juvenile court or to otherwise supersede Section 302 of the Welfare and Institutions Code.

SEC. 37. Section 3180 of the Family Code is amended to read:

3180. (a) In mediation proceedings pursuant to this chapter, the mediator has the duty to assess the needs and interests of the child involved in the controversy, and is entitled to interview the child when the mediator considers the interview appropriate or necessary.

(b) The mediator shall use their best efforts to effect a settlement of the custody or visitation dispute that is in the best interest of the child, as provided in Section 3011.

SEC. 38. Section 3192 of the Family Code is amended to read:

3192. In a proceeding in which counseling is ordered pursuant to this chapter, where there has been a history of abuse by either parent against the child or by one parent against the other parent and a protective order, as defined in Section 6218, is in effect, the court may order the parties to participate in counseling separately and at separate times. Each party shall bear the cost of the party's own counseling separately, unless good cause is shown for a different apportionment. The costs associated with a minor child participating in counseling shall be apportioned in accordance with Section 4062.

SEC. 39. Section 3651 of the Family Code is amended to read:

3651. (a) Except as provided in subdivisions (c) and (d) and subject to Article 3 (commencing with Section 3680) and Sections 3552, 3587, and 4004, a support order may be modified or terminated at any time as the court determines to be necessary.

(b) Upon the filing of a supplemental complaint pursuant to Section 2330.1, a child support order in the original proceeding may be modified in conformity with the statewide uniform guideline for child support to provide for the support of all of the children of the same parents who were named in the initial and supplemental pleadings, to consolidate arrearages and wage assignments for children of the parties, and to consolidate orders for support.

(c) (1) Except as provided in paragraph (2) and subdivision (b), a support order may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

(2) If a party to a support order is activated to United States military duty or National Guard service and deployed out of state, the servicemember may file and serve a notice of activation of military service and request to modify a support order, in lieu of a notice of motion or order to show cause, by informing the court and the other party of the request to modify the support order based on the change in circumstance. The servicemember shall indicate the date of deployment and, if possible, the court shall schedule the hearing prior to that date. If the court cannot hear the matter prior to the date of deployment out of state, and the servicemember complies with the conditions set forth in the Servicemembers Civil Relief Act, Section 522 of the Appendix of Title 50 of the United States Code, the court shall grant a stay of proceedings consistent with the timelines for stays set forth in that section. If, after granting the mandatory stay required by Section 522 of the Appendix of Title 50 of the United States Code, the court fails to grant the discretionary stay described under the law, it shall comply with the federal mandate to appoint counsel to represent the interests of the deployed servicemember. The court may not proceed with the matter if it does not appoint counsel, unless the servicemember is represented by other counsel. If the court stays the proceeding until after the return of the service member, the servicemember shall request the court to set the matter for hearing within 90 days of return from deployment or the matter shall be taken off calendar and the existing order may not be made retroactive pursuant to subdivision (c) of Section 3653.

(3) A servicemember who does not file a notice of activation of military service and request to modify a support order or order to show cause or notice of motion prior to deployment out of state nonetheless shall not be subject to penalties otherwise authorized by Chapter 5 (commencing with Section 4720) of Part 5 on the amount of child support that would not have accrued

if the order had been modified pursuant to paragraph (2), absent a finding by the court of good cause. Any such finding shall be stated on the record.

(4) Notwithstanding any other law, interest shall not accrue on that amount of a child support obligation that would not have become due and owing if the activated servicemember modified the support order upon activation to reflect the change in income due to the activation. Upon a finding by the court that good cause did not exist for the servicemember's failure to seek, or delay in seeking, the modification, interest shall accrue as otherwise allowed by law.

(d) An order for spousal support may not be modified or terminated to the extent that a written agreement or, if there is no written agreement, an oral agreement entered into in open court between the parties, specifically provides that the spousal support is not subject to modification or termination.

(e) This section applies whether or not the support order is based upon an agreement between the parties.

(f) This section is effective only with respect to a property settlement agreement entered into on or after January 1, 1970, and does not affect an agreement entered into before January 1, 1970, as to which Chapter 1308 of the Statutes of 1967 shall apply.

(g) (1) The Judicial Council, no later than 90 days after the effective date of the act adding this section, shall develop forms and procedures necessary to implement paragraph (2) of subdivision (c). The Judicial Council shall ensure that all forms adopted pursuant to this section are in plain language.

(2) The form developed by the Judicial Council, in addition to other items the Judicial Council determines to be necessary or appropriate, shall include the following:

(A) The date of deployment and all information relevant to the determination of the amount of child support, including whether the servicemember's employer will supplement the servicemember's income during the deployment.

(B) A notice informing the opposing party that, absent a finding of good cause, the order will be made retroactive to the date of service of the form or the date of deployment, whichever is later.

(C) Notice that the requesting party must notify the court and the other party upon return from military duty and seek to bring any unresolved request for modification to hearing within 90 days of return, or else lose the right to modify the order pursuant to this section.

SEC. 40. Section 3664 of the Family Code is amended to read:

3664. (a) At any time following a judgment of dissolution of marriage or legal separation of the parties, or a determination of parentage, that provides for payment of support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party's assignee, without leave of court, may serve a request on the other party for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

(b) If there is no response within 35 days of service of the request or if the responsive income and expense declaration is incomplete as to any wage information, including the attachment of pay stubs and income tax returns, the requesting party may serve a request on the employer of the other party for information limited to the income and benefits provided to the party in the form adopted by the Judicial Council. The employer may require the requesting party to pay the reasonable costs of copying this information for the requesting party. The date specified in the request served on the employer for the production of income and benefit information shall not be less than 15 days from the date this request is issued.

(c) The requesting party shall serve or cause to be served on the employee described in this section, or on the employee's attorney, a copy of the request served on the employer prior to the date specified in the request served on the employer for the production of income and benefit information. This copy shall be accompanied by a notice, in a typeface that is intended to call attention to its terms, that indicates all of the following:

(1) That information limited to the income and benefits provided to the employee by the employer is being sought from the employer named in the request for production.

(2) That the information may be protected by right of privacy.

(3) That, if the employee objects to the production of this information by the employer to the requesting party, the employee shall notify the court, in writing, of this objection prior to the date specified in the request served on the employer for the production of income and benefit information.

(4) That, if the requesting party does not agree, in writing, to cancel or narrow the scope of the request for the production of this information by the employer, the employee should consult an attorney regarding the employee's right to privacy and how to protect this right.

(d) The employee described in this section may, prior to the date specified in the request served on the employer for the production of income and benefit information, bring a motion pursuant to Section 1987.1 of the Code of Civil Procedure to quash or modify this request in the same manner as a subpoena duces tecum. Notice of this motion shall be given to the employer prior to the date specified in the request served on the employer for the production of income and benefit information. An employer is not required to produce information limited to the income and benefits of the employee, except upon order of the court or upon agreement of the parties, employers, and employee affected.

(e) Service of a request for production of an income and expense declaration or for income and benefit information pursuant to this section or a copy thereof shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

(f) The form adopted by the Judicial Council for purposes of the request on an employer described in subdivision (b) shall state that compliance with the request is voluntary, except upon order of the court or upon agreement of the parties, employers, and employee affected.

SEC. 41. Section 3691 of the Family Code is amended to read:

3691. The grounds and time limits for an action or motion to set aside a support order, or part thereof, are governed by this section and shall be one of the following:

(a) Actual fraud. Where the defrauded party was kept in ignorance or in some other manner, other than through the party's own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the fraud.

(b) Perjury. An action or motion based on perjury shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the perjury.

(c) Lack of Notice.

(1) When service of a summons has not resulted in notice to a party in time to defend the action for support and a default or default judgment has been entered against the party in the action, the party may serve and file a notice of motion to set aside the default and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event later than six months after the party obtains or reasonably should have obtained notice (A) of the support order, or (B) that the party's income and assets are subject to attachment pursuant to the order.

(2) A notice of motion to set aside a support order pursuant to this subdivision shall be accompanied by an affidavit showing, under oath, that the party's lack of notice in time to defend the action was not caused by avoidance of service or inexcusable neglect. The party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(3) The court may not set aside or otherwise relieve a party from a support order pursuant to this subdivision if service of the summons was accomplished in accordance with existing requirements of law regarding service of process.

SEC. 42. Section 3751 of the Family Code is amended to read:

3751. (a) (1) Support orders issued or modified pursuant to this chapter shall include a provision requiring the child support obligor to keep the agency designated under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.) informed of whether the obligor has health insurance coverage at a reasonable cost and, if so, the health insurance policy information.

(2) When an amount is set for current support, the court shall require that health insurance coverage for a supported child shall be maintained by either or both parents if that insurance is available at no cost or at a reasonable cost to the parent. Health insurance coverage shall be rebuttably presumed to be reasonable in cost if the cost to the responsible parent providing medical support does not exceed 5 percent of the parent's gross income. In applying the 5 percent for the cost of health insurance, the cost is the difference between self-only and family coverage. If the obligor is entitled to a low-income adjustment as provided in paragraph (7) of subdivision (b) of Section 4055, medical support shall be deemed not reasonable, unless the court determines that not requiring medical support would be unjust and inappropriate in the particular case. If the court determines that the cost of health insurance coverage is not reasonable, the court shall state its reasons on the record. If the court determines that, although the obligor is entitled to a low-income adjustment, not requiring medical support would be unjust and inappropriate, the court shall state its reasons on the record.

(b) If the court determines that health insurance coverage is not available at no cost or at a reasonable cost, the court's order for support shall contain a provision that specifies that health insurance coverage shall be obtained if it becomes available at no cost

or at a reasonable cost. Upon health insurance coverage at no cost or at a reasonable cost becoming available to a parent, the parent shall apply for that coverage.

(c) The court's order for support shall require the parent who, at the time of the order or subsequently, provides health insurance coverage for a supported child to seek continuation of coverage for the child upon attainment of the limiting age for a dependent child under the health insurance coverage if the child meets the criteria specified under Section 1373 of the Health and Safety Code or Section 10277 or 10278 of the Insurance Code and that health insurance coverage is available at no cost or at a reasonable cost to the parent or parents, as applicable.

SEC. 43. Section 4014 of the Family Code is amended to read:

4014. (a) An order for child support issued or modified pursuant to this chapter shall include a provision requiring the obligor and child support obligee to notify the other parent or, if the order requires payment through an agency designated under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the agency named in the order, of the name and address of the person's current employer.

(b) The requirements set forth in this subdivision apply only in cases when the local child support agency is not providing child support services pursuant to Section 17400. To the extent required by federal law, and subject to applicable confidentiality provisions of state or federal law, a judgment for paternity and an order for child support entered or modified pursuant to any law shall include a provision requiring the child support obligor and obligee to file with the court all of the following information:

- (1) Residential and mailing address.
- (2) Social security number, individual taxpayer identification number, or other uniform identification number.
- (3) Telephone number.
- (4) Driver's license number or identification card number issued by the Department of Motor Vehicles.
- (5) Name, address, and telephone number of the employer.
- (6) Any other information prescribed by the Judicial Council.

The judgment or order shall specify that each parent is responsible for providing the parent's own information, that the information must be filed with the court within 10 days of the court order, and that new or different information must be filed with the court within 10 days after any event causing a change in the previously provided information.

(c) The requirements set forth in this subdivision shall only apply in cases in which the local child support agency is not providing child support services pursuant to Section 17400. Once the child support registry, as described in Section 17391 is operational, a judgment for parentage and an order for child support entered or modified pursuant to any law shall include a provision requiring the child support obligor and obligee to file and keep updated the information specified in subdivision (b) with the child support registry.

(d) The Judicial Council shall develop forms to implement this section. The forms shall be developed so as not to delay the implementation of the Statewide Child Support Registry described in Section 17391 and shall be available no later than 30 days prior to the implementation of the Statewide Child Support Registry.

SEC. 44. Section 4053 of the Family Code is amended to read:

4053. In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

- (a) A parent's first and principal obligation is to support the parent's minor children according to the parent's circumstances and station in life.
- (b) Both parents are mutually responsible for the support of their children.
- (c) The guideline takes into account each parent's actual income and level of responsibility for the children.
- (d) Each parent should pay for the support of the children according to the parent's ability.
- (e) The guideline seeks to place the interests of children as the state's top priority.
- (f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.

(g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.

(h) The financial needs of the children should be met through private financial resources as much as possible.

(i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.

(j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.

(k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.

(l) Child support orders shall ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

SEC. 45. Section 4059 of the Family Code is amended to read:

4059. The annual net disposable income of each parent shall be computed by deducting from the parent's annual gross income the actual amounts attributable to the following items or other items permitted under this article:

(a) The state and federal income tax liability resulting from the parties' taxable income. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support, but shall be considered in determining spousal support consistent with Chapter 3 (commencing with Section 4330) of Part 3.

(b) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(c) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(d) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

(e) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of a person who is not a subject of the order to be established by the court. In the absence of a court order, child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, a deduction shall not be allowed under this subdivision.

(f) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(g) A deduction for hardship, as defined by Sections 4070 to 4073, inclusive, and applicable published appellate court decisions. The amount of the hardship shall not be deducted from the amount of child support, but shall be deducted from the income of the party to whom it applies. In applying any hardship under paragraph (2) of subdivision (a) of Section 4071, the court shall seek to provide equity between competing child support orders. The Judicial Council shall develop a formula for calculating the maximum hardship deduction and shall submit it to the Legislature for its consideration on or before July 1, 1995.

SEC. 46. Section 4063 of the Family Code is amended to read:

4063. (a) When making an order pursuant to paragraph (2) of subdivision (a) of Section 4062, the court shall:

(1) Advise each parent, in writing or on the record, of the parent's rights and liabilities, including financial responsibilities.

(2) Include in its order the time period for a parent to reimburse the other parent for the reimbursing parent's share of the reasonable additional child support costs subject to the requirements of this section.

(b) Unless there has been an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, when either parent accrues or pays costs pursuant to an order under this section, that parent shall provide the other parent with an itemized statement of the costs within a reasonable time, but not more than 30 days after accruing the costs. These costs shall then be paid as follows:

(1) If a parent has already paid all of these costs, that parent shall provide proof of payment and a request for reimbursement of that parent's court-ordered share to the other parent.

(2) If a parent has paid the parent's court-ordered share of the costs only, that parent shall provide proof of payment to the other parent, request the other parent to pay the remainder of the costs directly to the provider, and provide the reimbursing parent with any necessary information about how to make the payment to the provider.

(3) The other parent shall make the reimbursement or pay the remaining costs within the time period specified by the court, or, if no period is specified, within a reasonable time not to exceed 30 days from notification of the amount due, or according to any payment schedule set by the health care provider for either parent unless the parties agree in writing to another payment schedule or the court finds good cause for setting another payment schedule.

(4) If the reimbursing parent disputes a request for payment, that parent shall pay the requested amount and thereafter may seek judicial relief under this section and Section 290. If the reimbursing parent fails to pay the other parent as required by this subdivision, the other parent may seek judicial relief under this section and Section 290.

(c) Either parent may file a noticed motion to enforce an order issued pursuant to this section. In addition to the court's powers under Section 290, the court may award filing costs and reasonable attorney's fees if it finds that either party acted without reasonable cause regarding the party's obligations pursuant to this section.

(d) There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable, except as provided in subdivision (e).

(e) Except as provided in subdivision (g):

(1) The health care insurance coverage, including, but not limited to, coverage for emergency treatment, provided by a parent pursuant to a court order, shall be the coverage to be utilized at all times, consistent with the requirements of that coverage, unless the other parent can show that the health care insurance coverage is inadequate to meet the child's needs.

(2) If either parent obtains health care insurance coverage in addition to that provided pursuant to the court order, that parent shall bear sole financial responsibility for the costs of that additional coverage and the costs of any care or treatment obtained pursuant thereto in excess of the costs that would have been incurred under the health care insurance coverage provided for in the court order.

(f) Except as provided in subdivision (g):

(1) If the health care insurance coverage provided by a parent pursuant to a court order designates a preferred health care provider, that preferred provider shall be used at all times, consistent with the terms and requirements of that coverage.

(2) If either parent uses a health care provider other than the preferred provider inconsistent with the terms and requirements of the court-ordered health care insurance coverage, the parent obtaining that care shall bear the sole responsibility for any nonreimbursable health care costs in excess of the costs that would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used.

(g) When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:

(1) The geographic access and reasonable availability of necessary health care for the child that complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order. Health insurance shall be rebuttably presumed to be accessible if services to be provided are within 50 miles of the residence of the child subject to the support order. If the court determines that health insurance is not accessible, the court shall state the reason on the record.

(2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.

(3) The special medical needs of the child.

(4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

SEC. 47. Section 4076 of the Family Code is amended to read:

4076. (a) When the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phase-in of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

(1) The period of the phase-in is carefully limited to the time necessary for the obligor to rearrange the obligor's financial obligations in order to meet the full formula amount of support.

(2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.

(3) The obligor has not unreasonably increased their financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) When the court grants a request for a phase-in pursuant to this section, the court shall state the following in writing:

(1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phase-in of the full formula amount of support.

(2) The full guideline amount of support, the date and amount of each phase-in, and the date that the obligor must commence paying the full formula amount of support, which shall not be later than one year after the filing of the motion for modification of support.

(c) When the court orders a phase-in pursuant to this section, and the court thereafter determines that the obligor has violated the phase-in schedule or has intentionally lowered the income available for the payment of child support during the phase-in period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phase-in and the amount of support due with the phase-in, in addition to any other penalties provided for by law.

SEC. 48. Section 4205 of the Family Code is amended to read:

4205. Any notice from the local child support agency requesting a meeting with the support obligor for any purpose authorized under this part shall contain a statement advising the support obligor of the obligor's right to have an attorney present at the meeting.

SEC. 49. Section 4251 of the Family Code is amended to read:

4251. (a) Commencing July 1, 1997, each superior court shall provide sufficient commissioners to hear Title IV-D child support cases filed by the local child support agency. The number of child support commissioners required in each county shall be determined by the Judicial Council as prescribed by paragraph (3) of subdivision (b) of Section 4252. All actions or proceedings filed by the local child support agency in a support action or proceeding in which enforcement services are being provided pursuant to Section 17400, for an order to establish, modify, or enforce child or spousal support, including actions to establish parentage, shall be referred for hearing to a child support commissioner unless a child support commissioner is not available due to exceptional circumstances, as prescribed by the Judicial Council pursuant to paragraph (7) of subdivision (b) of Section 4252. All actions or proceedings filed by a party other than the local child support agency to modify or enforce a support order established by the local child support agency or for which enforcement services are being provided pursuant to Section 17400 shall be referred for hearing to a child support commissioner unless a child support commissioner is not available due to exceptional circumstances, as prescribed by the Judicial Council pursuant to paragraph (7) of subdivision (b) of Section 4252.

(b) The commissioner shall act as a temporary judge unless an objection is made by the local child support agency or any other party. The Judicial Council shall develop a notice that shall be included on all forms and pleadings used to initiate a child support action or proceeding that advises the parties of their right to review by a superior court judge and how to exercise that right. The parties shall also be advised by the court prior to the commencement of the hearing that the matter is being heard by a commissioner who shall act as a temporary judge unless any party objects to the commissioner acting as a temporary judge. While acting as a temporary judge, the commissioner shall receive no compensation other than compensation as a commissioner.

(c) If a party objects to the commissioner acting as a temporary judge, the commissioner may hear the matter and make findings of fact and a recommended order. Within 10 court days, a judge shall ratify the recommended order unless either party objects to the recommended order, or where a recommended order is in error. In both cases, the judge shall issue a temporary order and schedule a hearing de novo within 10 court days. A party may waive the right to the review hearing at any time.

(d) The commissioner, where appropriate, shall do any of the following:

- (1) Review and determine ex parte applications for orders and writs.
- (2) Take testimony.
- (3) Establish a record, evaluate evidence, and make recommendations or decisions.
- (4) Enter judgments or orders based upon voluntary acknowledgments of support liability and parentage and stipulated agreements respecting the amount of child support to be paid.
- (5) Enter default orders and judgments pursuant to Section 4253.
- (6) In actions in which parentage is at issue, order the mother, child, and alleged father to submit to genetic tests.

(e) The commissioner shall, upon application of a party, join issues concerning custody, visitation, and protective orders in the action filed by the local child support agency, subject to Section 17404. After joinder, the commissioner shall:

- (1) Refer the parents for mediation of disputed custody or visitation issues pursuant to Section 3170.
- (2) Accept stipulated agreements concerning custody, visitation, and protective orders and enter orders pursuant to the agreements.
- (3) Refer contested issues of custody, visitation, and protective orders to a judge or to another commissioner for hearing. A child support commissioner may hear contested custody, visitation, and restraining order issues only if the court has adopted procedures to segregate the costs of hearing Title IV-D child support issues from the costs of hearing other issues pursuant to applicable federal requirements.

(f) The local child support agency shall be served notice by the moving party of any proceeding under this section in which support is at issue. An order for support that is entered without the local child support agency having received proper notice shall be voidable upon the motion of the local child support agency.

SEC. 50. Section 4325 of the Family Code is amended to read:

4325. (a) In a proceeding for dissolution of marriage where there is a criminal conviction for a domestic violence misdemeanor or a criminal conviction for a misdemeanor that results in a term of probation pursuant to Section 1203.097 of the Penal Code perpetrated by one spouse against the other spouse entered by the court within five years prior to the filing of the dissolution proceeding or during the course of the dissolution proceeding, there shall be a rebuttable presumption that the following shall apply:

- (1) An award of spousal support to the convicted spouse from the injured spouse is prohibited.
- (2) If economic circumstances warrant, the court shall order the attorney's fees and costs incurred by the parties to be paid from the community assets. The injured spouse shall not be required to pay any attorney's fees of the convicted spouse out of the injured spouse's separate property.
- (3) At the request of the injured spouse, the date of separation, as defined in Section 70, shall be the date of the incident giving rise to the conviction, or earlier, if the court finds circumstances that justify an earlier date.

(b) The court may consider documented evidence of a convicted spouse's history as a victim of domestic violence, as defined in Section 6211, perpetrated by the other spouse, or any other factors the court deems just and equitable, as conditions for rebutting this presumption.

(c) The rebuttable presumption created in this section may be rebutted by a preponderance of the evidence.

(d) The court may determine, based on the facts of a particular case, that the injured spouse is entitled to up to 100 percent of the community property interest in the injured spouse's retirement and pension benefits. In determining whether and how to apportion the community property interest in the retirement and pension benefits of the injured spouse, the court shall consider all of the following factors:

- (1) The misdemeanor domestic violence conviction, as well as documented evidence of other instances of domestic violence, as defined in Section 6211, between the parties or perpetrated by either party against either party's child, including, but not limited to, consideration of emotional distress resulting from domestic violence. The court shall also consider documented evidence of a convicted spouse's history as a victim of domestic violence, as defined in Section 6211, perpetrated by the other spouse.

(2) The duration of the marriage and when, based on documented evidence, incidents of domestic violence, as defined in Section 6211, occurred.

(3) The extent to which the convicted spouse's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the convicted spouse to devote time to domestic duties.

(4) The extent to which the convicted spouse contributed to the attainment of an education, training, a career position, or a license by the injured spouse.

(5) The balance of the hardships to each party.

(6) Any other factors the court determines are just and equitable.

(e) As used in this section, the following definitions apply:

(1) "Domestic violence misdemeanor" means a misdemeanor offense for an act of abuse, as described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 6203, perpetrated by one spouse against the other spouse.

(2) "Injured spouse" means the spouse who has been the subject of the domestic violence misdemeanor for which the other spouse was convicted.

(f) The changes made to this section by the bill that added this subdivision shall only apply to convictions that occur on or after January 1, 2019.

SEC. 51. Section 4330 of the Family Code is amended to read:

4330. (a) In a judgment of dissolution of marriage or legal separation of the parties, the court may order a party to pay for the support of the other party an amount, for a period of time, that the court determines is just and reasonable, based on the standard of living established during the marriage, taking into consideration the circumstances as provided in Chapter 2 (commencing with Section 4320).

(b) When making an order for spousal support, the court may advise the recipient of support that the recipient should make reasonable efforts to assist in providing for their support needs, taking into account the particular circumstances considered by the court pursuant to Section 4320, unless, in the case of a marriage of long duration as provided for in Section 4336, the court decides this warning is inadvisable.

SEC. 52. Section 4331 of the Family Code is amended to read:

4331. (a) In a proceeding for dissolution of marriage or for legal separation of the parties, the court may order a party to submit to an examination by a vocational training counselor. The examination shall include an assessment of the party's ability to obtain employment based upon the party's age, health, education, marketable skills, employment history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party's ability to obtain employment that would allow the party to maintain their marital standard of living.

(b) The order may be made only on motion, for good cause, and on notice to the party to be examined and to all parties. The order shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made.

(c) A party who does not comply with an order under this section is subject to the same consequences provided for failure to comply with an examination ordered pursuant to Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(d) "Vocational training counselor" for the purpose of this section means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering, and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

(e) A vocational training counselor shall have at least the following qualifications:

(1) A master's degree in the behavioral sciences, or other postgraduate degree that the court finds provides sufficient training to perform a vocational evaluation.

(2) Qualification to administer and interpret inventories for assessing career potential.

(3) Demonstrated ability in interviewing clients and assessing marketable skills with an understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.

(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.

(5) Knowledge of education and training programs in the area with costs and time plans for these programs.

(f) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

SEC. 53. Section 4351 of the Family Code is amended to read:

4351. (a) In a proceeding where the court has entered an order pursuant to Section 4350, the court may also refer the matter of enforcement of the spousal support order to the local child support agency. The local child support agency may bring those enforcement proceedings it determines to be appropriate.

(b) Notwithstanding subdivision (a), when the local child support agency is required to appear on behalf of a welfare recipient in a proceeding to enforce an order requiring payment of child support, the local child support agency shall also enforce any order requiring payment to the welfare recipient of spousal support that is in arrears.

(c) This section does not prohibit the district attorney or the local child support agency from bringing an action or initiating process to enforce or punish the failure to obey an order for spousal support under any law that empowers the district attorney or the local child support agency to bring an action or initiate a process, whether or not there has been a referral by the court pursuant to this chapter.

(d) Any notice from the district attorney or the local child support agency requesting a meeting with the support obligor for any purpose authorized under this part shall contain a statement advising the support obligor of the obligor's right to have an attorney present at the meeting.

SEC. 54. Section 4400 of the Family Code is amended to read:

4400. Except as otherwise provided by law, an adult child shall, to the extent of the adult child's ability, support a parent who is in need and unable to self-maintain by work.

SEC. 55. Section 5246 of the Family Code is amended to read:

5246. (a) This section applies only to Title IV-D cases where support enforcement services are being provided by the local child support agency pursuant to Section 17400.

(b) In lieu of an earnings assignment order signed by a judicial officer, the local child support agency may serve on the employer a notice of assignment in the manner specified in Section 5232. An order/notice to withhold income for child support shall have the same force and effect as an earnings assignment order signed by a judicial officer. An order/notice to withhold income for child support, when used under this section, shall be considered a notice and shall not require the signature of a judicial officer.

(c) Pursuant to Section 666 of Title 42 of the United States Code, the federally mandated order/notice to withhold income for child support shall be used for the purposes described in this section.

(d) (1) An order/notice to withhold income may not reduce the current amount withheld for court-ordered child support.

(2) If the underlying court order for support does not provide for an arrearage payment, or if an additional arrearage accrues after the date of the court order for support, the local child support agency may send an order/notice to withhold income for child support that shall be used for the purposes described in this section directly to the employer that specifies the updated arrearage amount and directs the employer to withhold an additional amount to be applied towards liquidation of the arrearages not to exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code.

(3) Notwithstanding paragraph (2), if an obligor is disabled, meets the SSI resource test, and is receiving Supplemental Security Income/State Supplementary 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 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 eligibility for and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the order/notice to withhold income issued by the local child support agency for the liquidation of the arrearage shall not exceed 5 percent of the obligor's total monthly Social Security Disability payments under Title II of the Social Security Act.

(e) If the obligor requests a hearing, a hearing date shall be scheduled within 20 days of the filing of the request with the court. The clerk of the court shall provide notice of the hearing to the local child support agency and the obligor no later than 10 days prior to the hearing.

(1) If, at the hearing, the obligor establishes that they are not the obligor or good cause or an alternative arrangement as provided in Section 5260, the court may order that service of the order/notice to withhold income for child support be quashed. If the court quashes service of the order/notice to withhold income for child support, the local child support agency shall notify the employer within 10 days.

(2) If the obligor contends at the hearing that the payment of arrearages at the rate specified in the order/notice to withhold income for child support is excessive or that the total arrearages owing is incorrect, and if it is determined that payment of the arrearages at the rate specified in this section creates an undue hardship upon the obligor or that the withholding would exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code Annotated, the rate at which the arrearages must be paid shall be reduced to a rate that is fair and reasonable considering the circumstances of the parties and the best interest of the child. If it is determined at a hearing that the total amount of arrearages calculated is erroneous, the court shall modify the amount calculated to the correct amount. If the court modifies the total amount of arrearages owed or reduces the monthly payment due on the arrearages, the local child support agency shall serve the employer with an amended order/notice to withhold income for child support within 10 days.

(f) If an obligor's current support obligation has terminated by operation of law, the local child support agency may serve an order/notice to withhold income for child support on the employer that directs the employer to continue withholding from the obligor's earnings an amount to be applied towards liquidation of the arrearages, not to exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code, until the employer is notified by the local child support agency that the arrearages have been paid in full. The employer shall provide the obligor with a copy of the order/notice to withhold income for child support and a blank form that the obligor may file with the court to request a hearing to modify or quash the assignment with instructions on how to file the form and obtain a hearing date. The obligor shall be entitled to the same rights to a hearing as specified in subdivision (e).

(g) The local child support agency shall retain a copy of the order/notice to withhold income for child support and shall file a copy with the court whenever a hearing concerning the order/notice to withhold income for child support is requested.

(h) The local child support agency may transmit an order/notice to withhold income for child support and other forms required by this section to the employer through electronic means.

SEC. 56. Section 5601 of the Family Code is amended to read:

5601. (a) When the local child support agency is responsible for the enforcement of a support order pursuant to Section 17400, the local child support agency may register a support order made in another county by utilizing the procedures set forth in Section 5602 or by filing all of the following in the superior court of the agency's county:

(1) An endorsed file copy of the most recent support order or a copy thereof.

(2) A statement of arrearages, including an accounting of amounts ordered and paid each month, together with any added costs, fees, and interest.

(3) A statement prepared by the local child support agency showing the post office address of the local child support agency, the last known place of residence or post office address of the obligor; the most recent address of the obligor set forth in the licensing records of the Department of Motor Vehicles, if known; and a list of other states and counties in California that are known to the local child support agency in which the original order of support and any modifications are registered.

(b) The filing of the documents described in subdivision (a) constitutes registration under this chapter.

(c) Promptly upon registration, the local child support agency, in compliance with the requirements of Section 1013 of the Code of Civil Procedure, or in any other manner as provided by law, shall serve the obligor with copies of the documents described in subdivision (a).

(d) If a motion to vacate registration is filed under Section 5603, a party may introduce into evidence copies of pleadings, documents, or orders that have been filed in the original court or other courts where the support order has been registered or modified. Certified copies of the documents shall not be required unless a party objects to the authenticity or accuracy of the document, in which case it shall be the responsibility of the party who is asserting the authenticity of the document to obtain a certified copy of the questioned document.

(e) Upon registration, the clerk of the court shall forward a notice of registration to the courts in other counties and states in which the original order for support and any modifications were issued or registered. Further proceedings regarding the obligor's support

obligations shall not be filed in other counties.

(f) The procedure prescribed by this section may also be used to register support or wage and earnings assignment orders of other California jurisdictions that previously have been registered for purposes of enforcement only pursuant to the Uniform Interstate Family Support Act (Part 6 (commencing with Section 5700.101)) in another California county. The local child support agency may register such an order by filing an endorsed file copy of the registered California order plus any subsequent orders, including procedural amendments.

(g) The Judicial Council shall develop the forms necessary to effectuate this section. These forms shall be available no later than July 1, 1998.

SEC. 57. Section 5603 of the Family Code is amended to read:

5603. (a) An obligor shall have 20 days after the service of notice of the registration of a California order of support in which to file a noticed motion requesting the court to vacate the registration or for other relief. In an action under this section, there shall be no joinder of actions, coordination of actions, or cross-complaints, and the claims or defenses shall be limited strictly to the identity of the obligor, the validity of the underlying California support order, or the accuracy of the obligee's statement of the amount of support remaining unpaid unless the amount has been previously established by a judgment or order. The obligor shall serve a copy of the motion, personally or by first-class mail, on the local child support agency, private attorney representing the obligee, or obligee who is self-representing who filed the request for registration of the order, not less than 15 days prior to the date on which the motion is to be heard. If service is by mail, Section 1013 of the Code of Civil Procedure applies. If the obligor does not file the motion within 20 days, the registered California support order and all other documents filed pursuant to subdivision (a) of Section 5601 or Section 5602 are confirmed.

(b) At the hearing on the motion to vacate the registration of the order, the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a support judgment. If the obligor shows, and the court finds, that an appeal from the order is pending or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered. If the obligor shows, and the court finds, any ground upon which enforcement of a California support order may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes security for payment of support.

SEC. 58. Section 5611 of the Family Code is amended to read:

5611. (a) A contract for the collection of child support between a private child support collector and an obligee shall be in writing and written in simple language, in at least 10-point type, signed by the private child support collector and the obligee. The contract shall be delivered to the obligee in a paper form that the obligee may retain for their records. The contract shall include all of the following:

- (1) An explanation of the fees imposed by contract and otherwise permitted by law and an example of how they are calculated and deducted.
- (2) A statement that the amount of fees to be charged is set by the agency and is not set by state law.
- (3) A statement that the private child support collector cannot charge fees on current support if the obligee received any current child support during the 6 months preceding execution of the contract with the private collector.
- (4) An explanation of the nature of the services to be provided.
- (5) The expected duration of the contract, stated as a length of time or as an amount to be collected by the collection agency.
- (6) An explanation of the opportunities available to the obligee or private child support collector to cancel the contract or other conditions under which the contract terminates.
- (7) The mailing address, street address, telephone numbers, facsimile numbers, and internet address or location of the private child support collector.
- (8) A statement that the private child support collector is not a governmental entity and that governmental entities in California provide child support collection and enforcement services free of charge.
- (9) A statement that the private child support collector collects only money owed to the obligee and not support assigned to the state or county due to the receipt of CalWORKs or Temporary Assistance to Needy Families.

(10) A statement that the private child support collector will not retain fees from collections that are primarily attributable to the actions of a governmental entity or any other person or entity and is required by law to refund any fees improperly retained.

(11) A statement that the obligee may continue to receive, or may pursue, services through a governmental entity to collect support, and the private child support collection agency will not require or request that the obligee cease or refrain from engaging those services.

(12) A notice that the private child support collector is required to keep and maintain case records for a period of four years and four months, after the expiration of the contract and may thereafter destroy or otherwise dispose of the records. The obligee may, prior to destruction or disposal, retrieve those portions of the records that are not confidential.

(13) A "Notice of Cancellation," which shall be included with the contract and which shall contain, in the same size font as the contract, the following statement, written in the same language as the contract:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within 15 business days from the date the contract is signed or you receive this notice, whichever is later, or at any time if the private child support collector commits a material breach of any provision of the contract or a material violation of any provision of this chapter with respect to the obligee or the obligor, or _____ (all other reasons for cancellation permitted).

To cancel this contract, mail or deliver a signed copy of this cancellation notice or any other written notice to _____ (name of private child support collector) at _____ (address for mail or delivery) no later than midnight on _____ (date).
I am canceling this contract. _____ (date)
_____(signature)"

(14) The following statement by the obligee on the first page of the contract:

"I understand that this contract calls for (name of private child support collector) to collect money owed to me, and not money owed to the state or county. If child support is owed to the state or county because I am receiving or have received program benefits from CalWORKs or Temporary Assistance to Needy Families, then (name of private child support collector) cannot collect that money for me. If I start to receive program benefits from CalWORKs or Temporary Assistance to Needy Families during this contract, I must notify (name of private child support collector) in writing."

"I declare by my signature below that the child support to be collected for me pursuant to this contract is not assigned to the state or county as of the time I sign this contract. I agree that I will give written notice to the private child support collector if I apply for program benefits under CalWORKs or Temporary Assistance to Needy Families during the term of this contract."

(15) (A) The following statement by the obligee immediately above the signature line of the contract:

"I understand that (name of private child support collector) will charge a fee for all the current child support and arrears it collects for me until the entire contract amount is collected or the contract terminates for another reason. I also understand that depending on the frequency and size of payments, it could take years for the amount specified in my contract to be collected. This means that if (name of private child support collector) is collecting my current support by wage withholding or other means, I will not receive the full amount of my periodic court-ordered current support until the contract terminates since (name of private child support collector) will be deducting its fee from the periodic court-ordered current support it collects for me."

(B) The statement required by subparagraph (A) shall:

(i) Be in a type size that is at least equal to one-quarter of the largest type size used in the contract. In no event shall the disclosure be printed in less than 8-point type.

(ii) Be in a contrasting style, and contrasting color or bold type, that is equally or more visible than the type used in the contract.

(b) The disclosures required by paragraph (1) of subdivision (a) of Section 5612 shall be printed in the contract, as follows:

(1) In a type size that is at least equal to one-quarter of the largest type size used in the contract. In no event shall the disclosure be printed in less than 8-point type.

(2) In a contrasting style, and contrasting color or bold type that is equally or more visible than the type used in the contract.

(3) Immediately above, below, or beside the stated fee without any intervening words, pictures, marks, or symbols.

(4) In the same language as the contract.

SEC. 59. Section 6228 of the Family Code is amended to read:

6228. (a) State and local law enforcement agencies shall provide, upon request and without charging a fee, one copy of all incident report face sheets, one copy of all incident reports, or both, to a victim, or the victim's representative as defined in subdivision (g), of a crime that constitutes an act of any of the following:

(1) Domestic violence, as defined in Section 6211.

(2) Sexual assault, as defined in Sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code.

(3) Stalking, as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(4) Human trafficking, as defined in Section 236.1 of the Penal Code.

(5) Abuse of an elder or a dependent adult, as defined in Section 15610.07 of the Welfare and Institutions Code.

(b) (1) A copy of an incident report face sheet shall be made available during regular business hours to a victim or the victim's representative no later than 48 hours after being requested, unless the state or local law enforcement agency informs the victim or the victim's representative of the reasons why, for good cause, the incident report face sheet is not available, in which case the incident report face sheet shall be made available no later than five working days after the request is made.

(2) A copy of the incident report shall be made available during regular business hours to a victim or the victim's representative no later than five working days after being requested, unless the state or local law enforcement agency informs the victim or the victim's representative of the reasons why, for good cause, the incident report is not available, in which case the incident report shall be made available no later than 10 working days after the request is made.

(c) A person requesting copies under this section shall present state or local law enforcement with the person's identification, including a current, valid driver's license, a state-issued identification card, or a passport. If the person is a representative of the victim and the victim is deceased, the representative shall also present a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time a request is made. If the person is a representative of the victim and the victim is alive and not the subject of a conservatorship, the representative shall also present a written authorization, signed by the victim, making the person the victim's personal representative.

(d) (1) This section shall apply to requests for domestic violence face sheets or incident reports made within five years from the date of completion of the incident report.

(2) This section shall apply to requests for sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult face sheets or incident reports made within two years from the date of completion of the incident report.

(e) This section shall be known and may be cited as the Access to Domestic Violence Reports Act of 1999.

(f) For purposes of this section, "victim" includes a minor who is 12 years of age or older.

(g) (1) For purposes of this section, if the victim is deceased, a "representative of the victim" means any of the following:

(A) The surviving spouse.

(B) A surviving child of the decedent who has attained 18 years of age.

(C) A domestic partner, as defined in subdivision (a) of Section 297.

(D) A surviving parent of the decedent.

(E) A surviving adult relative.

(F) The personal representative of the victim, as defined in Section 58 of the Probate Code, if one is appointed.

(G) The public administrator if one has been appointed.

(2) For purposes of this section, if the victim is not deceased, a "representative of the victim" means any of the following:

(A) A parent, guardian, or adult child of the victim, or an adult sibling of a victim 12 years of age or older, who shall present to law enforcement identification pursuant to subdivision (c). A guardian shall also present to law enforcement a copy of the letters of guardianship demonstrating that the person is the appointed guardian of the victim.

(B) An attorney for the victim, who shall present to law enforcement identification pursuant to subdivision (c) and written proof that the person is the attorney for the victim.

(C) A conservator of the victim who shall present to law enforcement identification pursuant to subdivision (c) and a copy of the letters of conservatorship demonstrating that the person is the appointed conservator of the victim.

(3) A representative of the victim does not include any person who has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, of the victim, or any person identified in the incident report face sheet as a suspect.

SEC. 60. Section 6275 of the Family Code is amended to read:

6275. (a) A law enforcement officer who responds to a situation in which the officer believes that there may be grounds for the issuance of an emergency protective order pursuant to Section 6250 of this code or Section 646.91 of the Penal Code, shall inform the person for whom an emergency protective order may be sought, or, if that person is a minor, the minor's parent or guardian, provided that the parent or guardian is not the person against whom the emergency protective order may be obtained, that the person may request the officer to request an emergency protective order pursuant to this part.

(b) Notwithstanding Section 6250, and pursuant to this part, an officer shall request an emergency protective order if the officer believes that the person requesting an emergency protective order is in immediate and present danger.

SEC. 61. Section 6302 of the Family Code is amended to read:

6302. A notice of hearing under this part shall notify the respondent that, if the respondent does not attend the hearing, the court may make orders against the respondent that could last up to five years.

SEC. 62. Section 6303 of the Family Code is amended to read:

6303. (a) It is the function of a support person to provide moral and emotional support for a person who alleges to be a victim of domestic violence. The person who alleges to be a victim of domestic violence may select any individual to act as a support person. No certification, training, or other special qualification is required for an individual to act as a support person. The support person shall assist the person in feeling more confident that the person will not be injured or threatened by the other party during the proceedings where the person and the other party must be present in close proximity. The support person is not present as a legal adviser and shall not give legal advice.

(b) A support person shall be permitted to accompany either party to any proceeding to obtain a protective order, as defined in Section 6218. Where the party is not represented by an attorney, the support person may sit with the party at the table that is generally reserved for the party and the party's attorney.

(c) Notwithstanding any other law to the contrary, if a court has issued a protective order, a support person shall be permitted to accompany a party protected by the order during any mediation orientation or mediation session, including separate mediation sessions, held pursuant to a proceeding described in Section 3021. Family Court Services, and any agency charged with providing family court services, shall advise the party protected by the order of the right to have a support person during mediation. A mediator may exclude a support person from a mediation session if the support person participates in the mediation session, or acts as an advocate, or the presence of a particular support person is disruptive or disrupts the process of mediation. The presence of the support person does not waive the confidentiality of the mediation, and the support person is bound by the confidentiality of the mediation.

(d) In a proceeding subject to this section, a support person shall be permitted to accompany a party in court where there are allegations or threats of domestic violence and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney.

(e) This section does not preclude a court from exercising its discretion to remove a person from the courtroom when it would be in the interest of justice to do so, or when the court believes the person is prompting, swaying, or influencing the party protected by the order.

SEC. 63. Section 6306 of the Family Code is amended to read:

6306. (a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has a prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has a misdemeanor conviction involving domestic violence, weapons, or other violence; has an outstanding warrant; is currently on parole or probation; has a registered firearm; or has a prior restraining order or a violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to, the following:

- (1) The California Sex and Arson Registry (CSAR).
- (2) The Supervised Release File.
- (3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.
- (4) The Federal Bureau of Investigation's nationwide database.
- (5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the issuance of an order pursuant to this part. That information shall be destroyed and shall not become part of the public file in this or any other civil proceeding.

(c) (1) After issuing its ruling, the court shall advise the parties that they may request the information described in subdivision (b) upon which the court relied. The court shall admonish the party seeking the proposed order that it is unlawful, pursuant to Sections 11142 and 13303 of the Penal Code, to willfully release the information, except as authorized by law.

(2) Upon the request of either party to obtain the information described in subdivision (b) upon which the court relied, the court shall release the information to the parties or, upon either party's request, to the party's attorney in that proceeding.

(3) The party seeking the proposed order may release the information to the party's counsel, court personnel, and court-appointed mediators for the purpose of seeking judicial review of the court's order or for purposes of court proceedings under Section 213.5 of the Welfare and Institutions Code.

(d) Information obtained as a result of the search conducted pursuant to subdivision (a) and relied upon by the court shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. However, the contents of the confidential case file shall be disclosed to the court-appointed mediator assigned to the case or to a child custody evaluator appointed by the court pursuant to Section 3111 of this code or Section 730 of the Evidence Code. All court-appointed mediators and child custody evaluators appointed or contracted by the court pursuant to Section 3111 of this code or Section 730 of the Evidence Code who receive information from the search conducted pursuant to subdivision (a) shall be subject to, and shall comply with, the California Law Enforcement Telecommunications System policies, practices, and procedures adopted pursuant to Section 15160 of the Government Code.

(e) If the results of the search conducted pursuant to subdivision (a) indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of any protective order and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(f) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of the issuance and contents of any protective order issued by the court and of any other information obtained through the search that the court determines is appropriate. That officer shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(g) This section shall not delay the granting of an application for an order that may otherwise be granted without the information resulting from the database search. If the court finds that a protective order under this part should be granted on the basis of the affidavit presented with the petition, the court shall issue the protective order and shall then ensure that a search is conducted pursuant to subdivision (a) prior to the hearing.

SEC. 64. Section 6320.5 of the Family Code is amended to read:

6320.5. (a) An order denying a petition for an ex parte order pursuant to Section 6320 shall include the reasons for denying the petition.

(b) An order denying a jurisdictionally adequate petition for an ex parte order, pursuant to Section 6320, shall provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date of the order. The petitioner shall serve on the respondent, at least five days before the hearing, copies of all supporting papers filed with the court, including the application and affidavits.

(c) Notwithstanding subdivision (b), upon the denial of the ex parte order pursuant to Section 6320, the petitioner shall have the option of waiving the right to a noticed hearing. However, this section does not preclude a petitioner who waives the right to a noticed hearing from refiling a new petition, without prejudice, at a later time.

SEC. 65. Section 6323 of the Family Code is amended to read:

6323. (a) Subject to Section 3064:

(1) The court may issue an ex parte order determining the temporary custody and visitation of a minor child, on the conditions the court determines, to a party who has established a parent and child relationship pursuant to paragraph (2). The parties shall inform the court if a custody or visitation order has already been issued in any other proceeding.

(2) (A) In making a determination of the best interest of the child, in order to limit the child's exposure to potential domestic violence, and to ensure the safety of all family members, if the party who has obtained the restraining order has established a parent and child relationship and the other party has not established that relationship, the court may award temporary sole legal and physical custody to the party to whom the restraining order was issued and may make an order of no visitation to the other party pending the establishment of a parent and child relationship between the child and the other party.

(B) A party may establish a parent and child relationship for purposes of subparagraph (A) only by offering proof of any of the following:

(i) The party gave birth to the child.

(ii) The child is conclusively presumed to be a child of the marriage between the parties, pursuant to Section 7540, or the party has been determined by a court to be a parent of the child, pursuant to Section 7541.

(iii) Legal adoption or pending legal adoption of the child by the party.

(iv) The party has signed a valid voluntary declaration of paternity, which has been in effect more than 60 days prior to the issuance of the restraining order, and that declaration has not been rescinded or set aside.

(v) A determination made by the juvenile court that there is a parent and child relationship between the party offering the proof and the child.

(vi) A determination of parentage made in a proceeding to determine custody or visitation in a case brought by the local child support agency pursuant to Chapter 2 (commencing with Section 17400) of Division 17.

(vii) The party has been determined to be the parent of the child through a proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(viii) Both parties stipulate, in writing or on the record, for purposes of this proceeding, that they are the parents of the child.

(b) (1) Except as provided in paragraph (2), the court shall not make a finding of paternity in this proceeding, and an order issued pursuant to this section shall be without prejudice in any other action brought to establish a parent and child relationship.

(2) The court may accept a stipulation of paternity by the parties and, if paternity is uncontested, enter a judgment establishing paternity, subject to the set-aside provisions in Section 7646.

(c) When making an order for custody or visitation pursuant to this section, the court's order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. If the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

(d) When making an order for custody or visitation pursuant to this section, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that a visitation or custody arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether visitation or custody shall be suspended or denied.

SEC. 66. Section 6343 of the Family Code is amended to read:

6343. (a) After notice and a hearing, the court may issue an order requiring the restrained party to participate in a batterer's program approved by the probation department as provided in Section 1203.097 of the Penal Code.

(b) (1) Commencing July 1, 2016, if the court orders a restrained party to participate in a batterer's program pursuant to subdivision (a), the restrained party shall do all of the following:

(A) Register for the program by the deadline ordered by the court. If no deadline is ordered by the court, the restrained party shall register no later than 30 days from the date the order was issued.

(B) At the time of enrollment, sign all necessary program consent forms for the program to release proof of enrollment, attendance records, and completion or termination reports to the court and the protected party, or the protected party's attorney. The court and the protected party may provide to the program a fax number or mailing address for purposes of receiving proof of enrollment, attendance records, and completion or termination reports.

(C) Provide the court and the protected party with the name, address, and telephone number of the program.

(2) By July 1, 2016, the Judicial Council shall revise or promulgate forms as necessary to effectuate this subdivision.

(c) The courts shall, in consultation with local domestic violence shelters and programs, develop a resource list of referrals to appropriate community domestic violence programs and services to be provided to each applicant for an order under this section.

SEC. 67. Section 6345 of the Family Code is amended to read:

6345. (a) In the discretion of the court, the personal conduct, stay-away, and residence exclusion orders contained in a court order issued after notice and a hearing under this article may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, either for five years or permanently, without a showing of further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the orders.

(b) Notwithstanding subdivision (a), the duration of any orders, other than the protective orders described in subdivision (a), that are also contained in a court order issued after notice and a hearing under this article, including, but not limited to, orders for custody, visitation, support, and disposition of property, shall be governed by the law relating to those specific subjects.

(c) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(d) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify

another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if the protected party is physically present in court and does not challenge the sufficiency of the notice.

SEC. 68. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the California Restraining and Protective Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued, modified, extended, or terminated under Section 136.2 of the Penal Code, and all data filed with the court on the required Judicial Council forms with respect to protective orders, including their issuance, modification, extension, or termination, to which this division applies pursuant to Section 6221, shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment, unlawful violence, or the threat of violence pursuant to Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure, or the issuance of a criminal court protective order under Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the tribunal of another state, as defined in Section 6401, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) (1) Within one business day of service, a law enforcement officer who served a protective order shall submit the proof of service directly into the Department of Justice California Restraining and Protective Order System, including the officer's name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a protective order directly into the Department of Justice California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the Department of Justice California Restraining and Protective Order System within one business day of receipt from the court.

(e) The Department of Justice shall maintain a California Restraining and Protective Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms. The informational packets shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts, and shall also include information on how to return proofs of service, including mailing addresses and fax numbers. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 6401, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision does not apply to a valid protective or restraining order related to domestic or family violence issued by a tribunal of another state, as defined in Section 6401. Those orders shall, upon request, be registered pursuant to Section 6404.

(j) (1) All protective orders subject to transmittal to CLETS pursuant to this section are required to be so transmitted.

(2) This subdivision does not constitute a change in, but is declaratory of, existing law.

SEC. 69. Section 6381 of the Family Code is amended to read:

6381. (a) Notwithstanding Section 6380 and subject to subdivision (b), an order issued under this part is enforceable in any place in this state.

(b) An order issued under this part is not enforceable by a law enforcement agency of a political subdivision unless that law enforcement agency has received a copy of the order, or the officer enforcing the order has been shown a copy of the order or has obtained information, through the California Restraining and Protective Order System maintained by the Department of Justice, of the contents of the order, as described in subdivision (b).

(c) The data contained in the California Restraining and Protective Order System shall be deemed to be original, self-authenticating, documentary evidence of the court orders. Oral notification of the terms of the orders shall be sufficient notice for enforcement under subdivision (g) of Section 136.2 and Section 273.6 of the Penal Code.

SEC. 70. Section 6383 of the Family Code is amended to read:

6383. (a) A temporary restraining order or emergency protective order issued under this part shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by a law enforcement officer who is present at the scene of reported domestic violence involving the parties to the proceeding.

(b) The petitioner shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and transmit to the issuing court.

(c) It is a rebuttable presumption that the proof of service was signed on the date of service.

(d) Upon receiving information at the scene of a domestic violence incident that a protective order has been issued under this part, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately inquire of the California Restraining and Protective Order System to verify the existence of the order.

(e) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall, at that time, also enforce the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Sections 273.6 and 29825 of the Penal Code.

(f) If a report is required under Section 13730 of the Penal Code, or if no report is required, then in the daily incident log, the officer shall provide the name and assignment of the officer notifying the respondent pursuant to subdivision (e) and the case number of the order.

(g) Upon service of the order outside of the court, a law enforcement officer shall advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

(h) (1) There shall be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a protective or restraining order that is regular upon its face, if the peace officer, in making the arrest, acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order.

(2) If there is more than one order issued and one of the orders is an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c) of Section 136.2 of the Penal Code, the peace officer shall enforce the emergency protective order. If there is more than one order issued, none of the orders issued is an emergency protective order that has precedence in enforcement, and one of the orders issued is a no-contact order, as described in Section 6320, the peace officer shall enforce the no-contact order. If there is more than one civil order regarding the same parties and neither an emergency protective order that has precedence in enforcement nor a no-contact order has been issued, the peace officer shall enforce the order that was issued last. If there are both civil and criminal orders regarding the same parties and neither an emergency protective order that has precedence in enforcement nor a no-contact order has been issued, the peace officer shall enforce the criminal order issued last, subject to the provisions of subdivisions (h) and (i) of Section 136.2 of the Penal Code. This section does not exonerate a peace officer from liability for the unreasonable use of force in the enforcement of the order. The immunities afforded by this section shall not affect the availability of any other immunity that may apply, including, but not limited to, Sections 820.2 and 820.4 of the Government Code.

SEC. 71. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. A person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to Section 29825 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c) (1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm in a safe manner, upon request of a law enforcement officer, to the control of the officer, after being served with the protective order. A law enforcement officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm be immediately surrendered. Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm at the time of relinquishment. A person ordered to relinquish any firearm pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File, with the court that issued the protective order, the receipt showing the firearm was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(B) File a copy of the receipt described in subparagraph (A) with the law enforcement agency that served the protective order. Failure to timely file a copy of the receipt shall constitute a violation of the protective order.

(3) The forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall require the petitioner to describe the number, types, and locations of any firearms presently known by the petitioner to be possessed or controlled by the respondent.

(4) It is recommended that every law enforcement agency in the state develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms.

(d) If the respondent declines to relinquish possession of a firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of a firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. This section does not limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling a firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in a prohibited class for the possession of firearms, as defined in Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of a firearm deposited with the local law enforcement agency and is prohibited from possessing a firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon the owner identifying the firearm and providing proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from the place of employment. When a peace officer is required, as a condition of employment, to carry a firearm and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to a person pursuant to subdivision (g) shall not be subject to the requirements of Section 27545 of the Penal Code.

(l) If the respondent notifies the court that the respondent owns a firearm that is not in their immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) A respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of Section 29825 of the Penal Code.

SEC. 72. Section 6404 of the Family Code is amended to read:

6404. (a) A foreign protection order shall, upon request of the person in possession of the order, be registered with a court of this state in order to be entered in the California Restraining and Protective Order System established under Section 6380. The Judicial Council shall adopt rules of court to do the following:

(1) Set forth the process whereby a person in possession of a foreign protection order may voluntarily register the order with a court of this state for entry into the California Restraining and Protective Order System.

(2) Require the sealing of foreign protection orders and provide access only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

(b) A fee shall not be charged for the registration of a foreign protection order. The court clerk shall provide all Judicial Council forms required by this part to a person in possession of a foreign protection order free of charge.

SEC. 73. Section 6454 of the Family Code is amended to read:

6454. (a) An individual may register a Canadian domestic violence protection order in this state. To register the order, the individual must present a certified copy of the order to a court of this state to be entered into the California Restraining and Protective Order System established under Section 6380, pursuant to procedures set forth in Section 6404.

(b) A fee shall not be charged for the registration of a Canadian domestic violence protection order under this section.

(c) Registration in this state or filing under law of this state other than this part of a Canadian domestic violence protection order is not required for its enforcement under this part.

SEC. 74. Section 6750 of the Family Code is amended to read:

6750. (a) This chapter applies to the following contracts entered into between an unemancipated minor and a third party on or after January 1, 2000:

(1) A contract pursuant to which a minor is employed or agrees to render artistic or creative services, either directly or through a third party, including, but not limited to, a personal services corporation (loan-out company), or through a casting agency. "Artistic or creative services" includes, but is not limited to, services as an actor, actress, dancer, musician, comedian, singer, stuntperson, voice-over artist, or other performer or entertainer, or as a songwriter, musical producer or arranger, writer, director, producer, production executive, choreographer, composer, conductor, or designer.

(2) A contract pursuant to which a minor agrees to purchase, or otherwise secure, sell, lease, license, or otherwise dispose of literary, musical, or dramatic properties, or use of a person's likeness, voice recording, performance, or story of or incidents in the person's life, either tangible or intangible, or any rights therein for use in motion pictures, television, the production of sound recordings in any format now known or hereafter devised, the legitimate or living stage, or otherwise in the entertainment field.

(3) A contract pursuant to which a minor is employed or agrees to render services as a participant or player in a sport.

(b) (1) If a minor is employed or agrees to render services directly for a person or entity, that person or entity shall be considered the minor's employer for purposes of this chapter.

(2) If a minor's services are being rendered through a third-party individual or personal services corporation (loan-out company), the person to whom or entity to which that third party is providing the minor's services shall be considered the minor's employer for purposes of this chapter.

(3) If a minor renders services as an extra, background performer, or in a similar capacity through an agency or service that provides one or more of those performers for a fee (casting agency), the agency or service shall be considered the minor's

employer for the purposes of this chapter.

(c) (1) For purposes of this chapter, the minor's "gross earnings" means the total compensation payable to the minor under the contract or, if the minor's services are being rendered through a third-party individual or personal services corporation (loan-out company), the total compensation payable to that third party for the services of the minor.

(2) Notwithstanding paragraph (1), with respect to contracts pursuant to which a minor is employed or agrees to render services as a musician, singer, songwriter, musical producer, or arranger only, for purposes of this chapter, the minor's "gross earnings" means the total amount paid to the minor pursuant to the contract, including the payment of any advances to the minor pursuant to the contract, but excluding deductions to offset those advances or other expenses incurred by the employer pursuant to the contract, or, if the minor's services are being rendered through a third-party individual or personal services corporation (loan-out company), the total amount payable to that third party for the services of the minor.

SEC. 75. Section 6752 of the Family Code is amended to read:

6752. (a) A parent or guardian entitled to the physical custody, care, and control of a minor who enters into a contract of a type described in Section 6750 shall provide a certified copy of the minor's birth certificate indicating the minor's minority to the other party or parties to the contract and in addition, in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian.

(b) (1) Notwithstanding any other statute, in an order approving a minor's contract of a type described in Section 6750, the court shall require that 15 percent of the minor's gross earnings pursuant to the contract be set aside by the minor's employer, except an employer of a minor for services as an extra, background performer, or in a similar capacity, as described in paragraph (3) of subdivision (b) of Section 6750. These amounts shall be held in trust, in an account or other savings plan, and preserved for the benefit of the minor in accordance with Section 6753.

(2) The court shall require that at least one parent or legal guardian, as the case may be, entitled to the physical custody, care, and control of the minor at the time the order is issued be appointed as trustee of the funds ordered to be set aside in trust for the benefit of the minor, unless the court shall determine that appointment of a different individual, individuals, entity, or entities as trustee or trustees is required in the best interest of the minor.

(3) Within 10 business days after commencement of employment, the trustee or trustees of the funds ordered to be set aside in trust shall provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to Section 6753. Upon presentation of the trustee's statement offered pursuant to this subdivision, the employer shall provide the parent or guardian with a written acknowledgment of receipt of the statement.

(4) The minor's employer shall deposit or disburse the 15 percent of the minor's gross earnings pursuant to the contract within 15 business days after receiving a true and accurate copy of the trustee's statement pursuant to subdivision (c) of Section 6753, a certified copy of the minor's birth certificate, and, in the case of a guardian, a certified copy of the court document appointing the person as the minor's guardian. Notwithstanding any other law, pending receipt of these documents, the minor's employer shall hold, for the benefit of the minor, the 15 percent of the minor's gross earnings pursuant to the contract. This paragraph does not apply to an employer of a minor for services as an extra, background performer, or in a similar capacity, as described in paragraph (3) of subdivision (b) of Section 6750.

(5) When making the initial deposit of funds, the minor's employer shall provide written notification to the financial institution or company that the funds are subject to Section 6753. Upon receipt of the court order, the minor's employer shall provide the financial institution with a copy of the order.

(6) Once the minor's employer deposits the set-aside funds pursuant to Section 6753, in trust, in an account or other savings plan, the minor's employer shall have no further obligation or duty to monitor or account for the funds. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to monitor and account for those funds once they have been deposited by the minor's employer. The trustee or trustees shall do an annual accounting of the funds held in trust, in an account or other savings plan, in accordance with Sections 16062 and 16063 of the Probate Code.

(7) The court shall have continuing jurisdiction over the trust established pursuant to the order and may at any time, upon petition of the parent or legal guardian, the minor, through the minor's guardian ad litem, or the trustee or trustees, on good cause shown, order that the trust be amended or terminated, notwithstanding the provisions of the declaration of trust. An order amending or terminating a trust may be made only after reasonable notice to the beneficiary and, if the beneficiary is then a minor, to the parent or guardian, if any, and to the trustee or trustees of the funds with opportunity for all parties to appear and be heard.

(8) A parent or guardian entitled to the physical custody, care, and control of the minor shall promptly notify the minor's employer, in writing, of any change in facts that affect the employer's obligation or ability to set aside the funds in accordance

with the order, including, but not limited to, a change of financial institution or account number, or the existence of a new or amended order issued pursuant to paragraph (7) amending or terminating the employer's obligations under this section. The written notification shall be accompanied by a true and accurate photocopy of the trustee's statement pursuant to Section 6753 and, if applicable, a true and accurate photocopy of the new or amended order.

(9) (A) If a parent, guardian, or trustee fails to provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to Section 6753 within 180 days after the commencement of employment, the employer shall forward to The Actors' Fund of America 15 percent of the minor's gross earnings pursuant to the contract, together with the minor's name and, if known, the minor's social security number, birth date, last known address, telephone number, email address, dates of employment, and title of the project on which the minor was employed, and shall notify the parent, guardian, or trustee of that transfer by certified mail to the last known address. Upon receipt of those forwarded funds, The Actors' Fund of America shall become the trustee of those funds and the minor's employer shall have no further obligation or duty to monitor or account for the funds.

(B) The Actors' Fund of America shall make its best efforts to notify the parent, guardian, or trustee of their responsibilities to provide a true and accurate photocopy of the trustee's statement pursuant to Section 6753, and in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian. Within 15 business days after receiving those documents, The Actors' Fund of America shall deposit or disburse the funds as directed by the trustee's statement. When making that deposit or disbursement of the funds, The Actors' Fund of America shall provide to the financial institution notice that the funds are subject to Section 6753 and a copy of each applicable order, and shall thereafter have no further obligation or duty to monitor or account for the funds.

(C) The Actors' Fund of America shall notify each beneficiary of their entitlement to the funds that it holds for the beneficiary within 60 days after the date on which its records indicated that the beneficiary has attained 18 years of age or the date on which it received notice that the minor has been emancipated, by sending that notice to the last known address for the beneficiary or, if it has no specific separate address for the beneficiary, to the beneficiary's parent or guardian.

(c) (1) Notwithstanding any other statute, for any minor's contract of a type described in Section 6750 that is not being submitted for approval by the court pursuant to Section 6751, or for which the court has issued a final order denying approval, 15 percent of the minor's gross earnings pursuant to the contract shall be set aside by the minor's employer, except an employer of a minor for services as an extra, background performer, or in a similar capacity, as described in paragraph (3) of subdivision (b) of Section 6750. These amounts shall be held in trust, in an account or other savings plan, and preserved for the benefit of the minor in accordance with Section 6753. At least one parent or legal guardian, as the case may be, entitled to the physical custody, care, and control of the minor, shall be the trustee of the funds set aside for the benefit of the minor, unless the court, upon petition by the parent or legal guardian, the minor, through the minor's guardian ad litem, or the trustee or trustees of the trust, shall determine that appointment of a different individual, individuals, entity, or entities as trustee or trustees is required in the best interest of the minor.

(2) Within 10 business days of commencement after employment, a parent or guardian, as the case may be, entitled to the physical custody, care, and control of the minor shall provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to Section 6753 and in addition, in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian. Upon presentation of the trustee's statement offered pursuant to this subdivision, the employer shall provide the parent or guardian with a written acknowledgment of receipt of the statement.

(3) The minor's employer shall deposit 15 percent of the minor's gross earnings pursuant to the contract within 15 business days of receiving the trustee's statement pursuant to Section 6753, or if the court denies approval of the contract, within 15 business days of receiving a final order denying approval of the contract. Notwithstanding any other statute, pending receipt of the trustee's statement or the final court order, the minor's employer shall hold for the benefit of the minor the 15 percent of the minor's gross earnings pursuant to the contract. When making the initial deposit of funds, the minor's employer shall provide written notification to the financial institution or company that the funds are subject to Section 6753. This paragraph does not apply to an employer of a minor for services as an extra, background performer, or in a similar capacity, as described in paragraph (3) of subdivision (b) of Section 6750.

(4) Once the minor's employer deposits the set-aside funds in trust, in an account or other savings plan pursuant to Section 6753, the minor's employer shall have no further obligation or duty to monitor or account for the funds. The trustee or trustees of the trust shall be the only individual, individuals, entity, or entities with the obligation or duty to monitor and account for those funds once they have been deposited by the minor's employer. The trustee or trustees shall do an annual accounting of the funds held in trust, in an account or other savings plan, in accordance with Sections 16062 and 16063 of the Probate Code.

(5) Upon petition of the parent or legal guardian, the minor, through the minor's guardian ad litem, or the trustee or trustees of the trust, to the superior court in a county in which the minor resides or in which the trust is established, the court may at any time, on good cause shown, order that the trust be amended or terminated, notwithstanding the provisions of the declaration of

trust. An order amending or terminating a trust may be made only after reasonable notice to the beneficiary and, if the beneficiary is then a minor, to the parent or guardian, if any, and to the trustee or trustees of the funds with opportunity for all parties to appear and be heard.

(6) A parent or guardian entitled to the physical custody, care, and control of the minor shall promptly notify the minor's employer in writing of any change in facts that affect the employer's obligation or ability to set aside funds for the benefit of the minor in accordance with this section, including, but not limited to, a change of financial institution or account number, or the existence of a new or amended order issued pursuant to paragraph (5) amending or terminating the employer's obligations under this section. The written notification shall be accompanied by a true and accurate photocopy of the trustee's statement and attachments pursuant to Section 6753 and, if applicable, a true and accurate photocopy of the new or amended order.

(7) (A) If a parent, guardian, or trustee fails to provide the minor's employer with a true and accurate photocopy of the trustee's statement pursuant to Section 6753, within 180 days after commencement of employment, the employer shall forward to The Actors' Fund of America the 15 percent of the minor's gross earnings pursuant to the contract, together with the minor's name and, if known, the minor's social security number, birth date, last known address, telephone number, email address, dates of employment, and the title of the project on which the minor was employed, and shall notify the parent, guardian, or trustee of that transfer by certified mail to the last known address. Upon receipt of those forwarded funds, The Actors' Fund of America shall become the trustee of those funds and the minor's employer shall have no further obligation or duty to monitor or account for the funds.

(B) The Actors' Fund of America shall make best efforts to notify the parent, guardian, or trustee of their responsibilities to provide a true and accurate photocopy of the trustee's statement pursuant to Section 6753 and in the case of a guardian, a certified copy of the court document appointing the person as the minor's legal guardian. After receiving those documents, The Actors' Fund of America shall deposit or disburse the funds as directed by the trustee's statement, and in accordance with Section 6753, within 15 business days. When making that deposit or disbursement of the funds, The Actors' Fund of America shall provide notice to the financial institution that the funds are subject to Section 6753, and shall thereafter have no further obligation or duty to monitor or account for the funds.

(C) The Actors' Fund of America shall notify each beneficiary of their entitlement to the funds that it holds for the beneficiary, within 60 days after the date on which its records indicate that the beneficiary has attained 18 years of age or the date on which it received notice that the minor has been emancipated, by sending that notice to the last known address that it has for the beneficiary, or to the beneficiary's parent or guardian, where it has no specific separate address for the beneficiary.

(d) Where a parent or guardian is entitled to the physical custody, care, and control of a minor who enters into a contract of a type described in Section 6750, the relationship between the parent or guardian and the minor is a fiduciary relationship that is governed by the law of trusts, whether or not a court has issued a formal order to that effect. The parent or guardian acting in a fiduciary relationship, shall, with the earnings and accumulations of the minor under the contract, pay all liabilities incurred by the minor under the contract, including, but not limited to, payments for taxes on all earnings, including taxes on the amounts set aside under subdivisions (b) and (c) of this section, and payments for personal or professional services rendered to the minor or the business related to the contract. This subdivision does not alter any other existing responsibilities of a parent or legal guardian to provide for the support of a minor child.

(e) (1) Except as otherwise provided in this subdivision, The Actors' Fund of America, as trustee of unclaimed set-aside funds, shall manage and administer those funds in the same manner as a trustee under the Probate Code. Notwithstanding the foregoing, The Actors' Fund of America is not required to open separate, segregated individual trust accounts for each beneficiary but may hold the set-aside funds in a single, segregated master account for all beneficiaries, provided it maintains accounting records for each beneficiary's interest in the master account.

(2) The Actors' Fund of America shall have the right to transfer funds from the master account, or from a beneficiary's segregated account to its general account in an amount equal to the beneficiary's balance. The Actors' Fund of America shall have the right to use those funds transferred to its general account to provide programs and services for young performers. This use of the funds does not limit or alter The Actors' Fund of America's obligation to disburse the set-aside funds to the beneficiary, or the beneficiary's parent, guardian, trustee, or estate pursuant to this chapter.

(3) (A) Upon receiving a certified copy of the beneficiary's birth certificate, or United States passport, and a true and accurate photocopy of the trustee's statement pursuant to Section 6753, The Actors' Fund of America shall transfer the beneficiary's balance to the trust account established for the beneficiary.

(B) The Actors' Fund of America shall disburse the set-aside funds to a beneficiary who has attained 18 years of age, after receiving proof of the beneficiary's identity and a certified copy of the beneficiary's birth certificate or United States passport, or to a beneficiary who has been emancipated, after receiving proof of the beneficiary's identity and appropriate documentation evidencing the beneficiary's emancipation.

(C) The Actors' Fund of America shall disburse the set-aside funds to the estate of a deceased beneficiary after receiving appropriate documentation evidencing the death of the beneficiary and the claimant's authority to collect those funds on behalf of the beneficiary.

(f) (1) The beneficiary of an account held by The Actors' Fund of America pursuant to this section shall be entitled to receive imputed interest on the balance in the account for the entire period during which the account is held at a rate equal to the lesser of the federal reserve rate in effect on the last business day of the prior calendar quarter or the national average money market rate as published in the New York Times on the last Sunday of the prior calendar quarter, adjusted quarterly.

(2) The Actors' Fund of America may assess and deduct from the balance in the beneficiary's account reasonable management, administrative, and investment expenses, including beneficiary-specific fees for initial setup, account notifications and account disbursements, and a reasonably allocable share of management, administrative, and investment expenses of the master account. Fees may not be charged to a beneficiary's account during the first year that the account is held by The Actors' Fund of America.

(3) Notwithstanding paragraph (2), the amount paid on any claim made by a beneficiary or the beneficiary's parent or guardian after The Actors' Fund of America receives and holds funds pursuant to this section may not be less than the amount of the funds received plus the imputed interest.

(g) Notwithstanding any provision of this chapter to the contrary, a minor's employer holding set-aside funds under this chapter, which funds remain unclaimed 180 days after the effective date hereof, shall forward those unclaimed funds to The Actors' Fund of America, along with the minor's name and, if known, the minor's social security number, birth date, last known address, telephone number, email address, dates of employment, and the title of the project on which the minor was employed, and shall notify the parent, guardian, or trustee of that transfer by certified mail to the last known address. Upon receipt of those forwarded funds by The Actors' Fund of America, the minor's employer shall have no further obligation or duty to monitor or account for the funds.

(h) All funds received by The Actors' Fund of America pursuant to this section shall be exempt from the application of the Unclaimed Property Law (Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure), including, but not limited to, Section 1510 of the Code of Civil Procedure.

SEC. 76. Section 6924 of the Family Code is amended to read:

6924. (a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

- (A) A governmental agency.
- (B) A person or agency having a contract with a governmental agency to provide the services.
- (C) An agency that receives funding from community united funds.
- (D) A runaway house or crisis resolution center.
- (E) A professional person, as defined in paragraph (2).

(2) "Professional person" means any of the following:

- (A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.
- (B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
- (C) A licensed educational psychologist as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code.
- (D) A credentialed school psychologist as described in Section 49424 of the Education Code.
- (E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.
- (F) The chief administrator of an agency referred to in paragraph (1) or (3).

(G) A person registered as an associate marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.

(H) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(I) A person registered as an associate professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(3) "Residential shelter services" means any of the following:

(A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

(b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make their best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

(f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.

SEC. 77. Section 6929 of the Family Code is amended to read:

6929. (a) As used in this section:

(1) "Counseling" means the provision of counseling services by a provider under a contract with the state or a county to provide alcohol or drug abuse counseling services pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code or pursuant to Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(2) "Drug or alcohol" includes, but is not limited to, any substance listed in any of the following:

(A) Section 380 or 381 of the Penal Code.

(B) Division 10 (commencing with Section 11000) of the Health and Safety Code.

(C) Subdivision (f) of Section 647 of the Penal Code.

(3) "LAAM" means levoalphacetylmethadol as specified in paragraph (10) of subdivision (c) of Section 11055 of the Health and Safety Code.

(4) "Professional person" means a physician and surgeon, registered nurse, psychologist, clinical social worker, professional clinical counselor, marriage and family therapist, registered marriage and family therapist intern when appropriately employed and supervised pursuant to Section 4980.43 of the Business and Professions Code, psychological assistant when appropriately employed and supervised pursuant to Section 2913 of the Business and Professions Code, associate clinical social worker when appropriately employed and supervised pursuant to Section 4996.18 of the Business and Professions Code, or registered clinical counselor intern when appropriately employed and supervised pursuant to Section 4999.42 of the Business and Professions Code.

(b) A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem.

(c) The treatment plan of a minor authorized by this section shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person providing medical care or counseling to a minor shall state in the minor's treatment record whether and when the professional person attempted to contact the minor's parent or guardian, and whether the attempt to contact the parent or guardian was successful or unsuccessful, or the reason why, in the opinion of the professional person, it would not be appropriate to contact the minor's parent or guardian.

(d) The minor's parent or guardian is not liable for payment for care provided to a minor pursuant to this section, except that if the minor's parent or guardian participates in a counseling program pursuant to this section, the parent or guardian is liable for the cost of the services provided to the minor and the parent or guardian.

(e) This section does not authorize a minor to receive replacement narcotic abuse treatment, in a program licensed pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code, without the consent of the minor's parent or guardian.

(f) It is the intent of the Legislature that the state shall respect the right of a parent or legal guardian to seek medical care and counseling for a drug- or alcohol-related problem of a minor child when the child does not consent to the medical care and counseling, and nothing in this section shall be construed to restrict or eliminate this right.

(g) Notwithstanding any other law, when a parent or legal guardian has sought the medical care and counseling for a drug- or alcohol-related problem of a minor child, the physician and surgeon shall disclose medical information concerning the care to the minor's parent or legal guardian upon the parent's or guardian's request, even if the minor child does not consent to disclosure, without liability for the disclosure.

SEC. 78. Section 6930 of the Family Code is amended to read:

6930. (a) A minor who is 12 years of age or older and who states that the minor is injured as a result of intimate partner violence may consent to medical care related to the diagnosis or treatment of the injury and the collection of medical evidence with regard to the alleged intimate partner violence.

(b) (1) For purposes of this section, "intimate partner violence" means an intentional or reckless infliction of bodily harm that is perpetrated by a person with whom the minor has or has had a sexual, dating, or spousal relationship.

(2) This section does not apply when a minor is an alleged victim of rape, as defined in Section 261 or 262 of the Penal Code, in which case Section 6927 shall apply, and does not apply when a minor is alleged to have been sexually assaulted, as described in Section 6928, in which case that section shall apply.

(c) If the health practitioner providing treatment believes that the injuries described in subdivision (a) require a report pursuant to Section 11160 of the Penal Code, the health practitioner shall do both of the following:

(1) Inform the minor that the report will be made.

(2) Attempt to contact the minor's parent or guardian and inform them of the report. The health practitioner shall note in the minor's treatment record the date and time of the attempt to contact the parent or guardian and whether the attempt was successful or unsuccessful. This paragraph does not apply if the health practitioner reasonably believes that the minor's parent or guardian committed the intimate partner violence on the minor.

SEC. 79. 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 their own financial affairs. As evidence of this, the minor shall complete and attach a declaration of income and expenses as provided in Judicial Council form FL-150.

(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.

SEC. 80. Section 7541 of the Family Code is amended to read:

7541. (a) If the court finds that the spouse who is a presumed parent under Section 7540 is not a genetic parent of the child pursuant to Chapter 2 (commencing with Section 7550), the question of parentage shall be resolved in accordance with all other applicable provisions of this division, including, but not limited to, Section 7612.

(b) An action to challenge the parentage of the spouse who is a presumed parent under Section 7540 shall be filed and served not later than two years from the child's date of birth and may only be filed by any of the following:

(1) By either spouse.

(2) By a person who is a presumed parent under Section 7611 or by the child, through or by the child's guardian ad litem, to establish the parentage of the person who is a presumed parent under Section 7611.

(c) The petition or motion to challenge a presumption under Section 7540 pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of parentage before the court.

(d) Genetic testing may not be used to challenge parentage, in either of the following cases:

(1) A case that reached final judgment of parentage on or before September 30, 1980.

(2) A case challenging the parentage of a spouse who is a parent pursuant to Section 7962 or subdivision (a) of Section 7613, except to resolve a dispute regarding whether the child was conceived through assisted reproduction.

SEC. 81. Section 7554 of the Family Code is amended to read:

7554. (a) If the woman who gave birth to the child is the only other person who is a parent or has a claim to parentage of the child under this division, the court shall find the person who is the alleged father or genetic parent who is not a donor under Section 7613 to be a parent of the child if the person meets any of the following:

(1) Is identified pursuant to Section 7555 as a genetic parent of the child and the identification is not successfully challenged.

(2) Admits parentage in a pleading, when making an appearance, or during a hearing, the court accepts the admission, and the court determines that the person is a genetic parent of the child.

(3) Declines to submit to genetic testing ordered by the court or a local child support agency, in which case, the court may find that the person is a parent of the child even if the person denies a genetic relationship with the child.

(4) Is in default after service of process and the court determines the person to be a genetic parent of the child.

(5) Is neither identified nor excluded as a genetic parent by genetic testing and, based on other evidence, the court determines the person to be a genetic parent of the child.

(b) If more than one person other than the woman who gave birth asserts a claim under this division to be the child's parent, parentage shall be determined under provisions of this division.

SEC. 82. Section 7572 of the Family Code, as added by Section 31 of Chapter 876 of the Statutes of 2018, is amended to read:

7572. (a) The Department of Child Support Services, in consultation with the State Department of Health Care Services, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively

to develop written materials to assist providers and parents in complying with this chapter. This written material shall be updated periodically by the Department of Child Support Services to reflect changes in law, procedures, or public need.

(b) The written materials for unmarried parents or parents of a child conceived through assisted reproduction that shall be attached to the form specified in Section 7574 and shall contain the following information:

(1) A signed voluntary declaration of parentage that is filed with the Department of Child Support Services legally establishes parentage.

(2) The legal rights and obligations of both parents and the child that result from the establishment of parentage.

(3) An alleged father's constitutional rights to have the issue of parentage decided by a court; to notice of any hearing on the issue of parentage; to have an opportunity to present the alleged father's case to the court, including the right to present and cross-examine witnesses; to be represented by an attorney; and to have an attorney appointed if the alleged father cannot afford one in a parentage action filed by a local child support agency.

(4) That by signing the voluntary declaration of parentage, the father is voluntarily waiving the father's constitutional rights.

(c) Parents shall also be given oral notice of the rights and responsibilities specified in subdivision (b). Oral notice may be accomplished through the use of audio or video recorded programs developed by the Department of Child Support Services to the extent permitted by federal law.

(d) The Department of Child Support Services shall, free of charge, make available to hospitals, clinics, and other places of birth any and all informational and training materials for the program under this chapter, as well as the declaration of parentage form. The Department of Child Support Services shall make training available to every participating hospital, clinic, local registrar of births and deaths, and other place of birth no later than June 30, 1999.

(e) The Department of Child Support Services may adopt regulations, including emergency regulations, necessary to implement this chapter.

SEC. 83. Section 7573.5 of the Family Code is amended to read:

7573.5. (a) A voluntary declaration of parentage is void if, at the time of signing, any of the following are true:

(1) A person other than the woman who gave birth to the child or a person seeking to establish parentage through a voluntary declaration of parentage is a presumed parent under Section 7540 or subdivision (a), (b), or (c) of Section 7611.

(2) A court has entered a judgment of parentage of the child.

(3) Another person has signed a valid voluntary declaration of parentage.

(4) The child has a parent under Section 7613 or 7962 other than the signatories.

(5) The person seeking to establish parentage is a sperm or ova donor under subdivision (b) or (c) of Section 7613.

(6) The person seeking to establish parentage asserts that the person is a parent under Section 7613 and the child was not conceived through assisted reproduction.

(b) In an action in which a party is seeking a determination that a voluntary declaration of parentage is void under this section, notice shall be provided pursuant to Section 7635.

SEC. 84. Section 7574 of the Family Code, as added by Section 36 of Chapter 876 of the Statutes of 2018, is amended to read:

7574. (a) The voluntary declaration of parentage shall be executed on a form developed by the Department of Child Support Services in consultation with the State Department of Public Health and groups addressing child support, child custody, assisted reproduction issues, and lesbian, gay, bisexual, and transgender rights.

(b) The form described in subdivision (a) shall contain, at a minimum, all of the following:

(1) The name and the signature of the woman who gave birth to the child.

(2) The name and the signature of the person seeking to establish parentage.

(3) The name of the child.

(4) The date of birth of the child.

(5) For a voluntary declaration of parentage signed pursuant to paragraph (1) of subdivision (a) of Section 7573, all of the following:

(A) A statement by the woman who gave birth that the woman is unmarried and understands the written materials described in Section 7572, that the person who is signing the voluntary declaration of parentage is the only possible genetic parent other than the woman who gave birth, that the woman who gave birth consents to the establishment of parentage by the genetic parent signing the voluntary declaration of parentage, and that the woman who gave birth understands that a challenge by a signatory to a valid declaration of parentage is permitted only under limited circumstances and is barred two years after the effective date of the declaration.

(B) A statement by the person signing the voluntary declaration of parentage that the person has read and understands the written materials described in Section 7572, understands that by signing the voluntary declaration of parentage the person is waiving rights as described in the written materials, that the person is the genetic parent of the child, that the person consents to the establishment of parentage by signing the voluntary declaration of parentage, that the person is assuming all the rights and responsibilities of a parent and wishes to be named on the child's birth certificate, and that the person understands that a challenge by a signatory to a valid declaration of parentage is permitted only under limited circumstances and is barred two years after the effective date of the declaration.

(6) For a voluntary declaration of parentage signed pursuant to paragraph (2) of subdivision (a) of Section 7573, all of the following:

(A) A statement by the woman who gave birth that the woman has read and understands the written materials described in Section 7572, that the person who is signing the voluntary declaration of parentage is the intended parent of a child conceived through assisted reproduction, that the woman who gave birth consents to the establishment of parentage by the other person signing the voluntary declaration of parentage, and that the woman who gave birth understands that a challenge by a signatory to a valid declaration of parentage is permitted only under limited circumstances and is barred two years after the effective date of the declaration.

(B) A statement that the person seeking to establish parentage has read and understands the written materials described in Section 7572, understands that by signing the voluntary declaration of parentage the person is waiving rights as described in the written materials, that the person is the intended parent of the child conceived through assisted reproduction, that the person consents to the establishment of parentage by signing the voluntary declaration of parentage, that the person is assuming all the rights and responsibilities of a parent and wishes to be named on the child's birth certificate, and that the person understands that a challenge by a signatory to a valid declaration of parentage is permitted only under limited circumstances and is barred two years after the effective date of the declaration.

(7) The name and the signature of the person who witnesses the signing of the declaration.

SEC. 85. Section 7577 of the Family Code, as added by Section 42 of Chapter 876 of the Statutes of 2018, is amended to read:

7577. The following rules apply in an action to challenge a valid voluntary declaration of parentage brought by a person who is not a signatory to the declaration. This section does not apply to a voluntary declaration of parentage that is void under Section 7573.5.

(a) A person has standing under this section if the person is an alleged genetic parent who is not a donor under Section 7613, is a presumed parent under Section 7611, or any person who has standing under Section 7630.

(b) The petition challenging a voluntary declaration of parentage pursuant to this section shall be supported by a declaration under oath alleging specific facts to support standing under this section.

(c) If the court holds a hearing to determine standing, the hearing shall be held on an expedited basis. If the person challenging the voluntary declaration of parentage is an alleged genetic parent, genetic testing shall be ordered on an expedited basis.

(d) The action shall be filed not later than two years after the effective date of the declaration. This limitations period does not apply if the voluntary declaration of parentage is void under Section 7573.5.

(e) Notice shall be provided to the signatories of the declaration and to any person entitled to notice under Section 7635. A person who asserts a claim to parentage under this division shall be joined in the action.

(f) With respect to whether the voluntary declaration of parentage should be set aside, the person petitioning to set aside the voluntary declaration of parentage shall have the burden of proof by a preponderance of the evidence.

(g) The court may grant the petition to set aside the voluntary declaration of parentage only if the court finds that setting aside the voluntary declaration of parentage is in the best interest of the child, based on consideration of all of the following factors:

(1) The age of the child.

(2) The length of time since the effective date of the voluntary declaration of parentage.

(3) The nature, duration, and quality of any relationship between the person who signed the voluntary declaration of parentage and the child, including the duration and frequency of any time periods during which the child and the person resided in the same household or enjoyed a parent and child relationship.

(4) The request of the person who signed the voluntary declaration of parentage that the parent and child relationship continue.

(5) If the person challenges a voluntary declaration of parentage signed pursuant to paragraph (1) of subdivision (a) of Section 7573, the court shall additionally consider all of the following:

(A) Notice by the genetic parent of the child that the genetic parent does not oppose preservation of the relationship between the person who signed the declaration of parentage and the child.

(B) Whether any conduct of the person who signed the voluntary declaration has impaired the ability to ascertain the identity of, or obtain support from, the genetic parent.

(6) Additional factors deemed by the court to be relevant to its determination of the best interest of the child.

(h) If the voluntary declaration of parentage is challenged by a person who is presumed to be a parent under subdivision (d) of Section 7611, the court's ruling on the petition to set aside the voluntary declaration of parentage shall, in addition to the factors under subdivision (g), also take into account the nature, duration, and quality of the relationship between the petitioning party and the child and the benefit or detriment to the child of continuing that relationship.

(i) If the court denies the petition to set aside the voluntary declaration of parentage, the court shall state on the record the basis for the denial of the action and any supporting facts.

(j) (1) If the court grants the petition to set aside the voluntary declaration of parentage, the court shall adjudicate parentage pursuant to Section 7612.

(2) An order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of parentage should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(k) This section does not prejudice or bar the rights of a person who is not a signatory and has standing under subdivision (a) to file an action or motion to set aside the voluntary declaration of parentage on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure, the period within which the action or motion to set aside the voluntary declaration of parentage must be filed shall commence on the date that the court makes an initial order for custody, visitation, or child support based upon a voluntary declaration of parentage.

(l) This section does not restrict a court from acting as a court of equity.

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

SEC. 86. Section 7580 of the Family Code is amended to read:

7580. (a) Notwithstanding subdivision (c) of Section 7573, a voluntary declaration of parentage that is signed by a minor parent does not establish parentage until 60 days after both signatories have reached 18 years of age or are emancipated, whichever first occurs.

(b) A person who signs a voluntary declaration of parentage as a minor may rescind the voluntary declaration of parentage at any time up to 60 days after the signatory reaches 18 years of age or becomes emancipated, whichever first occurs.

(c) A voluntary declaration of parentage signed by a minor creates a rebuttable presumption for or against parentage until the date that it establishes parentage as specified in subdivision (a).

(d) A voluntary declaration of parentage signed by a minor shall be admissible as evidence in a civil action to establish parentage of the minor named in the voluntary declaration.

(e) A voluntary declaration of parentage that is signed by a minor shall not be admissible as evidence in a criminal prosecution for violation of Section 261.5 of the Penal Code.

SEC. 87. Section 7611 of the Family Code is amended to read:

7611. A person is presumed to be the natural parent of a child if the person meets the conditions provided in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 or in any of the following subdivisions:

(a) The presumed parent and the child's natural mother are, or have been, married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a judgment of separation is entered by a court.

(b) Before the child's birth, the presumed parent and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(c) After the child's birth, the presumed parent and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) With the presumed parent's consent, the presumed parent is named as the child's parent on the child's birth certificate.

(2) The presumed parent is obligated to support the child under a written voluntary promise or by court order.

(d) The presumed parent receives the child into their home and openly holds out the child as their natural child.

(e) The child is in utero after the death of the decedent and the conditions set forth in Section 249.5 of the Probate Code are satisfied.

SEC. 88. Section 7613 of the Family Code is amended to read:

7613. (a) (1) If a woman conceives through assisted reproduction with semen or ova or both donated by a donor who is not the woman's spouse, with the consent of another intended parent, that intended parent is treated in law as if that intended parent is the natural parent of a child thereby conceived. The other intended parent's consent shall be in writing and signed by the other intended parent and the woman conceiving through assisted reproduction.

(2) Failure to consent in writing, as required by paragraph (1), does not preclude the court from finding that the intended parent consented if the court finds by clear and convincing evidence that, prior to the conception of the child, the woman and the intended parent had an oral agreement that the woman and the intended parent would both be parents of the child.

(b) (1) The donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in assisted reproduction by a woman other than the donor's spouse is treated in law as if the donor is not the natural parent of a child thereby conceived, unless otherwise agreed to in a writing signed by the donor and the woman prior to the conception of the child.

(2) If the semen is not provided to a licensed physician and surgeon or a licensed sperm bank as specified in paragraph (1), the donor of semen for use in assisted reproduction by a woman other than the donor's spouse is treated in law as if the donor is not the natural parent of a child thereby conceived if either of the following are met:

(A) The donor and the woman agreed in a writing signed prior to conception that the donor would not be a parent.

(B) A court finds by clear and convincing evidence that the child was conceived through assisted reproduction and that, prior to the conception of the child, the woman and the donor had an oral agreement that the donor would not be a parent.

(3) Paragraphs (1) and (2) do not apply to a man who provided semen for use in assisted reproduction by a woman other than the man's spouse pursuant to a written agreement signed by the man and the woman prior to conception of the child stating that they intended for the man to be a parent.

(c) The donor of ova for use in assisted reproduction by a person other than the donor's spouse or nonmarital partner is treated in law as if the donor is not the natural parent of a child thereby conceived unless the court finds satisfactory evidence that the person providing ova and the person intended for the person providing ova to be a parent.

SEC. 89. Section 7613.5 of the Family Code is amended to read:

7613.5. (a) An intended parent may, but is not required to, use the forms set forth in this section to demonstrate the intent to be a legal parent of a child conceived through assisted reproduction. These forms shall satisfy the writing requirement specified in Section 7613, and are designed to provide clarity regarding the intentions, at the time of conception, of intended parents using assisted reproduction. These forms do not affect any presumptions of parentage based on Section 7611, and do not preclude a court from considering any other claims to parentage under California statute or case law.

(b) These forms apply only in very limited circumstances. Please read the forms carefully to see if you qualify for use of the forms.

(c) These forms do not apply to assisted reproduction agreements for gestational carriers or surrogacy agreements.

(d) This section does not require the use of one of these forms to satisfy the writing requirement of Section 7613.

(e) The following are the optional California Statutory Forms for Assisted Reproduction:

California Statutory Forms for Assisted Reproduction, Form 1:

Two Married or Unmarried People Using Assisted Reproduction to Conceive a Child

Use this form if: You and another intended parent, who may be your spouse or registered domestic partner, are conceiving a child through assisted reproduction using sperm and/or egg donation; and one of you will be giving birth.

WARNING: Signing this form does not terminate the parentage claim of a sperm donor. A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or if you conceive without having sexual intercourse and you have a written agreement signed by you and the donor that you will conceive using assisted reproduction and do not intend for the donor to be a parent, as required by Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights. Even if you do not fill out this form, a spouse or domestic partner of the parent giving birth is presumed to be a legal parent of any child born during the marriage or domestic partnership.

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm and/or egg donation.

I, _____ (print name of person not giving birth), intend to be a parent of a child that _____ (print name of person giving birth) will or has conceived through assisted reproduction using sperm and/or egg donation. I consent to the use of assisted reproduction by the person who will give birth. I INTEND to be a parent of the child conceived.

SIGNATURES

Intended parent who will give birth: _____ (print name)

_____ (signature) _____ (date)

Intended parent who will not give birth: _____ (print name)

_____ (signature) _____ (date)

NOTARY ACKNOWLEDGMENT

State of California

County of) _____

On before me, (insert name and title of the officer)

personally appeared ,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature(Seal)

California Statutory Forms for Assisted Reproduction, Form 2:

Unmarried, Intended Parents Using Intended Parent's Sperm to Conceive a Child

Use this form if: (1) Neither you or the other person are married or in a registered domestic partnership (including a registered domestic partnership or civil union from another state); (2) one of you will give birth to a child conceived through assisted reproduction using the intended parent's sperm; and (3) you both intend to be parents of that child.

Do not use this form if you are conceiving using a surrogate.

WARNING: If you do not sign this form, or a similar agreement, you may be treated as a sperm donor if you conceive without having sexual intercourse according to Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights.

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using sperm donation.

I, _____ (print name of parent giving birth), plan to use assisted reproduction with another intended parent who is providing sperm to conceive the child. I am not married and am not in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND for the person providing sperm to be a parent of the child to be conceived.

I, _____ (print name of parent providing sperm), plan to use assisted reproduction to conceive a child using my sperm with the parent giving birth. I am not married and am not in a registered domestic partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND to be a parent of the child to be conceived.

SIGNATURES

Intended parent giving birth: _____ (print name)

_____ (signature) _____ (date)

Intended parent providing sperm: _____ (print name)

_____ (signature) _____ (date)

NOTARY ACKNOWLEDGMENT

State of California

County of) _____

On before me, (insert name and title of the officer)

personally appeared ,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature(Seal)

Intended Parents Conceiving a Child Using Eggs from One Parent and the Other Parent Will Give Birth

Use this form if: You are conceiving a child using the eggs from one of you and the other person will give birth to the child; (2) and you both intend to be parents to that child.

Do not use this form if you are conceiving using a surrogate.

WARNING: Signing this form does not terminate the parentage claim of a sperm donor. A sperm donor's claim to parentage is terminated if the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or if you conceive without having sexual intercourse and you have a written agreement signed by you and the donor that you will conceive using assisted reproduction and do not intend for the donor to be a parent, as required by Section 7613(b) of the Family Code.

The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights.

This form demonstrates your intent to be parents of the child you plan to conceive through assisted reproduction using eggs from one parent and the other parent will give birth to the child.

I, _____ (print name of parent giving birth), plan to use assisted reproduction to conceive and give birth to a child with another person who will provide eggs to conceive the child. I INTEND for the person providing eggs to be a parent of the child to be conceived.

I, _____ (print name of parent providing eggs), plan to use assisted reproduction to conceive a child with another person who will give birth to the child conceived using my eggs. I INTEND to be a parent of the child to be conceived.

SIGNATURES

Intended parent giving birth: _____ (print name)

_____ (signature) _____ (date)

Intended parent providing eggs: _____ (print name)

_____ (signature) _____ (date)

NOTARY ACKNOWLEDGMENT

State of California

County of) _____

On before me, (insert name and title of the officer)

personally appeared ,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature(Seal)

California Statutory Forms for Assisted Reproduction, Form 4:

Intended Parent(s) Using a Known Sperm and/or Egg Donor(s) to Conceive a Child

Use this form if: You are using a known sperm and/or egg donor(s), or embryo donation, to conceive a child and you do not intend for the donor(s) to be a parent.

Do not use this form if you are conceiving using a surrogate.

If you do not sign this form or a similar agreement, your sperm donor may be treated as a parent unless the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or a court finds by clear and convincing evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by Section 7613(b) of the Family Code. If you do not sign this form or a similar agreement, your egg donor may be treated as a parent unless a court finds that there is satisfactory evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by Section 7613(c) of the Family Code.

The laws about parentage of a child are complicated. You are strongly encouraged to consult with an attorney about your rights.

This form demonstrates your intent that your sperm and/or egg or embryo donor(s) will not be a parent or parents of the child you plan to conceive through assisted reproduction.

I, _____ (print name of parent giving birth), plan to use assisted reproduction to conceive using a sperm and/or egg donor(s) or embryo donation, and I DO NOT INTEND for the sperm and/or egg or embryo donor(s) to be a parent of the child to be conceived.

(If applicable) I, _____ (print name of sperm donor), plan to donate my sperm to _____ (print name of parent giving birth and second parent if applicable). I am not married to and am not in a registered domestic partnership (including a registered domestic partnership or a civil union from another jurisdiction) with _____ (print name of parent giving birth), and I DO NOT INTEND to be a parent of the child to be conceived.

(If applicable) I, _____ (print name of egg donor), plan to donate my ova to _____ (print name of parent giving birth and second parent if applicable). I am not married to and am not in a registered domestic partnership (including a registered domestic partnership or a civil union from another jurisdiction) with _____ (print name of parent giving birth), or any intimate and nonmarital relationship with _____ (print name of parent giving birth) and I DO NOT INTEND to be a parent of the child to be conceived.

(If applicable) I, _____ (print name of intended parent not giving birth), INTEND to be a parent of the child that _____ (print name of parent giving birth) will conceive through assisted reproduction using sperm and/or egg donation and I DO NOT INTEND for the sperm and/or egg or embryo donor(s) to be a parent. I consent to the use of assisted reproduction by the person who will give birth.

SIGNATURES

Intended parent giving birth: _____ (print name)
_____, _____ (signature) _____ (date)

(If applicable) Sperm Donor: _____ (print name)
_____, _____ (signature) _____ (date)

(If applicable) Egg Donor: _____ (print name)
_____, _____ (signature) _____ (date)

(If applicable) Intended parent not giving birth: _____ (print name)
_____, _____ (signature) _____ (date)

NOTARY ACKNOWLEDGMENT

State of California

County of) _____

On before me, (insert name and title of the officer)

personally appeared ,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature(Seal)

SEC. 90. Section 7630 of the Family Code is amended to read:

7630. (a) A child, the child's natural mother, a person presumed to be the child's parent under subdivision (a), (b), or (c) of Section 7611, a person seeking to be adjudicated as a parent or donor under Section 7613, an adoption agency to whom the child has been relinquished, or a prospective adoptive parent of the child may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611, or established pursuant to Section 7613.

(2) For the purpose of declaring the nonexistence of the parent and child relationship presumed under subdivision (a), (b), or (c) of Section 7611 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, parentage of the child by another person may be determined in the same action, if that person has been made a party.

(3) At any time for the purpose of declaring the nonexistence of the parent and child relationship of a donor under Section 7613.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the parent and child relationship presumed under subdivision (d) or (f) of Section 7611.

(c) Except as to cases coming within Chapter 1 (commencing with Section 7540) of Part 2 or when paragraph (2) of subdivision (a) applies, an action to determine parentage may be brought by the child, a personal representative of the child, the Department of Child Support Services, a presumed parent or the personal representative or a parent of that presumed parent if that parent has died or is a minor, or, when the natural mother is the only presumed parent or an action under Section 300 of the Welfare and Institutions Code or adoption is pending, a man alleged or claiming to be the father or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) (1) If a proceeding has been filed under Chapter 2 (commencing with Section 7820) of Part 4, an action under subdivision (a) or (b) shall be consolidated with that proceeding. The parental rights of the presumed parent shall be determined as set forth in Sections 7820 to 7829, inclusive.

(2) If a proceeding pursuant to Section 7662 has been filed under Chapter 5 (commencing with Section 7660), an action under subdivision (c) shall be consolidated with that proceeding. The parental rights of the alleged father shall be determined as set forth in Section 7664.

(3) The consolidated action under paragraph (1) or (2) shall be heard in the court in which the proceeding under Section 7662 or Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless the court finds, by clear and convincing evidence, that transferring the action to the other court poses a substantial hardship to the petitioner. Mere inconvenience does not constitute a sufficient basis for a finding of substantial hardship. If the court determines there is a substantial hardship, the consolidated action shall be heard in the court in which the parentage action is filed.

(e) (1) If a prospective adoptive parent who has physical custody of the child, a licensed California adoption agency that has legal custody of the child or to which the mother proposes to relinquish the child for adoption, or a person whom the mother has designated as the prospective adoptive parent in a written statement executed before a hospital social worker, an adoption service provider, an adoption agency representative, or a notary public, has not been joined as a party to an action to determine the existence of a parent and child relationship under subdivision (a), (b), or (c), or an action for custody by a person claiming to be a parent under this division, the court shall join the prospective adoptive parent or licensed California adoption agency as a party upon application or on its own motion, without the necessity of a motion for joinder. A joined party shall not be required to pay a fee in connection with this action.

(2) If a person brings an action to determine parentage and custody of a child who the person has reason to believe is in the physical or legal custody of an adoption agency, or of one or more persons other than the child's parent who are prospective adoptive parents, the person shall serve the entire pleading on, and give notice of all proceedings to, the adoption agency or the prospective adoptive parents, or both.

(f) A party to an assisted reproduction agreement may bring an action at any time to establish a parent and child relationship consistent with the intent expressed in that assisted reproduction agreement.

(g) (1) In an action to determine the existence of the parent and child relationship brought pursuant to subdivision (b), if the child's other parent has died and there are no existing court orders or pending court actions involving custody or guardianship of the child, then the persons having physical custody of the child shall be served with notice of the proceeding at least 15 days prior to the hearing, either by mail or in a manner authorized by the court. If a person identified as having physical custody of the child cannot be located, the court shall prescribe the manner of giving notice.

(2) If known to the person bringing the parentage action, relatives within the second degree of the child shall be given notice of the proceeding at least 15 days prior to the hearing, either by mail or in a manner authorized by the court. If a person identified as a relative of the second degree of the child cannot be located, or the relative's whereabouts are unknown or cannot be ascertained, the court shall prescribe the manner of giving notice, or shall dispense with giving notice to that person.

(3) Proof of notice pursuant to this subdivision shall be filed with the court before the proceeding to determine the existence of the parent and child relationship is heard.

SEC. 91. Section 7635.5 of the Family Code is amended to read:

7635.5. In any action brought pursuant to this article, if the alleged father is present in court for the action, the court shall inform the alleged father of the alleged father's right to have genetic testing performed to determine the biological parentage of the child. The court shall further inform the alleged father of the alleged father's right to move to set aside or vacate a judgment of parentage pursuant to Section 7646 within two years of the date notice of the action to establish parentage is received, and that after that time has expired the alleged father may not move to set aside or vacate the judgment of parentage, regardless of whether genetic testing shows the alleged father not to be the biological father of the child.

SEC. 92. Section 7643 of the Family Code is amended to read:

7643. (a) Notwithstanding any other law concerning public hearings and records, a hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. Except as provided in subdivision (b), all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in a public agency or elsewhere, are subject to inspection and copying only in exceptional cases upon an order of the court for good cause shown.

(b) (1) Papers and records pertaining to the action or proceeding that are part of the permanent record of the court are subject to inspection and copying by the parties to the action, their attorneys, and by agents acting pursuant to written authorization from the parties to the action or their attorneys. An attorney shall obtain the consent of the party to the action prior to authorizing an agent to inspect and copy the permanent record. An attorney shall also state on the written authorization that the attorney has obtained the consent of the party to authorize an agent to inspect and copy the permanent record.

(2) For purposes of establishing parentage and establishing and enforcing child support orders, papers and records pertaining to the action or proceeding that are part of the permanent record of the court are subject to inspection and copying by any local child support agency, as defined in subdivision (h) of Section 17000.

SEC. 93. Section 7646 of the Family Code is amended to read:

7646. (a) Notwithstanding any other law, a judgment establishing parentage may be set aside or vacated upon a motion by a previously established parent, the child, or the legal representative of any of these persons if genetic testing indicates that the previously established father of a child is not the genetic father of the child. The motion shall be brought within one of the following time periods:

(1) Within a two-year period commencing with the date on which the previously established father knew or should have known of a judgment that established the father's parentage of the child or commencing with the date the previously established father knew or should have known of the existence of an action to adjudicate the issue of parentage, whichever is first, except as provided in paragraph (2).

(2) In the case of a previously established father who is the legal father as a result of a default judgment as of the effective date of this section, within a two-year period from January 1, 2005, to December 31, 2006, inclusive.

(b) Subdivision (a) does not apply if the child is presumed to be a child of a marriage pursuant to Section 7540, the previously established parent is a parent under Section 7613 or 7962, or the action is barred by paragraph (2) of subdivision (a) of Section 7630.

(c) Reconsideration of a motion brought under paragraph (3) of subdivision (a) may be requested and granted if the following requirements are met:

(1) The motion was filed with the court between September 24, 2006, and December 31, 2006, inclusive.

(2) The motion was denied solely on the basis that it was untimely.

(3) The request for reconsideration of the motion is filed on or before December 31, 2009.

SEC. 94. Section 7648 of the Family Code is amended to read:

7648. The court may deny the motion to set aside or vacate a judgment establishing parentage if it determines that denial of the motion is in the best interest of the child, after consideration of the following factors:

(a) The age of the child.

(b) The length of time since the entry of the judgment establishing parentage.

(c) The nature, duration, and quality of any relationship between the previously established father and the child, including the duration and frequency of any time periods during which the child and the previously established father resided in the same household or enjoyed a parent and child relationship.

(d) The request of the previously established father that the parent and child relationship continue.

(e) Notice by the biological father of the child that the biological father does not oppose preservation of the relationship between the previously established father and the child.

(f) The benefit or detriment to the child in establishing the genetic father as the parent of the child.

(g) Whether the conduct of the previously established father has impaired the ability to ascertain the identity of, or get support from, the biological father.

(h) Additional factors deemed by the court to be relevant to its determination of the best interest of the child.

SEC. 95. Section 7662 of the Family Code is amended to read:

7662. (a) If a mother relinquishes for or consents to, or proposes to relinquish for or consent to, the adoption of a child, or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having physical or legal custody of the child, or the prospective adoptive parent, shall file a petition to terminate the parental rights of the alleged father, unless one of the following occurs:

(1) The alleged father's relationship to the child has been previously terminated or determined not to exist by a court.

(2) The alleged father has been served as prescribed in Section 7666 with a written notice alleging that the alleged father is or could be the biological father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

(3) The alleged father has executed a written form developed by the department to waive notice, to deny parentage, relinquish the child for adoption, or consent to the adoption of the child.

(b) The alleged father may validly execute a waiver or denial of parentage before or after the birth of the child, and, once signed, no notice of, relinquishment for, or consent to adoption of the child shall be required from the alleged father for the adoption to proceed.

(c) Except as provided in this subdivision and subdivision (d), all proceedings affecting a child, including proceedings under Divisions 8 (commencing with Section 3000) to 11 (commencing with Section 6500), inclusive, Part 1 (commencing with Section 7500) to Part 3 (commencing with Section 7600), inclusive, of this division, and Part 1 (commencing with Section 1400), Part 2 (commencing with Section 1500), and Part 4 (commencing with Section 2100) of Division 4 of the Probate Code, and any motion or petition for custody or visitation filed in a proceeding under this part, shall be stayed. The petition to terminate parental rights under this section is the only matter that may be heard during the stay until the court issues a final ruling on the petition.

(d) This section does not limit the jurisdiction of the court pursuant to Part 3 (commencing with Section 6240) and Part 4 (commencing with Section 6300) of Division 10 with respect to domestic violence orders, or pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code with respect to dependency proceedings.

SEC. 96. Section 7663 of the Family Code is amended to read:

7663. (a) In an effort to identify all alleged fathers and presumed parents, the court shall cause inquiry to be made of the mother and any other appropriate person by one of the following:

(1) The State Department of Social Services.

(2) A licensed county adoption agency.

(3) The licensed adoption agency to which the child is to be relinquished.

(4) In the case of a stepparent adoption, the licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor who is performing the investigation pursuant to Section 9001, if applicable. In the case of a stepparent adoption in which a licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor is not performing the investigation pursuant to Section 9001, the board of supervisors may assign those inquiries to a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department.

(b) The inquiry shall include all of the following:

(1) Whether the mother was married at the time of conception of the child or at any time thereafter.

(2) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(3) Whether the mother has received support payments or promises of support with respect to the child or in connection with the pregnancy.

(4) Whether any person has formally or informally acknowledged or declared possible parentage of the child.

(5) The names and whereabouts, if known, of every person presumed or alleged to be the parent of the child, and the efforts made to give notice of the proposed adoption to each person identified.

(c) The agency that completes the inquiry shall file a written report of the findings with the court.

SEC. 97. Section 7664 of the Family Code is amended to read:

7664. (a) If, after the inquiry, the biological father is identified to the satisfaction of the court, or if more than one man is identified as a possible biological father, notice of the proceeding shall be given in accordance with Section 7666. If an alleged biological father fails to appear or, if appearing, fails to claim parental rights, those parental rights with reference to the child shall be terminated.

(b) If the biological father or a man claiming to be the biological father claims parental rights, the court shall determine biological parentage. The court shall then determine if it is in the best interest of the child that the biological father retain parental rights, or that an adoption of the child be allowed to proceed. The court, in making that determination, may consider all relevant evidence, including the efforts made by the biological father to obtain custody, the age and prior placement of the child, and the effects of a change of placement on the child.

(c) If the court finds that it is in the best interest of the child that the biological father should be allowed to retain parental rights, the court shall order that the biological father's consent is necessary for an adoption. If the court finds that the man claiming parental rights is not the biological father, or that if the man is the biological father it is in the child's best interest that an adoption be allowed to proceed, the court shall order that the consent of that man is not required for an adoption. This finding terminates all parental rights and responsibilities with respect to the child.

SEC. 98. Section 7666 of the Family Code is amended to read:

7666. (a) Except as provided in subdivision (b), notice of the proceeding shall be given to every person identified as the biological father or a possible biological father in accordance with the Code of Civil Procedure for the service of process in a civil action in this state at least 10 days before the date of the proceeding, except that publication or posting of the notice of the proceeding is not required, and service on the parent or guardian of a biological father or possible biological father who is a minor is not required unless the minor has previously provided written authorization to serve the minor's parent or guardian. Proof of giving the notice shall be filed with the court before the petition is heard.

(b) Notice to a man identified as or alleged to be the biological father is not required, and the court shall issue an order dispensing with that notice under any of the following circumstances:

(1) The relationship to the child has been previously terminated or determined not to exist by a court.

(2) The alleged father has executed a written form to waive notice, deny parentage, relinquish the child for adoption, or consent to the adoption of the child.

(3) The whereabouts or identity of the alleged father are unknown or cannot be ascertained.

(4) The alleged father has been served with written notice of alleged parentage and the proposed adoption, and has failed to bring an action pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

SEC. 99. Section 7667 of the Family Code is amended to read:

7667. (a) Notwithstanding any other law, an action to terminate the parental rights of an alleged father of a child as specified in this part shall be set for hearing not more than 45 days after filing of the petition, except as provided in subdivision (c).

(b) The matter so set shall have precedence over all other civil matters on the date set for trial, except an action to terminate parental rights pursuant to Part 4 (commencing with Section 7800).

(c) The court may dispense with a hearing and issue an ex parte order terminating parental rights if any of the following applies:

(1) The identity or whereabouts of the alleged father are unknown.

(2) The alleged father has validly executed a waiver of the right to notice or a denial of parentage.

(3) The alleged father has been served with written notice of alleged parentage and the proposed adoption, and has failed to bring an action pursuant to subdivision (c) of Section 7630 within 30 days of service of the notice or the birth of the child, whichever is later.

SEC. 100. Section 7822 of the Family Code is amended to read:

7822. (a) A proceeding under this part may be brought if any of the following occur:

(1) The child has been left without provision for the child's identification by the child's parent or parents.

(2) The child has been left by both parents or the sole parent in the care and custody of another person for a period of six months without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child.

(3) One parent has left the child in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent, with the intent on the part of the parent to abandon the child.

(b) The failure to provide identification, failure to provide support, or failure to communicate is presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In the event that a guardian has been appointed for the child, the court may still declare the child abandoned if the parent or parents have failed to communicate with or support the child within the meaning of this section.

(c) If the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(d) If the parent has agreed for the child to be in the physical custody of another person or persons for adoption and has not signed an adoption placement agreement pursuant to Section 8801.3, a consent to adoption pursuant to Section 8814, or a relinquishment to a licensed adoption agency pursuant to Section 8700, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child. If the parent has placed the child for adoption pursuant to Section 8801.3, consented to adoption pursuant to Section 8814, or relinquished the child to a licensed adoption agency pursuant to Section 8700, and has then either revoked the consent or rescinded the relinquishment, but has not taken reasonable action to obtain custody of the child, evidence of the adoptive placement shall not in itself preclude the court from finding an intent on the part of that parent to abandon the child.

(e) Notwithstanding subdivisions (a), (b), (c), and (d), if the parent of an Indian child has transferred physical care, custody, and control of the child to an Indian custodian, that action shall not be deemed to constitute an abandonment of the child, unless the parent manifests the intent to abandon the child by either of the following:

(1) Failing to resume physical care, custody, and control of the child upon the request of the Indian custodian provided that, if the Indian custodian is unable to make a request because the parent has failed to keep the Indian custodian apprised of the

parent's whereabouts and the Indian custodian has made reasonable efforts to determine the whereabouts of the parent without success, there may be evidence of intent to abandon.

(2) Failing to substantially comply with any obligations assumed by the parent in the agreement with the Indian custodian despite the Indian custodian's objection to the noncompliance.

SEC. 101. Section 7825 of the Family Code is amended to read:

7825. (a) A proceeding under this part may be brought where both of the following requirements are satisfied:

(1) The child is one whose parent or parents are convicted of a felony.

(2) The facts of the crime of which the parent or parents were convicted are of such a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child. In making a determination pursuant to this section, the court may consider the parent's criminal record prior to the felony conviction to the extent that the criminal record demonstrates a pattern of behavior substantially related to the welfare of the child or the parent's ability to exercise custody and control regarding the child.

(b) The mother of a child may bring a proceeding under this part against the father of the child, where the child was conceived as a result of an act in violation of Section 261 of the Penal Code, and where the father was convicted of that violation. For purposes of this subdivision, there is a conclusive presumption that the father is unfit to have custody or control of the child.

SEC. 102. Section 7851 of the Family Code is amended to read:

7851. (a) The juvenile probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, licensed professional clinical counselor, or the county department shall render to the court a written report of the investigation with a recommendation of the proper disposition to be made in the proceeding in the best interest of the child.

(b) The report shall include all of the following:

(1) A statement that the person making the report explained to the child the nature of the proceeding to end parental custody and control.

(2) A statement of the child's feelings and thoughts concerning the pending proceeding.

(3) A statement of the child's attitude towards the child's parent or parents and particularly whether or not the child would prefer living with the parent or parents.

(4) A statement that the child was informed of the child's right to attend the hearing on the petition and the child's feelings concerning attending the hearing.

(c) If the age, or the physical, emotional, or other condition of the child precludes the child's meaningful response to the explanations, inquiries, and information required by subdivision (b), a description of the condition shall satisfy the requirement of that subdivision.

(d) The court shall receive the report in evidence and shall read and consider its contents in rendering the court's judgment.

SEC. 103. Section 7882 of the Family Code is amended to read:

7882. (a) If the parent of the child or a person alleged to be or claiming to be the parent cannot, with reasonable diligence, be served as provided for in Section 7881, or if the parent's place of residence is not known to the petitioner, the petitioner or the petitioner's agent or attorney shall make and file an affidavit stating the name of the parent or alleged parent and their place of residence, if known to the petitioner, and the name of the parent or alleged parent whose place of residence is unknown to the petitioner.

(b) Upon the filing of the affidavit, the court shall make an order that (1) the service shall be made by the publication of a citation requiring the parent or alleged parent to appear at the time and place stated in the citation and (2) the citation shall be published pursuant to Section 6064 of the Government Code in a newspaper to be named and designated in the order as most likely to give notice to the parent or alleged parent to be served.

(c) In case of publication where the residence of a parent or alleged parent is known, the court shall also direct a copy of the citation to be forthwith served upon that parent or alleged parent by mail by deposit in the post office properly addressed and with the postage thereon fully prepaid, directed to that parent or alleged parent at the place of residence. When publication is ordered,

service of a copy of the citation in the manner provided for in Section 7881 is equivalent to publication and deposit in the post office.

(d) If one or both of the parents of the child are unknown or if the names of one or both of the child's parents are uncertain, that fact shall be set forth in the affidavit and the court shall order the citation to be directed to either or both of the child's parents, naming and otherwise describing the child, and to all persons claiming to be a parent of the child.

(e) Service is complete at the expiration of the time prescribed by the order for publication or when service is made as provided for in Section 7881, whichever event first occurs.

SEC. 104. Section 7901 of the Family Code is amended to read:

7901. The provisions of the interstate compact referred to in Section 7900 are as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Article 1.Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article 2.Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, or officer or employee thereof; subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution, but does not include any institution caring for persons with developmental disabilities or mental health disorders or any institution primarily educational in character, and any hospital or other medical facility.

Article 3.Conditions for Placement

(a) A sending agency shall not send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency complies with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Before sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date, and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state that receives notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, supporting or additional information it deems necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interest of the child.

Article 4. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. A violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency that empowers or allows it to place or care for children.

Article 5. Continuing Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child that it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. That jurisdiction shall also include the power to effect or cause the return of the child or the child's transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of that case by the latter as agent for the sending agency.

(c) This compact shall not be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state or to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) of this article.

Article 6. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but that placement shall not be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, before being sent to the other party jurisdiction for institutional care and the court finds that both of the following exist:

(a) Equivalent facilities for the child are not available in the sending agency's jurisdiction.

(b) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article 7.Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in that jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article 8.Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending, or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between those states that has the force of law.

Article 9.Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any of these jurisdictions when that jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made before the effective date of withdrawal.

Article 10.Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SEC. 105. Section 7911.1 of the Family Code is amended to read:

7911.1. (a) Notwithstanding any other law, the State Department of Social Services or its designee shall investigate any threat to the health and safety of children placed by a California county social services agency or probation department in an out-of-state group home pursuant to the provisions of the Interstate Compact on the Placement of Children. This authority shall include the authority to interview children or staff in private or review their file at the out-of-state facility or wherever the child or files may be at the time of the investigation. Notwithstanding any other law, the State Department of Social Services or its designee shall require certified out-of-state group homes to comply with the reporting requirements applicable to short-term residential therapeutic programs licensed in California for each child in care regardless of whether the child is a California placement, by submitting a copy of the required reports to the Compact Administrator within regulatory timeframes. The Compact Administrator within one business day of receiving a serious events report shall verbally notify the appropriate placement agencies and, within five working days of receiving a written report from the out-of-state group home, forward a copy of the written report to the appropriate placement agencies.

(b) Any contract, memorandum of understanding, or agreement entered into pursuant to paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children regarding the placement of a child out of state by a California county social services agency or probation department shall include the language set forth in subdivision (a).

(c) (1) The State Department of Social Services or its designee shall perform initial and continuing inspection of out-of-state group homes in order to either certify that the out-of-state group home meets all licensure standards required of group homes operated in California or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety.

(2) (A) On and after January 1, 2017, the licensing standards applicable to out-of-state group homes certified by the department, as described in paragraph (1), shall be those required of short-term residential therapeutic programs operated in this state, unless the out-of-state group home is granted an extension pursuant to subdivision (d) of Section 11462.04 of the Welfare and Institutions Code or has otherwise been granted a waiver pursuant to this subdivision.

(B) On and after January 1, 2017, the licensing standards applicable to out-of-state group homes certified by the department, as described in paragraph (1), shall include the licensing standards for mental health program approval described in Section 1562.01 of the Health and Safety Code. These standards may be satisfied if the out-of-state group home has an equivalent mental health program approval in the state in which it is operating. If an out-of-state group home cannot satisfy the licensing standards for an equivalent mental health program approval, children shall not be placed in that facility.

(3) In order to receive certification, the out-of-state group home shall have a current license, or an equivalent approval, in good standing issued by the appropriate authority or authorities of the state in which it is operating.

(4) On and after January 1, 2017, an out-of-state group home program shall, in order to receive an AFDC-FC rate, meet the requirements of paragraph (2) of subdivision (c) of Section 11460 of the Welfare and Institutions Code.

(5) Failure by an out-of-state group home facility to make children or staff available as required by subdivision (a) for a private interview or make files available for review shall be grounds to deny or discontinue the certification.

(6) Certifications made pursuant to this subdivision shall be reviewed annually.

(d) A county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home facility.

(e) Failure by an out-of-state group home to obtain or maintain its certification, as required by subdivision (c), shall preclude the use of any public funds, whether county, state, or federal, in the payment for the placement of any child in that out-of-state group home, pursuant to the Interstate Compact on the Placement of Children.

(f) (1) A multidisciplinary team shall consist of participating members from county social services, county mental health, county probation, county superintendents of schools, and other members, as determined by the county.

(2) Participants shall have knowledge or experience in the prevention, identification, and treatment of child abuse and neglect cases, and shall be qualified to recommend a broad range of services related to child abuse or neglect.

(g) (1) The department may deny, suspend, or discontinue the certification of the out-of-state group home if the department makes a finding that the group home is not operating in compliance with the requirements of subdivision (c).

(2) Any judicial proceeding to contest the department's determination as to the status of the out-of-state group home certificate shall be held in California pursuant to Section 1085 of the Code of Civil Procedure.

(h) The certification requirements of this section shall not impact placements of emotionally disturbed children made pursuant to an individualized education program developed pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) if the placement is not funded with federal or state foster care funds.

(i) Only an out-of-state group home authorized by the Compact Administrator to receive state funds for the placement by a county social services agency or probation department of any child in that out-of-state group home from the effective date of this section shall be eligible for public funds pending the department's certification under this section.

SEC. 106. Section 7950 of the Family Code is amended to read:

7950. (a) With full consideration for the proximity of the natural parents to the placement so as to facilitate visitation and family reunification, when a placement in foster care is being made, the following considerations shall be used:

(1) Placement shall, if possible, be made in the home of a relative, unless the placement would not be in the best interest of the child. Diligent efforts shall be made by an agency or entity to which this subdivision applies, to locate an appropriate relative, as defined in paragraph (2) of subdivision (f) of Section 319 of the Welfare and Institutions Code. At any permanency hearing in which the court terminates reunification services, or at any postpermanency hearing for a child not placed for adoption, the court shall find that the agency or entity to which this subdivision applies has made diligent efforts to locate an appropriate

relative and that each relative whose name has been submitted to the agency or entity as a possible caretaker, either by the relative or by other persons, has been evaluated as an appropriate placement resource.

(2) An agency or entity that receives any state assistance and is involved in foster care placements shall not do either of the following:

(A) Deny to any person the opportunity to become a foster parent on the basis of the race, color, or national origin of the person or the child involved.

(B) Delay or deny the placement of a child into foster care on the basis of the race, color, or national origin of the foster parent or the child involved.

(b) Subdivision (a) does not affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

(c) This section does not preclude a search for an appropriate relative being conducted simultaneously with a search for a foster family.

SEC. 107. Section 7960 of the Family Code is amended to read:

7960. For purposes of this part, the following terms have the following meanings:

(a) "Assisted reproduction agreement" has the same meaning as defined in subdivision (b) of Section 7606.

(b) "Fund management agreement" means the agreement between the intended parents and the surrogacy or donor facilitator relating to the fee or other valuable consideration for services rendered or that will be rendered by the surrogacy or donor facilitator.

(c) "Intended parent" means an individual, married or unmarried, who manifests the intent to be legally bound as the parent of a child resulting from assisted reproduction.

(d) "Nonattorney surrogacy or donor facilitator" means a surrogacy or donor practitioner who is not an attorney in good standing licensed to practice law in this state.

(e) "Surrogacy or donor facilitator" means a person or organization that engages in either of the following activities:

(1) Advertising for the purpose of soliciting parties to an assisted reproduction agreement or for the donation of oocytes for use by a person other than the provider of the oocytes, or acting as an intermediary between the parties to an assisted reproduction agreement or oocyte donation.

(2) Charging a fee or other valuable consideration for services rendered relating to an assisted reproduction agreement or oocyte donation.

(f) "Surrogate" means a woman who bears and carries a child for another through medically assisted reproduction and pursuant to a written agreement, as set forth in Sections 7606 and 7962. Within the definition of surrogate are two different and distinct types:

(1) "Traditional surrogate" means a woman who agrees to gestate an embryo, in which the woman is the gamete donor and the embryo was created using the sperm of the intended father or a donor arranged by the intended parent or parents.

(2) "Gestational carrier" means a woman who is not an intended parent and who agrees to gestate a genetically unrelated embryo pursuant to an assisted reproduction agreement.

(g) "Donor" means a woman who provides oocytes for use by another for the purpose of assisting the recipient of the oocytes in having a child or children.

SEC. 108. Section 7962 of the Family Code is amended to read:

7962. (a) An assisted reproduction agreement for gestational carriers shall contain, but shall not be limited to, all of the following information:

(1) The date on which the assisted reproduction agreement for gestational carriers was executed.

(2) The persons from which the gametes originated, unless donated gametes were used, in which case the assisted reproduction agreement does not need to specify the name of the donor but shall specify whether the donated gamete or gametes were eggs, sperm, or embryos, or all.

(3) The identity of the intended parent or parents.

(4) Disclosure of how the intended parents will cover the medical expenses of the gestational carrier and of the newborn or newborns. If health care coverage is used to cover those medical expenses, the disclosure shall include a review of the health care policy provisions related to coverage for surrogate pregnancy, including any possible liability of the gestational carrier, third-party liability liens or other insurance coverage, and any notice requirements that could affect coverage or liability of the gestational carrier. The review and disclosure do not constitute legal advice. If coverage of liability is uncertain, a statement of that fact shall be sufficient to meet the requirements of this section.

(b) Prior to executing the written assisted reproduction agreement for gestational carriers, a surrogate and the intended parent or intended parents shall be represented by separate independent licensed attorneys of their choosing.

(c) The assisted reproduction agreement for gestational carriers shall be executed by the parties and the signatures on the assisted reproduction agreement for gestational carriers shall be notarized or witnessed by an equivalent method of affirmation as required in the jurisdiction where the assisted reproduction agreement for gestational carriers is executed.

(d) The parties to an assisted reproduction agreement for gestational carriers shall not undergo an embryo transfer procedure, or commence injectable medication in preparation for an embryo transfer for assisted reproduction purposes, until the assisted reproduction agreement for gestational carriers has been fully executed as required by subdivisions (b) and (c) of this section.

(e) An action to establish the parent and child relationship between the intended parent or parents and the child as to a child conceived pursuant to an assisted reproduction agreement for gestational carriers may be filed before the child's birth and may be filed in the county where the child is anticipated to be born, the county where the intended parent or intended parents reside, the county where the surrogate resides, the county where the assisted reproduction agreement for gestational carriers is executed, or the county where medical procedures pursuant to the agreement are to be performed. A copy of the assisted reproduction agreement for gestational carriers shall be lodged in the court action filed for the purpose of establishing the parent and child relationship. The parties to the assisted reproduction agreement for gestational carriers shall attest, under penalty of perjury, and to the best of their knowledge and belief, as to the parties' compliance with this section in entering into the assisted reproduction agreement for gestational carriers. Submitting those declarations shall not constitute a waiver, under Section 912 of the Evidence Code, of the lawyer-client privilege described in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) (1) A notarized assisted reproduction agreement for gestational carriers signed by all the parties, with the attached declarations of independent attorneys, and lodged with the superior court in accordance with this section, shall rebut any presumptions contained within Part 2 (commencing with Section 7540), subdivision (a) of Section 7610, and Sections 7611 and 7613, as to the gestational carrier surrogate, or the gestational carrier surrogate's spouse or partner, being a parent of the child or children.

(2) Upon petition of any party to a properly executed assisted reproduction agreement for gestational carriers, the court shall issue a judgment or order establishing a parent and child relationship, whether pursuant to Section 7630 or otherwise. The judgment or order may be issued before or after the child's or children's birth subject to the limitations of Section 7633. Subject to proof of compliance with this section, the judgment or order shall establish the parent and child relationship of the intended parent or intended parents identified in the surrogacy agreement and shall establish that the surrogate, and the surrogate's spouse or partner, is not a parent of, and has no parental rights or duties with respect to, the child or children. The judgment or order shall be issued forthwith and without further hearing or evidence, unless the court or a party to the assisted reproduction agreement for gestational carriers has a good faith, reasonable belief that the assisted reproduction agreement for gestational carriers or attorney declarations were not executed in accordance with this section. Upon motion by a party to the assisted reproduction agreement for gestational carriers, the matter shall be scheduled for hearing before a judgment or order is issued. This section does not prevent a court from finding and declaring that the intended parent is, or intended parents are, the parent or parents of the child where compliance with this section has not been met; however, the court shall require sufficient proof entitling the parties to the relief sought.

(g) The petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition filed in the office of the clerk of the court pursuant to this part shall not be open to inspection by any person other than the parties to the proceeding and their attorneys and the State Department of Social Services, except upon the written authority of a judge of the superior court. A judge of the superior court shall not authorize anyone to inspect the petition, relinquishment or consent, agreement, order, report to the court from any investigating agency, or power of attorney or deposition, or any portion of those documents, except in exceptional circumstances and where necessary. The petitioner may be required to pay the expense of preparing the copies of the documents to be inspected.

(h) Upon the written request of any party to the proceeding and the order of any judge of the superior court, the clerk of the court shall not provide any documents referred to in subdivision (g) for inspection or copying to any other person, unless the name of

the gestational carrier or any information tending to identify the gestational carrier is deleted from the documents or copies thereof.

(i) An assisted reproduction agreement for gestational carriers executed in accordance with this section is presumptively valid and shall not be rescinded or revoked without a court order. For purposes of this part, any failure to comply with the requirements of this section shall rebut the presumption of the validity of the assisted reproduction agreement for gestational carriers.

SEC. 109. Section 8502 of the Family Code is amended to read:

8502. (a) "Adoption service provider" means any of the following:

(1) A licensed private adoption agency.

(2) An individual who has presented satisfactory evidence to the department that the individual is a licensed clinical social worker who also has a minimum of five years of experience providing professional social work services while employed by a licensed California adoption agency or the department.

(3) In a state other than California, or a country other than the United States, an adoption agency licensed or otherwise approved under the laws of that state or country, or an individual who is licensed or otherwise certified as a clinical social worker under the laws of that state or country.

(4) An individual who has presented satisfactory evidence to the department that the individual is a licensed marriage and family therapist who has a minimum of five years of experience providing professional adoption casework services while employed by a licensed California adoption agency or the department. The department shall review the qualifications of each individual to determine if the individual has performed professional adoption casework services for five years as required by this section while employed by a licensed California adoption agency or the department.

(5) An individual who has presented satisfactory evidence to the department that the individual is a licensed professional clinical counselor who has a minimum of five years' experience providing professional adoption casework services while employed by a licensed California adoption agency or the department. The department shall review the credentials of each individual to determine if the individual has performed professional adoption casework services as required by this paragraph.

(b) If, in the case of a birth parent located in California, at least three adoption service providers are not reasonably available, or, in the case of a birth parent located outside of California or outside of the United States who has contacted at least three potential adoption service providers and been unsuccessful in obtaining the services of an adoption service provider who is reasonably available and willing to provide services, independent legal counsel for the birth parent may serve as an adoption service provider pursuant to subdivision (e) of Section 8801.5. "Reasonably available" means that an adoption service provider is all of the following:

(1) Available within five days for an advisement of rights pursuant to Section 8801.5, or within 24 hours for the signing of the placement agreement pursuant to paragraph (3) of subdivision (b) of Section 8801.3.

(2) Within 100 miles of the birth mother.

(3) Available for a cost not exceeding five hundred dollars (\$500) to make an advisement of rights and to witness the signing of the placement agreement.

(c) If an attorney acts as an adoption service provider, the fee to make an advisement of rights and to witness the signing of the placement agreement shall not exceed five hundred dollars (\$500).

SEC. 110. Section 8545 of the Family Code is amended to read:

8545. "Special needs child" means a child for whom all of the following are true:

(a) It has been determined that the child cannot or should not be returned to the parent's home, as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment.

(b) The child has at least one of the following characteristics that is a barrier to adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact, or by virtue of race, ethnicity, color, language, age of three years or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope

of that person's profession. This paragraph shall also apply to children with a developmental disability as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code, including those determined to require out-of-home nonmedical care as described in Section 11464 of the Welfare and Institutions Code.

(c) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

SEC. 111. Section 8603 of the Family Code is amended to read:

8603. (a) A married person, not lawfully separated from the person's spouse, shall not adopt a child without the consent of the spouse, provided that the spouse is capable of giving that consent.

(b) The consent of the spouse shall not establish any parental rights or responsibilities on the part of the consenting spouse unless that person has consented to adopt the child in a writing filed with the court and is named in the final decree as an adoptive parent. The court shall not name the consenting spouse as an adoptive parent in the final decree unless the consenting spouse has filed a written consent to adopt the child with the court and has an approved adoption home study.

(c) The court may dispense with the consent of a spouse who cannot be located after diligent search, or a spouse determined by the court to lack the capacity to consent. A spouse for whom consent was dispensed shall not be named as an adoptive parent in the final decree.

SEC. 112. Section 8604 of the Family Code is amended to read:

8604. (a) Except as provided in subdivision (b), a child having a presumed father under Section 7611 shall not be adopted without the consent of the child's birth parents, if living. The consent of a presumed father is not required for the child's adoption unless the person became a presumed father as described in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 of Division 12, or subdivision (a), (b), or (c) of Section 7611 before the mother's relinquishment or consent becomes irrevocable or before the mother's parental rights have been terminated.

(b) If one birth parent has been awarded custody by judicial order, or has custody by agreement of both parents, and the other birth parent for a period of one year willfully fails to communicate with, and to pay for, the care, support, and education of the child when able to do so, then the birth parent having sole custody may consent to the adoption, but only after the birth parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires the birth parent not having custody to appear at the time and place set for the appearance in court under Section 8718, 8823, 8913, or 9007.

(c) Failure of a birth parent to pay for the care, support, and education of the child for the period of one year or failure of a birth parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse. If the birth parent or parents have made only token efforts to support or communicate with the child, the court may disregard those token efforts.

(d) (1) If the birth mother of a child for whom there is not a presumed father leaves the child in the physical care of a licensed private adoption agency, in the physical care of a prospective adoptive parent who has an approved preplacement evaluation or private agency adoption home study, or in the hospital after designating a licensed private adoption agency or an approved prospective adoptive parent in a signed document, completed with a hospital social worker, adoption service provider, licensed private adoption agency worker, notary, or attorney, but fails to sign a placement agreement, consent, or relinquishment for adoption, the approved prospective adoptive parent or the licensed private adoption agency may apply for, and the court may issue, a temporary custody order placing the child in the care and custody of the applicant.

(2) A temporary custody order issued pursuant to this subdivision shall include all of the following:

(A) A requirement that the applicant keep the court informed of the child's residence at all times.

(B) A requirement that the child shall not be removed from the state or concealed within the state.

(C) The expiration date of the order, which shall not be more than six months after the order is issued.

(3) A temporary custody order issued pursuant to this subdivision may be voided upon the birth mother's request to have the child returned to the birth mother's care and custody.

SEC. 113. Section 8606.5 of the Family Code is amended to read:

8606.5. (a) Notwithstanding any other section in this part, and in accordance with Section 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), consent to adoption given by an Indian child's parent is not valid unless both of the following occur:

(1) The consent is executed in writing at least 10 days after the child's birth and recorded before a judge.

(2) The judge certifies that the terms and consequences of the consent were fully explained in detail in English and were fully understood by the parent or that they were interpreted into a language that the parent understood.

(b) The parent of an Indian child may withdraw consent to adoption for any reason at any time prior to the entry of a final decree of adoption and the child shall be returned to the parent.

(c) After the entry of a final decree of adoption of an Indian child, the Indian child's parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent, provided that no adoption that has been effective for at least two years may be invalidated unless otherwise permitted under state law.

SEC. 114. Section 8613.7 of the Family Code is amended to read:

8613.7. On and after January 1, 2014, the court shall provide to any petitioner for adoption pursuant to this part a notice informing the petitioner that they may be eligible for reduced-cost coverage through the California Health Benefit Exchange established under Title 22 (commencing with Section 100500) of the Government Code or no-cost coverage through Medi-Cal. The notice shall include information on obtaining coverage pursuant to those programs, and shall be developed by the California Health Benefit Exchange.

SEC. 115. Section 8619.5 of the Family Code is amended to read:

8619.5. Whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent voluntarily consents to termination of parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant that petition unless there is a showing, in a proceeding subject to the provisions of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.), that the return of custody is not in the best interest of the child.

SEC. 116. Section 8620 of the Family Code is amended to read:

8620. (a) (1) If a parent is seeking to relinquish a child pursuant to Section 8700 or execute an adoption placement agreement pursuant to Section 8801.3, the department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall ask the child and the child's parent or custodian whether the child is, or may be, a member of, or eligible for membership in an Indian tribe or whether the child has been identified as a member of an Indian organization. The department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall complete the forms provided for this purpose by the department and shall make this completed form a part of the file.

(2) If there is any oral or written information that indicates that the child is, or may be, an Indian child, the department, county adoption agency, licensed adoption agency, or adoption service provider, as applicable, shall obtain the following information:

(A) The name of the child involved, and the actual date and place of birth of the child.

(B) The name, address, date of birth, and tribal affiliation of the birth parents, maternal and paternal grandparents, and maternal and paternal great-grandparents of the child.

(C) The name and address of extended family members of the child who have a tribal affiliation.

(D) The name and address of the Indian tribes or Indian organizations of which the child is, or may be, a member.

(E) A statement of the reasons why the child is, or may be, an Indian.

(3) (A) The department, county adoption agency, licensed adoption agency, attorney for the prospective adoptive parents, or adoption service provider shall send a notice, which shall include information obtained pursuant to paragraph (2) and a request for confirmation of the child's Indian status, to any parent and any custodian of the child, and to any Indian tribe of which the child is, or may be, a member or eligible for membership. If any of the information required under paragraph (2) cannot be obtained, the notice shall indicate that fact.

(B) The notice sent pursuant to subparagraph (A) shall describe the nature of the proceeding and advise the recipient of the Indian tribe's right to intervene in the proceeding on its own behalf or on behalf of a tribal member relative of the child.

(b) The department shall adopt regulations to ensure that if a child who is being voluntarily relinquished for adoption, pursuant to Section 8700, is an Indian child, the parent of the child shall be advised of the right to withdraw consent and thereby rescind the relinquishment of an Indian child for any reason at any time prior to entry of a final decree of termination of parental rights or adoption, pursuant to Section 1913 of Title 25 of the United States Code.

(c) If a child who is the subject of an adoption proceeding after being relinquished for adoption pursuant to Section 8700, is an Indian child, the child's Indian tribe may intervene in that proceeding on behalf of a tribal member relative of the child.

(d) Any notice sent under this section shall comply with Section 180.

(e) If all prior notices required by this section have been provided to an Indian tribe, the Indian tribe receiving those prior notices is encouraged to provide notice to the department and to the licensed adoption agency, county adoption agency, or adoption service provider, not later than five calendar days prior to the date of the hearing to determine whether or not the final adoption order is to be granted, indicating whether or not it intends to intervene in the proceeding required by this section, either on its own behalf or on behalf of a tribal member who is a relative of the child.

(f) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with an Indian tribe. The adoption laws of this state shall not be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents, an Indian tribe, and the child, from voluntarily entering into a written agreement to permit continuing contact between the Indian tribe and the child, if the agreement is found by the court to have been entered into voluntarily and to be in the best interest of the child at the time the adoption petition is granted.

(g) With respect to giving notice to Indian tribes in the case of voluntary placements of Indian children pursuant to this section, a person, other than a birth parent of the child, shall be subject to a civil penalty if that person knowingly and willfully:

(1) Falsifies, conceals, or covers up by trick, scheme, or device, a material fact concerning whether the child is an Indian child or the parent is an Indian.

(2) Makes a false, fictitious, or fraudulent statement, omission, or representation.

(3) Falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact.

(4) Assists a person in physically removing a child from the State of California in order to obstruct the application of notification.

(h) Civil penalties for a violation of subdivision (g) by a person other than a birth parent of the child are as follows:

(1) For the initial violation, a person shall be fined not more than ten thousand dollars (\$10,000).

(2) For any subsequent violation, a person shall be fined not more than twenty thousand dollars (\$20,000).

SEC. 117. Section 8625 of the Family Code is amended to read:

8625. An adoption facilitator shall not:

(a) Mislead a person into believing, or imply by any document, including any form of advertising or by oral communications, that the adoption facilitator is a licensed adoption agency.

(b) Represent to any person that the adoption facilitator is able to provide services for which the adoption facilitator is not properly licensed.

(c) Make use of photolisting to advertise minor children for placement in adoption.

(d) Post in any advertising specific information about particular minor children who are available for adoption placement.

SEC. 118. Section 8632.5 of the Family Code is amended to read:

8632.5. (a) The department shall establish and adopt regulations for a statewide registration and enforcement process for adoption facilitators. The department shall also establish and adopt regulations to require adoption facilitators to post a bond as required by this section.

(b) The department may adapt the process it uses to register adoption service providers in order to provide a similar registration process for adoption facilitators. The process used by the department shall include a procedure for determining the status of bond compliance by adoption facilitators, a means for accepting or denying organizations seeking inclusion in the adoption facilitator registry, a means for removing adoption facilitators from the adoption facilitator registry, and an appeals process for those entities denied inclusion in or removed from the adoption facilitator registry. The department may deny or revoke inclusion in the registry

for adoption facilitators to an applicant who does not possess a criminal record clearance or exemption issued by the department pursuant to Section 1522 of the Health and Safety Code and the criminal record clearance regulations applicable to personnel of private adoption agencies. Criminal record clearances and exemptions granted to adoption facilitators are not transferable.

(c) Upon the establishment by the department of a registration process, all adoption facilitators that operate independently from a licensed public or private adoption agency or an adoption attorney in this state shall be required to register with the department.

(d) An adoption facilitator, when posting a bond, shall also file with the department a disclosure form containing the adoption facilitator's name, date of birth, residence address, business address, residence telephone number, business telephone number, and the number of adoptions facilitated for the previous year. Along with the disclosure form, the adoption facilitator shall provide all of the following information to the department:

(1) Proof that the facilitator and any member of the staff who provides direct adoption services has completed two years of college courses, with at least half of the units and hours focusing on social work or a related field.

(2) Proof that the facilitator and any member of the staff who provides direct adoption services has a minimum of three years of experience employed by a public or private adoption agency licensed by the department, a registered adoption facilitator, or an adoption attorney who assists in bringing adopting persons and placing parents together for the purpose of adoption placement.

(A) An adoption facilitator and any member of the staff subject to this paragraph may waive the educational and experience requirements by satisfying all of the following requirements:

(i) The person has over five years of work experience providing direct adoption services for a licensed adoption agency.

(ii) The person has not been found liable of malfeasance in connection with providing adoption services.

(iii) The person provides three separate letters of support attesting to their ethics and work providing direct adoption services from any of the following:

(I) A licensed public or private adoption agency.

(II) A member of the Academy of California Adoption Lawyers.

(III) The State Department of Social Services.

(B) An adoption facilitator who is registered with the department may also register staff members under the designation of "trainee." A trainee may provide direct adoption services without meeting the requirements of this paragraph. A trainee registered with the department shall be directly supervised by an individual who meets all registration requirements.

(3) A valid business license.

(4) A valid, current, government-issued identification to determine the adoption facilitator's identity, such as a California driver's license, identification card, passport, or other form of identification that is acceptable to the department.

(5) Fingerprint images for a background check to be used by the department for the purposes described in this section.

(e) The State Department of Social Services may submit fingerprint images of adoption facilitators to the Department of Justice for the purpose of obtaining criminal offender record information regarding state- and federal-level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(1) The Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(2) The Department of Justice shall provide a response to the department pursuant to subdivision (m) of Section 11105 of the Penal Code.

(3) The department shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(4) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

(5) The department may only release an applicant's criminal record information search response as provided in subparagraph (G) of paragraph (4) of subdivision (a) of Section 1522 of the Health and Safety Code.

(f) The department may impose a fee upon applicants for each set of classifiable fingerprint cards that it processes pursuant to paragraph (5) of subdivision (d).

(g) The department shall post on its internet website the registration and bond requirements required by this chapter and a list of adoption facilitators in compliance with the registration and bond requirements of this chapter. The department shall ensure that the information is current and shall update the information at least once every 30 days.

(h) The department shall develop the disclosure form required pursuant to subdivision (d) and shall make it available to any adoption facilitator posting a bond.

(i) The department may charge adoption facilitators an annual filing fee to recover all costs associated with the requirements of this section and that fee shall be set by regulation.

(j) The department may create an Adoption Facilitator Account for deposit of fees received from registrants.

(k) On or before January 1, 2008, the department shall make recommendations for the registry program to the Legislature, including a recommendation on how to implement a department program to accept and compile complaints against registered adoption facilitators and to provide public access to those complaints, by specific facilitator, through the department's internet website.

(l) The adoption facilitator registry established pursuant to this section shall become operative on the first day of the first month following an appropriation from the Adoption Facilitator Account to the State Department of Social Services for the startup costs and the costs of administration of the adoption facilitator registry.

SEC. 119. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department, county adoption agency, or licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department, county adoption agency, 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 relinquishing parent who is a minor has the right to relinquish a child for adoption to the department, county adoption agency, or licensed adoption agency, and the relinquishment is not subject to revocation by the relinquishing parent by reason of the minority, or because the parent or guardian of the relinquishing minor parent was not served with notice that the relinquishing minor parent relinquished the child for adoption, unless the relinquishing minor parent has previously provided written authorization to serve the relinquishing minor's parent or guardian with that notice.

(c) If a parent resides outside this state and the other parent has relinquished the child for adoption pursuant to subdivision (a) or (d), the parent residing out of state may relinquish the child by a written statement signed before a notary on a form prescribed by the department, and previously signed by an authorized official of the department, county adoption agency, or licensed adoption agency that signifies the willingness of the department, county adoption agency, or licensed adoption agency to accept the relinquishment.

(d) If a parent and child reside outside this state and the other parent has not relinquished the child for adoption to the department, county adoption agency, or licensed adoption agency, the parent residing out of state may relinquish the child to the department, county adoption agency, or licensed adoption agency by a written statement signed by the relinquishing parent, after the following requirements have been satisfied:

(1) Prior to signing the relinquishment, the relinquishing parent shall have received, from a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence, the same counseling and advisement services as if the relinquishing parent resided in this state.

(2) The relinquishment shall be signed before a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence whenever possible or before a licensed social worker on a form prescribed by the department, and previously signed by an authorized official of the department, county adoption agency, or licensed adoption agency, that signifies the willingness of the department, county adoption agency, or licensed adoption agency to accept the relinquishment.

(e) (1) The relinquishment authorized by this section has no effect until a certified copy is sent to, and filed with, the department. The county adoption agency or licensed adoption agency shall send that copy by certified mail, return receipt requested, or by overnight courier or messenger, with proof of delivery, to the department no earlier than the end of the business day following the signing thereof. The agency shall inform the birth parent that during this time period the birth parent may request that the

relinquishment be withdrawn and that, if the birth parent makes the request, the relinquishment shall be withdrawn. The relinquishment shall be final 10 business days after receipt of the filing by the department, unless any of the following applies:

(A) The department sends written acknowledgment of receipt of the relinquishment prior to the expiration of that 10-day period, at which time the relinquishment shall be final.

(B) A longer period of time is necessary due to a pending court action or some other cause beyond control of the department.

(C) The birth parent signs a waiver of right to revoke relinquishment pursuant to Section 8700.5, in which case the relinquishment shall become final as provided in that section.

(2) After the relinquishment is final, it may be rescinded only by the mutual consent of the department, county adoption agency, or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

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

(g) Notwithstanding subdivision (e), if the relinquishment names the person or persons with whom placement by the department, county adoption agency, 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, county adoption agency, 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.

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

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

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

(3) If the relinquishing parent and the department, county adoption agency, 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.

(i) Subject to the requirements of subdivision (b) of Section 361 of the Welfare and Institutions Code, a parent may sign a relinquishment of a child described in paragraph (1) of subdivision (b) of Section 361 of the Welfare and Institutions Code. If the relinquishment is to a licensed private adoption agency, the parent shall be advised, in writing, that the relinquishment shall have no effect and will not be filed with, or acknowledged by, the department, unless the court approves the relinquishment pursuant to paragraph (3) of subdivision (b) of Section 361 of the Welfare and Institutions Code. If the court issues an order approving the relinquishment, the licensed private adoption agency shall file the relinquishment and the order with the department. If the court denies the relinquishment, the licensed private adoption agency shall void the relinquishment and inform the parent of that fact.

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

(k) The department shall adopt regulations to administer the provisions of this section.

SEC. 120. Section 8700.5 of the Family Code is amended to read:

8700.5. (a) A relinquishing birth parent may elect to sign a waiver of the right to revoke relinquishment in the presence of any of the following:

(1) A representative of the department or the delegated county adoption agency, or any public adoption agency of another state.

(2) A judicial officer of a court of record, within or outside of California, if the birth parent is represented by independent legal counsel.

(3) An authorized representative of a licensed private adoption agency within or outside of California, including a representative of the adoption agency that witnessed or accepted the relinquishment, if the birth parent is represented by independent legal counsel.

(b) The waiver of the right to revoke relinquishment may not be signed until the department, delegated county adoption agency, or public adoption agency of another state has completed an interview, unless the waiver is signed in the presence of a judicial officer of a court of record of any state or an authorized representative of a private adoption agency licensed within or outside of California. If the waiver is signed in the presence of a judicial officer, the interview and witnessing of the signing of the waiver shall be conducted by the judicial officer. If the waiver is signed in the presence of an authorized representative of a licensed adoption agency, the interview shall be conducted by the independent legal counsel for the birth parent or parents, who shall:

(1) Review the waiver with the birth parent or parents.

(2) Counsel the birth parent or parents about the nature of the intended waiver.

(3) Sign and deliver to the birth parent or parents and the licensed adoption agency a certificate in substantially the following form:

"I, (name of attorney), have counseled my client, (name of client), about the nature and legal effect of the waiver of the right to revoke the relinquishment for adoption. I am so disassociated from the interest of the prospective adoptive parent(s) and the licensed adoption agency as to be in a position to advise my client impartially and confidentially as to the consequences of the waiver. My client is aware that California law provides an indeterminate period, usually 2 to 10 business days, during which a birth parent may revoke a relinquishment for adoption. On the basis of this counsel, I conclude that it is the intent of my client to waive the right to revoke, and to make a permanent and irrevocable relinquishment for adoption. My client understands that upon signing this waiver, my client will not be able to regain custody of the child unless the prospective adoptive parent or parents agree to withdraw the petition for adoption or the court denies the adoption petition."

(c) If the placing birth parent signs the waiver in front of a judicial officer or the department, the relinquishment shall become final and irrevocable at the time the waiver is signed. If the waiver is signed in the presence of an authorized representative of a private licensed adoption agency, the relinquishment shall become final and irrevocable at the close of the next business day after the relinquishment was signed, or at the close of the next business day after expiration of any holding period specified in writing, whichever is later.

(d) The licensed adoption agency shall submit the waiver and certificate to the department with the relinquishment, unless the relinquishment was submitted to the department before the waiver was signed, in which case the waiver and certificate shall be submitted to the department no later than two business days after signing.

(e) A waiver executed pursuant to this section shall be void if any of the following occur:

(1) The relinquishment is determined to be invalid.

(2) The relinquishment is revoked during any holding period specified in writing.

(3) The relinquishment is rescinded pursuant to Section 8700.

(f) This section does not limit the birth parent's right to rescind the relinquishment pursuant to Section 8700.

SEC. 121. Section 8712 of the Family Code is amended to read:

8712. (a) (1) The department, county adoption agency, or licensed adoption agency shall require each person who files an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department, county adoption agency, or licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. A federal-level criminal offender record request to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on their own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department, county adoption agency, or licensed adoption agency.

(2) The department, county adoption agency, or licensed adoption agency may obtain arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties, as provided in this section.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) The department, county adoption agency, or licensed adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent or any adult living in the prospective adoptive home has been convicted of an offense for which an exemption cannot be granted pursuant to subparagraph (A) of paragraph (2) of subdivision (g) of Section 1522 of the Health and Safety Code.

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department, county adoption agency, or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 122. Section 8715 of the Family Code is amended to read:

8715. (a) The department, county adoption agency, or licensed adoption agency, whichever is a party to, or joins in, the petition, shall submit a full report of the facts of the case to the court.

(b) If the child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and has thereafter been freed for adoption by the juvenile court, the report required by this section shall describe whether the requirements of subdivision (e) of Section 16002 of the Welfare and Institutions Code have been completed and what, if any, plan exists for facilitation of postadoptive contact between the child who is the subject of the adoption petition and the child's siblings and half siblings.

(c) If a petition for adoption has been filed with a postadoption contact agreement pursuant to Section 8616.5, the report shall address whether the postadoption contact agreement has been entered into voluntarily, and whether it is in the best interest of the child who is the subject of the petition.

(d) The department may also submit a report in those cases in which a county adoption agency, or licensed adoption agency is a party or joins in the adoption petition.

(e) If a petitioner is a resident of a state other than California, an updated and current home study report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department, county adoption agency, or licensed adoption agency, if the standards and criteria established for a home study report in the other state are substantially commensurate with the home study standards and criteria established in California adoption regulations.

SEC. 123. Section 8730 of the Family Code is amended to read:

8730. (a) Subject to the requirements of subdivision (b), the department, county adoption agency, or licensed adoption agency may provide an abbreviated home study assessment for any of the following:

(1) A licensed or certified foster parent with whom the child has lived for a minimum of six months.

(2) An approved relative caregiver or nonrelated extended family member with whom the child has had an ongoing and significant relationship.

(3) A court-appointed relative guardian of the child who has been investigated and approved pursuant to the guardianship investigation process and has had physical custody of the child for at least one year.

(4) A prospective adoptive parent who has completed an agency-supervised adoption within the last two years.

(b) Unless otherwise ordered by a court with jurisdiction over the child, home study assessments completed pursuant to subdivision (a) shall include, at minimum, all of the following:

(1) A criminal records check, as required by all applicable state and federal statutes and regulations.

(2) A determination that the applicant has sufficient financial stability to support the child and ensure that an adoption assistance program payment or other government assistance to which the child is entitled is used exclusively to meet the child's needs. In making this determination, the experience of the applicant only while the child was in the applicant's care shall be considered. For purposes of this section, the applicant shall be required to provide verification of employment records or income or both.

(3) A determination that the applicant has not abused or neglected the child while the child has been in the applicant's care and has fostered the healthy growth and development of the child. This determination shall include a review of the disciplinary practices of the applicant to ensure that the practices are age appropriate and do not physically or emotionally endanger the child.

(4) A determination that the applicant is not likely to abuse or neglect the child in the future and that the applicant can protect the child, ensure necessary care and supervision, and foster the child's healthy growth and development.

(5) A determination that the applicant can address issues that may affect the child's well-being, including, but not limited to, the child's physical health, mental health, and educational needs.

(6) An interview with the applicant, an interview with each individual residing in the home, and an interview with the child to be adopted.

(7) A review by the department, county adoption agency, or licensed adoption agency of all previous guardianship investigation reports, home study assessments, and preplacement evaluations of each applicant. Notwithstanding any other law regarding the confidential nature of these reports, upon the written request of the department, county adoption agency, or licensed adoption agency that is accompanied by a signed release from the applicant, the department, county adoption agency, or licensed adoption agency may receive a copy of any of these reports from a court, investigating agency, or other person or entity in possession of the report. The department, county adoption agency, or licensed adoption agency shall document attempts to obtain the report and, if applicable, the reason the report is unavailable.

(c) The department may promulgate regulations as necessary or appropriate to implement this section.

(d) This section does not apply to independent adoptions filed pursuant to Chapter 3 (commencing with Section 8800).

SEC. 124. Section 8800 of the Family Code is amended to read:

8800. (a) The Legislature finds and declares that an attorney's ability to effectively represent a client may be seriously impaired when conflict of interest deprives the client of the attorney's undivided loyalty and effort. The Legislature further finds and declares that the relation between attorney and client is a fiduciary relation of the very highest character, and binds the attorney to the most conscientious fidelity.

(b) The Legislature finds that Rule 2-111(A)(2) of the State Bar Rules of Professional Conduct provides that an attorney shall not withdraw from employment until the attorney has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

(c) The Legislature declares that in an independent adoption proceeding, whether or not written consent is obtained, multiple representation by an attorney should be avoided whenever a birth parent displays the slightest reason for the attorney to believe any controversy might arise. The Legislature finds and declares that it is the duty of the attorney, when a conflict of interest occurs, to withdraw promptly from any case, advise the parties to retain independent counsel, refrain from taking positions in opposition to any of these former clients, and thereafter maintain an impartial, fair, and open attitude toward the new attorneys.

(d) Notwithstanding any other law, it is unethical for an attorney to undertake the representation of both the prospective adoptive parents and the birth parents of a child in any negotiations or proceedings in connection with an adoption unless a written consent is obtained from both parties. The written consent shall include all of the following:

(1) A notice to the birth parents, in the form specified in this section, of their right to have an independent attorney advise and represent them in the adoption proceeding and that the prospective adoptive parents may be required to pay the reasonable attorney's fees up to a maximum of five hundred dollars (\$500) for that representation, unless a higher fee is agreed to by the parties.

(2) A notice to the birth parents that they may waive their right to an independent attorney and may be represented by the attorney representing the prospective adoptive parents.

(3) A waiver by the birth parents of representation by an independent attorney.

(4) An agreement that the attorney representing the prospective adoptive parents shall represent the birth parents.

(e) Upon the petition or motion of any party, or upon motion of the court, the court may appoint an attorney to represent a child's birth parent or parents in negotiations or proceedings in connection with the child's adoption.

(f) The birth parent or parents may have an attorney, other than the attorney representing the interests of the prospective adoptive parents, to advise them fully of the adoption procedures and of their legal rights. The birth parent or parents also may retain an

attorney to represent them in negotiations or proceedings in connection with the child's adoption. The court may award attorney's fees and costs for just cause and based upon the ability of the parties to pay those fees and costs.

(g) In the initial communication between the attorney retained by or representing the prospective adoptive parents and the birth parents, or as soon thereafter as reasonable, but before any written consent for dual representation, the attorney shall advise the birth parents of their rights regarding an independent attorney and that it is possible to waive the independent attorney.

(h) The attorney retained by or representing the prospective adoptive parents shall inform the prospective adoptive parents in writing that the birth parent or parents can revoke consent to the adoption pursuant to Section 8814.5 and that any moneys expended in negotiations or proceedings in connection with the child's adoption are not reimbursable. The prospective adoptive parents shall sign a statement to indicate their understanding of this information.

(i) Written consent to dual representation shall be filed with the court before the filing of the birth parent's consent to adoption.

SEC. 125. Section 8801 of the Family Code is amended to read:

8801. (a) The selection of a prospective adoptive parent or parents shall be personally made by the child's birth parent or parents and may not be delegated to an agent. The act of selection by the birth parent or parents shall be based upon personal knowledge of the prospective adoptive parent or parents.

(b) "Personal knowledge" as used in this section includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal names, ages, religion, race or ethnicity, length of current marriage and number of previous marriages, employment, whether other children or adults reside in their home, whether there are other children who do not reside in their home and the child support obligation for these children and any failure to meet these obligations, any health conditions curtailing their normal daily activities or reducing their normal life expectancies, any convictions for crimes other than minor traffic violations, any removals of children from their care due to child abuse or neglect, and their general area of residence or, upon request, their address.

SEC. 126. Section 8801.3 of the Family Code is amended to read:

8801.3. A child shall not be considered to have been placed for adoption unless each of the following is true:

(a) Each birth parent placing the child for adoption has been advised of their rights, and if desired, has been counseled pursuant to Section 8801.5.

(b) The adoption service provider, each prospective adoptive parent, and each birth parent placing the child have signed an adoption placement agreement on a form prescribed by the department. The signing of the agreement shall satisfy all of the following requirements:

(1) Each birth parent shall have been advised of their rights pursuant to Section 8801.5 at least 10 days before signing the agreement, unless the adoption service provider finds exigent circumstances that shall be set forth in the adoption placement agreement.

(2) The agreement may not be signed by either the birth parents or the prospective adoptive parents until the time of discharge of the birth mother from the hospital. However, if the birth mother remains hospitalized for a period longer than the hospitalization of the child, the agreement may be signed by all parties at the time of or after the child's discharge from the hospital but prior to the birth mother's discharge from the hospital if the birth mother's competency to sign is verified by the attending physician and surgeon before signing the agreement.

(3) The birth parents and prospective adoptive parents shall sign the agreement in the presence of an adoption service provider.

(4) The adoption service provider who witnesses the signatures shall keep the original of the adoption placement agreement and immediately forward it and supporting documentation as required by the department to the department or delegated county adoption agency.

(5) The child is not deemed to be placed for adoption with the prospective adoptive parents until the adoption placement agreement has been signed and witnessed.

(6) If the birth parent is not located in this state or country, the adoption placement agreement shall be signed before an adoption service provider or, for purposes of identification of the birth parent only, before a notary or other person authorized to perform notarial acts in the state or country in which the birth parent is located. This paragraph is not applicable to intercountry adoptions, as defined in Section 8527, which shall be governed by Chapter 4 (commencing with Section 8900).

(c) The adoption placement agreement form shall include all of the following:

- (1) A statement that the birth parent received the advisement of rights and the date upon which it was received.
- (2) A statement that the birth parent understands that the placement is for the purpose of adoption and that if the birth parent takes no further action, on the 31st day after signing the adoption placement agreement, the agreement shall become a permanent and irrevocable consent to the adoption.
- (3) A statement that the birth parent signs the agreement having personal knowledge of certain facts regarding the prospective adoptive parents as provided in Section 8801.
- (4) A statement that the adoptive parents have been informed of the basic health and social history of the birth parents.
- (5) A consent to the adoption that may be revoked as provided by Section 8814.5.

(d) The adoption placement agreement shall also meet the requirements of the Interstate Compact on the Placement of Children in Section 7901.

SEC. 127. Section 8801.5 of the Family Code is amended to read:

8801.5. (a) Each birth parent placing a child for adoption shall be advised of their rights by an adoption service provider.

(b) The birth parent shall be advised of their rights in a face-to-face meeting in which the birth parent may ask questions and have questions answered, as provided by Section 8801.3.

(c) The department shall prescribe the format and process for advising birth parents of their rights, the content of which shall include, but not be limited to, the following:

- (1) The alternatives to adoption.
- (2) The alternative types of adoption, including a description of the full procedures and timeframes involved in each type.
- (3) The full rights and responsibilities of the birth parent with respect to adoption, including the need to keep the department informed of the birth parent's current address in case of a medical emergency requiring contact and of providing a full health history.
- (4) The right to separate legal counsel paid for by the prospective adoptive parents upon the request of the birth parent, as provided for by Section 8800.
- (5) The right to a minimum of three separate counseling sessions, each to be held on different days, to be paid for by the prospective adoptive parents upon the request of the birth parents, as provided for by subdivision (d).

(d) Each person advised pursuant to this section shall be offered at least three separate counseling sessions, to be held on different days. Each counseling session shall be not less than 50 minutes in duration. The counseling may be provided by the adoption service provider who informs the birth parent of their rights, or by another adoption service provider, or by a licensed psychotherapist, as defined by Section 1010 of the Evidence Code, as elected by the person, and after having been informed of these choices.

(e) The counselor owes a duty of care to the birth parent being counseled, similar to the duty of care established by a psychotherapist-patient relationship, regardless of who pays the fees of the counselor. A counselor shall not have a contractual relationship with the adoptive parents, an attorney for the adoptive parents, or any other individual or an organization performing any type of services for the adoptive parents and for which the adoptive parents are paying a fee, except as relates to payment of the birth parents' fee.

(f) The advisement and counseling fees shall be paid by the prospective adoptive parents at the request of the birth parent.

(g) Failure to fulfill the duties specified in this section shall not be construed as a basis for setting aside the consent or the adoption, but may give rise to a cause of action for malpractice or negligence against those professionals or agencies serving as adoption service providers that are responsible for fulfilling the duties.

SEC. 128. Section 8811 of the Family Code is amended to read:

8811. (a) The department or delegated county adoption agency shall require each person who files an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine if the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been

granted pursuant to Section 1203.49 of the Penal Code. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on their own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department or delegated county adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) The department or a delegated county adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(d) A fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, if the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 129. Section 8814 of the Family Code is amended to read:

8814. (a) Except as provided in Section 7662, the consent of the birth parent or parents who did not place the child for adoption, as described in Section 8801.3, to the adoption shall be signed in the presence of an agent of the department or of a delegated county adoption agency on a form prescribed by the department. The consent shall be filed with the clerk of the appropriate superior court.

(b) The consent described in subdivision (a), when reciting that the person giving it is entitled to the sole custody of the child and when acknowledged before that agent, is prima facie evidence of the right of the person making it to the sole custody of the child and that person's sole right to consent.

(c) If the birth parent described in subdivision (a) is located outside this state for an extended period of time unrelated to the adoption at the time of signing the consent, the consent may be signed before a notary or other person authorized to perform notarial acts, and in that case the consent of the department or of the delegated county adoption agency is also necessary.

(d) A birth parent who is a minor has the right to sign a consent for the adoption of the birth parent's child and the consent is not subject to revocation by the birth parent by reason of minority, or because the parent or guardian of the consenting minor parent was not served with notice that the minor parent consented to the adoption, unless the minor parent has previously provided written authorization to serve the minor parent's parent or guardian with that notice.

SEC. 130. Section 8814.5 of the Family Code is amended to read:

8814.5. (a) After a consent to the adoption is signed by the birth parent or parents pursuant to Section 8801.3 or 8814, the birth parent or parents signing the consent shall have 30 days to take one of the following actions:

(1) Sign and deliver to the department or delegated county adoption agency a written statement revoking the consent and requesting the child to be returned to the birth parent or parents. After revoking consent, in cases where the birth parent or parents have not regained custody, or the birth parent or parents have failed to make efforts to exercise their rights under subdivision (b) of Section 8815, a written notarized statement reinstating the original consent may be signed and delivered to

the department or delegated county adoption agency, in which case the revocation of consent shall be void and the remainder of the original 30-day period shall commence. After revoking consent, in cases in which the birth parent or parents have regained custody or made efforts to exercise their rights under subdivision (b) of Section 8815 by requesting the return of the child, upon the delivery of a written notarized statement reinstating the original consent to the department or delegated county adoption agency, the revocation of consent shall be void and a new 30-day period shall commence. The birth mother shall be informed of the operational timelines associated with this section at the time of signing of the statement reinstating the original consent.

(2) (A) Sign a waiver of the right to revoke consent on a form prescribed by the department in the presence of any of the following:

(i) A representative of the department or delegated county adoption agency.

(ii) A judicial officer of a court of record if the birth parent is represented by independent legal counsel.

(iii) An adoption service provider, including, but not limited to, the adoption service provider who advised the birth mother and witnessed the signing of the consent, if the birth parent or parents are represented by independent legal counsel. The adoption service provider shall ensure that the waiver is delivered to the department, the petitioners, or their counsel no earlier than the end of the business day following the signing of the waiver. The adoption service provider shall inform the birth parent that during this time period the birth parent may request that the waiver be withdrawn and that, if that request is made, the waiver shall be withdrawn.

(B) An adoption service provider may assist the birth parent or parents in any activity where the primary purpose of that activity is to facilitate the signing of the waiver with the department, a delegated county agency, or a judicial officer. The adoption service provider or another person designated by the birth parent or parents may also be present at any interview conducted pursuant to this section to provide support to the birth parent or parents, except when the interview is conducted by independent legal counsel for the birth parent or parents.

(C) The waiver of the right to revoke consent may not be signed until an interview has been completed by the department or delegated county adoption agency unless the waiver of the right to revoke consent is signed in the presence of a judicial officer of a court of record or an adoption service provider as specified in this section. If the waiver is signed in the presence of a judicial officer, the interview and the witnessing of the signing of the waiver shall be conducted by the judicial officer. If the waiver is signed in the presence of an adoption service provider, the interview shall be conducted by the independent legal counsel for the birth parent or parents. If the waiver is to be signed in the presence of an adoption service provider, prior to the waiver being signed the waiver shall be reviewed by the independent legal counsel who (i) counsels the birth parent or parents about the nature of the intended waiver and (ii) signs and delivers to the birth parent or parents and the department a certificate in substantially the following form:

I, (name of attorney), have counseled my client, (name of client), on the nature and legal effect of the waiver of right to revoke consent to adoption. I am so disassociated from the interest of the petitioner(s)/prospective adoptive parent(s) as to be in a position to advise my client impartially and confidentially as to the consequences of the waiver. (Name of client) is aware that California law provides for a 30-day period during which a birth parent may revoke consent to adoption. On the basis of this counsel, I conclude that it is the intent of (name of client) to waive the right to revoke, and make a permanent and irrevocable consent to adoption. (Name of client) understands that they will not be able to regain custody of the child unless the petitioner(s)/prospective adoptive parent(s) agree(s) to withdraw their petition for adoption or the court denies the adoption petition.

(D) Within 10 working days of a request made after the department or the delegated county adoption agency has received a copy of the petition for the adoption and the names and addresses of the persons to be interviewed, the department or the delegated county adoption agency shall interview, at the department or agency office, any birth parent requesting to be interviewed.

(E) Notwithstanding subparagraphs (A) and (C), the interview, and the witnessing of the signing of a waiver of the right to revoke consent of a birth parent residing outside of California or located outside of California for an extended period of time unrelated to the adoption may be conducted in the state where the birth parent is located, by any of the following:

(i) A representative of a public adoption agency in that state.

(ii) A judicial officer in that state where the birth parent is represented by independent legal counsel.

(iii) An adoption service provider.

(3) Allow the consent to become a permanent consent on the 31st day after signing.

(b) The consent may not be revoked after a waiver of the right to revoke consent has been signed or after 30 days, beginning on the date the consent was signed or as provided in paragraph (1) of subdivision (a), whichever occurs first.

SEC. 131. Section 8908 of the Family Code is amended to read:

8908. (a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine if the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any, with the exception of any convictions for which relief has been granted pursuant to Section 1203.49 of the Penal Code. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on their own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a fitness determination to the licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) A licensed adoption agency shall not give final approval for an adoptive placement in any home in which the prospective adoptive parent, or any adult living in the prospective adoptive home, has a felony conviction for either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

SEC. 132. Section 8920 of the Family Code is amended to read:

8920. (a) A child who was adopted as part of a sibling group and who has been separated from the child's sibling or siblings through readoption by a resident of this state may petition the court to enforce any agreement for visitation to which the separate adoptive families of the siblings subscribed prior to the child's readoption or to order visitation if such agreement does not exist. The court may order that the agreement be enforced or grant visitation rights upon a finding that visitation is in the best interest of the child.

(b) In making a finding that enforcement of an existing agreement or the granting of visitation rights is in the best interest of the child under subdivision (a), the court shall take into consideration the nature and extent of the child's sibling relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shares significant common experiences or has close and strong bonds with a sibling, and whether ongoing contact with a sibling is in the child's best interest, including the child's long-term interest.

(c) As used in this section, "sibling" means full-siblings or half-siblings.

(d) As used in this section, "readoption" means the process by which a child who belongs to a foreign-born sibling group that was adopted together through an intercountry adoption is subsequently adopted by a different set of adoptive parents who are residents of the state.

SEC. 133. Section 9000 of the Family Code is amended to read:

9000. (a) A stepparent desiring to adopt a child of the stepparent's spouse may for that purpose file a petition in the county in which the petitioner resides.

(b) A domestic partner, as defined in Section 297, desiring to adopt a child of the other domestic partner may, for that purpose, file a petition in the county in which the petitioner resides.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(e) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

(f) If the petitioner has entered into a postadoption contact agreement with the birth parent as set forth in Section 8616.5, the agreement, signed by the participating parties, shall be attached to and filed with the petition for adoption.

(g) For the purposes of this chapter, stepparent adoption includes adoption by a domestic partner, as defined in Section 297.

SEC. 134. Section 9101 of the Family Code is amended to read:

9101. (a) If an order of adoption is set aside as provided in Section 9100, the court making the order shall direct the district attorney, the county counsel, or the county welfare department to take appropriate action under the Welfare and Institutions Code. The court may also make any order relative to the care, custody, or confinement of the child pending the proceeding the court sees fit.

(b) The county in which the proceeding for adoption was had is liable for the child's support until the child is able to be self-supporting.

SEC. 135. Section 9203 of the Family Code is amended to read:

9203. (a) The department or a licensed adoption agency shall do the following:

(1) Upon the request of a person who has been adopted pursuant to this part and who has attained 21 years of age, disclose the identity of the person's birth parent or parents and their most current address shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing.

(2) Upon the request of the birth parent of a person who has been adopted pursuant to this part and who has attained 21 years of age, disclose the adopted name of the adoptee and the adoptee's most current address shown in the records of the department or licensed adoption agency, if the adult adoptee has indicated in writing, pursuant to the registration program developed by the department, that the adult adoptee wishes the adult adoptee's name and address to be disclosed.

(3) Upon the request of the adoptive parent of a person under 21 years of age who has been adopted pursuant to this part, disclose the identity of a birth parent and the birth parent's most current address shown in the records of the department or licensed adoption agency if the department or licensed adoption agency finds that a medical necessity or other extraordinary circumstances justify the disclosure.

(b) The department shall prescribe the form of the request required by this section. The form shall provide for an affidavit to be executed by the requester that to the best of the requester's knowledge the requester is an adoptee, the adoptee's birth parent, or the adoptee's adoptive parent. The department may adopt regulations requiring any additional means of identification from a requester that it deems necessary. The request shall advise an adoptee that if the adoptee consents, the adoptee's adoptive parents will be notified of the filing of the request before the release of the name and address of the adoptee's birth parent.

(c) Subdivision (a) is not applicable if a birth parent or an adoptee has indicated a desire that the name or address of the birth parent or adoptee not be disclosed.

(d) Within 20 working days of receipt of a request for information pursuant to this section, the department shall either respond to the request or forward the request to a licensed adoption agency that was a party to the adoption.

(e) Notwithstanding any other law, the department shall announce the availability of the present method of arranging contact among an adult adoptee, the adult adoptee's birth parents, and adoptive parents authorized by Section 9204 utilizing a means of communication appropriate to inform the public effectively.

(f) The department or licensed adoption agency may charge a reasonable fee in an amount the department establishes by regulation to cover the costs of processing requests for information made pursuant to subdivision (a). The department or licensed adoption agency shall waive fees authorized by this section for a person who is receiving public assistance pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code. The revenue resulting from the fees so charged shall be utilized by the department or licensed adoption agency to increase existing staff as needed to process these requests. Fees received by the department shall be deposited in the Adoption Information Fund. This revenue shall be in addition to any other funds appropriated in support of the state adoption program.

(g) This section applies only to adoptions in which the relinquishment for or consent to adoption was signed or the birth parent's rights were involuntarily terminated by court action on or after January 1, 1984.

SEC. 136. Section 9205 of the Family Code is amended to read:

9205. (a) Notwithstanding any other law, the department, county adoption agency, or licensed adoption agency that joined in the adoption petition shall release the names and addresses of siblings to one another if both of the siblings have attained 18 years of age and have filed the following with the department or agency:

(1) A current address.

(2) A written request for contact with any sibling whose existence is known to the person making the request.

(3) A written waiver of the person's rights with respect to the disclosure of the person's name and address to the sibling, if the person is an adoptee.

(b) Upon inquiry and proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department, county adoption agency, or licensed adoption agency may advise the sibling that a waiver has been filed by the adoptee. The department, county adoption agency, or licensed adoption agency may charge a reasonable fee, not to exceed fifty dollars (\$50), for providing the service required by this section.

(c) An adoptee may revoke a waiver filed pursuant to this section by giving written notice of revocation to the department or agency.

(d) The department shall adopt a form for the request authorized by this section. The form shall provide for an affidavit to be executed by a person seeking to employ the procedure provided by this section that, to the best of the person's knowledge, the person is an adoptee or sibling of an adoptee. The form also shall contain a notice of an adoptee's rights pursuant to subdivision (c) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring any additional means of identification from a person making a request pursuant to this section as it deems necessary.

(e) The department, county adoption agency, or licensed adoption agency may not solicit the execution of a waiver authorized by this section. However, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication appropriate to inform the public effectively.

(f) Notwithstanding the age requirement described in subdivision (a), an adoptee or sibling who is under 18 years of age may file a written waiver of confidentiality for the release of the person's name, address, and telephone number pursuant to this section provided that, if an adoptee, the adoptive parent consents, and, if a sibling, the sibling's legal parent or guardian consents. If the sibling is under the jurisdiction of the dependency court and has no legal parent or guardian able or available to provide consent, the dependency court may provide that consent.

(g) Notwithstanding subdivisions (a) and (e), an adoptee or sibling who seeks contact with the other for whom no waiver is on file may petition the court to appoint a confidential intermediary. If the sibling being sought is the adoptee, the intermediary shall be the department, county adoption agency, or licensed adoption agency that provided adoption services as described in Section 8521 or 8533. If the sibling being sought was formerly under the jurisdiction of the juvenile court, but is not an adoptee, the intermediary shall be the department, the county child welfare agency that provided services to the dependent child, or the licensed adoption agency that provided adoption services to the sibling seeking contact, as appropriate. If the court finds that the agency that conducted the adoptee's adoption is unable, due to economic hardship, to serve as the intermediary, then the agency shall provide all records related to the adoptee or the sibling to the court and the court shall appoint an alternate confidential intermediary. The court shall grant the petition unless it finds that it would be detrimental to the adoptee or sibling with whom contact is sought. The intermediary shall have access to all records of the adoptee or the sibling and shall make all reasonable efforts to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent, as required to make the disclosure authorized by this section. The confidential intermediary shall notify any located adoptee, sibling, or adoptive or birth parent that consent is optional, not required by law, and does not affect the status of the adoption. If that individual denies the request for consent, the confidential intermediary shall not make any further attempts to obtain consent. The confidential

intermediary shall use information found in the records of the adoptee or the sibling for authorized purposes only, and may not disclose that information without authorization. If contact is sought with an adoptee or sibling who is under 18 years of age, the confidential intermediary shall contact and obtain the consent of that child's legal parent before contacting the child. If the sibling is under 18 years of age, under the jurisdiction of the dependency court, and has no legal parent or guardian able or available to provide consent, the intermediary shall obtain that consent from the dependency court. If the adoptee is seeking information regarding a sibling who is known to be a dependent child of the juvenile court, the procedures set forth in subdivision (b) of Section 388 of the Welfare and Institutions Code shall be utilized. If the adoptee is foreign born and was the subject of an intercountry adoption as defined in Section 8527, the adoption agency may fulfill the reasonable efforts requirement by utilizing all information in the agency's case file, and any information received upon request from the foreign adoption agency that conducted the adoption, if any, to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent. If that information is neither in the agency's case file, nor received from the foreign adoption agency, or if the attempts to locate are unsuccessful, then the agency shall be relieved of any further obligation to search for the adoptee or the sibling.

(h) For purposes of this section, "sibling" means a biological sibling, half-sibling, or step-sibling of the adoptee.

(i) It is the intent of the Legislature that implementation of some or all of the changes made to this section by Chapter 386 of the Statutes of 2006 shall continue, to the extent possible.

(j) Beginning in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 137. Section 9208 of the Family Code is amended to read:

9208. (a) The clerk of the superior court entering a final order of adoption concerning an Indian child shall provide the United States Secretary of the Interior or a designee with a copy of the order within 30 days of the date of the order, together with any information necessary to show the following:

- (1) The name and tribal affiliation of the child.
- (2) The names and addresses of the biological parents.
- (3) The names and addresses of the adoptive parents.
- (4) The identity of any agency having files or information relating to that adoptive placement.

(b) If the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include that affidavit with the other information.

SEC. 138. Section 10005 of the Family Code is amended to read:

10005. (a) By local rule, the superior court may designate additional duties of the family law facilitator, which may include, but are not limited to, the following:

- (1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Section 10012. Actions in which one or both of the parties are unrepresented by counsel shall have priority.
- (2) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section 10003.
- (3) If the parties are unable to resolve issues with the assistance of the family law facilitator, prior to or at the hearing, and at the request of the court, the family law facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether or not the matter is ready to proceed.
- (4) Assisting the clerk in maintaining records.
- (5) Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.
- (6) Serving as a special master in proceedings and making findings to the court unless the family law facilitator has served as a mediator in that case.
- (7) Providing the services specified in Section 10004 concerning the issues of child custody and visitation as they relate to calculating child support, if funding is provided for that purpose.

(b) If staff and other resources are available and the duties listed in subdivision (a) have been accomplished, the duties of the family law facilitator may also include the following:

(1) Assisting the court with research and any other responsibilities that will enable the court to be responsive to the litigants' needs.

(2) Developing programs for bar and community outreach through day and evening programs, video recordings, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court. These programs shall specifically include information concerning underutilized legislation, such as expedited child support orders (Chapter 5 (commencing with Section 3620) of Part 1 of Division 9), and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.

SEC. 139. Section 10014 of the Family Code is amended to read:

10014. A person employed by, or directly supervised by, the family law facilitator shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by or directly supervised by the family law facilitator shall be provided a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgment that the person is aware of its provisions.

SEC. 140. Section 17000 of the Family Code is amended to read:

17000. The definitions contained in this section, and definitions applicable to Division 9 (commencing with Section 3500), shall govern the construction of this division, unless the context requires otherwise.

(a) "Child support debt" means the amount of money owed as child support pursuant to a court order.

(b) "Child support order" means a court order for the payment of a set or determinable amount of support by a parent or a court order requiring a parent to provide for health insurance coverage. "Child support order" includes any court order for spousal support or for medical support to the extent these obligations are to be enforced by a single state agency for child support under Title IV-D.

(c) "Court" means any superior court of this state and any court or tribunal of another state that has jurisdiction to determine the liability of persons for the support of another person.

(d) "Court order" means a judgment, decree, or order of any court of this state that orders the payment of a set or determinable amount of support by a parent. It does not include any order or decree of any proceeding in which a court did not order support.

(e) "Department" means the Department of Child Support Services.

(f) "Dependent child" means any of the following:

(1) Any person under 18 years of age who is not emancipated, self-supporting, married, or a member of the Armed Forces of the United States.

(2) Any unmarried person who is at least 18 years of age but who has not reached 19 years of age, is not emancipated, and is a student regularly attending high school or a program of vocational or technical training designed to train that person for gainful employment.

(g) "Director" means the Director of Child Support Services or an authorized representative.

(h) "Local child support agency" means the county department of child support services created pursuant to this chapter and with which the department has entered into a cooperative agreement, to secure child and spousal support, medical support, and determine paternity. Local child support agency includes county programs in multiple counties that have been consolidated into a single agency pursuant to subdivision (a) of Section 17304.

(i) "Parent" means the natural or adoptive father or mother of a dependent child, and includes any person who has an enforceable obligation to support a dependent child.

(j) "Public assistance" means any amount paid under the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), or any Medi-Cal benefit, for the benefit of any dependent child or the caretaker of a child.

(k) "Public assistance debt" means any amount paid under the California Work Opportunity and Responsibility to Kids Act, contained in Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, for the

benefit of a dependent child or the caretaker of a child for whom the department is authorized to seek recoupment under this division, subject to applicable federal law.

(l) "Title IV-D" or "IV-D" means Part D of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

SEC. 141. Section 17212 of the Family Code is amended to read:

17212. (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 program, 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 17604 and Part 6 (commencing with Section 5700.101) of Division 9.
- (4) The location of absent parents.
- (5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by a 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 States Code and this division, 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. A public entity shall not disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) Information shall not be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the party, a good cause claim under Section 11477.04 of the Welfare and Institutions Code has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the party or the child. When a local child support agency is prohibited from releasing information pursuant to this subdivision, the information shall be omitted from any pleading or document to be submitted to the court and this subdivision shall be cited in the pleading or other document as the authority for the omission. The information shall be released only upon an order of the court pursuant to paragraph (6) of subdivision (c).

(3) Notwithstanding any other law, a proof of service filed by the local child support agency shall not disclose the address where service of process was accomplished. Instead, the local child support agency shall keep the address in its own records. The proof of service shall specify that the address is on record at the local child support agency and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The local child support agency shall, upon request by a party served, release to that person the address where service was effected.

(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 States Code and to the county welfare department responsible for administering a program operated under a state plan pursuant to Part A, Subpart 1 or 2 of Part B, or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or a 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) An income and expense declaration of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

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

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee 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. At any hearing of a motion filed pursuant to this section, the court shall inquire of the local child support agency and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

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

(8) 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.

(9) A parent's or relative's name, social security number, most recent address, telephone number, place of employment, or other contact information may be released to a county child welfare agency or county probation department pursuant to subdivision (c) of Section 17506.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this division, 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 division, "obligor" means a person owing a duty of support.

(3) As used in this division, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400.

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

(f) This section does not 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.

SEC. 142. Section 17300 of the Family Code is amended to read:

17300. (a) With the consent of the Senate, the Governor shall appoint, to serve at the Governor's pleasure, an executive officer who shall be director of the department. In making the appointment the Governor shall consider training, demonstrated ability, experience, and leadership in organized child support enforcement administration. The director shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The Governor also may appoint, to serve at the Governor's pleasure, not to exceed two chief deputy directors of the department, and one deputy director of the department. The salaries of the chief deputy directors and the deputy director shall be fixed in accordance with law.

SEC. 143. Section 17309.5 of the Family Code is amended to read:

17309.5. (a) An employer who is required to withhold and, by electronic fund transfer, pay tax pursuant to Section 19011 of the Revenue and Taxation Code or Section 13021 of the Unemployment Insurance Code, shall make child support payments to the State Disbursement Unit by electronic fund transfer. All child support payments required to be made to the State Disbursement Unit shall be remitted to the State Disbursement Unit by electronic fund transfer pursuant to Division 11 (commencing with Section 11101) of the Commercial Code.

(b) An employer not required to make payment to the State Disbursement Unit pursuant to paragraph (a), may elect to make payment by electronic fund transfer under the following conditions:

(1) The election shall be made in a form, and shall contain information, as prescribed by the Director of the Department of Child Support Services, and shall be subject to approval of the department.

(2) The election may be terminated upon written request to the Department of Child Support Services.

(c) For the purposes of this section:

(1) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic fund transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearinghouse Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between these banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person, through their own bank, originates an entry crediting the state's bank account and debiting the person's own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(5) "Fedwire transfer" means a transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits their own bank account and credits the state's bank account. Electronic fund transfers pursuant to this section may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the department. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 144. Section 17400 of the Family Code is amended to read:

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, if appropriate, enforce spousal support orders if the child is receiving public assistance, including Medi-Cal, and, if requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) (1) 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.

(2) Notwithstanding any other law, and except for pleadings or documents required to be signed under penalty of perjury, a local child support agency may substitute original signatures with any form of electronic signatures, including, but not limited to, typed, digital, or facsimile images of signatures, digital signatures, or other computer-generated signatures, on pleadings filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support. A substituted signature used by a local child support agency shall have the same effect as an original signature, including, but not limited to, the requirements of Section 128.7 of the Code of Civil Procedure.

(3) Notwithstanding any other law, effective July 1, 2016, a local child support agency may electronically file pleadings signed by an agent of the local child support agency under penalty of perjury. An original signed pleading shall be executed prior to, or on the same day as, the day of electronic filing. Original signed pleadings shall be maintained by the local child support agency for the period of time prescribed by subdivision (a) of Section 68152 of the Government Code. A local child support agency may maintain the original signed pleading by way of an electronic copy in the Statewide Automated Child Support System. The Judicial Council, by July 1, 2016, shall develop rules to implement this subdivision.

(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 if 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, 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 1182.11 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 the obligor fails to file an answer with the court within 30 days of service. 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 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 if the child is at least six months old when the defendant files the answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case in which 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 the 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 date the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, this section does not prohibit 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) This section does not otherwise limit 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 law.

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

(1) The use of all interception and notification systems operated by the department for the purpose 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 if 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 referral of child support delinquencies to the department 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.

(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) This section does not limit the authority of the local child support agency granted by other sections of this code or otherwise granted by law.

(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.

SEC. 145. Section 17400.5 of the Family Code is amended to read:

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 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 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.

SEC. 146. Section 17404 of the Family Code is amended to read:

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 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) (1) 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 the right to trial, the defendant shall appear at the hearing on the motion.

(2) If the defendant appears at the hearing on the motion, the court shall inquire of the defendant if the defendant desires to subpoena evidence and witnesses, if parentage is at issue and genetic tests have not already been conducted whether the defendant desires genetic tests, and if the defendant 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) This section does not 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 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 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 the 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 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 the 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 their rights to support pursuant to Section 11477 of the Welfare and Institutions Code.

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

SEC. 147. Section 17404.1 of the Family Code is amended to read:

17404.1. (a) Upon receipt of a petition or comparable pleading pursuant to Part 6 (commencing with Section 5700.101) of Division 9, the local child support agency or petitioner may either (1) request the issuance of a summons or (2) request the court to issue an order requiring the respondent to appear personally at a specified time and place to show cause why an order should not be issued as prayed in the petition or comparable pleading on file.

(b) The respondent may also be served with a proposed judgment consistent with the relief sought in the petition or other comparable pleading. If the respondent's income or income history is unknown to the local child support agency, the local child support agency may serve a form of proposed judgment with the petition and other documents on the respondent that shall inform the respondent that income shall be presumed to be the amount of the state minimum wage, at 40 hours per week, unless information concerning the respondent's income is provided to the court. The respondent shall also receive notice that the proposed judgment will become effective if the respondent fails to file a response with the court within 30 days after service.

(c) If a summons is issued for a petition or comparable pleading pursuant to Part 6 (commencing with Section 5700.101) of Division 9, the local child support agency or petitioner shall cause a copy of the summons, petition, and other documents to be served upon the respondent according to law.

(d) If an order to show cause is issued on a petition or comparable pleading pursuant to Part 6 (commencing with Section 5700.101) of Division 9 requiring the respondent to appear at a specified time and place to respond to the petition, a copy of the order to show cause, the petition, and other documents shall be served upon the respondent at least 15 days prior to the hearing.

(e) A petition or comparable pleading served upon a respondent in accordance with this section shall be accompanied by a blank responsive form that shall permit the respondent to answer the petition and raise any defenses by checking applicable boxes and by a blank income and expense declaration or simplified financial statement together with instructions for completion of the forms.

(f) In any action pursuant to Part 6 (commencing with Section 5700.101) of Division 9 in which the judgment was obtained pursuant to presumed income, as set forth in this section, the court may set aside that part of the judgment or order concerning the amount of child support to be paid on the grounds specified and in the manner set forth in Section 17432.

SEC. 148. Section 17406 of the Family Code is amended to read:

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 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 paternity or 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 that parent's 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.

(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) does 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 Part 6 (commencing with Section 5700.101) 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 does 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) This section does not preclude a 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 that person 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 their 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 may not submit to the court for approval a stipulation to 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 may 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 their 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 Part 6 (commencing with Section 5700.101) 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, are not required in foster care cases.

SEC. 149. Section 17416 of the Family Code is amended to read:

17416. (a) When 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 their 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 their 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 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:

(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.

SEC. 150. Section 17422 of the Family Code is amended to read:

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 policies.

(b) (1) In an 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 Care Services in the manner prescribed by the State Department of Health Care 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 the cost to the responsible parent providing medical support does not exceed 5 percent of the parent's gross income. In applying the 5 percent for the cost of health insurance, the cost is the difference between self-only and family coverage. If the obligor is entitled to a low-income adjustment as provided in paragraph (7) of subdivision (b) of Section 4055, health insurance shall not be enforced, unless the court determines that not requiring medical support would be unjust and inappropriate in the particular case. 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 Care Services to determine if there have been lapses in health insurance coverage for public assistance applicants and recipients. The State Department of Health Care 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.

SEC. 151. Section 17430 of the Family Code is amended to read:

17430. (a) Notwithstanding any other law, in an 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 the summons and complaint were served and last known address if different from that address.

SEC. 152. Section 17433 of the Family Code is amended to read:

17433. In an action in which a judgment or order for support was 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 the defendant 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.

SEC. 153. Section 17450 of the Family Code is amended to read:

17450. (a) For purposes of this article:

(1) "Child support delinquency" means a delinquency defined in subdivision (c) of Section 17500.

(2) "Earnings" shall include the items described in Section 5206.

(b) (1) When a delinquency is submitted to the department pursuant to subdivision (c) of Section 17500, the amount of the child support delinquency shall be collected by the department in any manner authorized under state or federal law.

(2) Any compensation, fee, commission, expense, or other fee for service incurred by the department in the collection of a child support delinquency authorized under this article shall not be an obligation of, or collected from, the obligated parent.

(c) (1) The department may return or allow a local child support agency to retain a child support delinquency for a specified purpose for collection where the department determines that the return or retention of the delinquency for the purpose so specified will enhance the collectibility of the delinquency. The department shall establish a process whereby a local child support agency may request and shall be allowed to withdraw, rescind, or otherwise recall the submittal of an account that has been submitted.

(2) If an obligor is disabled, meets the federal Supplemental Security Income resource test, and is receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP), or, but for excess income as described in Section 416.1100 and following 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 eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the child support delinquency shall not be referred to the department for collection, and, if referred, shall be withdrawn, rescinded, or otherwise recalled from the department by the local child support agency. The department shall not take any collection action, or if the local child support agency has already taken collection action, shall cease collection actions in the case of a disabled obligor when the delinquency is withdrawn, rescinded, or otherwise recalled by the local child support agency in accordance with the process established as described in paragraph (1).

(d) It is the intent of the Legislature that when the California Child Support Enforcement System (CSE) is fully operational, any statutes that should be modified based upon the status of the system shall be revised. During the development and implementation of CSE, the department, as the Title IV-D agency, may, through appropriate interagency agreement, delegate any and all of the functions or procedures specified in this article to the Franchise Tax Board. The Franchise Tax Board shall perform those functions or procedures as specified in Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code until the director, by letter to the executive officer of the Franchise Tax Board, revokes the delegation of Title IV-D functions. Sections 19271 to 19275, inclusive, of the Revenue and Taxation Code shall be effective for these purposes until the revocation of delegation to the Franchise Tax Board.

(e) Consistent with the development and implementation of the California Child Support Enforcement System, the Franchise Tax Board and the department shall enter into a letter of agreement and an interagency agreement whereby the department shall assume responsibility for collection of child support delinquencies and the Financial Institution Data Match System as set forth in this article. The letter of agreement and interagency agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon the enactment of the Budget Act, and staffing authorization from the Department of Finance and the Department of Human Resources, the department shall assume responsibility for leadership and staffing of the collection of child support delinquencies and the Financial Institution Data Match System.

(2) All employees and other personnel who staff or provide support for the collection of child support delinquencies and the Financial Institution Data Match System at the Franchise Tax Board shall become the employees of the department at their existing or equivalent classification, salaries, and benefits.

(3) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service, including, but not limited to, agreements for continued use of automated systems used by the Franchise Tax Board to locate child support obligors and their assets.

SEC. 154. Section 17514 of the Family Code is amended to read:

17514. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child abduction and recovery programs, by ensuring the confidentiality of 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 17400, and Chapter 6 (commencing with Section 4800) of Part 5 of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in this subdivision, all files, applications, papers, documents, and records, established or maintained by a 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 or recovering the abducted child or abducting person or prosecution of the abducting person.

(2) Except as provided in subdivision (c), a public entity shall not disclose any file, application, paper document, or record described in this section, or the information contained therein.

(c) (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 a designee.

(3) Public records subject to disclosure under 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 child recovery or abduction prosecution 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 defendant or other party 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.

(6) Information may be released to any state or local agency for the purposes connected with establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity as required by Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

SEC. 155. Section 17518 of the Family Code is amended to read:

17518. (a) As authorized by subdivision (d) of Section 704.120 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations that are not being met. Whenever a support judgment or order has been rendered by a court of this state against an individual who is entitled to unemployment compensation benefits or unemployment compensation disability benefits, the local child support agency may file a certification of support judgment or support order with the Department of Child Support Services, verifying under penalty of perjury that there is or has been a judgment or an order for support with sums overdue thereunder. The department shall periodically present and keep current, by deletions and additions, a list of the certified support judgments and orders and shall periodically notify the Employment Development Department of individuals certified as owing support obligations.

(b) If the Employment Development Department determines that an individual who owes support may have a claim for unemployment compensation disability insurance benefits under a voluntary plan approved by the Employment Development Department in accordance with Chapter 6 (commencing with Section 3251) of Part 2 of Division 1 of the Unemployment Insurance Code, the Employment Development Department shall immediately notify the voluntary plan payer. When the department notifies the Employment Development Department of changes in an individual's support obligations, the Employment Development Department shall promptly notify the voluntary plan payer of these changes. The Employment Development Department shall maintain and keep current a record of individuals who owe support obligations who may have claims for unemployment compensation or unemployment compensation disability benefits.

(c) Notwithstanding any other law, the Employment Development Department shall withhold the amounts specified below from the unemployment compensation benefits or unemployment compensation disability benefits of individuals with unmet support obligations. The Employment Development Department shall forward the amounts to the Department of Child Support Services for distribution to the appropriate certifying county.

(d) Notwithstanding any other law, during the payment of unemployment compensation disability benefits to an individual, with respect to whom the Employment Development Department has notified a voluntary plan payer that the individual has a support

obligation, the voluntary plan payer shall withhold the amounts specified below from the individual's unemployment compensation disability benefits and shall forward the amounts to the appropriate certifying county.

(e) The amounts withheld in subdivisions (c) and (d) shall be equal to 25 percent of each weekly unemployment compensation benefit payment or periodic unemployment compensation disability benefit payment, rounded down to the nearest whole dollar, which is due the individual identified on the certified list. However, the amount withheld may be reduced to a lower whole dollar amount through a written agreement between the individual and the local child support agency or through an order of the court.

(f) The department shall ensure that the appropriate certifying county shall resolve any claims for refunds in the amounts overwithheld by the Employment Development Department or voluntary plan payer.

(g) No later than the time of the first withholding, the individuals who are subject to the withholding shall be notified by the payer of benefits of all of the following:

(1) That the individual's unemployment compensation benefits or unemployment compensation disability benefits have been reduced by a court-ordered support judgment or order pursuant to this section.

(2) The address and telephone number of the local child support agency that submitted the certificate of support judgment or order.

(3) That the support order remains in effect even though the individual is unemployed or disabled unless it is modified by court order, and that if the amount withheld is less than the monthly support obligation, an arrearage will accrue.

(h) The individual may ask the appropriate court for an equitable division of the individual's unemployment compensation or unemployment compensation disability amounts withheld to take into account the needs of all the persons the individual is required to support.

(i) The Department of Child Support Services and the Employment Development Department shall enter into any agreements necessary to carry out this section.

(j) For purposes of this section, "support obligations" means the child and related spousal support obligations that are being enforced pursuant to a plan described in Section 454 of the Social Security Act and as that section may hereafter be amended. However, to the extent "related spousal support obligation" may not be collected from unemployment compensation under federal law, those obligations shall not be included in the definition of support obligations under this section.

SEC. 156. Section 17520 of the Family Code is amended to read:

17520. (a) As used in this section:

(1) "Applicant" means a person applying for issuance or renewal of a license.

(2) "Board" means an entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Wildlife, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the federal Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for

spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar of California, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means a person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means a person holding a driver's license issued by the Department of Motor Vehicles, a person holding a commercial fishing license issued by the Department of Fish and Wildlife, and to the extent required by federal law or regulations, a person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes an individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the federal Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, individual taxpayer identification numbers, or other uniform identification numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers or individual taxpayer identification numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of an applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that the license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that the license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of their name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800.

The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant, in writing, that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that their name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

This section does not limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of

the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(l) (1) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. A board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

(2) When the local child support agency determines, subsequent to the issuance of a release, that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

(3) The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). This section does not limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) A board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by a state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by a state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other law, the suspension or revocation of a driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 157. Section 17522 of the Family Code is amended to read:

17522. (a) Notwithstanding any other law, if a support obligor is delinquent in the payment of support for at least 30 days and the local child support agency is enforcing the support obligation pursuant to Section 17400, the local child support agency may collect the delinquency or enforce a lien by levy served on all persons having in their possession, or who will have in their possession or under their control, credits or personal property belonging to the delinquent support obligor, or who owe any debt to the obligor at the time they receive the notice of levy.

(b) A levy may be issued by a local child support agency for a support obligation that accrued under a court order or judgment if the obligor had notice of the accrued support arrearage as provided in this section, and did not make a timely request for review.

(c) The notice requirement shall be satisfied by the local child support agency sending a statement of support arrearages to the obligor at the obligor's last known address by first-class mail, postage prepaid. The notice shall advise the obligor of the amount of the support arrearage. The notice shall advise the obligor that the obligor may have the arrearage determination reviewed by administrative procedures and state how the review may be obtained. The local child support agency shall conduct the review pursuant to this section in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The notice shall also advise the obligor of the right to seek a judicial determination of arrearages pursuant to Section 17526 and shall include a form to be filed with the court to request a judicial determination of arrearages. If the obligor requests an administrative review of the arrearage determination within 20 days from the date the notice was mailed to the obligor, the local child support agency may not issue the levy for a disputed amount of support until the administrative review procedure is completed.

(d) If the obligor requests a judicial determination of the arrearages within 20 days from the date the notice was mailed to the obligor, the local child support agency shall not issue the levy for a disputed amount of support until the judicial determination is complete.

(e) A person upon whom a levy has been served who possesses or controls any credits or personal property belonging to the delinquent support obligor or owing any debts to the delinquent support obligor at the time of receipt of the levy or coming into the person's possession or control within one year of receipt of the notice of levy, shall surrender the credits or personal property to the local child support agency or pay to the local child support agency the amount of any debt owing the delinquent support obligor within 10 days of service of the levy, and shall surrender the credits or personal property, or the amount of any debt owing to the delinquent support obligor coming into the person's possession or control within one year of receipt of the notice of levy, within 10 days of the date of coming into possession or control of the credits or personal property or the amount of any debt owing to the delinquent support obligor.

(f) A person who surrenders any credits or personal property or pays the debts owing the delinquent support obligor to the local child support agency pursuant to this section shall be discharged from any obligation or liability to the delinquent support obligor to the extent of the amount paid to the local child support agency as a result of the levy.

(g) When the levy is made on a deposit or credits or personal property in the possession or under the control of a bank, savings and loan association, or other financial institution as defined by Section 669A(d)(1) of Title 42 of the United States Code, the notice of levy may be delivered or mailed to a centralized location designated by the bank, savings and loan association, or other financial institution pursuant to Section 689.040 of the Code of Civil Procedure.

(h) A person who is served with a levy pursuant to this section and who fails or refuses to surrender any credits or other personal property or pay any debts owing to the delinquent support obligor shall be liable in their own person or estate to the local child support agency in an amount equal to the value of the credits or other personal property or in the amount of the levy, up to the amount specified in the levy.

(i) If an amount required to be paid pursuant to a levy under this section is not paid when due, the local child support agency may issue a warrant for enforcement of a lien and for the collection of any amount required to be paid to the local child support agency under this section. The warrant shall be directed to any sheriff, marshal, or the Department of the California Highway Patrol and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the manner and with the same force and effect as a levy and sale pursuant to a writ of execution. The local child support agency may pay or advance to the levying officer the same fees, commissions, and expenses for services under this section as are provided by law for similar services pursuant to a writ of execution, except for those fees and expenses for which a district attorney is exempt by law from paying. The local child support agency, and not the court, shall approve the fees for publication in a newspaper.

(j) The fees, commissions, expenses, and the reasonable costs associated with the sale of property levied upon by warrant or levy pursuant to this section, including, but not limited to, appraisers' fees, auctioneers' fees, and advertising fees are an obligation of the support obligor and may be collected from the obligor by virtue of the warrant or levy or in any other manner as though these items were support payments delinquent for at least 30 days.

SEC. 158. Section 17525 of the Family Code is amended to read:

17525. (a) Whenever a state or local governmental agency issues a notice of support delinquency, the notice shall state the date upon which the amount of the delinquency was calculated, and shall notify the obligor that the amount calculated may, or may not, include accrued interest. This requirement shall not be imposed until the local child support agency has instituted the California Child Support Enforcement System implemented and maintained by the Department of Child Support Services pursuant to Section 17308. The notice shall further notify the obligor of the right to an administrative determination of arrears by requesting that the local child support agency review the arrears, but that payments on arrears continue to be due and payable unless and until the local child support agency notifies the obligor otherwise. A state agency shall not be required to suspend enforcement of any arrearages as a result of the obligor's request for an administrative determination of arrears, unless the agency receives notification of a suspension pursuant to subdivision (b) of Section 17526.

(b) For purposes of this section, "notice of support delinquency" means a notice issued to a support obligor that includes a specific statement of the amount of delinquent support due and payable.

(c) This section does not require a state or local entity to calculate the amount of a support delinquency, except as otherwise required by law.

SEC. 159. Section 17528 of the Family Code is amended to read:

17528. (a) As authorized by subdivision (c) of Section 704.110 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations that are not being met:

(1) Within 18 months of implementation of the California Child Support Enforcement System (CSE), or its replacement as prescribed by former Section 10815 of the Welfare and Institutions Code, and certification of CSE or its replacement by the United States Department of Health and Human Services, the department shall compile a file of all support judgments and orders that are being enforced by local child support agencies pursuant to Section 17400 that have sums overdue by at least 60 days or by an amount equal to 60 days of support.

(2) The file shall contain the name and social security number of the person who owes overdue support, the amount of overdue support as of the date the file is created, the name of the county in which the support obligation is being enforced by the local child support agency, and any other information that is deemed necessary by the department and the Public Employees' Retirement System.

(3) The department shall provide the certified file to the Public Employees' Retirement System for the purpose of matching the names in the file with members and beneficiaries of the Public Employees' Retirement System that are entitled to receive Public Employees' Retirement System benefits. The department and the Public Employees' Retirement System shall work cooperatively to develop an interface in order to match the names in their respective electronic data processing systems. The interface required to intercept benefits that are payable periodically shall be done as soon as it is technically feasible.

(4) The department shall update the certified file no less than on a monthly basis to add new cases within the local child support agencies or existing cases that become delinquent and to delete persons who are no longer delinquent. The department shall provide the updated file no less than on a monthly basis to the Public Employees' Retirement System.

(5) Information contained in the certified file provided to the Public Employees' Retirement System by the department and the local child support agencies and information provided by the Public Employees' Retirement System to the department shall be used exclusively for child support enforcement purposes and may not be used for any other purpose.

(b) Notwithstanding any other law, the Public Employees' Retirement System shall withhold the amount certified from the benefits and refunds to be distributed to members with overdue support obligations or from benefits to be distributed to beneficiaries with overdue support obligations. If the benefits are payable periodically, the amount withheld pursuant to this section shall not exceed the amount permitted to be withheld for an earnings withholding order for support under Section 706.052 of the Code of Civil Procedure.

(c) The Public Employees' Retirement System shall forward the amounts withheld pursuant to subdivision (b) within 10 days of withholding to the department for distribution to the appropriate county.

(d) On an annual basis, the department shall notify individuals with overdue support obligations that PERS benefits or PERS contribution refunds may be intercepted for the purpose of enforcing family support obligations.

(e) No later than the time of the first withholding, the Public Employees' Retirement System shall send those persons subject to withholding the following:

(1) Notice that the person's benefits or retirement contribution refund have been reduced by payment on a support judgment pursuant to this section.

(2) A form developed by the department that the applicant shall use to request either a review by the local child support agency or a court hearing, as appropriate.

(f) The notice shall include the address and telephone number of the local child support agency that is enforcing the support obligation pursuant to Section 17400, and shall specify that the form requesting either a review by the local child support agency or a court hearing must be received by the local child support agency within 20 days of the date of the notice.

(g) The form shall include instructions that are designed to enable the member or beneficiary to obtain a review or a court hearing as appropriate on their own behalf. The form shall specify that if the member or beneficiary disputes the amount of support arrearages certified by the local child support agency pursuant to this section, the member or beneficiary may request a review by the local child support agency.

(h) The department shall develop procedures that are consistent with this section to be used by each local child support agency in conducting the requested review. The local child support agency shall complete the review in accordance with the procedures developed by the department and shall notify the member or beneficiary of the result of the review within 20 days of receiving the request for review. The notification of review results shall include a request for hearing form and shall inform the member or beneficiary that if the member or beneficiary returns the completed request for hearing form within 20 days of the date of the notice of review results, the local child support agency shall calendar the matter for court review. If the local child support agency cannot complete the review within 20 days, the local child support agency shall calendar the matter for hearing as specified in subdivision (k).

(i) The form specified in subdivision (g) shall also notify the member or beneficiary that the member or beneficiary may request a court hearing to claim an exemption of any benefit not payable periodically by returning the completed form to the local child support agency within 20 days. If the local child support agency receives a timely request for a hearing for a claim of exemption, the local child support agency shall calendar a court hearing. The amount of the exemption, if any, shall be determined by the court in accordance with the procedures set forth in Section 703.070 of the Code of Civil Procedure.

(j) If the local child support agency receives the form requesting either a review by the local child support agency or a court hearing within the 20 days specified in subdivision (f), the local child support agency shall not distribute the amount intercepted until the review by the local child support agency or the court hearing is completed. If the local child support agency determines that all or a portion of the member's or beneficiary's benefits were intercepted in error, or if the court determines that any amount

of the benefits are exempt, the local child support agency shall refund any amount determined to be exempt or intercepted in excess of the correct amount to the member or beneficiary within 10 days of determination that a refund is due.

(k) A hearing properly requested pursuant to this section shall be calendared by the local child support agency. The hearing shall be held within 20 days from the date that the local child support agency receives the request for hearing. The local child support agency shall provide notice of the time and place for hearing by first-class mail no later than five days prior to the hearing.

(l) This section does not limit any existing rights of the member or beneficiary, including, but not limited to, the right to seek a determination of arrearages or other appropriate relief directly from the court. However, if the procedures of this section are not utilized by the member or beneficiary, the court may not require the local child support agency to refund any money that was distributed to the child support obligee prior to the local child support agency receiving notice of a court determination that a refund is due to the member or beneficiary.

(m) The Department of Child Support Services and the Public Employees' Retirement System shall enter into any agreement necessary to implement this section, which shall include provisions for the department to provide funding to the Public Employees' Retirement System to develop, implement, and maintain the intercept process described in this section.

(n) The Public Employees' Retirement System shall not assess service charges on members or beneficiaries in order to recover any administrative costs resulting from complying with this section.

SEC. 160. Section 17530 of the Family Code is amended to read:

17530. (a) Notwithstanding any other law, this section applies to any actions taken to enforce a judgment or order for support entered as a result of action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, where it is alleged that the enforcement actions have been taken in error against a person who is not the support obligor named in the judgment or order.

(b) A person claiming that a support enforcement action has been taken against that person, or the person's wages or assets, in error, shall file a claim of mistaken identity with the local child support agency. The claim shall include verifiable information or documentation to establish that the person against whom the enforcement actions have been taken is not the person named in the support order or judgment. The local child support agency shall resolve a claim of mistaken identity submitted pursuant to this section in the same manner and timeframes provided for resolution of a complaint pursuant to Section 17800.

(c) If the local child support agency determines that a claim filed pursuant to this section is meritorious, or if the court enters an order pursuant to Section 17433, the agency shall immediately take the steps necessary to terminate all enforcement activities with respect to the claimant, to return to the claimant any assets seized, to terminate any levying activities or attachment or assignment orders, to release any license renewal or application being withheld pursuant to Section 17520, to return any sums paid by the claimant pursuant to the judgment or order, including sums paid to any federal, state, or local government, but excluding sums paid directly to the support obligee, and to ensure that all other enforcement agencies and entities cease further actions against the claimant. With respect to a claim filed under this section, the local child support agency shall also provide the claimant with a statement certifying that the claimant is not the support obligor named in the support order or judgment, which statement shall be prima facie evidence of the claimant's identity in any subsequent enforcement proceedings or actions with respect to that support order or judgment.

(d) If the local child support agency rejects a claim pursuant to this section, or if the agency, after finding a claim to be meritorious, fails to take any of the remedial steps provided in subdivision (c), the claimant may file an action with the superior court to establish the mistaken identity or to obtain the remedies described in subdivision (c), or both.

(e) Filing a false claim pursuant to this section shall be a misdemeanor.

SEC. 161. Section 17550 of the Family Code is amended to read:

17550. (a) The Department of Child Support Services, in consultation with the State Department of Social Services, shall establish regulations by which the local child support agency, in any case of separation or desertion of a parent from a child 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 the child, may compromise the obligor parent or parents' liability for public assistance debt, including interest thereon, owed to the state where the child for whom public assistance was paid is residing with the obligor parent, and all of the following conditions are met:

(1) The obligor parent establishes one of the following:

(A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and the child has been reunified with the obligor parent pursuant to a court order.

(B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of the obligor parent, provided that the obligor parent for whom the debt compromise is being considered was the parent with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(2) The obligor parent, for whom the debt compromise is being considered, has an income less than 250 percent of the current federal poverty level.

(3) The local child support agency, pursuant to regulations set forth by the department, has determined that the compromise is necessary for the child's support.

(b) Prior to compromising an obligor parent's liability for debt incurred for either AFDC-FC payments provided to a child pursuant to Section 11400 of the Welfare and Institutions Code, or incurred for CalWORKs payments provided on behalf of a child, the local child support agency shall consult with the county child welfare department.

(c) This section does not relieve an obligor, who has not been reunified with their child, of any liability for public assistance debt.

(d) For the purposes of this section, the following definitions apply:

(1) "Guardian" means the legal guardian of the child, who assumed care and control of the child while the child was in the guardian's control, and who is not a biological or adoptive parent.

(2) "Relative caregiver" means a relative as defined in subdivision (c) of Section 11362 of the Welfare and Institutions Code, who assumed primary responsibility for the child while the child was in the relative's care and control, and who is not a biological or adoptive parent.

(e) The department shall promulgate all necessary regulations pursuant to this section on or before October 1, 2002, including regulations that set forth guidelines to be used by the local child support agency when compromising public assistance debt.

SEC. 162. Section 17552 of the Family Code is amended to read:

17552. (a) The State Department of Social Services, in consultation with the Department of Child Support Services, shall promulgate regulations by which the county child welfare department, in any case of separation or desertion of a parent or parents from a child that results in foster care assistance payments under Section 11400 of, or a voluntary placement under Section 11401.1 of, or the payments for a minor child placed in the same home as a minor or nonminor dependent parent under Section 11401.4 of, the Welfare and Institution Code, or CalWORKs payments to a caretaker relative of a child who comes within the jurisdiction of the juvenile court under Section 300, 601, or 602 of the Welfare and Institutions Code, who has been removed from the parental home and placed with the caretaker relative by court order, and who is under the supervision of the county child welfare agency or probation department under Section 11250 of, or Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of, or aid under subdivision (c) of Section 10101 of, the Welfare and Institutions Code, shall determine whether it is in the best interests of the child or nonminor to have the case referred to the local child support agency for child support services. If reunification services are not offered or are terminated, the case may be referred to the local child support agency, unless the child's permanent plan is legal guardianship with a relative who is receiving Kin-GAP and the payment of support by the parent may compromise the stability of the current placement with the related guardian, or the permanent plan is transitional foster care for the nonminor under Section 11403 of the Welfare and Institutions Code. In making the determination, the department regulations shall provide the factors the county child welfare department shall consider, including:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification, in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

(b) The department regulations shall provide that, where the county child welfare department determines that it is not in the best interest of the child to seek a support order against the parent, the county child welfare department shall refrain from referring the case to the local child support agency. The regulations shall define those circumstances in which it is not in the best interest of the child to refer the case to the local child support agency.

(c) The department regulations shall provide, where the county child welfare department determines that it is not in the child's best interest to have the case referred to the local child support agency, the county child welfare department shall review that determination periodically to coincide with the redetermination of AFDC-FC eligibility under Section 11401.5 of, or the CalWORKs eligibility under Section 11265 of, or Kin-GAP eligibility under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, and shall refer the

child's case to the local child support agency upon a determination that, due to a change in the child's circumstances, it is no longer contrary to the child's best interest to have the case referred to the local child support agency.

(d) The State Department of Social Services shall promulgate all necessary regulations pursuant to this section on or before October 1, 2002.

(e) Notwithstanding any other law, a nonminor dependent, as described in subdivision (v) of Section 11400 of the Welfare and Institutions Code, who is over 19 years of age, is not a child for purposes of referral to the local child support agency for collection or enforcement of child support.

(f) Notwithstanding any other law, a minor or a nonminor dependent, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, who has a minor child placed in the same licensed or approved facility pursuant to Section 11401.4 of the Welfare and Institutions Code is not a parent for purposes of referral to the local child support agency for collection or enforcement of child support.

SEC. 163. Section 17600 of the Family Code is amended to read:

17600. (a) The Legislature finds and declares all of the following:

(1) The Legislative Analyst has found that county child support enforcement programs provide a net increase in revenues to the state.

(2) The state has a fiscal interest in ensuring that county child support enforcement programs perform efficiently.

(3) The state does not provide information to counties on child support enforcement programs, based on common denominators that would facilitate comparison of program performance.

(4) Providing this information would allow county officials to monitor program performance and to make appropriate modifications to improve program efficiency.

(5) This information is required for effective management of the child support program.

(b) Except as provided in this subdivision commencing with the 1998–99 fiscal year, and for each fiscal year thereafter, each county that is participating in the state incentive program described in Section 17704 shall provide to the department, and the department shall compile from this county child support information, monthly and annually, all of the following performance-based data, as established by the federal incentive funding system, provided that the department may revise the data required by this paragraph in order to conform to the final federal incentive system data definitions:

(1) One of the following data relating to paternity establishment, as required by the department, provided that the department shall require all counties to report on the same measurement:

(A) The total number of children in the caseload governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.), as of the end of the federal fiscal year, who were born to unmarried parents for whom paternity was established or acknowledged, and the total number of children in that caseload, as of the end of the preceding federal fiscal year, who were born to unmarried parents.

(B) The total number of minor children who were born in the state to unmarried parents for whom paternity was established or acknowledged during a federal fiscal year, and the total number of children in the state born to unmarried parents during the preceding calendar year.

(2) The number of cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) during the federal fiscal year and the total number of those cases with support orders.

(3) The total dollars collected during the federal fiscal year for current support in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) and the total number of dollars owing for current support during that federal fiscal year in cases governed by those provisions.

(4) The total number of cases for the federal fiscal year governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) in which payment was being made toward child support arrearages and the total number of cases for that fiscal year governed by these federal provisions that had child support arrearages.

(5) The total number of dollars collected and expended during a federal fiscal year in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

(6) The total amount of child support dollars collected during a federal fiscal year, and, if and when required by federal law, the amount of these collections broken down by collections distributed on behalf of current recipients of federal Temporary

Assistance for Needy Families block grant funds or federal foster care funds, on behalf of former recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, or on behalf of persons who have never been recipients of these federal funds.

(c) In addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the local child support agency for each federal fiscal year, and shall report semiannually on all of the following performance measurements:

(1) The percentage of cases with collections of current support. This percentage shall be calculated by dividing the number of cases with an order for current support by the number of those cases with collections of current support. The number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received. Cases with a medical support order that do not have an order for current support may not be counted.

(2) The average amount collected per case for all cases with collections.

(3) The percentage of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(4) The total cost of administering the local child support agency, including the federal, state, and county share of the costs, and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(5) In addition, the local child support agency shall report monthly on measurements developed by the department that provide data on the following:

(A) Locating obligors.

(B) Obtaining and enforcing medical support.

(C) Providing customer service.

(D) Any other measurements that the director determines to be an appropriate determination of a local child support agency's performance.

(6) A county may apply for an exemption from any or all of the reporting requirements of this subdivision for a fiscal year by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under this subdivision for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(d) After implementation of the statewide automated system, in addition to the information required by subdivision (b), the Department of Child Support Services shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the county child support enforcement program beginning with the 1998–99 fiscal year or a later fiscal year, as appropriate, and for each subsequent fiscal year, and shall report semiannually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received.

(A) (i) The number of cases with collections for current support.

(ii) The number of cases with arrears collections only.

(iii) The number of cases with both current support and arrears collections.

(B) For cases with current support only due:

(i) The number of cases in which the full amount of current support owed was collected.

(ii) The number of cases in which some amount of current support, but less than the full amount of support owed, was collected.

(iii) The number of cases in which no amount of support owed was collected.

(C) For cases in which arrears only were owed:

(i) The number of cases in which all arrears owed were collected.

(ii) The number of cases in which some amount of arrears, but less than the full amount of arrears owed, was collected.

(iii) The number of cases in which no amount of arrears owed was collected.

(D) For cases in which both current support and arrears are owed:

(i) The number of cases in which the full amount of current support and arrears owed was collected.

(ii) The number of cases in which some amount of current support and arrears, but less than the full amount of support owed, was collected.

(iii) The number of cases in which no amount of support owed was collected.

(E) The total number of cases in which an amount was due for current support only.

(F) The total number of cases in which an amount was due for both current support and arrears.

(G) The total number of cases in which an amount was due for arrears only.

(H) For cases with current support due, the number of cases without orders for medical support and the number of cases with an order for medical support.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order, and the number of alleged fathers or obligors for whom it is required that paternity or a support order be established. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of new asset seizures or successful initial collections on a wage assignment for purposes of child support collection. For purposes of this paragraph, a collection made on a wage assignment shall be counted only once for each wage assignment issued.

(4) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. A child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the local child support agency obtaining the case and neither parent challenges paternity.

(5) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(6) The total cost of administering the local child support agency, including the federal, state, and county share of the costs and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and

clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(7) The total child support collections due, broken down by current support, interest on arrears, and principal, and the total child support collections that have been collected, broken down by current support, interest on arrears, and principal.

(8) The actual case status for all cases in the county child support enforcement program. Each case shall be reported in one case status only. If a case falls within more than one status category, it shall be counted in the first status category of the list set forth below in which it qualifies. The following shall be the case status choices:

(A) No support order, location of obligor parent required.

(B) No support order, alleged obligor parent located and paternity required.

(C) No support order, location and paternity not at issue but support order must be established.

(D) Support order established with current support obligation and obligor is in compliance with support obligation.

(E) Support order established with current support obligation, obligor is in arrears, and location of obligor is necessary.

(F) Support order established with current support obligation, obligor is in arrears, and location of obligor's assets is necessary.

(G) Support order established with current support obligation, obligor is in arrears, and no location of obligor or obligor's assets is necessary.

(H) Support order established with current support obligation, obligor is in arrears, the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(I) Support order established with current support obligation and arrears, obligor is paying the current support and is paying some or all of the interest on the arrears, but is paying no principal.

(J) Support order established for arrears only and obligor is current in repayment obligation.

(K) Support order established for arrears only, obligor is not current in arrears repayment schedule, and location of obligor is required.

(L) Support order established for arrears only, obligor is not current in arrears repayment schedule, and location of obligor's assets is required.

(M) Support order established for arrears only, obligor is not current in arrears repayment schedule, and no location of obligor or obligor's assets is required.

(N) Support order established for arrears only, obligor is not current in arrears repayment, and the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(O) Support order established for arrears only and obligor is repaying some or all of the interest, but no principal.

(P) Other, if necessary, to be defined in the regulations promulgated under subdivision (e).

(e) Upon implementation of the statewide automated system, or at the time that the department determines that compliance with this subdivision is possible, whichever is earlier, each county that is participating in the state incentive program described in Section 17704 shall collect and report, and the department shall compile for each participating county, information on the county child support program in each fiscal year, all of the following data, in a manner that facilitates comparison of counties and the entire state, except that the department may eliminate or modify the requirement to report any data mandated to be reported pursuant to this subdivision if the department determines that the local child support agencies are unable to accurately collect and report the information or that collecting and reporting of the data by the local child support agencies will be onerous:

(1) The number of alleged obligors or fathers who receive CalWORKs benefits, CalFresh benefits, and Medi-Cal benefits.

(2) The number of obligors or alleged fathers who are in state prison or county jail.

(3) The number of obligors or alleged fathers who do not have a social security number.

(4) The number of obligors or alleged fathers whose address is unknown.

(5) The number of obligors or alleged fathers whose complete name, consisting of at least a first and last name, is not known by the local child support agency.

(6) The number of obligors or alleged fathers who filed a tax return with the Franchise Tax Board in the last year for which a data match is available.

(7) The number of obligors or alleged fathers who have no income reported to the Employment Development Department during the third quarter of the fiscal year.

(8) The number of obligors or alleged fathers who have income between one dollar (\$1) and five hundred dollars (\$500) reported to the Employment Development Department during the third quarter of the fiscal year.

(9) The number of obligors or alleged fathers who have income between five hundred one dollars (\$501) and one thousand five hundred dollars (\$1,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(10) The number of obligors or alleged fathers who have income between one thousand five hundred one dollars (\$1,501) and two thousand five hundred dollars (\$2,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(11) The number of obligors or alleged fathers who have income between two thousand five hundred one dollars (\$2,501) and three thousand five hundred dollars (\$3,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(12) The number of obligors or alleged fathers who have income between three thousand five hundred one dollars (\$3,501) and four thousand five hundred dollars (\$4,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(13) The number of obligors or alleged fathers who have income between four thousand five hundred one dollars (\$4,501) and five thousand five hundred dollars (\$5,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(14) The number of obligors or alleged fathers who have income between five thousand five hundred one dollars (\$5,501) and six thousand five hundred dollars (\$6,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(15) The number of obligors or alleged fathers who have income between six thousand five hundred one dollars (\$6,501) and seven thousand five hundred dollars (\$7,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(16) The number of obligors or alleged fathers who have income between seven thousand five hundred one dollars (\$7,501) and nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(17) The number of obligors or alleged fathers who have income exceeding nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(18) The number of obligors or alleged fathers who have two or more employers reporting earned income to the Employment Development Department during the third quarter of the fiscal year.

(19) The number of obligors or alleged fathers who receive unemployment benefits during the third quarter of the fiscal year.

(20) The number of obligors or alleged fathers who receive state disability benefits during the third quarter of the fiscal year.

(21) The number of obligors or alleged fathers who receive workers' compensation benefits during the third quarter of the fiscal year.

(22) The number of obligors or alleged fathers who receive Social Security Disability Insurance benefits during the third quarter of the fiscal year.

(23) The number of obligors or alleged fathers who receive Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled benefits during the third quarter of the fiscal year.

(f) The department, in consultation with the Legislative Analyst's Office, the Judicial Council, the California Family Support Council, and child support advocates, shall develop regulations to ensure that all local child support agencies report the data required by this section uniformly and consistently throughout California.

(g) For each federal fiscal year, the department shall provide the information for all participating counties to each member of a county board of supervisors, county executive officer, local child support agency, and the appropriate policy committees and fiscal committees of the Legislature on or before June 30, of each fiscal year. The department shall provide data semiannually, based on the federal fiscal year, on or before December 31, of each year. The department shall present the information in a manner that facilitates comparison of county performance.

(h) For purposes of this section, "case" means a noncustodial parent, whether mother, father, or putative father, who is, or eventually may be, obligated under law for support of a child or children. For purposes of this definition, a noncustodial parent shall be counted once for each family that has a dependent child they may be obligated to support.

(i) This section shall be operative only for as long as Section 17704 requires participating counties to report data to the department.

SEC. 164. Section 17602 of the Family Code is amended to read:

17602. (a) The department shall adopt the federal minimum standards as the baseline standard of performance for the local child support agencies and work in consultation with the local child support agencies to develop program performance targets on an annual federal fiscal year basis. The performance measures shall include, at a minimum, the federal performance measures and the state performance measures, as described in subdivision (c) of Section 17600. The program performance targets shall represent ongoing improvement in the performance measures for each local child support agency, as well as the department's statewide performance level.

(b) In determining the performance measures in subdivision (a), the department shall consider the total amount of uncollected child support arrearages that are realistically collectible. The director shall analyze, in consultation with local child support agencies and child support advocates, the current amount of uncollected child support arrearages statewide and in each county to determine the amount of child support that may realistically be collected. The director shall consider, in conducting the analysis, factors that may influence collections, including demographic factors such as welfare caseload, levels of poverty and unemployment, rates of incarceration of obligors, and age of delinquencies. The director shall use this analysis to establish program priorities as provided in paragraph (7) of subdivision (b) of Section 17306.

(c) The department shall use the performance-based data, and the criteria for that data, as set forth in Section 17600 to determine a local child support agency's performance measures for the quarter.

(d) The director shall adopt a three phase process to be used statewide when a local child support agency is out of compliance with the performance standards adopted pursuant to subdivision (a), or the director determines that the local child support agency is failing in a substantial manner to comply with any provision of the state plan, the provisions of this code, the requirements of federal law, the regulations of the department, or the cooperative agreement. The director shall adopt policies as to the implementation of each phase, including requirements for measurement of progress and improvement, which shall be met as part of the performance improvement plan specified in paragraphs (1) and (2), in order to avoid implementation of the next phase of compliance. The director shall not implement any of these phases until July 1, 2001, or until six months after a local child support agency has completed its transition from the office of the district attorney to the new county department of child support services, whichever is later. The phases shall include the following:

(1) Phase I: Development of a performance improvement plan that is prepared jointly by the local child support agency and the department, subject to the department's final approval. The plan shall provide performance expectations and goals for achieving compliance with the state plan and other state and federal laws and regulations that must be reviewed and assessed within specific timeframes in order to avoid execution of Phase II.

(2) Phase II: Onsite investigation, evaluation, and oversight of the local child support agency by the department. The director shall appoint program monitoring teams to make site visits, conduct educational and training sessions, and help the local child support agency identify and attack problem areas. The program monitoring teams shall evaluate all aspects of the functions and performance of the local child support agency, including compliance with state and federal laws and regulations. Based on these investigations and evaluations, the program monitoring team shall develop a final performance improvement plan and shall oversee implementation of all recommendations made in the plan. The local child support agency shall adhere to all recommendations made by the program monitoring team. The plan shall provide performance expectations and compliance goals that must be reviewed and assessed within specific timeframes in order to avoid execution of Phase III.

(3) Phase III: The director shall assume, either directly or through agreement with another entity, responsibility for the management of the child and spousal support enforcement program in the county until the local child support agency provides reasonable assurances to the director of its intention and ability to comply. During the period of state management responsibility, the director or an authorized representative shall have all of the powers and responsibilities of the local child support agency concerning the administration of the program. The local child support agency shall be responsible for providing any funds necessary for the continued operation of the program. If the local child support agency fails or refuses to provide

these funds, including a sufficient amount to reimburse any and all costs incurred by the department in managing the program, the Controller may deduct an amount certified by the director as necessary for the continued operation of the program by the department from any state or federal funds payable to the county for any purpose.

(e) The director shall report in writing to the Legislature semiannually, beginning July 1, 2001, on the status of the state child support enforcement program. The director shall submit data semiannually to the Legislature, the Governor, and the public, on the progress of all local child support agencies in each performance measure, including identification of the local child support agencies that are out of compliance, the performance measures that they have failed to satisfy, and the performance improvement plan that is being taken for each.

SEC. 165. Section 17703 of the Family Code is amended to read:

17703. (a) A revolving fund in the State Treasury is hereby created to be known as the Child Support Services Advance Fund. All moneys deposited into the fund are for the purpose of making a consolidated payment or advance to counties, state agencies, or other governmental entities, comprised of the state and federal share of costs associated with the programs administered by the Department of Child Support Services, inclusive of the payment of refunds. In addition, the fund may be used for the purpose of making a consolidated payment to a payee, comprised of the state and federal shares of local assistance costs associated with the programs administered by the Department of Child Support Services.

(b) Payments or advances of funds to counties, state agencies, or other governmental agencies and other payees doing business with the state that are properly chargeable to appropriations or other funds in the State Treasury, may be made by a Controller's warrant drawn against the Child Support Services Advance Fund. For every warrant so issued, a remittance advice shall be issued by the Department of Child Support Services to identify the purposes and amounts for which it was drawn.

(c) The amounts to be transferred to the Child Support Services Advance Fund at any time shall be determined by the department, and, upon order of the Controller, shall be transferred from the funds and appropriations otherwise properly chargeable.

(d) Refunds of amounts disbursed from the Child Support Services Advance Fund shall, on order of the Controller, be deposited in the Child Support Services Advance Fund, and, on order of the Controller, shall be transferred therefrom to the funds and appropriations from which those amounts were originally derived. Claims for amounts erroneously deposited into the Child Support Services Advance Fund shall be submitted by the department to the Controller who, if the claims are approved, shall draw a warrant in payment thereof against the Child Support Services Advance Fund.

(e) All amounts increasing the cash balance in the Child Support Services Advance Fund, that were derived from the cancellation of warrants issued therefrom, shall, on order of the Controller, be transferred to the appropriations from which the amounts were originally derived.

SEC. 166. Section 17801 of the Family Code is amended to read:

17801. (a) A custodial or noncustodial parent who is dissatisfied with the local child support agency's resolution of a complaint shall be accorded an opportunity for a state hearing when one or more of the following actions or failures to take action by the department or the local child support agency is claimed by the parent:

(1) An application for child support services has been denied or has not been acted upon within the required timeframe.

(2) The child support services case has been acted upon in violation of state or federal law or regulation or department letter ruling, or has not yet been acted upon within the required timeframe, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the department or the local child support agency is inaccurate. The amount of the court order for support, including current support and arrears, is not subject to a state hearing under this section.

(4) The child support agency's decision to close a child support case.

(b) Prior to requesting a hearing pursuant to subdivision (a), the custodial or noncustodial parent shall exhaust the complaint resolution process required in Section 17800, unless the local child support agency has not, within the 30-day period required by that section, submitted a written resolution of the complaint. If the custodial or noncustodial parent does not receive that timely written resolution, the custodial parent may request a hearing pursuant to subdivision (a).

(c) A hearing shall be provided under subdivision (a) when the request for a hearing is made within 90 days after receiving the written notice of resolution required in Section 17800 or, if no written notice of resolution is provided within 30 days from the date the complaint was made, within 90 days after making the complaint.

(d) (1) A hearing under subdivision (a) shall be set to commence within 45 days after the request is received by the state hearing office, and at least 10 days prior to the hearing, all parties shall be given written notice of the time and place of the hearing. Unless the time period is waived by the complainant, the proposed hearing decision shall be rendered by the state hearing office within 75 days after the request for a state hearing is received by the state hearing office. The department shall have 15 days from the date the proposed decision is rendered to act upon the decision. When a hearing is postponed, continued, or reopened with the consent of the complainant, the time for issuance of the decision, and action on the decision by the department, shall be extended for a period of time consistent with the postponement, continuance, or reopening.

(2) For purposes of this subdivision, the "state hearing office" refers to the division of the office or agency designated by the department to carry out state hearings, that conducts those state hearings.

(e) To the extent not inconsistent with this section, hearings under subdivision (a) shall be provided in the same manner in which hearings are provided in Sections 10950 to 10967 of the Welfare and Institutions Code and the State Department of Social Services' regulations implementing and interpreting those sections.

(f) Pendency of a state hearing shall not affect the obligation to comply with an existing child support order.

(g) A child support determination that is subject to the jurisdiction of the superior court and that is required by law to be addressed by motion, order to show cause, or appeal under this code shall not be subject to a state hearing under this section. The director shall, by regulation, specify and exclude from the subject matter jurisdiction of state hearings provided under subdivision (a), grievances arising from a child support case in the superior court that must, by law, be addressed by motion, order to show cause, or appeal under this code.

(h) The local child support agency shall comply with, and execute, every decision of the director rendered pursuant to this section.

(i) The director shall contract with the State Department of Social Services or the Office of Administrative Hearings for the provision of state hearings in accordance with this section.

(j) This section shall be implemented only to the extent that there is federal financial participation available at the child support funding rate set forth in Section 655(a)(2) of Title 42 of the United States Code.

SEC. 167. Section 17803 of the Family Code is amended to read:

17803. The custodial or noncustodial parent, within one year after receiving notice of the director's final decision, may file a petition with the superior court, under Section 1094.5 of the Code of Civil Procedure, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case. The review, if granted, shall be the exclusive remedy available to the custodial or noncustodial parent for review of the director's decision. The director shall be the sole respondent in the proceedings. A filing fee shall not be required for the filing of a petition pursuant to this section. Any such petition to the superior court shall be entitled to a preference in setting a date for hearing on the petition. A bond shall not be required in the case of any petition for review, nor in any appeal therefrom. The custodial or noncustodial parent shall be entitled to reasonable attorney's fees and costs, if the parent obtains a decision in their favor.

SEC. 168. Section 20026 of the Family Code is amended to read:

20026. (a) It is estimated that under the pilot project authorized by this chapter, approximately 2,200 litigants will be served annually and that the following savings will occur:

(1) The program would save 520 hours, or 65 days, of court time per year.

(2) There would be a concomitant saving of time by litigants due to the expedited proceedings and, in addition, there would be a saving to litigants of wages that would otherwise be lost due to time off from work.

(b) The estimated costs of the pilot project are as follows:

(1) The salaries of the Family Law Evaluator and any staff necessary for the evaluator to carry out the evaluator's functions.

(2) The cost of a booklet, if any, describing the program.

(c) There would be no cost for the following:

(1) Computers, printers, or other equipment. This equipment is already available in the family law department.

(2) Training for the Family Law Evaluator or the evaluator's staff. They will be trained by already existing judicial personnel.

SEC. 169. Section 20034 of the Family Code is amended to read:

20034. (a) An attorney, known as an Attorney-Mediator, shall be hired to assist the court in resolving child and spousal support disputes, to develop community outreach programs, and to undertake other duties as assigned by the court.

(b) The Attorney-Mediator shall be an attorney, licensed to practice in this state, with mediation or litigation experience, or both, in the field of family law.

(c) By local rule, the superior court may designate the duties of the Attorney-Mediator, which may include, but are not limited to, the following:

(1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance. Actions in which one or both of the parties are unrepresented by counsel shall have priority.

(2) Preparing support schedules based on statutory guidelines accessed through existing up-to-date computer technology.

(3) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section 20031.

(4) If the parties are unable to resolve issues with the assistance of the Attorney-Mediator, prior to or at the hearing, and at the request of the court, the Attorney-Mediator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether or not the matter is ready to proceed.

(5) Assisting the clerk in maintaining records.

(6) Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.

(7) Serving as a special master to hearing proceedings and making findings to the court unless the individual has served as a mediator in that case.

(8) Assisting the court with research and any other responsibilities that will enable the court to be responsive to the litigants' needs.

(9) Developing programs for bar and community outreach through day and evening programs, video recordings, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court. These programs shall specifically include information concerning underutilized legislation, such as expedited temporary support orders (Chapter 5 (commencing with Section 3620) of Part 1 of Division 9), modification of support orders (Article 3 (commencing with Section 3680) of Chapter 6 of Part 1 of Division 9), and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.

(d) The court shall develop a protocol wherein all litigants, both unrepresented by counsel and represented by counsel, have ultimate access to a hearing before the court.

SEC. 170. (a) Any section of any act enacted by the Legislature during the 2019–20 Regular Session that takes effect on or before the effective date of this act, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended by Sections 1, 2, 4, 5, 7 to 22, inclusive, 24 to 64, inclusive, 66, 67, 71, 74 to 79, inclusive, and 81 to 169, inclusive, of this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

(b) Section 23.5 of this bill incorporates amendments to Section 3011 of the Family Code proposed by both this bill and Senate Bill 495. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 3011 of the Family Code, and (3) this bill is enacted after Senate Bill 495, in which case Section 23 of this bill shall not become operative.