



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

# **Establishing Child Support Orders After Senate Bill 343/Assembly Bill 1755**

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# Flexibility, Efficiency and Modernization in Child Support Enforcement Programs Final Rule

## New federal requirements for child support guidelines:

- Support orders must be based on **evidence of ability to pay**,
- Imputed or earning capacity income must be based on **specific circumstances of obligor**,
- Guidelines **may not substitute a standard amount**
- Guidelines must consider the **subsistence level needs of the obligor**, and
- **Incarceration cannot be treated as voluntary unemployment.**



# Changes Already Made - Assembly Bill 207

**Signed by the Governor on September 27, 2022**

Updated Family Code 4058 to Require:

- Consider 14 factors when using earning capacity
  - Parent's assets                      Employment and earning history
  - Residence                              Job skills
  - Education                              Literacy
  - Age                                        Health
  - Criminal Record                      Record of Seeking Work
  - Local Job Market                      Employers Willing to Hire
  - Prevailing Earnings                    Other Relevant Background Factors

Updated Family Code 4007.5 to:

- Remove the sunset date
- Remove the limited applicability for certain crimes



# Let's Discuss

How does this new requirement for consideration of the 14 factors before imputing earnings based on earning capacity impact the role of the:

- Courts?
- Family Law Facilitators?
- Local Child Support Agencies?



# Overview of SB 343/AB 1755 to Implement Federal Requirements of State Guidelines

- Effective September 1, 2024:
  - Revises the child support guideline
  - Updates low-income adjustment.
  - Changes the presumptions and protocols for add-ons
- Effective January 1, 2026:
  - Complaint must contain information about NCP's income
  - LCSA may use **earning capacity** in limited circumstances
  - Courts must review earning capacity pleadings before entry of judgment.



# California's Guideline Child Support Formula

$$CS = K[HN - (H\%)(TN)]$$

- CS – the child support amount
- K – the percentage of income allocated for child support
- HN – the high earner's net income
- H% - the high earner's timeshare
- TN – both parent's total net disposable income



# The K-factor

$$CS = K[HN - (H\%)(TN)]$$

## Current

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	$0.12 + 800/TN$

## Recommended

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 - \$6,666	0.25
\$6,667 - \$10,000	$0.10 + 1,499/TN$
Over \$10,000	$0.12 + 1,200/TN$

# Impact of the Proposed Changes With 0% Visitation

NCP Gross Income	CP Gross Income	Current K Factor	Current Child Support Amount	SB 343 K Factor	SB 343 Child Support	% Change
\$4,933.00	\$4,930.00	0.22	\$868.00	0.2500	\$980.00	12.90%
\$3,500.00	\$3,400.00	0.25	\$720.00	0.2500	\$720.00	0.00%
\$2,900.00	\$2,800.00	0.25	\$607.00	0.2500	\$607.00	0.00%
\$2,740.00	\$2,600.00	0.25	\$576.00	0.2489	\$574.00	-0.35%
\$2,500.00	\$2,450.00	0.25	\$531.00	0.2423	\$515.00	-3.01%
\$2,000.00	\$1,950.00	0.25	\$435.00	0.2255	\$393.00	-9.66%
\$1,500.00	\$1,450.00	0.25	\$336.00	0.2061	\$277.00	-17.56%
\$1,300.00	\$1,260.00	0.25	\$299.00	0.1994	\$239.00	-20.07%



# Impact of the Proposed Changes With 20% Visitation

NCP Gross Income	CP Gross Income	Current K Factor	Current Child Support Amount	SB 343 K Factor	SB 343 Child Support	% Change
\$4,933.00	\$4,930.00	0.27	\$605.00	0.3000	\$682.00	12.73%
\$3,500.00	\$3,400.00	0.30	\$500.00	0.3000	\$500.00	0.00%
\$2,900.00	\$2,800.00	0.30	\$415.00	0.3000	\$415.00	0.00%
\$2,740.00	\$2,600.00	0.30	\$394.00	0.2986	\$392.00	-0.51%
\$2,500.00	\$2,450.00	0.30	\$356.00	0.2907	\$345.00	-3.09%
\$2,000.00	\$1,950.00	0.30	\$284.00	0.2706	\$256.00	-9.86%
\$1,500.00	\$1,450.00	0.30	\$214.00	0.2473	\$176.00	-17.76%
\$1,300.00	\$1,260.00	0.30	\$188.00	0.2393	\$150.00	-20.21%



# Changes to the Low-Income Adjustment

Effective September 1, 2024:

- Changes low-income adjustment threshold to gross full time minimum wage.
- The lowest amount in the LIA range is presumed correct.
- The LIA range must be displayed on the calculation.



# Changes to Family Code 4057



Effective September 1, 2024:

- New deviation criteria:
  - NCP qualifies for a LIA, and
  - Child support exceeds 50% of the net after LIA is applied.
  - **CAVEAT:** The adjustment can't be more than 50% of the NCP's net income.
- Where NCP has multiple child support orders, the court *may* determine how to allocate the **income** and **support obligations** across cases.



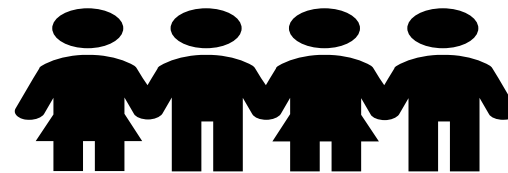
# Let's Discuss

- How does the new deviation criteria interact with the existing deviation criteria?
  - Don't have to apply
  - Could apply
  - Might want to use a different deviation criteria
- Do you see any concerns about multiple support orders?



# Child Support Add-Ons

- Add-ons divided in proportion to the parents' net incomes, unless a party or the court, on its own motion, requests a different amount.
- Child care must be “actually incurred.”
- Reimbursement process:
  - Uninsured health care reimbursement = to childcare expenses
- Reimbursement requests must be sent with 90 days



# Let's Discuss

Proportionality becomes the new “default” (vs. 50/50)

- At what point is a party or the court supposed to raise the issue of a different proportion? (What is the process?)
- What happens when there have been major changes in net income proportions since the initial order was made?
- Likelihood of causing more confusion and taking more time to resolve



# Changes to Family Code 17400

- Effective January 1, 2026: Three-Tiered Income Approach for Summons and Complaints.
  - Actual income
  - Earning capacity for under employed NCP's, and
  - Earning capacity where NCP's income is unknown using the 14 factors
- ~~Presumed Income~~
- Minimum search efforts for LCSA
- Earning capacity factors must be stated in the S & C



# Defaults and Prove Up Hearings

- Actual income + no answer filed = default
- Earning capacity + no answer is filed = motion for judgment.
  - If NCP appears:
    - Participation is allowed.
    - Testimony and evidence can be considered.
    - Order a higher, lower, or the same guideline order.
  - If NCP does not appear:
    - Earning capacity factors considered
    - May inquire of the LCSA regarding the factors or anything relevant
    - State findings on the record
    - Order a lower or the same support order.
    - Enter a default judgment.



# Additional Protections

- Extends Family Code 17432 protections to earning capacity orders entered by default
- Relief time period extended from one year to two years after LCSA's first collection via Income Withholding Order.
- Set aside not precluded by subsequent prospective modification



# Let's Discuss

- Essentially a default “Prove-Up” hearing, but with added opportunities for participation.
- For counties with high default rates, a great incentive to start collaborating with LCSAs and for LCSAs to change their establishment approaches to reduce defaults.
- Remember the goal here is not “rubber stamping” but trying to look at the real individual facts of each case



# Major Forms Revision Required

- Judicial Council must:
  - Revise forms by September 1, 2024
  - With effective date of January 1, 2026
- User-testing & form design
  - Alameda Court                      El Dorado Court
  - Fresno Court                         Humboldt Court
  - Los Angeles Court                 San Diego Court



# Potential forms revisions

	Form No.	Form Name
1	FL-192	Notice of Rights and Responsibilities (Health-Care Costs and Reimbursement Procedures)
2	FL-342	Child Support Information and Order Attachment
3	FL-342(A)	Non-Guideline Support Findings Attachment
4	FL-530	Judgment Regarding Parental Obligations (UIFSA)
5	FL-600	Summons and Complaint or Supplemental Complaint Regarding Parental Obligations
6	FL-610	Answer to Complaint or Supplemental Complaint Regarding Parental Obligations
7	FL-616	Declaration for Amended Proposed Judgment
8	FL-630	Judgment Regarding Parental Obligations
9	FL-632	Notice Regarding Payment of Support
10	FL-635	Notice of Entry of Judgment and Proof of Service by Mail
11	FL-640	Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income



# Potential forms revisions

	Form No.	Form Name
12	FL-640-INFO	Information Sheet for Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income
13	FL-643	Declaration of Obligor's Income During Judgment Period—Presumed Income Set-Aside Request
14	FL-665	Findings and Recommendation of Commissioner
15	FL-680	Notice of Motion
16	FL-683	Order to Show Cause
17	FL-684	Request for Order and Supporting Declaration
18	FL-685	Response to Governmental Notice of Motion or Order to Show Cause
19	FL-687	Order After Hearing
20	FL-688	Short Form Order After Hearing
21	FL-692	Minutes and Order or Judgment
22	FL-693	Guideline Findings Attachment



# Questions

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# Thank you!

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