


Paralegal Roundtable

20th Annual AB 1058 Child Support
Training Conference
August 29-September 1, 2016
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2015 Child Support and Family Law Legislative Enactments

- Child support and family law were again big topics for state legislatures during the 2015 legislative session. With about 700 bills up for consideration, 48 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands enacted more than 160 bills addressing various issues, including child support prevention, custody and visitation, economic stability, enforcement, family violence collaboration, fatherhood engagement, guidelines, health care coverage, healthy family relationships, implementation and administration, and other topics including parentage and family law.
- For a more detailed summary of the 2015 Child Support and Family Law Enacted Legislation.



SB 79

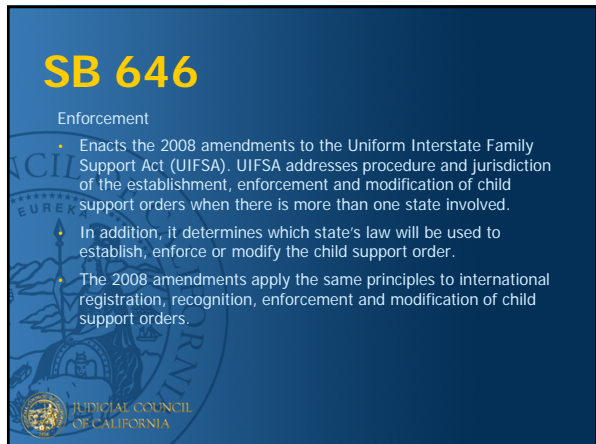
- Implementation/Administration
- Existing law provides that the 10 counties with the best performance child support collection standards shall receive an additional 5 percent of the state's share of those counties' collections that are used to reduce or repay aid that is paid under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires these additional funds received by a county to be used for specified child support-related activities. Existing law suspends the payment of this additional 5 percent for the 2002-03 to 2014-15 fiscal years, inclusive.
- This bill extends the suspension of the additional 5 percent payments through the 2016-17 fiscal year.



SB 646

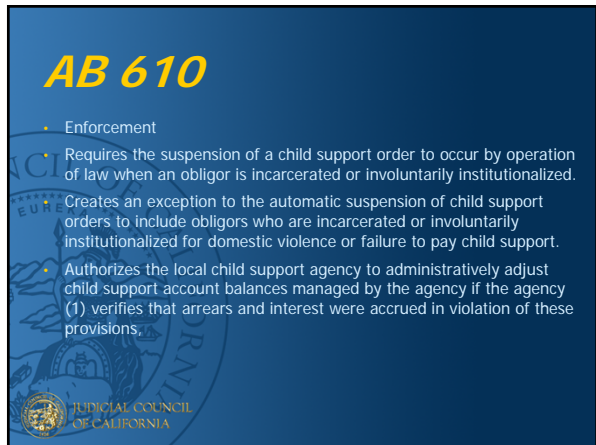
Enforcement

- Enacts the 2008 amendments to the Uniform Interstate Family Support Act (UIFSA). UIFSA addresses procedure and jurisdiction of the establishment, enforcement and modification of child support orders when there is more than one state involved.
- In addition, it determines which state's law will be used to establish, enforce or modify the child support order.
- The 2008 amendments apply the same principles to international registration, recognition, enforcement and modification of child support orders.



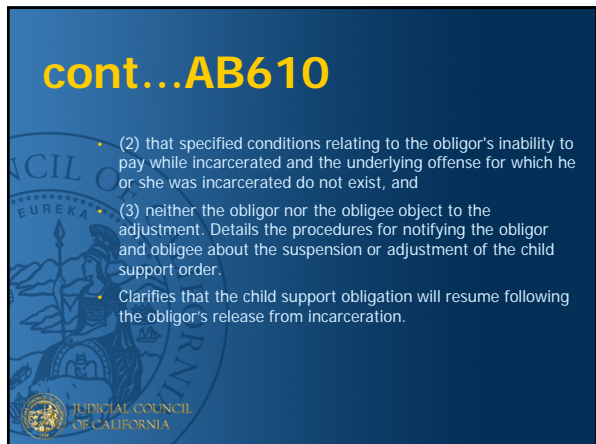
AB 610

- Enforcement
- Requires the suspension of a child support order to occur by operation of law when an obligor is incarcerated or involuntarily institutionalized.
- Creates an exception to the automatic suspension of child support orders to include obligors who are incarcerated or involuntarily institutionalized for domestic violence or failure to pay child support.
- Authorizes the local child support agency to administratively adjust child support account balances managed by the agency if the agency (1) verifies that arrears and interest were accrued in violation of these provisions,



cont...AB610

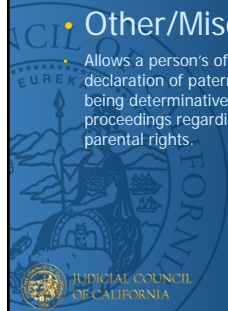
- (2) that specified conditions relating to the obligor's inability to pay while incarcerated and the underlying offense for which he or she was incarcerated do not exist, and
- (3) neither the obligor nor the obligee object to the adjustment. Details the procedures for notifying the obligor and obligee about the suspension or adjustment of the child support order.
- Clarifies that the child support obligation will resume following the obligor's release from incarceration.



AB 1049

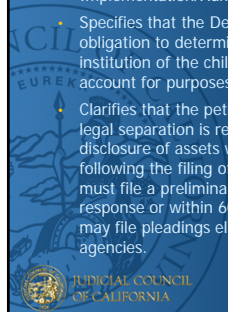
• Other/Miscellaneous

• Allows a person's offer or refusal to sign a voluntary declaration of paternity to be considered **but** prohibits it from being determinative as to the issue of legal parentage in any proceedings regarding the establishment or termination of parental rights.



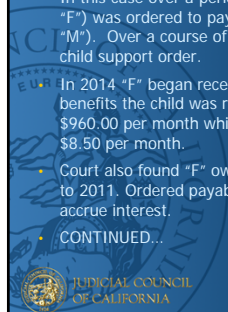
AB 1519

- Implementation/Administration
- Specifies that the Department of Child Support Services has no obligation to determine whether an account, at a qualifying institution of the child support recipient's choice, is a qualifying account for purposes of direct deposit of child support payments.
- Clarifies that the petitioner to an action for dissolution of marriage or legal separation is required to file a preliminary declaration of disclosure of assets with the dissolution petition or within 60 days following the filing of the dissolution petition and that the other party must file a preliminary declaration of disclosure of assets with their response or within 60 days of filing the response. Addresses who may file pleadings electronically on behalf of local child support agencies.




In re Marriage of Hall and Frencher

- In this case over a period of time Bruce Frencher, Sr. (later referred as "F") was ordered to pay child support to Winifred Hall (later referred as "M"). Over a course of 8 years "F" had modifications to the original child support order.
- In 2014 "F" began receiving Social Security benefits, through his benefits the child was receiving Social Security derivative benefits \$960.00 per month which exceeded the existing child support order of \$8.50 per month.
- Court also found "F" owed arrears in the sum of \$16,421.00 from 2007 to 2011. Ordered payable at \$150.00 per month and the arrears would accrue interest.
- CONTINUED...




Continued...IRMO Hall v. Frencher

- Social Security made a lump sum payment to "M" of \$20,824 in derivative benefits for the period July 2012 to April 2014. "M" gave "F" one-half of those benefits.
- In January 2015 "M" and "F" stipulates that "F" has paid "M" a total of \$5,151.00 toward the arrears from 2011 through 2014. The court further deducted the \$8.50 per month for 22 months paid by Social Security as and for child support. The court found that "F" still owed "M" \$11,083 in arrears.
- Trial court requested "F" to provide legal authority for its applying the excess derivative benefit payments of \$951.50 (over the \$8.50 per month) toward the arrears. "F" failed to provide the legal authority, the trial court determined that the excess derivative benefits could not be applied to the arrears. Cont...




Continued...IRMO Hall v. Frencher

- "F" appealed, and the Fourth District affirmed in part, reversed in part, and remanded.
- Go with the current... "F" contended that the lower court should have applied all of the excess derivative benefits toward his child support arrears, not just those that accrued after the payment began.
- The justices agreed. They noted that current Family Code §4504(b) provides that Social Security derivative payments "shall be credited toward the amount ordered by the court to be paid by the noncustodial parent for support of the child..." And, CCP §695.221 requires the money to be credited first against the current month's support, the against the remaining principal amount of unsatisfied judgment, and then toward the accrued interest...In Re Marriage of Robinson (1998) 65 Cal. App. 4th 93, 76 Cal. Rptr.2d 134, 1998 CFLR 7955, 1998 FA 860, the justices *did not agree* with this case wherein it is founded that derivative benefits do not apply to arrears. The Justices found that it was based upon the old version of FC §4504.
- The trial court was remanded to recalculate the amount in line with the current FC §4504(b). The panel affirmed the judgment in all other respects.



**Automated system-
Open Discussion**

- LA Superior Court is converting to a paperless system. Probate & Small claims in on it already.
- IV-D begins September.
- Family Law is will be after that.
- Does your court use a similar program?
- How is it working with your court?



Open discussion

Thank you for your attendance
and participation.
Have a great evening.

