

California Compliance with the Federal Mandate ([USC 42 654 20](#))

Jim Untersshine, GZS of LB, 02-26-04

The following laws apply to parents and employers who are forced to pay child support

Page Milestone Description

Establish Paternity - Parent

7 [USC 42 666 a5Ci](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.a_5_C
11 [CAFC 17400 a](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=17001-18000&file=17400-17434>

Order Child Support - Parent

2 [USC 15 1672](#) - <http://www4.law.cornell.edu/uscode/15/1672.html>
2 [USC 15 1673](#) - <http://www4.law.cornell.edu/uscode/15/1673.html>
7 [USC 42 666 a9](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.a_9
9 [CAFC 4055](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=04001-05000&file=4050-4076>

Order Wage Withholding - Employer

7 [USC 42 666 a8A](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.a_8
11 [CAFC 5246 c](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=05001-06000&file=5230-5247>

Enforce Wage Withholding Order - Employer

8 [USC 42 666 b6Dii](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.b_6_d
10 [CAFC 5241 c](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=05001-06000&file=5230-5247>

Enforce Non-Discrimination - Employer

8 [USC 42 666 b6Di](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.b_6_d
11 [CAFC 5290](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=05001-06000&file=5290>

Charge Interest on Child Support Debt - Parent

2 [USC 42 654 21](#) - http://www4.law.cornell.edu/uscode/42/654.html#654.0_21
8 [CACP 685.010](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=ccp&group=00001-01000&file=685.010-685.110>

Intercept Tax Refunds to Pay Child Support Debt - Parent

7 [USC 42 664 a1](#) - http://www4.law.cornell.edu/uscode/42/664.html#664.a_1
11 [CAFC 17500 c](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=17001-18000&file=17500-17560>

Suspend Licenses to Pay Child Support Debt - Parent

7 [USC 42 666 a16](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.a_16
11 [CAFC 17520 e3A](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=17001-18000&file=17500-17560>

Lien Property to Pay Child Support Debt - Parent

7 [USC 42 666 a4](#) - http://www4.law.cornell.edu/uscode/42/666.html#666.a_4
11 [CAFC 17522 a](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=17001-18000&file=17500-17560>

Distribute Money to Pay US Taxpayer Debt - Taxpayers

2 [USC 42 657](#) - <http://www4.law.cornell.edu/uscode/42/657.html>
8 [USC 42 1396 d](#) - <http://www4.law.cornell.edu/uscode/42/1396d.html#1396d.b>

Keep Incentives to Pay State Taxpayer Debt - Taxpayers

4 [USC 42 658a](#) - <http://www4.law.cornell.edu/uscode/42/658a.html>

Incarcerate to Pay Child Support Debt - Parent

7 [CAPC 166](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=142-181>
8 [CAPC 270](#) - <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=270-273.75>

USC 15 1672. - Definitions

For the purposes of this subchapter:

- (a) The term "**earnings**" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.
- (b) The term "**disposable earnings**" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.
- (c) The term "**garnishment**" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt

USC 15 1673 - Restriction on garnishment

(a) Maximum allowable garnishment

Except as provided in subsection (b) of this section and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

- (1) **25 per centum** of his disposable earnings for that week, or
- (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of title 29 in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b) Exceptions

- (1) The restrictions of subsection (a) of this section do not apply in the case of
 - (A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.
 - (B) any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11.
 - (C) any debt due for any State or Federal tax.
- (2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed -
 - (A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), **50 per centum** of such individual's disposable earnings for that week; and
 - (B) where such individual is not supporting such a spouse or dependent child described in clause (A), **60 per centum** of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be **55 per centum** and the 60 per centum specified in clause (B) shall be deemed to be **65 per centum**, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.
- (c) Execution or enforcement of garnishment order or process prohibited
No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

USC 42 654 - State plan for child and spousal support

A State plan for child and spousal support must -

(20) provide, to the extent required by section 666 of this title, that the State

- (A) shall **have in effect all of the laws** to improve child support enforcement effectiveness which are referred to in that section, and
- (B) shall **implement the procedures** which are prescribed in or pursuant to such laws;

(21)

- (A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 666(e) of this title) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than **6 percent**) of the overdue support, which shall be payable by the noncustodial parent owing the overdue support; and
- (B) assure that the fee will be collected in addition to, and only **after full payment of, the overdue support**, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed;

USC 42 657 - Distribution of collected support (Release date: 12-27-05)

(a) In general

Subject to subsections (d) and (e) of this section, an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

(1) **Families receiving assistance**

In the case of a family receiving assistance from the State, the State shall—

- (A) pay to the Federal Government the Federal share of the amount so collected; and
- (B) retain, or distribute to the family, the State share of the amount so collected.

In no event shall the total of the amounts paid to the Federal Government and retained by the State exceed the total of the amounts that have been paid to the family as assistance by the State.

(2) **Families that formerly received assistance**

In the case of a family that formerly received assistance from the State:

- (A) Current support payments

To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

- (B) Payments of arrearages

To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

(i) Distribution of arrearages that accrued after the family ceased to receive assistance

(I) Pre-October 1997 Except as provided in subclause (II), the provisions of this section as in effect and applied on the day before August 22, 1996 (other than subsection (b)(1) (as so in effect)), shall apply with respect to the distribution of support arrearages that—

(aa) accrued after the family ceased to receive assistance, and

(bb) are collected before October 1, 1997.

(II) Post-September 1997 With respect to the amount so collected on or after October 1, 1997 (or before such date, at the option of the State)—

(aa) In general The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

(bb) Reimbursement of governments for assistance provided to the family After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2) of this section) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

(cc) Distribution of the remainder to the family To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

(ii) Distribution of arrearages that accrued before the family received assistance

(I) Pre-October 2000 Except as provided in subclause (II), the provisions of this section as in effect and applied on the day before August 22, 1996 (other than subsection (b)(1) (as so in effect)), shall apply with respect to the distribution of support arrearages that—

(aa) accrued before the family received assistance, and

(bb) are collected before October 1, 2000.

(II) Post-September 2000 Unless, based on the report required by paragraph (5), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000 (or before such date, at the option of the State)—

(aa) In general The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued before the family received assistance from the State.

(bb) Reimbursement of governments for assistance provided to the family After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2) of this section) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

(cc) Distribution of the remainder to the family To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

(iii) Distribution of arrearages that accrued while the family received assistance In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

(iv) Amounts collected pursuant to section 664 Notwithstanding any other provision of this section, any amount of support collected pursuant to section 664 of this title shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 664 of this title exceeds the amount so retained, the State shall distribute the excess to the family.

(v) Ordering rules for distributions For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 664 of this title, as accruing in the following order:

(I) To the period after the family ceased to receive assistance.

(II) To the period before the family received assistance.

(III) To the period while the family was receiving assistance.

(3) Families that never received assistance

In the case of any other family, the State shall distribute the amount so collected to the family.

(4) Families under certain agreements

In the case of an amount collected for a family in accordance with a cooperative agreement under section 654 (33) of this title, distribute the amount so collected pursuant to the terms of the agreement.

(5) Study and report

Not later than October 1, 1999, the Secretary shall report to the Congress the Secretary's findings with respect to—

(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

(6) State option for applicability

Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before August 22, 1996, other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.

(b) Continuation of assignments

Any rights to support obligations, assigned to a State as a condition of receiving assistance from the State under part A of this subchapter and in effect on September 30, 1997 (or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date.

(c) Definitions

As used in subsection (a) of this section:

(1) Assistance

The term "assistance from the State" means—

(A) assistance under the State program funded under part A of this subchapter or under the State plan approved under part A of this subchapter (as in effect on the day before August 22, 1996); and

(B) foster care maintenance payments under the State plan approved under part E of this subchapter.

(2) Federal share

The term "Federal share" means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is distributed.

(3) Federal medical assistance percentage

The term "Federal medical assistance percentage" means—

(A) 75 percent, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

(B) the Federal medical assistance percentage (as defined in section [1396d \(b\)](#) of this title, as such section was in effect on September 30, 1995) in the case of any other State.

(4) State share

The term "State share" means 100 percent minus the Federal share.

(d) Gap payments not subject to distribution under this section

At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section [602 \(a\)\(28\)](#) of this title, as in effect and applied on the day before August 22, 1996.

(e) Amounts collected for child for whom foster care maintenance payments are made

Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E of this subchapter—

(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of assistance under the State program funded under part A of this subchapter) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).

USC 42. 658a. - Incentive payments to States

(a) In general

In addition to any other payment under this part, the Secretary shall, subject to subsection (f) of this section, make an incentive payment to each State for each fiscal year in an amount determined under subsection (b) of this section.

(b) Amount of incentive payment

(1) In general

The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

(2) Incentive payment pool

(A) In general

In paragraph (1), the term "incentive payment pool" means -

(i) \$422,000,000 for fiscal year 2000;

(ii) \$429,000,000 for fiscal year 2001;

(iii) \$450,000,000 for fiscal year 2002;

(iv) \$461,000,000 for fiscal year 2003;

(v) \$454,000,000 for fiscal year 2004;

(vi) \$446,000,000 for fiscal year 2005;

(vii) \$458,000,000 for fiscal year 2006;

(viii) \$471,000,000 for fiscal year 2007;

(ix) \$483,000,000 for fiscal year 2008; and

(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the second preceding fiscal year.

(B) CPI

For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term "Consumer Price Index" means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(3) State incentive payment share

In paragraph (1), the term "State incentive payment share" means, with respect to a fiscal year -

- (A) the incentive base amount for the State for the fiscal year; divided by
- (B) the sum of the incentive base amounts for all of the States for the fiscal year.

(4) Incentive base amount

In paragraph (3), the term "incentive base amount" means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

- (A) The paternity establishment performance level.
- (B) The support order performance level.
- (C) The current payment performance level.
- (D) The arrearage payment performance level.
- (E) The cost-effectiveness performance level.

(5) Maximum incentive base amount

(A) In general

For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is -

- (i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and
- (ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

(B) Data required to be complete and reliable

Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 652(a)(4)(C)(i) of this title, that the data which the State submitted pursuant to section 654(15)(B) of this title for the fiscal year and which is used to determine the performance level involved is complete and reliable.

(C) State collections base

For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of -

- (i) 2 times the sum of -
 - (I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this subchapter or subchapter XIX of this chapter; and
 - (II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and
- (ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

(6) Determination of applicable percentages based on performance levels

(A) Paternity establishment

(i) Determination of paternity establishment performance level

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV-D paternity establishment percentage determined under section 652(g)(2)(A) of this title or the statewide paternity establishment percentage determined under section 652(g)(2)(B) of this title.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's paternity establishment performance level is as follows:

a% = Paternity establishment	
a% < 50%	APa = 0
50% < a% < 70%	APa = a%*100 + 10
a% > 70%	APa = a%*200 - 60

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

(B) Establishment of child support orders

(i) Determination of support order performance level

The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's support order performance level is as follows:

b% = Establishment of child support orders	
b% < 50%	APb = 0
50% < b% < 70%	APb = b%*100 + 10
b% > 70%	APb = b%*200 - 60

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

(C) Collections on current child support due

(i) Determination of current payment performance level

The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's current payment performance level is as follows

c% = Collections on current child support due

c% < 40% APc = 0

40% < c% < 70% APc = c%*100 + 10

c% > 70% APc = c%*200 - 60

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

(D) Collections on child support arrearages

(i) Determination of arrearage payment performance level

The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's arrearage payment performance level is as follows:

(b6D) Collections on child support arrearages (d%)

d% < 40% APd = 0

40% < d% < 70% APd = d%*100 + 10

d% > 70% APd = d%*200 - 60

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

(E) Cost-effectiveness

(i) Determination of cost-effectiveness performance level

The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

e = Cost-effectiveness

e < 2 APe = 0

e > 2 APe = e*20

(c) Treatment of interstate collections

In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 655(e) of this title shall be excluded.

(d) Administrative provisions

The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at/or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

(f) Reinvestment

A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State -

(1) to carry out the State plan approved under this part; or

(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part

USC 42 664 - Collection of past-due support from Federal tax refunds

(a) Procedures applicable; distribution

(1) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support which has been assigned to such State pursuant to section 608(a)(3) or section 671(a)(17) of this title, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, shall concurrently send notice to such individual that the withholding has been made (including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund), and shall pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 657 of this title. This subsection may be executed by the disbursing official of the Department of the Treasury.

USC 42 666 - Requirement Of Statutorily Prescribed Procedures To Improve Effectiveness Of Child Support Enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

(4) Liens. - Procedures under which -

(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.

(5) Procedures concerning paternity establishment.

(C) Voluntary paternity acknowledgment.

(i) Simple civil process. - Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally, or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

(6) Procedures which require that a noncustodial parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such noncustodial parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

(8)

(A) Procedures under which all child support orders not described in subparagraph (B) will include provision for withholding from income, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.

(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements:

(i) The income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such income shall not be subject to withholding under this clause in any case where

(I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or

(II) a written agreement is reached between both parties which provides for an alternative arrangement.

(ii) The requirements of subsection (b)(1) of this section (which shall apply in the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).

(iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b) of this section, where applicable.

(iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State.

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due) -

(A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,

(B) entitled as a judgment to full faith and credit in such State and in any other State, and

(C) not subject to retroactive modification by such State or by any other State; except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

(16) Authority to withhold or suspend licenses. -

Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(b) Withholding from income of amounts payable as support

The procedures referred to in subsection (a)(1)(A) of this section (relating to the withholding from income of amounts payable as support) must provide for the following:

- (6)
- (D) Provision must be made for the imposition of a fine against any employer who -
- (i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or
 - (ii) fails to withhold support from income or to pay such amounts to the State disbursement unit in accordance with this subsection.
- (7) Support collection under this subsection must be given priority over any other legal process under State law against the same income.

USC 42 1396d. Definitions

- (b) Federal medical assistance percentage; State percentage; Indian health care percentage
- Subject to section 1396u-3(d) of this title, the term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that
- (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum,
 - (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum, and
 - (3) for purposes of this subchapter and subchapter XXI of this chapter, the Federal medical assistance percentage for the District of Columbia shall be 70 percent.
- The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1301(a)(8)(B) of this title.

CACP 685.010.

- (a) Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied.
- (b) The Legislature reserves the right to change the rate of interest provided in subdivision (a) at any time to a rate of less than 10 percent per annum, regardless of the date of entry of the judgment or the date any obligation upon which the judgment is based was incurred. A change in the rate of interest may be made applicable only to the interest that accrues after the operative date of the statute that changes the rate.

CACP 1218

- (a) Upon the answer and evidence taken, the court or judge shall determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he or she is guilty of the contempt, a fine may be imposed on him or her not exceeding one thousand dollars (\$1,000), or he or she may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs incurred by this party in connection with the contempt proceeding.

CACP 1218.5

- (a) If the contempt alleged is for failure to pay child, family, or spousal support, each month for which payment has not been made in full may be alleged as a separate count of contempt and punishment imposed for each count proven.
- (b) If the contempt alleged is the failure to pay child, family, or spousal support, the period of limitations for commencing a contempt action is three years from the date that the payment was due. If the action before the court is enforcement of another order under the Family Code, the period of limitations for commencing a contempt action is two years from the time that the alleged contempt occurred.

CAPC 166.5.

- (a) After arrest and before plea or trial or after conviction or plea of guilty and before sentence under paragraph (4) of subdivision (a) of Section 166, for willful disobedience of any order for child, spousal, or family support issued pursuant to Division 9 (commencing with Section 3500) of the Family Code or Section 11475.1 of the Welfare and Institutions Code, the court may suspend proceedings or sentence therein if:
- (1) The defendant appears before the court and affirms his or her obligation to pay to the person having custody of the child, or the spouse, that sum per month as shall have been previously fixed by the court in order to provide for the minor child or the spouse.
 - (2) The defendant provides a bond or other undertaking with sufficient sureties to the people of the State of California in a sum as the court may fix to secure the defendant's performance of his or her support obligations and that bond or undertaking is valid and binding for two years, or any lesser time that the court shall fix.
- Upon the failure of the defendant to comply with the conditions imposed by the court in subdivision (a), the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in the action or why sentence should not be imposed, whereupon the court may proceed with the action, or pass sentence, or for good cause shown may modify the order and take a new bond or undertaking and further suspend proceedings or sentence for a like period.

CAPC 270. Criminal Nonsupport

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter,

medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so. Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

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

- (a) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.
- (b) Both parents are mutually responsible for the support of their children.
- (c) The guideline takes into account each parent's actual income and level of responsibility for the children.
- (d) Each parent should pay for the support of the children according to his or her ability.
- (e) **The guideline seeks to place the interests of children as the state's top priority.**
- (f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.
- (g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.
- (h) The financial needs of the children should be met through private financial resources as much as possible.
- (i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.
- (j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.
- (k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.
- (l) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

CAFC 4054.

- (a) **The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.**
- (b) The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.
- (c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.
- (d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:
 - (1) The treatment of the income of a subsequent spouse or nonmarital partner.
 - (2) The treatment of children from prior or subsequent relationships.
 - (3) The application of the guideline in a case where a payor parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.
 - (4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.
 - (5) Whether the use of gross or net income in the guideline is preferable.
 - (6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.
 - (7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.
- (e) The initial review by the Judicial Council shall be submitted to the Legislature and to the State Department of Social Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.
- (f) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:
 - (1) Custodial and noncustodial parents.
 - (2) Representatives of established women's rights and fathers' rights groups.
 - (3) Representatives of established organizations that advocate for the economic well-being of children.
 - (4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the State Department of Social Services.
 - (5) Certified family law specialists.
 - (6) Academicians specializing in family law.
 - (7) Persons representing low-income parents.
 - (8) Persons representing recipients of assistance under the Aid to Families with Dependent Children (AFDC) program seeking child support services.
- (g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

CAFC 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 $0.20 + TN/16,000$
\$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 above 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 dollars (\$1,000), the court shall rule on whether a low-income adjustment shall be made. The ruling shall be based on the facts presented to the court, the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. Where the court has ruled that a low-income adjustment shall be made, the child support amount otherwise determined under this section shall be reduced 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 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000. If a low-income adjustment is allowed, the court shall state the reasons supporting the adjustment in writing or on the record and shall document the amount of the adjustment and the underlying facts and circumstances.
 - (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).

CAFC 5241.

- (c) In addition to any other penalty or liability provided by law, **willful failure by an employer to comply with an assignment order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.**

CAFC 5246

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

CAFC 5290. No employer shall use an assignment order authorized by this chapter as grounds for refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this section **may be assessed a civil penalty of a maximum of five hundred dollars (\$500).**

CAFC 17400 a Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support **agency shall take appropriate action, including criminal action in cooperation with the district attorneys**, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

CAFC 17500 c Except as provided in paragraph (3) of subdivision (e) of Section 19271 of the Revenue and Taxation Code, the local child support agency **shall transfer child support delinquencies to the Franchise Tax Board for collection purposes** in the form and manner and at the time prescribed by the Franchise Tax Board. Collection shall be made by the Franchise Tax Board in accordance with Section 19271 of the Revenue and Taxation Code.

CAFC 17505 a All state, county, and local agencies shall cooperate with the local child support agency

- (1) in the **enforcement of any child support obligation** or to the extent required under the state plan under Chapter 6 (commencing with Section 4900) of Part 5 of Division 9, **Section 270 of the Penal Code**, and Section 17604, and
- (2) the **enforcement of spousal support orders** and in the location of parents or putative parents. The local child support agency may enter into an agreement with and **shall secure from a municipal, county, or state law enforcement agency, pursuant to that agreement, state summary criminal record information through the California Law Enforcement Telecommunications System.** This subdivision applies irrespective of whether the children are or are not receiving aid to families with dependent children. All state, county, and local agencies shall cooperate with the district attorney in implementing Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 concerning the location, seizure, and recovery of abducted, concealed, or detained minor children.

CAFC 17520 e3A The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, **the licenses of these obligors shall be subject to suspension**, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

CAFC 17522 a Notwithstanding any other law, if any support obligor is delinquent in the payment of support for at least 30 days and the local child support agency is enforcing the support obligation pursuant to Section 17400, the local child support agency **may collect the delinquency or enforce any lien by levy** served on all persons having in their possession, or who will have in their possession or under their control, any credits or personal property belonging to the delinquent support obligor, or who owe any debt to the obligor at the time they receive the notice of levy.