



DEPARTMENT OF CHILD SUPPORT SERVICES

Senate Bill 80 Workgroup Legislative Report

February 1, 2020

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Pursuant to Family Code (FC) section 17306.1, the Department of Child Support Services (DCSS) convened three stakeholder workgroup sessions in Fall 2019. FC section 17306.1 established a framework of participants and topics as follows:

- Representatives from the Child Support Directors Association, Legislative Analyst's Office, Department of Finance, consultants from the Assembly and Senate Health and Human Services budget subcommittees, any other interested Legislative consultants, antipoverty advocates, advocacy organizations representing custodial and non-custodial parents, including father's rights advocates, impacted families, and any other interested advocates or stakeholders for the child support program.
- Discussions identifying further refinements or changes to the local child support agency funding methodology implemented in state fiscal year 2019-20, including accounting for performance incentives to be provided in future years.
- Identification of strategies that may improve customer service, collectability, and cost efficiency of the child support program and assess fiscal impact to operations and collections.
- Consideration of policy changes that may affect the workload and associated funding needs of the local child support agencies and assess fiscal impact to operations and collections.
- Consideration of how child support collections improve outcomes for children, impacts the well-being of children in relationship to their parents who are ordered to pay support, particularly their fathers, and impacts the racial wealth gap and further analyze the impact that child support has on parents ordered to pay support who do not have the capacity to pay.
- Submission of a written update to the Legislature by DCSS describing recommended changes to the funding methodology by February 1, 2020. The written update shall include, but not be limited to, a description of the programmatic and policy changes discussed in the working sessions, the feasibility of implementing the discussed programmatic and policy changes, the impact that the discussed programmatic and policy changes would have on operations, collections, and families served, and additional required statutory changes.

1 INTRODUCTION

This report highlights the discussions and recommendations of the Senate Bill 80 Workgroup (SB 80 Workgroup). It includes topics discussed by the workgroup

related to child support program efficiency, policy, service delivery and the state fiscal year (SFY) 2019-20 funding methodology.

The 2019 Budget Act included \$19.1 million General Fund in 2019-20, growing to \$57.2 million General Fund in 2021-22, to implement a Local Child Support Agency funding methodology for administrative costs. This revised funding methodology was the outcome of a joint effort between DCSS and the Child Support Director's Association (CSDA) to develop a budget allocation methodology to address cumulative cost pressures that led to multiple years of program staff reductions for LCSAs in a relatively flat-funded program. The pressures included the rising cost of staff salaries from locally negotiated union contracts, rising health benefit and retirement contribution costs, and a general increase in the cost of doing business. Although the program implemented various creative strategies to improve program efficiencies and offset some cost pressures, there was still a need to request funding to address the current budget shortfall and establish a methodology to continue mandated services for child support customers and meet federal performance measures. The Legislature approved the funding and implemented FC section 17306.1 to further explore child support program improvement opportunities.

2 BACKGROUND

The SB 80 Workgroup met over three sessions during the Fall of 2019 (September 6, September 27, and November 4). The workgroup membership totaled over 50 participants from DCSS, Department of Finance, CSDA, Legislative Analyst's Office (LAO), Legislative staff, Judicial Council of California, and many stakeholders and advocates (Appendix A).

The SB 80 Workgroup kickoff session on September 6, 2019 included the following presentations:

- Funding Methodology – presented by DCSS
- Local Cost Efficiency Report – presented by CSDA
- Analysis of Increased Funding for LCSAs – presented by LAO

Following the presentations, DCSS led a general workgroup discussion aimed at completing the statement, “How might we....?” in relation to program improvement opportunities. A variety of topics were identified and discussed during the first and second workgroup meetings.

The second workgroup session on September 27, 2019 included a presentation by DCSS on California's statewide uniform guideline formula utilized to calculate

child support payment amounts, recommendations for guideline changes from the Quadrennial Review and a presentation on the Low-Income Adjustment.

The third and final workgroup session held on November 4, 2019 focused on consensus of policy themes, program delivery improvements and methodology refinements to include in this report. The workgroup discussed the three components of the funding methodology and determined if modification was required and what the modifications should entail.

The workgroup concurred at the conclusion of the November 4, 2019 meeting that future meetings were not necessary.

3 WORKGROUP RECOMMENDATIONS

The following workgroup recommendations reflect the result of the stakeholder engagement sessions. The recommendations are aimed at implementing programmatic efficiencies and improved customer service delivery. Implementation of the recommendations may cause fluctuations in child support collections, caseload and impact the budget methodology implemented in SFY 2019-20. All workgroup recommendations affecting the child support program are subject to the budgetary and legislative processes.

3.1 Funding Methodology Refinements

As required by FC section 17306.1, the SB 80 Workgroup was tasked with identifying and discussing refinements or changes to the local child support agency funding methodology implemented in SFY 2019-20, including accounting for performance incentives to be provided in future years. The purpose of the methodology is to create more equitable funding across all local agencies, reducing geographic disparities in funding for child support case management and is not intended to establish new services or processes.

The workgroup reviewed and discussed the four main components of the current methodology: Casework Operations, Operating Expenses and Equipment, Call Center Operations and Performance Incentive Funding. As the recently implemented methodology is in its infancy after over a decade of flat funding in the child support program, the workgroup discussed the following refinements to better align the distribution of funding across the LCSAs as child support program operations evolve.

Casework operation funding levels were determined by applying the results of sampling the amount of staff time to complete mandated activities, yielding an average caseload to case worker ratio. The application of this ratio has yielded funding for fractional positions which LCSAs have difficulty recruiting for and are often unable to fill. These fractional positions represent a workload that is also

unable to be absorbed by other full-time positions within the same classification. The inability to fill fractional positions leads to either: 1) inability to meet the caseload ratio, or 2) existing staff working caseloads beyond 100 percent of their position capacity.

The workgroup agreed with the refinement that fractional positions resulting in increasing workload to whole positions by more than two percent be rounded up to a full-time equivalent position to ensure positions can be filled to meet the ratio and relieve existing staff of inflated caseload levels. The cost of rounding positions will be absorbed within the current funding levels.

Operating Expenses and Equipment (OE&E) funding ensures staffing expenditures beyond salaries and benefits are provided for. OE&E funding provides for office space costs, supplies, and contracted services and security, for example. In the approved funding methodology, a standard percentage was applied to total personnel costs for each LCSA.

The workgroup discussed factors that may impact individual LCSA OE&E costs and potentially refining the OE&E methodology to calculate real estate and facility costs separately to address cost variations across LCSAs. On an annual basis, DCSS reallocates one-time LCSA surplus funds to other LCSAs for unanticipated OE&E cost overages. The workgroup did not have concerns with the currently established standard OE&E percentage or have any refinement recommendations.

Call centers are often the first point of contact between child support customers and LCSAs. The funding methodology provides funds based on a call center agent taking an average number of calls annually. The child support program has nine regional call centers and 13 individual LCSA call centers.

DCSS proposed a performance incentive funding pool for the fourth year of the augmentation request totaling \$15 million. The methodology proposed establishing baseline performance levels for LCSAs based on a rolling three-year average, compared to the LCSA's most recent year's performance based on two metrics: total collections and average collections per case. Incentive funding from the pool would be distributed proportionately based on each county's past year performance improvements compared to the rolling three-year average. LCSAs receiving performance incentive funding would utilize the funding to improve performance within the LCSA which would in turn improve statewide performance measures. These metrics also help highlight any LCSAs that fail to close cases appropriately.

The workgroup noted that the new incentive methodology is greatly improved over the prior performance incentive funding model included in FC section 17706 which provided funding to the top 10 performing LCSAs. The workgroup

explored refinements to the incentive methodology including providing incentive funding based on a customer service satisfaction survey. However, there were no refinements suggested by the workgroup for the performance incentive portion of the funding methodology.

The workgroup discussed future funding adjustments for the Child Support Program including cost of living adjustments due to individual county contract negotiations as well as adjusting individual LCSA funding for caseload changes. It is noted that any adjustments to funding, particularly funding decreases for individual LCSAs, require lead time to implement to allow county processes to proceed and minimize impact to service delivery and staff. For statewide program funding, a threshold for caseload adjustments will be explored.

3.2 Casework Efficiencies through Consolidation by Income Source

In May 2019, DCSS submitted a report to the Legislature, *2019 Local Child Support Cost Efficiency Report*, that identified program cost efficiencies already implemented and planned future cost-efficient opportunities. The SB 80 Workgroup identified additional opportunities to further consolidate specific types of casework and child support collection income sources. These efforts would be accomplished by implementing a center of excellence model to consolidate specialized casework from individual LCSAs statewide to fewer LCSAs that have demonstrated measurable success (i.e., improved child support collections) in working specific case types. Center of excellence model discussions also included recommendations to shift work conducted locally to the state level.

Centralization of income source casework does not re-assign the entire child support case to another LCSA or DCSS. The assigned child support case venue (county) would remain the same, allowing the LCSA to perform regular tasks associated with case management while specific enforcement actions relative to the income source would be performed by the center of excellence. However, it should be noted that any transfers of all child support case functions may impact the staffing and funding levels of individual LCSAs by increasing or decreasing caseloads. Transferring all child support case functions is not the current practice with these actions. Finally, the financial impact and resource limitations of implementing casework efficiencies is dependent on the timing of implementation; the number of efficiencies implemented at one time; statutory, regulatory or policy parameters defining implementation requirements; and, technical changes required in the Child Support Enforcement System.

3.2.1 Supplemental Security Income/Social Security Disability Insurance

The SB 80 workgroup suggested review of enforcement in cases where the parent paying support receives Supplemental Security Income (SSI), a needs-based federal income supplement for disabled persons against which there can be no enforcement for child support. Currently, cases with only SSI income sources are automatically closed in accordance with federal regulations. Cases in which the parent paying support receives SSI and Social Security Disability Insurance (SSDI) concurrently remain open. State law limits the amount of child support collection on SSDI income where the parent also receives SSI or otherwise meets the SSI resource test to five percent of the SSDI benefit. In addition, bank levies for case participants who receive SSDI are prohibited pursuant to FC section 17450(c)(2) as interpreted by *In re Marriage of Hopkins (2009)* 173 Cal.App.4th 281. There is proposed federal regulation that would mandate closure for concurrent SSI/SSDI (or concurrent Social Security Retirement (SSR)) cases. Closure of these cases in lieu of collecting five percent of the SSDI may be more cost efficient and provide relief to low income parents, a particular area of concern for the workgroup. However, it should be noted that the custodial party, who may also be low income, will be negatively affected if these collections are discontinued. Closing cases with concurrent SSI/SSDI or SSI/SSR benefits requires state regulatory changes.

3.2.2 Qualified Domestic Relations Orders

Qualified Domestic Relations Orders (QDROs) are judicial orders utilized to secure payment for child support arrears from property, typically a retirement account, in a divorce or legal separation. QDROs can be an important collection tool for cases with child support arrears. The Order has tax benefits for paying parents as well, as there is no penalty for early withdrawal, and provides an opportunity to pay arrears in lump sum fashion, thus reducing interest paid over the life of the repayment process. In an effort to expand QDRO collections, DCSS contracted with a national QDRO expert to deliver training to LCSAs statewide. The training focused on how LCSAs may determine which cases are appropriate to apply a QDRO.

Technical revisions to FC section 17500, et seq. would permit LCSAs or DCSS to issue an administrative subpoena to employers and retirement plan administrators in addition to current authority to issue to financial institutions per Government Code section 7480. The number of participants or cases with retirement accounts cannot be estimated until the authority is in place to allow LCSAs or DCSS to subpoena employers.

3.2.3 International Cases

Establishing a center of excellence for managing international cases may increase collections. International casework requires specialized knowledge and well-developed partnerships with child support professionals in other countries. Centralizing this function would leverage existing expertise at the LCSAs with a large volume of international cases, creating efficiencies and providing better customer service to parents and international partners. In addition, centralization would allow for better case management as there is no international case management system in place at this time. There is an annual reconciliation of interstate cases organized through the Federal Office of Child Support Enforcement (OCSE). Proper international case management requires manual reconciliation and updated currency conversions.

Reconciliation with 49 different LCSAs and all international partners is not practical. Centralized case management would make this type of reconciliation possible, ensuring California and our international partners are enforcing the right orders and case balances.

There is a minor challenge to implementation in that current venue rules found at FC section 17400(n) require court action for interstate or international cases to take place in the county in which the California resident lives. While statutory authority is not required to centralize this function within larger LCSAs or at the state level, LCSAs would need to agree to have their international cases managed by another LCSA or DCSS. As of December 2019, there are approximately 1,600 international child support cases.

3.2.4 Probate Casework

Probate cases represent a very specialized area of law. The child support program utilizes information from death records or the case participant to identify if a participant is deceased, and the LCSA then takes manual locate action to determine if a probate case exists. Upon identification of a probate action, the LCSA prepares pleadings to enforce the child support order against the estate. Because of the specialization, a small number of attorneys throughout the state could be identified to handle enforcement against a probate estate under a shared services agreement. Absent an agreement to voluntarily manage probate enforcement actions for another LCSAs case, an LCSA may have to forego enforcement due to lack of this specialized knowledge, depriving children of child support collections. LCSAs would need to agree to have their probate cases managed by other LCSAs. The LCSA experts would be responsible for generating pleadings, while the LCSA in the county in which the probate action is pending would make court appearances, which is not necessarily the managing county for the case. Statutory language is not

required to implement the centralization of probate casework. The number of cases with probate estates in which to seek collections is not currently measurable.

3.2.5 Employer Lump Sum Payments

The ability to collect child support from employer lump sum payments, such as one-time bonuses, are included in all income withholding orders (IWO). To facilitate this collection, many states have laws requiring reporting to child support agencies prior to payment of bonuses or other lump sums; California law does not mandate this reporting. However, some employers voluntarily report to California through the OCSE in response to other states' laws. Currently, DCSS conducts outreach to large employers to determine if lump sum payments have been distributed. Further, DCSS conducts outreach to utilize lump sum withholding against sources such as Alaska's Permanent Fund Dividend payments. In 2019, DCSS worked with a large nationwide employer that was paying bonuses to its service providers by conducting a statewide match and collecting \$123,000 that was distributed to families. Centralizing this collection type will allow for expanded statewide partnerships with large employers and formalize the employer lump sum collection process statewide.

Statutory authority is required to mandate employer reporting of lump sum payments, aligning California with other states' reporting requirements. Based on the collection efforts to date, the amount of collections anticipated from expansion of employer lump sum payments is minimal. However, a more accurate estimate would be available upon implementation of mandatory employer reporting.

3.2.6 Unclaimed Property

In 2019, DCSS centralized the unclaimed property process from individual LCSAs to DCSS for unclaimed property valued over \$10. The purpose of this centralization was to eliminate claim duplication and assist the State Controller's Office (SCO) to maximize resources. Since initiating this effort, DCSS has received three separate payments in the amounts of \$19,339 (for properties valued over \$500), \$24,855 (for properties valued from \$100-\$500) and \$6,311 (for properties valued from \$10-\$99.99). After conducting an unclaimed property statewide match with the SCO, DCSS must file a personal property lien in order to make a claim on the unclaimed property. Previously, LCSAs performed a manual case-by-case look-up to match unclaimed property with case participants. This process is now automated and conducted consistently statewide, resulting in the collections stated above. DCSS and SCO are currently negotiating the terms of the next property match file to child support obligors owing arrears. Once the

match is completed, all delinquent obligors owning unclaimed property will be included.

Statutory authority is not required to continue unclaimed property match efforts. Based on the collection efforts to date, the amount of collections anticipated from expansion of employer lump sum payments is minimal.

3.2.7 Additional Efficiencies

3.2.7.1 Child Support Arrears

LCSAs have begun analyzing arrears case data through data analytics software. The data analytics tool will assist LCSAs with identifying cases where arrears repayment rates are very low in relation to the overall arrears balance and/or current income. By identifying this information, LCSAs can take appropriate action to petition the court for a repayment order or attempt to negotiate with the paying parent. In addition to the data analytics tool and in partnership with the LCSAs, DCSS added an arrears repayment calculator to the public website which helps educate paying parents on how long it will take to pay their arrears balance. It also helps identify how much interest they will pay through the life of that repayment period. Since that time, LCSAs have reported an increase in agreements to set arrears repayment rates.

Federal regulations provide states the authority to close cases when there are only state assigned arrears or when state law deems the arrears balance as unenforceable. The SFY 2020-21 Governor's Budget proposes statutory changes that develop a framework for an LCSA or the Department to determine some child support arrearages are uncollectible, based on individual case facts.

3.2.7.2 Standardize Service Delivery Statewide

DCSS previously explored procuring statewide process serving of child support documents. However, the research conducted determined there was no ability to have one vendor deliver the services statewide in a cost-effective manner. DCSS also explored regionalized procurement of process serving; however, the lack of vendors geographically impacted the potential cost savings.

3.2.7.3 Statewide Text Messaging

The workgroup discussed other automation methods for providing customer service in addition to call centers, such as text messaging, video conferencing, and online chat. DCSS recently entered into a statewide texting contract that allows LCSAs to communicate with customers via texting technology. DCSS will monitor call center volumes relative to text messaging implementation for

impacts to the call center budget. DCSS continues to explore automated service delivery enhancements for its customers.

3.2.7.4 Real Property Liens

Federal law requires states have in place procedures under which liens against real property arise by operation of law, for amounts of overdue support owed by a parent. In California, this is accomplished through regulations, which require LCSAs to record real property liens within 45 days of establishing a child support obligation or opening a case with an existing obligation. The regulations require a real property lien in all cases, not limited to cases with overdue support.

The current regulations and implementation of those regulations over-enforce on cases where there is no overdue support. While real property liens are recorded without fee by governmental entities like LCSAs, there is a fee to release the liens: \$20 (as of January 1, 2020) if recorded by the LCSA, or standard recording fees plus notarization (\$20 plus \$3 per page) and a \$75 fee assessed under SB 2 (Stats. 2016) if recorded by the parent ordered to pay support.

There are multiple potential efficiencies available with regard to real property liens. DCSS may wish to amend its regulations to restrict lien recording to those cases with overdue support that is greater than a reasonable threshold; DCSS should review other states' child support laws for guidance as to setting a threshold. Recording fewer liens would lead to fewer liens that eventually need to be released upon case closure, which would reduce cost for enforcement actions.

3.2.7.5 Driver's License Suspension

FC section 17520 authorizes the suspension of various types of licensures when there is a delinquency in court-ordered payments of 30 days or more, including suspension of driver licenses for delinquent child support payments. DCSS provides a list of delinquent accounts to state licensing agencies. The licensing agency notifies the participant of the suspension within required timeframes. To release the child support hold on the license, the case participant must work with the LCSA caseworker to resolve the delinquency at which time the licensing agency is notified that the delinquency has been resolved. The licensing agency is then responsible for releasing the suspension.

The SB 80 Workgroup discussed the need to ensure uniform interpretation of FC section 17520 among the LCSAs, relax the threshold when child support cases should be reported for license suspension, and allow for the release of license

holds when case participants pay as part of the delinquency resolution process. These changes require legislation to implement.

3.2.7.6 Interest Rate Reduction

The ability to reduce or eliminate charging interest on child support payments that are in arrears was also discussed by the workgroup. While there is no federal requirement to charge interest on the arrears balance, California enacted Code of Civil Procedure 685.010 which established a 10 percent interest rate on all judgement arrears balances, including child support arrears balances. The intent of the interest rate was to encourage timely payments; however, the accumulation of late payment debt compounded by the 10 percent interest rate makes it difficult for many case participants to make progress toward becoming current with their child support obligation. Options to reduce the impact of the current interest rate were discussed including: review of the COAP process for ability to reduce debt and modify payments for greater collectability, not charging interest for COAP participants, and eliminating the interest rate requirement for all child support cases. The estimated impact of interest rate adjustments would be dependent on the final adjusted rate and the debt it is applied to.

3.2.7.7 Compromise of Arrears Program

COAP offers debt forgiveness for case participants with government owed child support arrears. If a case participant qualifies for the program, they may work with an LCSA caseworker to determine if there is an agreeable amount in which the paying parent may pay to eliminate the child support arrears balance owed to the state. This program does not currently forgive debt owed to the custodial parent.

The workgroup discussed utilizing COAP as an incentive for increased compliance with child support obligations. By forgiving debt, paying parents can focus on staying current with their remaining child support obligation. There are opportunities for greater statewide standardization of the program across all LCSAs. DCSS, in collaboration with LCSA volunteers, have conducted sprints to evaluate the process and identify potential program improvements.

3.2.7.8 Child Support Court Recommendations

Federal law requires states to have in place a statewide, uniform formula to determine presumptive guideline support. Additionally, this formula must be reviewed every four years. In California, the responsibility to conduct this quadrennial review lies with the Judicial Council of California (JCC). DCSS worked with JCC on the latest Guideline Study Report, submitted to the

Legislature in January 2018. In summer 2019, DCSS and JCC conducted a workgroup to review the recommendations of this report. While DCSS presented these recommendations to the SB 80 Workgroup, the workgroup did not discuss them in detail as they are the subject of separate efforts.

The workgroup discussed venue requirements under FC section 17400(n), which generally maintain that venue for support in actions initiated by LCSAs are in the county in which the children and custodial party reside. Some suggest that the statutes need more flexibility to permit court action where the parent ordered to pay support resides. For example, if a parent is paying support in multiple court actions and seeks modification, if venue followed them, this could be accomplished more readily, and may make enforcement proceedings more efficient and effective. Statutory change is necessary to alter the default for venue.

LCSAs find that parents are more engaged with their support orders if they are established by stipulation. Today, stipulations are signed exclusively in paper, and not electronically. Utilizing electronic signature software would help LCSAs engage with parents and establish or modify orders in an efficient way. As of January 1, 2020, LCSAs and others will be able to e-file stipulations that are signed electronically. Paper filing of electronically signed stipulations, which would be beneficial for courts without modern court e-file capacity, requires statutory change. In the absence of such legislative change, funding to assist courts in obtaining modern court case management systems that support e-filing would improve access to justice and create efficiencies.

One issue not addressed in the current methodology is the Electronic Data Processing (EDP) funding which supports LCSA information technology services and equipment. DCSS has convened a workgroup with the LCSAs to discuss EDP funding recommendations.

4 CONCLUSION

DCSS continually explores options to implement efficiencies and improvements for both program operations and customer service. Implementation of the recommendations contained in this report would benefit case participants with both ongoing and one-time child support payments. Some of the efficiencies discussed by the workgroup, such as centralization of casework, are expected to yield marginal efficiencies and, if necessary, the funding formula may need to be adjusted accordingly. However, DCSS does not anticipate any major methodology adjustments. DCSS is committed to continue engaging in discussion regarding various policy options in support of the child support program.

5 APPENDIX A-SB 80 Meeting Participants

Alan Michael Graves	Good Foundation-Fatherhood Initiative
Alexis Ramirez	Department of Child Support Services
Anna Maves	Center for Families, Children & the Courts
Anne Stuhldreher	Financial Justice Project
Avi Levy	Association of Certified Family Law Specialists
Baljit Atwal	Stanislaus Child Support Services
Carlos Aguilera	Department of Finance
Cathy Senderling	County Welfare Directors Association
Chas Alamo	Legislative Analyst's Office
Christa Brown	Financial Justice Project
Cindy Vatalaro	Department of Social Services
David Kilgore	Department of Child Support Services
George Chance	Department of Child Support Services
Ginni Bella-Navarre	Legislative Analyst's Office
Greg Wilson	Child Support Directors Association
Irene Briggs	Department of Child Support Services
Jackie Barocio	Legislative Analyst's Office
Jamie Austin	Tipping Point Community
Janissa Boesch	Department of Child Support Services
Jennifer Younger	Department of Child Support Services
Jessica Bartholow	Western Center on Law and Poverty
Jigna Shah	Department of Social Services
Justin Garrett	California State Association of Counties
Karen Roye	San Francisco Child Support Services
Kevin Aslanian	Coalition of Welfare Rights
Kim Johnson	Department of Social Services
Kristen Donadee	Department of Child Support Services
Lesley Bell	Department of Child Support Services
Lori Cruz	San Joaquin Child Support Services
Luan Huynh	California State Senate
Mark Beckley	Department of Child Support Services
Mary Ann Miller	Department of Child Support Services
Mathew Macy	Department of Child Support Services
Nan Chen	Department of Child Support Services
Natalie Dillon	Yolo Child Support Services
Nicole Vazquez	California State Assembly
Phyllis Nance	Alameda Child Support Services
Renita Polk	California State Senate