



**Welcome to the 27<sup>th</sup> Annual  
AB 1058 Child Support  
Training Conference**

# Legislative Update

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August 30, 2023



# Overview

- Background on current legislative session
- Child support legislation moving in 2023 session
  - AB 1148
  - AB 1324
  - SB 343/AB 1755
- Other family law legislation moving in 2023 session
- Update on remote proceedings legislation



# 2023 Legislative Session/Calendar

- First year of the two-year 2023-24 Session
- Legislative session ends on September 14<sup>th</sup>
- Governor has until October 14<sup>th</sup> to take action
- Appropriations Committees meet on 9/1 to act on Suspense files
- September 8<sup>th</sup> is the last day to amend bills on the Floor



# AB 1148 (Bonta) Child support suspension

- Amends Family Code section 4007.5
- Suspends order until 1<sup>st</sup> day of 10<sup>th</sup> month after release
- Requires DCSS to notify custodial parent and LCSA of (1) date of release, and (2) date support resumes
- Provides for reinstatement of order if obligor obtains employment
- Requires DCSS to notify CP of right to seek reinstatement



# AB 1324 (Bryan) Child welfare

Requires DCSS to:

1. Identify all referrals of child welfare or foster care related cases;
2. Direct the LCSA to cease enforcement of arrearages to the state to reimburse foster care costs; and
3. Seek modification when necessary to eliminate ongoing obligations and cancel arrears and interest owed to the state.



# Bills Implementing Federal Final Rule (SB 343 and AB 1755)

- Background on developing legislative proposal
- Overview of key provisions of bills
  - Note that bills are currently identical
- Changes to law will be covered in more depth in conference workshop
  - *Establishing Child Support Orders After SB 343/AB 1755*  
Thursday, August 31<sup>st</sup> at 8:30 am



# Background

- Final Rule promulgated at end of 2016
- California law needs to be in compliance by September 1, 2024
- Legislation enacted last year directed Judicial Council and DCSS to meet and confer and submit reports to the legislature on changes needed to comply with the Final Rule
- JC Issued its report in October 2022





# SB 343 (Skinner)/AB 1755 (Judiciary Committee) Overview

- Repeals Fam Code sections 3620 to 3634 (expedited child support) as inconsistent with Final Rule
- Revises Guideline and LIA
- Eliminates use of presumed income
- Specifies new procedures for LCSA filings when proposed support order is based on earning capacity



# Changes to Guideline/Calculations

- Take effect on September 1, 2024
- Adjusts the income bands and reduces the K factor for incomes under \$5000
- Makes the LIA presumptively applicable to any income below full-time minimum wage
- In addition, allows court to deviate from guideline if LIA applies and order is more than 50 percent of net income to ensure no more than 50 percent



Total Net Disposable Income Per Month	K
\$0–2,900	$0.165 + TN/82,857$
\$2,901–5,000	$0.131 + TN/42,149$
\$5,001–10,000	0.250
\$10,001–15,000	$0.10 + 1,499/TN$
Over \$15,000	$0.12 + 1,200/TN$



# Other changes impacting all child support cases (9/1/2024)

- Adds to FC 4057 a new subdivision allowing the court when aware of multiple cases to “take steps to determine how to allocate the parent’s income and support obligation appropriately across the cases.”
- Adds to FC 4058 AGI: severance pay, non-need based veterans benefits, and military allowances for housing and food
- Requires court to consider earning capacity if AGI unknown



# Child care/health care (FC 4063)

- Unless court determines otherwise expenses split in proportion to parents' income
- Excludes childcare costs already included in guideline calculation
- Allows 90 days to provide an itemized statement of costs
- Creates a rebuttable presumption that actual costs are reasonable with exceptions
- Revises considerations for court in ruling on these costs



# Changes to IV-D Cases

- Changes become effective January 1, 2026
- Eliminates presumed income & requires LCSA to base proposed order on actual income or earning capacity
- If earning capacity is basis, LCSA must:
  - include all steps taken to determine actual income in complaint, and
  - file a motion for judgment to allow court to review and allow both parents to participate even if no response



# Title IV-D Default Related Changes

- If complaint is based on earning capacity rather than actual income:
  - allows court to order guideline support if less than LCSA proposed order; and
  - requires LCSA to review annually for evidence of actual income or earning capacity and file modification if evidence supports
  - duty to review ends if modification is entered



# Set aside related changes

- Available if presumed income or earning capacity
- Standard is that income was “substantially different”
  - Defined to be income that results in an order that is 10 percent or more off from guideline
- Set aside period is two years from first collection – LCSA must notify obligor and obligee at commencement
- LCSA has duty to investigate set aside eligibility after collection and file modification if eligible





# Other Family Law Legislation

- SB 331 (Rubio): Revises FC 3190 and requires additional topics to be covered in domestic violence training
- SB 459 (Rubio): Requires JC to make modification forms for DVPA orders
- SB 599 (Caballero): Revises considerations for the court when ordering visitation; requires that stipulated child custody orders be in the best interest of the child
- AB 957 (Wilson): Amends FC 3011 to provide that a parent's affirmation of a child's gender identity is part of health, safety, and welfare



# SB 133 – Remote Proceedings

- Budget Trailer Bill for Courts
- Extends authority to conduct civil remote proceedings until January 1, 2026
- Provisions in Code of Civil Procedure section 367.75 are largely unchanged except for the exclusion of certain civil cases implicating liberty interests
  - These cases include civil contempt proceedings under CCP 1209 et seq



# Questions?

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