

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



April 28, 2005

CSS LETTER: 05-13

ALL IV-D DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL BOARDS OF SUPERVISORS

SUBJECT: ASSEMBLY BILL 2669

This letter informs you of the provisions of Assembly Bill (AB) 2669 (Chapter 305, Statutes of 2004) that affect the Child Support Program and provides local child support agencies (LCSAs) with instructions for implementing this legislation.

The following are the provisions and effective dates of AB 2669:

Section 4009, Family Code – Retroactive Child Support Order- Effective January 1, 2005 (Reference: CSS Letter No. 01-09)

Prior to the passage of AB 2669, when a custodial parent (CP) was receiving public assistance, a non-custodial parent's (NCP's) obligation to a county was one year of retroactive support prior to the date of the filing of the petition or complaint. Effective January 1, 2005, a NCP's obligation is retroactive only to the date of filing the petition, complaint, or other initial pleading. If the NCP was not served with the petition, complaint, or other initial pleading within 90 days after filing and the court finds that the parent was not intentionally evading service, the child support order shall be effective no earlier than the date of service. However, if the initial petition was filed on or before December 31, 2004, the court could still grant retroactive payments for one year. This legislative change is consistent with the treatment of child support payments when the CP is not receiving public assistance.

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

Section 4504, Family Code – Federal Payments Pursuant to the Social Security Act, or Railroad Retirement Act, or by the Department of Veterans Affairs- Effective January 1, 2005

Prior to the passage of AB 2669, NCPs only received credit for the current month's support for payments received from the federal government pursuant to the Social Security Act (SSA), or Railroad Retirement Act (RRA), or by the Department of Veteran's Affairs (DVA). If the payment was in excess of the current month's support amount ordered by the court, the NCP lost the credit for the excess amount. There was no authority to use the payment to offset arrears. This was also true for any lump sum payment.

Effective January 1, 2005, LCSAs shall credit a NCP whose children receive federal payments from SSA, RRA, or DVA with the full amount of the monthly payments, including any lump sum payments. Any excess amount may be credited to the non-IV-A arrears.

Example: Child receives \$500 per month from NCP's Social Security Disability income. The child support court order is for \$150 per month, leaving \$350 to be applied monthly to the \$5000 IV-D arrearage. If there is no arrearage, the child receives the total \$500 payment per month. The NCP only receives credit for \$150 current support.

If the CP or other child support obligee receives a lump sum payment representing payments for more than one month, credit is given for each month for which the lump sum payment was made.

Section 17402, Family Code – Non Parental Care Calculation – Effective January 1, 2005

Effective January 1, 2005, in any case of separation or desertion of a parent or parents from a child that results in the child receiving public assistance, the NCP shall be obligated to the county for an amount equal to the obligation established by the court for each parent. The liability shall be determined by using the Statewide Uniform Guideline for child support orders currently in effect and shall be computed as follows:

- NCPs Residing Together- If neither parent has custody of their mutual children and they are residing together, the LCSA shall compute the amount of the obligation of the NCPs by combining both NCPs' incomes and using the total as the high earner's net monthly disposable income. This amount is proportionately shared between the NCPs based upon their net monthly disposable incomes.
- NCPs Residing Separately- If the parents reside apart and neither father nor mother remains as a CP, the guideline support shall be computed separately for

each parent by treating each parent as the NCP. Income shall not be attributed to the caretaker or government agency.

Section 695.221, Code of Civil Procedure (CCP) – Satisfaction of a Money Judgment- Effective January 1, 2009

AB 2669 amended CCP Section 695.221 to provide that the satisfaction of a money judgment for support shall be credited first against the current month's support. Any remaining money shall next be credited against the principal amount of the judgment remaining unsatisfied, then against the accrued interest that remains unsatisfied.

The effective date of this legislative change coincides with the date of the California Child Support Automated System full implementation. At that time, CCP Section 695.221 will be an automated process, thus, LCSAs are not required to take any action prior to the effective date. This change impacts the distribution hierarchy in the Manual of Policy and Procedures 12-420. Regulations will be developed and system changes made prior to implementation of this amendment.

Until this Section becomes operative on or after January 1, 2009, LCSAs shall continue to satisfy a money judgment for support by crediting first against the current month's support, then against the accrued interest that remains unsatisfied, then against the principal amount of the judgment remaining unsatisfied. Additionally, there is no change in the method of handling federal tax refund offsets until this Section becomes operative.

If you have any questions or concerns regarding this matter, please contact Dottie Wallace, Case Management Establishment Policy Section, at (916) 464-5055.

Sincerely,



SANDRA O. POOLE
Deputy Director
Child Support Services Division