



## **DEPARTMENT OF CHILD SUPPORT SERVICES**

# **California Department of Child Support Services' Report to the Legislature under Family Code Section 4077**

**Regarding Additional Statutory Changes  
Required to Bring California into Compliance with the  
Flexibility, Efficiency, and Modernization  
in Child Support Enforcement Programs Final Rule**

**November 10, 2022**

## EXECUTIVE SUMMARY

California Family Code Section 4077<sup>1</sup> requires the Department of Child Support Services (DCSS) and the Judicial Council of California (JCC) to meet and confer, no later than November 21, 2022, and for each entity to submit its own report to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review and the Assembly and Senate Committees on Judiciary on what additional legislative changes are required to comply with the federal child support regulations revised by the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule published on December 20, 2016 (FEM Final Rule)<sup>2</sup>. Said reports must consider the most recent review of the statewide child support guideline<sup>3</sup> completed pursuant to Section 4054 and identify any points of agreement and any difference of interpretation, perspective, or opinion between DCSS and JCC regarding the legislative changes required. California laws must be in compliance with the FEM Final Rule by the extended federal deadline of September 2024.

The FEM Final Rule requires changes to California's child support guidelines and legal proceedings for establishment of support orders in IV-D matters. Under the FEM Final Rule requirements, child support orders must be based on the noncustodial parent's actual earnings, income, and other evidence of ability to pay and the child support guidelines must take into consideration the subsistence level needs of low-income obligors. If imputation of income is authorized, state statutes and procedures must require the order to be based on a consideration of the known specific circumstances of the noncustodial parent. The FEM Final Rule emphasizes the importance of fact-gathering and setting right-sized orders based on evidence of the noncustodial parent's actual income and ability to pay, which also takes into consideration the subsistence level needs at low-income levels and prohibits orders based on standard presumed amounts.

DCSS and JCC have met and conferred pursuant to Section 4077. DCSS supports the following joint recommendations and identifies them as points of agreement as required by the statute:

### **Recommendation #1: Adjust the Low-Income Bands, the K Factor Applicable to the Low-Income Bands and the Low-Income Adjustment (LIA) Threshold**

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<sup>1</sup> Hereafter, undesignated statutory references are to the Family Code.

<sup>2</sup> 81 Fed. Reg. 93492–93569 (Dec. 20, 2016)

<sup>3</sup> Review of the Statewide Uniform Child Support Guideline 2021, <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>

DCSS supports the three-pronged approach to improving the application of the child support guidelines to low-income individuals recommended by the Review of the Statewide Uniform Child Support Guideline 2021, which would meet the FEM Final Rule requirement to take into consideration the subsistence level needs of low-income obligors:

- i. Update the net disposable income threshold for the LIA set forth in Section 4055(b)(7) and continue to allow for cost-of-living increases to the threshold;
- ii. Modify the low-income bands of the K-factor formula so that the total net disposable income of the low-income parents does not put them in the middle-income band that assigns the highest percentage of income to support (25%); and
- iii. Address the adverse impact of the multipliers for additional children set forth in Section 4055(b)(4) by providing a deviation factor for support exceeding 50% of net disposable income of obligors qualifying for the low-income adjustment.

### **Recommendation #2: Amend the Statutory Scheme for Establishment of Child Support Orders in IV-D Proceedings**

When actual income of the support obligor is unknown, Section 17400(d)(2) requires local child support agencies (LCSAs) to request an initial child support order strictly based on full-time minimum wage even if other known circumstances of the obligor indicate a different earning capacity. Also, when actual income is known, but evidence regarding the obligor's other known specific circumstances indicate an earning capacity higher than actual income, the current statute does not provide a legal mechanism for the LCSAs to plead based on the obligor's true earning capacity. DCSS therefore supports amending the current statutory scheme to require consideration of the known specific circumstances of the noncustodial parent. Further, DCSS supports amending the pleading process provided within Section 17430 to allow an LCSA to bring all evidence it has concerning a noncustodial parent's actual income or earning capacity before the court for consideration, and to afford both parties to the child support case an opportunity to be heard in the proceedings to determine earning capacity.

### **Recommendation #3: Repeal Expedited Child Support Order Statutes**

Sections 3620 through 3634 require the courts to issue child supports orders in the amounts requested in ex parte proceedings when the procedural requirements of this statutory scheme are met. The statutory scheme mandates minimum orders without an opportunity for

the court to consider any known circumstances of the obligor. Since the statutes within this scheme are not in compliance with the FEM Final Rule, DCSS supports repealing them.

The only difference of perspective between DCSS and JCC is regarding the implementation timeframe for the changes recommended in this report. While JCC's statutory amendments would reflect a date by which the Judicial Council forms would be adopted, there are additional steps DCSS can take only after the Judicial Council forms are made available:

- i. System changes necessary to incorporate the new Judicial Council forms for initial pleadings in the Child Support Enforcement System (CSE);
- ii. E-filing system changes and collaboration with the courts in 31 counties to revise/test e-filing protocols for the new initial pleading forms;
- iii. Other CSE changes necessary to gather the new information to be required by the new Judicial Council forms such as the earning capacity factors that the court must consider; and
- iv. Training for the LCSA staff.

## **BACKGROUND**

The Federal Office of Child Support Enforcement (OCSE) issued the FEM Final Rule on December 20, 2016, amending federal regulations to “strengthen the child support enforcement program and update current practices to increase regular, on-time payments to families, to increase the number of noncustodial parents supporting their children, and to improve program operations.”<sup>4</sup>

The changes made to federal regulations by the FEM Final Rule affect the minimum requirements for state child support guidelines and determination of income, including imputation and presumption of income. Child support guidelines must, at a minimum, provide that the child support order be based on the noncustodial parent's “earnings, income, and other evidence of ability to pay.”<sup>5</sup> The order must take into consideration “all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent)”<sup>6</sup> and “the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other

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<sup>4</sup> OCSE Action Transmittal 16-06, <https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement>

<sup>5</sup> 45 C.F.R. § 302.56(c)(1)

<sup>6</sup> *Id.*, subparagraph (i)

method determined by the State”<sup>7</sup>. If imputation of income is authorized, the order must take into consideration “the specific circumstances of the noncustodial parent (and at the State’s discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.”<sup>8</sup>

#### **ISSUES TO BE ADDRESSED FOR COMPLIANCE:**

##### **1- Requirement to Consider Known Specific Circumstances of the Noncustodial Parent When Actual Income is Unknown:**

Specific to cases referred to IV-D agencies for enforcement, the FEM Final Rule amended 45 Code of Federal Regulations (C.F.R.) §303.4(b) to expressly require States to have statutes, procedures, and legal processes basing the support obligation amount on available information about the specific circumstances of the noncustodial parent, including such factors as those listed under 45 C.F.R. §302.56(c)(1)(iii) (e.g. the local job market, educational attainment, age, health, criminal record and other employment barriers), if evidence of actual earnings and income is unavailable or insufficient to use as the measure of the noncustodial parent's ability to pay.

Current Section 17400(d)(2) requires LCSAs to presume the noncustodial parent's income to be the amount of minimum wage at 40 hours per week, as established by the Industrial Welfare Commission pursuant to California Labor Code Section 1182.11, if the noncustodial parent's actual income or income history is unknown. If the noncustodial parent fails to file an answer with the court within 30 days of service of the complaint and the proposed judgment presuming full-time minimum wage, the proposed judgment becomes effective as of the first day of the month following the filing of the complaint. The existing presumed income statute does not allow any flexibility for the LCSAs to consider the specific circumstances of the noncustodial parent such as the labor market conditions where the noncustodial parent resides, their educational attainment, health, or incarceration history, when these factors are known, but actual income remains unknown. This standard presumption violates the FEM Final Rule requirement that all imputed income child support

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<sup>7</sup> *Id.*, subparagraph (ii)

<sup>8</sup> *Ibid.*

orders be based on a consideration of the specific circumstances of the noncustodial parent to the extent known.

**2- Ability to Plead for Imputed Income when Evidence of Ability to Pay Indicates an Earning Capacity Higher than Actual Income:**

The existing pleading structure under Section 17400 does not allow LCSAs to use earning capacity, as defined under Section 4058, as the basis of an initial support order since initial support orders in IV-D cases must be based on actual or presumed income. In order to comply with the FEM Final Rule requirement to consider other evidence of ability to pay, and to prevent disparity between IV-D and non-IV-D orders, Section 17400 et seq. should provide a pleading option for LCSAs to pursue imputation of income in court pursuant to Section 4058 when there is sufficient evidence to establish a noncustodial parent's ability and opportunity to earn a level of income that is higher than the known/actual income.

The current lack of an option for the LCSAs to include imputed income in initial pleadings results in default orders that are based on lower actual income amounts without the court having the opportunity to consider the true earning capacity of the noncustodial parent. The existing pleading limitation is in violation of the FEM Final Rule's amendment to 45 C.F.R. §303.4(b) that requires States to have statutes, procedures, and legal processes in place for cases enforced by the IV-D agency that base the support obligation amount on available information about the specific circumstances of the noncustodial parent, including such factors as those listed under 45 C.F.R. §302.56(c)(1)(iii) (i.e., factors considered in the determination of earning capacity), when evidence of actual earnings and income is unavailable or insufficient to use as the measure of the noncustodial parent's ability to pay.

**3- Requirement to Make All Known Information Regarding Actual Earnings and Ability to Pay Available for Order Establishment:**

With the resulting changes to 45 C.F.R. § 303.4(b), the FEM Final Rule emphasized the importance of considering all known information about the noncustodial parent's actual earnings and ability to pay in the support establishment process. The factors enunciated in 45 C.F.R. § 302.56 (c) also require an LCSA to base the support amount on all known information regarding a noncustodial parent's earnings, income, and other evidence of ability to pay. The FEM Final Rule's intent to include as much known information as possible shows that the LCSA should be permitted to bring forth in the court process all relevant information about a noncustodial parent to which it has access.

The current pleading structure within Section 17430 does not permit the LCSA to bring any additional information to the court's attention after 30 days from the service of the complaint regardless of whether an answer has been filed. Also, only financial information can be brought forward although additional information such as parenting timeshare might also have a significant impact on the amount of support to be established. These restrictions unnecessarily limit the LCSA's ability to bring forth all relevant information to the court's attention in the support establishment process although it would be procedurally appropriate to give notice of changes to the proposed judgment through an amended proposed judgment any time before an answer is filed. An amended proposed judgment is a crucial pleading in that it allows the full depth of information which was not known to the LCSA at the initial filing to be incorporated into the establishment process.

#### **4- Requirement to Consider Subsistence Level Needs of the Low-Income Noncustodial Parents:**

Federal regulations require states to have in place a uniform guideline for setting and modifying child support amounts. The FEM Final Rule introduced a new requirement that state uniform guidelines take into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State. [45 C.F.R. § 302.56(c)(1)(ii)] Although California's guideline support formula utilizes a low-income adjustment to address the subsistence needs of noncustodial parents, the adequacy of the current adjustment is in question.

The LIA formula currently stated in Section 4055(b)(7) was enacted in 1994 with a threshold that required the LIA to be applied only to those obligors with a net disposable income below \$1,000. The LIA applies when the net income of the noncustodial parent falls below the LIA threshold and provides a fractional adjustment that decreases as the parent's income nears the threshold. In June 2011, JCC completed *Review of Statewide Uniform Child Support Guideline 2010*<sup>9</sup>, which focused on the application of California's child support guidelines to low-income obligors, specifically the low-income adjustment. In *Review of Statewide Uniform Child Support Guideline 2010*, JCC concluded that the then-current low-income adjustment applicable to net incomes below \$1,000 was inadequate. *Review of Statewide Uniform Child Support Guideline 2010* noted that \$1,000 was below what could be earned at the time from full-time work at the state minimum wage (\$8 per hour; \$1,386 gross

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<sup>9</sup> <https://www.courts.ca.gov/partners/documents/2011SRL6aGuidelineReview.pdf>

per month or \$1,200 net per month). It also noted that \$1,000 threshold had not been changed since its enactment in 1994.<sup>10</sup>

“Conclusion 13: The California guideline amounts for low-income obligors are high relative to other states. The low-income adjustment under the California guideline is inadequate. Unlike the low-income adjustment used in many state guidelines, it does not relate to the federal poverty guideline for one person. Its income threshold (i.e., the low-income adjustment applies when obligor net income is less than \$1,000 per month) has never been updated. The income threshold is too low to apply to typical low-income situations (i.e., obligors earning minimum wage); hence these low-income obligors are not eligible for the low-income adjustment and payment of the unadjusted guideline amount leaves the obligor with insufficient income to live above poverty level.”<sup>11</sup>

The Legislature took action in 2012 [Stats 2012 ch 646 § 1 (AB 2393)] by increasing California's low-income adjustment threshold to \$1,500 and requiring an annual adjustment to the threshold based on the change in the annual California Consumer Price Index for All Urban Consumers (CCPI), published by the California Department of Industrial Relations, Division of Labor Statistics and Research. At that time, the legislative reform reduced base guideline child support for a full-time minimum wage earner from 25% of net income to 20%<sup>12</sup>.

In the intervening years, California approved a staged minimum wage increase, without corresponding intervention to adjust the LIA threshold to keep up with the increased minimum wage. Between 2013 and 2022, minimum wage increased by 75%<sup>13</sup>, while the LIA with its annual adjustments only increased by 28%. In 2022, a person earning full-time minimum wage of \$14 per hour<sup>14</sup> has gross income of \$2,427 and net income of \$2,049. The 2022 LIA, as adjusted in March 2022 with increases in the CCPI, is \$1,915. As the net income for a full-time minimum wage earner is greater than the LIA, they receive no adjustment from the LIA, and their guideline support order once again amounts to 25% of their net income. California's current LIA threshold thus does not adequately address the subsistence-level needs of parents paying support.

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<sup>10</sup> *Review of Statewide Uniform Child Support Guideline 2010*, p. 127.

<sup>11</sup> *Ibid.*

<sup>12</sup> Example using 1 child, 0% parenting timeshare, with a parent earning full-time minimum wage or presumed income under Section 17400(d).

<sup>13</sup> Calculated using minimum wage for employers with 25 or fewer employees.

<sup>14</sup> Cal. Labor Code § 1182.12(b)(2)(E).



## **RECOMMENDATIONS OF THE REVIEW OF THE STATEWIDE UNIFORM CHILD SUPPORT GUIDELINE**

Federal regulations (45 C.F.R. §302.56) require each state to review, and revise, if appropriate, its child support guidelines at least once every four years to ensure that their application results in the determination of appropriate child support order amounts. Section 4054 requires JCC to complete this review and consult with a broad cross-section of groups involved in child support issues, including, but not limited to, custodial and non-custodial parents, representatives of established advocacy groups, members of the judiciary, and certified family law specialists, in developing its recommendations. JCC completed California's first post-FEM Final Rule quadrennial review of child support guidelines in 2017 and submitted the resulting report, *Review of the Statewide Uniform Child Support Guideline 2017*<sup>15</sup>, to the Legislature on January 12, 2018. Subsequently, *Review of the Statewide Uniform Child Support Guideline 2021* also addressed FEM Final Rule compliance issues and was submitted to the Legislature on May 16, 2022.

### **1- Amend the Statutory Scheme in Section 17400(d)(2) to Consider Noncustodial Parent's Specific Circumstances as Required by the FEM Final Rule:**

The *Review of the Statewide Uniform Child Support Guidelines 2017* recommended amending Section 17400(d)(2) to more closely align with the FEM Final Rule's direction to use actual income or earning capacity based on the specific circumstances of the non-custodial parent when setting support obligations.<sup>16</sup>

The *Review of the Statewide Uniform Child Support Guideline 2021* also provided an analysis of the FEM Final Rule requirements and concluded that the presumption of income in Section 17400(d)(2) did not require a consideration of any of the individual circumstances of the obligor as outlined in federal regulations.<sup>17</sup>

### **2- Adjust the Low-Income Bands, the K Factor Applicable to the Low-Income Bands and the LIA Threshold**

The *Review of the Statewide Uniform Child Support Guideline 2021* examined whether the application of the current statewide uniform formula along with the low-income adjustment adequately considered to subsistence level needs of the low-income support obligors through an analysis of the LIA child support orders among the court-sampled IV-D orders and DCSS case management-sampled orders. The reviewers reached the conclusion that a

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<sup>15</sup> <https://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf>

<sup>16</sup> *Review of the Statewide Uniform Child Support Guideline 2017*, p. 23

<sup>17</sup> *Review of the Statewide Uniform Child Support Guideline 2021*, p. 248

typical obligor whose obligation was adjusted based on the LIA had insufficient net disposable income to meet his or her basic subsistence needs.

“As mentioned earlier, although OCSE leaves the definition of basic subsistence needs to the discretion of the state, OCSE references a dictionary definition of subsistence that identifies food and shelter as necessary items. Exhibit 22 demonstrates that a typical obligor has insufficient net disposable income to meet his or her basic subsistence needs (rent and food), let alone pay child support even when the order is adjusted for the obligor's low income.”<sup>18</sup>

The *Review of the Statewide Uniform Child Support Guideline 2021* recommends changes to child support guidelines to improve the application of the guidelines to low-income families in a manner consistent with the FEM Final Rule's requirement to consider the subsistence level needs of the low-income obligors. These changes are generally referred to as “revamping the LIA” in the *Review of the Statewide Uniform Child Support Guideline 2021* and consist of three components:

- i. Update the LIA income threshold but continue to allow for cost-of-living increases. Alternatively, base the LIA income threshold on:
  - A percentage of the federal poverty guidelines for one person,
  - Median Fair Market Rent in California (FMR), or
  - The gross state minimum wage.

The report notes that the poverty guidelines and FMR are updated annually. (The poverty guidelines are updated by February of each calendar year, and the FMR is typically updated in September before the next federal fiscal year begins.)

The report also highlights an advantage to using the gross minimum wage as the LIA threshold. Using the gross minimum wage as the threshold would ensure that the net income of support obligors who earn full-time or less minimum wage would always qualify for the LIA adjustment. Providing the LIA adjustment to minimum wage earners has been a consistent recommendation in quadrennial review reports as discussed above.

- ii. Modify the bottom income bands of the K-factor formula:

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<sup>18</sup> *Id.*, p. 86

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This recommendation is made to prevent the total net disposable income of low-income parents from putting them in the middle-income band that assigns the highest percentage of income (25%) to support. This adjustment involves three changes to the K-factor table set forth in Section 4055(b)(3):

- Expand the income ranges of the lowest bands;
- Introduce an additional income band before K-factor reaches its highest level of 25%; and
- Assign appropriate K-factors for those new income bands.

The report states that the following recommended K-factor table would provide the most protection for low-income obligors:

Exhibit 76: Recommended Update to the K-factor Table

<u>Total Net Disposable Income Per Month</u>	<u>K</u>
<u>\$0–\$2,900</u>	<u>0.165 + TN/82,857</u>
<u>\$2,901–\$5,000</u>	<u>0.200 + TN/100,000</u>
<u>\$5,001–\$6,666</u>	<u>0.250</u>
<u>\$6,667–\$10,000</u>	<u>0.10 + 1,000/TN</u>
<u>Over \$10,000</u>	<u>0.12 + 800/TN</u>

- iii. The third part of the recommended LIA revamp is to address the adverse impact of the multiplier for more than one child set forth in Section 4055(b)(4) by capping support or providing a deviation factor for support exceeding a threshold relating to the Consumer Credit Protection Act limit. (See proposed amendments to Section 4057 below.)

**PROPOSED AMENDMENTS to STATUTE<sup>19</sup>**

An act to amend Sections 4055, 4057, 17400, 17404.1, 17430, and 17432, and to repeal sections 3620 to 3634, of the Family Code, relating to child support.

**SECTION 1.** Sections 3620 to 3634 of the Family Code are repealed.

**SEC. 2.** Section 4055 of the Family Code is amended to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows:  $CS = K[HN - (H\%)(TN)]$ .

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
\$0–800	$0.20 + TN/16,000$

<sup>19</sup> Amendments are shown in blue underline and red strikethrough. If a section is being repealed and replaced entirely, the amendments are highlighted in gray for the reader's ease of review.

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\$801–6,666	0.25
\$6,667–10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25$ , or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times 0.25$ , or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described in paragraph (3) if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the

custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand five hundred dollars (\$1,500), adjusted annually for cost-of-living increases, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment. The Judicial Council shall annually determine the amount of the net disposable income adjustment based on the change in the annual California Consumer Price Index for All Urban Consumers, published by the California Department of Industrial Relations, Division of Labor Statistics and Research. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,500, adjusted annually for cost-of-living increases, minus the obligor's net disposable income per month, and the denominator of which is 1,500, adjusted annually for cost-of-living increases.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

(d) This section shall become inoperative on January 1, 2024, and, as of January 1, 2025, is repealed.

**SEC. 3.** Section 4055 is added to the Family Code, to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows:  $CS = K[HN - (H\%)(TN)]$ .

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

<u>Total Net Disposable Income Per Month</u>	<u>K</u>
<u>\$0-\$2,900</u>	<u><math>0.165 + \frac{TN}{82,857}</math></u>
<u>\$2,901-\$5,000</u>	<u><math>0.200 + \frac{TN}{100,000}</math></u>

<u>\$5,001–\$6,666</u>	<u>0.250</u>
<u>\$6,667–\$10,000</u>	<u>0.10 + 1,000/TN</u>
<u>Over \$10,000</u>	<u>0.12 + 800/TN</u>

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times (0.165 + 1,000/82,857)$ , or 0.21. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times (0.165 + 1,000/82,857)$ , or 0.21.

(4) For more than one child, multiply CS by:

<u>2 children</u>	<u>1.6</u>
<u>3 children</u>	<u>2</u>
<u>4 children</u>	<u>2.3</u>
<u>5 children</u>	<u>2.5</u>
<u>6 children</u>	<u>2.625</u>
<u>7 children</u>	<u>2.75</u>
<u>8 children</u>	<u>2.813</u>
<u>9 children</u>	<u>2.844</u>
<u>10 children</u>	<u>2.86</u>

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is



no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described in paragraph (3) if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than the amount of monthly gross income earned from full-time minimum wage at 40 hours per week, 52 weeks per year, established by Section 1182.12 of the Labor Code, there is a rebuttable presumption that the obligor is entitled to a low-income adjustment. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is the amount of monthly gross income earned from full-time minimum wage at 40 hours per week, 52 weeks per year, established by Section 1182.12 of the Labor Code, minus the obligor's net disposable income per month, and the denominator of which is the amount of monthly gross income earned from full-time minimum wage at 40 hours per week, 52 weeks per year, established by Section 1182.12 of the Labor Code.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order and the obligor's income qualifies for a low-income adjustment, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

(d) This section shall become operative January 1, 2024.

**SEC. 4.** Section 4057 of the Family Code is amended to read:

4057. (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence where the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(5) A support obligor qualifies for the low-income adjustment under paragraph (7) of subdivision (b) of Section 4055 and the amount of child support established by the formula exceeds 50 percent of the support obligor's net disposable income as defined in Section 4059 after application of the low-income adjustment. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(6) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

(D) Cases in which a child is found to have more than two parents.

**SEC. 5.** Section 17400 of the Family Code is amended to read:

17400. (a) (1) 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.

(2) (A) Provided that no reduction in aid or payment to a custodial parent would result, the local child support agency shall cease enforcement of child support arrearages assigned to the state and other fees and costs owed to the state that the department or the local child support agency has determined to be uncollectible. If enforcement is ceased pursuant to this paragraph, cases shall be closed to the maximum extent permitted under Section 303.11 of Title 45 of the Code of Federal Regulations, as adopted under Section 118203 of Title 22 of the California Code of Regulations.

(B) In determining the meaning of uncollectible for purposes of arrearages assigned to the state and other fees and costs owed to the state, the department and the local child support agency shall consider, but not be limited to, the following factors:

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- (i) Income and assets available to pay the arrearage or other fees and costs.
- (ii) Source of income.
- (iii) Age of the arrearage or other fees and costs.
- (iv) The number of support orders.
- (v) Employment history.
- (vi) Payment history.
- (vii) Incarceration history.
- (viii) Whether the order was based on imputed income.
- (ix) Other readily ascertainable debts.

(C) Notwithstanding subparagraph (B), the department and a local child support agency shall deem an arrearage assigned to the state or fees and costs owed to the state as uncollectible if the noncustodial parent's sole income is from any of the following:

- (i) Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) benefits.
- (ii) A combination of SSI/SSP benefits and Social Security Disability Insurance (SSDI) benefits.
- (iii) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) benefits.
- (iv) Veterans Administration Disability Compensation Benefits in an amount equal to or less than the amount the noncustodial parent would receive in SSI/SSP benefits.

(D) Notwithstanding 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 department may implement and administer this subdivision through a child support services letter or similar instruction until regulations are adopted. Thereafter, the department shall adopt regulations to implement this subdivision by July 1, 2024.

(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 of the agent of the local child support agency 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.

(4)(A) Notwithstanding any other law, a local child support agency may substitute any original signatures, including, but not limited to, signatures of agents of the local child support agencies, support obligors, support obligees, other parents, witnesses, and the attorneys for the parties to the action, with a printed copy or electronic image of an electronic signature obtained in compliance with the rules of court adopted pursuant to paragraph (2) of subdivision (b) of Section 1010.6 of the Code of Civil Procedure, on pleadings or documents filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support. If the pleading or document is signed under the penalty of perjury or the signature does not belong to an agent of the local child support agency, the local child support agency represents, by the act of filing, that the declarant electronically signed the pleading or document before, or on the same day as, the date of filing.

(B) The local child support agency shall maintain the electronic form of the pleading or document bearing the original electronic signature for the period of time prescribed by subdivision (a) of Section 68152 of the Government Code, and shall make it available for

review upon the request of the court or any party to the action or proceeding in which it is filed. Printed copies or electronic images of electronic signatures used by a local child support agency in this manner 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.

(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.

(p) (1) This section shall become operative January 1, 2023.

(2) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

(3) The Judicial Council shall adopt and approve any forms necessary to implement the version of this section that will become operative on July 1, 2025, no later than September 1, 2024, with an effective date of July 1, 2025.

**SEC. 6.** Section 17400 is added to the Family Code, to read:

17400. (a)(1) 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.

(2)(A) Provided that no reduction in aid or payment to a custodial parent would result, the local child support agency shall cease enforcement of child support arrearages assigned to the state and other fees and costs owed to the state that the department or the local child support agency has determined to be uncollectible. If enforcement is ceased pursuant to this paragraph, cases shall be closed to the maximum extent permitted under Section 303.11 of Title 45 of the Code of Federal Regulations, as adopted under Section 118203 of Title 22 of the California Code of Regulations.

(B) In determining the meaning of uncollectible for purposes of arrearages assigned to the state and other fees and costs owed to the state, the department and the local child support agency shall consider, but not be limited to, the following factors:

(i) Income and assets available to pay the arrearage or other fees and costs.

(ii) Source of income.

(iii) Age of the arrearage or other fees and costs.

(iv) The number of support orders.

(v) Employment history.

(vi) Payment history.

(vii) Incarceration history.

(viii) Whether the order was based on imputed income.

(ix) Other readily ascertainable debts.

(C) Notwithstanding subparagraph (B), the department and a local child support agency shall deem an arrearage assigned to the state or fees and costs owed to the state as uncollectible if the noncustodial parent's sole income is from any of the following:

(i) Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) benefits.

(ii) A combination of SSI/SSP benefits and Social Security Disability Insurance (SSDI) benefits.

(iii) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) benefits.

(iv) Veterans Administration Disability Compensation Benefits in an amount equal to or less than the amount the noncustodial parent would receive in SSI/SSP benefits.

(D) Notwithstanding 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 department may implement and administer this subdivision through a child support services letter or similar instruction until regulations are adopted. Thereafter, the department shall adopt regulations to implement this subdivision by July 1, 2024.

(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 of the agent of the local child support agency 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, 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 shall develop rules to implement this subdivision.

(4)(A) Notwithstanding any other law, a local child support agency may substitute any original signatures, including, but not limited to, signatures of agents of the local child support agencies, support obligors, support obligees, other parents, witnesses, and the attorneys for the parties to the action, with a printed copy or electronic image of an electronic signature obtained in compliance with the rules of court adopted pursuant to paragraph (2) of subdivision (b) of Section 1010.6 of the Code of Civil Procedure, on pleadings or documents filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support. If the pleading or document is signed under the penalty of perjury or the signature does not belong to an agent of the local child support agency, the local child support agency represents, by the act of filing, that the declarant electronically signed the pleading or document before, or on the same day as, the date of filing.

(B) The local child support agency shall maintain the electronic form of the pleading or document bearing the original electronic signature for the period of time prescribed by subdivision (a) of Section 68152 of the Government Code, and shall make it available for

review upon the request of the court or any party to the action or proceeding in which it is filed. Printed copies or electronic images of electronic signatures used by a local child support agency in this manner 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.

(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)(A) 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 one of the following methods used to determine income:

(i) If sufficient information is available to determine actual income, as defined in subdivision (a) of Section 4058 and Section 4060, the local child support agency shall use actual income as the basis of the proposed support obligation, unless earning capacity is plead pursuant to clause (ii).

(ii) If the local child support agency has sufficient information that the earning capacity is greater than the actual income, and sufficient evidence is available to establish earning capacity as defined in subdivision (b) of Section 4058, the local child support agency may use earning capacity as the basis of the proposed support obligation.

(iii) If the actual income of the support obligor is unknown to the local child support agency, and sufficient evidence is available to establish earning capacity as defined in

subdivision (b) of Section 4058, the local child support agency shall use earning capacity as the basis of the proposed support obligation.

(B) The complaint shall inform the support obligor of the basis for the proposed support amount. If the basis is the support obligor's earning capacity, rather than actual income, the complaint shall inform the obligor of the factors considered by the agency and used to determine the obligor's earning capacity.

(C) 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 may become effective if the obligor fails to file an answer with the court within 30 days of the service. 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.

(D) (i) If the proposed judgment is based on the support obligor's earning capacity pursuant to clauses (ii) or (iii) of subparagraph (A), the local child support agency shall file a motion for judgment, as provided in subdivision (b) of Section 17404. If the hearing on the motion for judgment under this subdivision is continued, the court may make a temporary order as authorized by Section 17404.

(ii) Notwithstanding any other law, at the motion for judgment hearing, the court shall permit the appearance and participation of the defendant and the other parent in the hearing, including, but not limited to, sworn testimony and the introduction of evidence, regardless of whether the defendant has filed an answer to the complaint.

(iii) If the defendant does not appear at the motion for judgment hearing, the judgment shall be entered by way of default. However, nothing in this section limits the discretion of the court to inquire of the local child support agency regarding the factors set forth in subdivision (b) of Section 4058. If after consideration of the factors set forth in subdivision (b) of Section 4058 and the evidence presented by the local child support agency or the other parent, the court determines that guideline child support would be lower than the proposed support obligation listed in the proposed judgment, the court shall enter an order for guideline child support. Nothing in this clause shall be construed to limit the court's discretion to order an amount higher than, lower than, or equal to the proposed support obligation listed in the proposed judgment based on the evidence presented if the defendant files an answer or appears at the motion for judgment hearing.

(E) Notwithstanding 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 department may implement and administer paragraph (2) of subdivision (d) of this section through a child support services letter or similar instruction until permanent regulations are adopted. The department shall adopt regulations to implement this subdivision by January 1, 2027.

(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.

(p)(1) This section shall become operative July 1, 2025.

**SEC. 7.** 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.

(g)(1) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

(2) The Judicial Council shall adopt and approve any forms to implement the version of this section that will become operative on July 1, 2025, no later than September 1, 2024, with an effective date of July 1, 2025.

**SEC. 8.** Section 17404.1 is added to the Family Code, 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. The petition or other comparable pleading shall provide notice to the obligor of the amount of child support that is being 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 methodology for determining the obligor's income for purposes of a simplified complaint as required by clauses (i) through (iii) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 17400.

(c) (1) Notwithstanding the provisions of Section 17430, if the proposed judgment is based on the support obligor's earning capacity pursuant to clauses (ii) or (iii) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 17400, the local child support agency shall file a motion for judgment, as provided in subdivision (b) of Section 17404.

(2) Notwithstanding any other law, at the motion for judgment hearing, the court shall permit the appearance and participation of the defendant and the other parent in the hearing, including, but not limited to, sworn testimony and the introduction of evidence, regardless of whether the defendant has filed an answer to the complaint.

(3) If the defendant does not appear at the motion for judgment hearing, the judgment shall be entered by way of default. However, nothing in this section limits the discretion of the court to inquire of the local child support agency regarding the factors set forth in subdivision (b) of Section 4058. If after consideration of the factors set forth in subdivision (b) of Section 4058 and the evidence presented by the local child support agency or the other parent the court determines that guideline child support would be lower than the proposed support obligation listed in the proposed judgment, the court shall enter an order for guideline child support. Nothing in this subpart shall be construed to limit the court's discretion to order an amount higher than, lower than, or equal to the proposed support obligation listed in the proposed judgment based on the evidence presented if the defendant files an answer or appears at the motion for judgment hearing.

(d) 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.

(e) 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.

(f) 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.

(g) This Section shall become operative July 1, 2025.

**SEC. 9.** 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.

(e) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

**SEC. 10.** Section 17430 is added to the Family Code, to read:

17430. (a)(1) Notwithstanding any other law, in an action filed by the local child support agency pursuant to Section 17400, 17402, 17404, or 17404.1, in which the proposed child support amount is based on actual income, 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.

(2) 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 in an action in which the proposed child support amount is based on actual income, 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).

(b)(1) If the proposed judgment is based on the support obligor's earning capacity pursuant to clauses (ii) or (iii) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 17400, the local child support agency shall file a motion for judgment, as provided in subdivision (b) of Section 17404.

(2) At the motion for judgment hearing, the court shall permit the appearance and participation of the defendant and the other parent in the hearing, including, but not limited to, sworn testimony and the introduction of evidence, regardless of whether the defendant has filed an answer to the complaint.

(3) If the defendant does not appear at the motion for judgment hearing, the judgment shall be entered by way of default. However, nothing in this section limits the discretion of the court to inquire of the local child support agency regarding the factors set forth in subdivision (b) of Section 4058. If after consideration of the factors set forth in subdivision (b) of Section 4058 and the evidence presented by the local child support agency or the other parent the court determines that guideline child support would be lower than the proposed support obligation listed in the proposed judgment, the court shall enter an order for guideline child support. Nothing in this subpart shall be construed to limit the court's discretion to order an amount higher than, lower than, or equal to the proposed support obligation listed in the proposed judgment based on the evidence presented if the defendant files an answer or appears at the motion for judgment hearing.



(c) If the local child support agency receives additional information before the answer is filed 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 local child support agency shall be permitted to file the amended proposed judgment at any time after the filing of the initial summons and complaint and before the answer is filed. 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.

(e) (1) Notwithstanding any other law, if the judgment is entered from a proposed support order that is based on earning capacity pursuant to clause (iii) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 17400 and the defendant failed to appear at the motion for judgment hearing, within one year after entry of judgment and then annually thereafter, until a modified order is entered, the local child support agency shall conduct a review of the case to determine if there is sufficient additional evidence available to establish actual income of the defendant or a different earning capacity, as defined in subdivision (b) of Section 4058, from that which was the basis of the initial support order. If after any such review the local child support agency determines sufficient additional evidence exists, the local child support agency shall file a motion to modify the support order prospectively with the court within six months of its determination, and such additional evidence shall constitute a change in circumstances to obtain a modification of the support order. Nothing in this subdivision shall prohibit the local child support agency from filing the motion to modify pursuant to this subdivision prior to the expiration of any annual review period if additional evidence is discovered sooner.

(2) Notwithstanding any other law, if the judgment is entered from a proposed support order that is based on earning capacity pursuant to clause (iii) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 17400 and the defendant failed to appear at the motion for judgment hearing, the defendant or the other parent may file a motion to modify the initial support prospectively if sufficient additional evidence becomes available to

establish actual income of the defendant or a different earning capacity. Such additional evidence shall constitute a change in circumstances to obtain a modification of the initial support order.

(f) This section shall become operative on July 1, 2025.

**SEC. 11.** Section 17432 of the Family Code is amended to read:

17432. (a) In any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, the court may, on any terms that may be just, set aside that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

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

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

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

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

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

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

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

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

(j) The Judicial Council shall review and modify any relevant forms for purposes of this section. Any modifications to the forms shall be effective July 1, 2005. Prior to the implementation of any modified Judicial Council forms, the local child support agency or custodial parent may file any request to set aside a default judgment under this section using Judicial Council Form FL-680 entitled "Notice of Motion (Governmental)" and form FL-684 entitled "Request for Order and Supporting Declaration (Governmental)."

(k) (1) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

(2) The Judicial Council shall adopt and approve any forms to implement the version of this section that will become operative on July 1, 2025, no later than September 1, 2024, with an effective date of July 1, 2025.

**SEC. 12.** Section 17432 is added to the Family Code, to read:

17432. (a) In any action filed by the local child support agency before July 1, 2025 pursuant to Section 17400, 17402, 17404, or 17404.1 the court may, on any terms that may be just, set aside that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in any predecessor of Section 17400, or any predecessor of that section in the Welfare and Institutions Code, and that were entered after the entry of the default of the support obligor under Section 17430, or any predecessor of that section in the Welfare and Institutions Code. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage or the obligation of medical support or health insurance.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the support obligor's income was substantially different for the period of time during which judgment was effective compared with the income the support obligor was presumed to have. For purposes of this subdivision, "substantial difference" means that amount of income that would result in an order for support that deviates from the order entered by default by 10 percent or more. The court, in its discretion, may set aside and reinstate child support for all or partial relevant periods of time depending on the income information available at the time the motion is filed. Set aside for less than the full period of time that the judgment was effective will not preclude a subsequent review within the timeframe provided under subdivision (f).

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

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

(f) A party to the action described in subdivision (a), including the local child support agency, may file a motion for relief under this section within two years of the local child support agency's first collection of money through an earnings assignment order or an order or notice to withhold income for child support. The two year time period shall run from the date that the local child support agency receives the first collection of money from one of the sources listed in this subdivision. Immediately upon receipt of the first collection of money from one of the sources listed in this subdivision, the local child support agency shall notify the support obligor and the support obligee in writing of the first collection, including the source of the collection, and the commencement of the two-year time period to file a motion for relief under this section. Nothing in this subdivision shall be construed to prohibit

any party to the action, including the local child support agency, from filing a motion for relief under this section prior to the commencement of the two-year time period.

(g) Within three months from the date the local child support agency receives the first collection for an order established using presumed income, the local child support agency shall check all appropriate sources for income information, and, if income information exists, the local child support agency shall determine whether the order qualifies for set aside under this section. If the order qualifies for set aside, the local child support agency shall bring a motion for relief under this section. Where a party to the action, including the local child support agency, has taken subsequent legal action to modify the support prospectively but did not address a possible set aside under this section, the subsequent modification shall not preclude the filing of a potential set aside at a later date.

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

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

(j) This section shall become operative July 1, 2025.