

State of California

Franchise Tax Board-Legislative Services Bureau
PO Box 1468
Sacramento, CA 95812-1468

Telephone: (916)845-4326
ATSS: 468-4326
FAX: (916)845-5472

Legislative Change No.**99-30**Bill Number: SB 542Author: Burton/SchiffChapter Number: 99-480

Laws Affecting Franchise Tax Board:

Family Code Sections 5246, 17400, 17500, and 17501;
Revenue and Taxation Code Sections 19271, 19272, and
19275; and Unemployment Insurance Code Section
1088.8.

Date Filed with the Secretary of the State: September 27, 1999

SUBJECT: Child Support Enforcement/Accounts Receivable Management

Senate Bill 542 (Burton/Schiff), as enacted on September 27, 1999, made the following changes to California law:

Section 5246 of the Family Code is amended.

This act requires that the administrative wage levy used to collect child support delinquencies will be the federally mandated order/notice (subdivision (c)), and changes the amount subject to wage withholding to the maximum amount allowed under federal law (subdivisions (d) and (f)). This change increases the amount of wages subject to withholding from 3% of the arrearage or \$50, whichever is greater, to 50% of disposable earnings. Any order/notice to withhold income for child support issued by the FTB must be issued in the name of the local child support agency (subdivision (d)).

This section is effective and operative on January 1, 2000.

Section 17400 of the Family Code, as previously added by AB 196 (Stats. 99, Ch. 478), is amended.

This act makes the following changes affecting FTB:

1. A local child support agency's responsibility for enforcement of child support obligations includes the transfer of "accounts receivable management" of child support delinquencies to the FTB, which replaces "enforcement and collection" (subdivision (g)).
2. Wage withholding for current support is the local child support agency's responsibility except to the extent that the law is inconsistent with FTB's responsibility for "accounts receivable management," which replaces "enforcement and collection" (subdivision (i)).

This section is effective and operative on January 1, 2000.

Bureau Director

Johnnie Lou Rosas

Date

11/16/1999

Section 17500 of the Family Code, as previously added by AB 196 (Stats. 99, Ch. 478), is amended.

This act requires FTB to issue wage withholding notices for current support if an account has been transferred to FTB for accounts receivable management, under circumstances described in Section 17501. The wage withholding notice must be issued in the name of and on behalf of the local child support agency. For this purpose, FTB may use tax return information or any information source available to the local child support agency.

This section is effective and operative on January 1, 2000.

Section 17501 is added to the Family Code.

Effective January 1, 2000, the Franchise Tax Board (FTB) has the responsibility for "accounts receivable management" of delinquent child support in support of the Department of Child Support Services (DCSS) and local child support agencies (subdivision (a)).

A "child support delinquency" is an arrearage or otherwise past due amount that is greater than \$100 in the aggregate and more than 60 days past due (subdivision (b)).

"Accounts receivable management" by FTB includes but is not limited to the following activities (subdivision (c)):

- Issuing and modifying earnings assignment orders in the name and on behalf of the local child support agency.
- Coordinating with the local child support agency and the department for withholding issuance, renewal or suspension of licenses or passports as the process relates to delinquent child support obligors.
- Filing bankruptcy claims and liens in civil actions.
- Issuing levies and warrants
- Taking other mandated actions directed by the DCSS.

The child support delinquency will be transferred in a form and manner and at the time prescribed by the FTB (subdivision (d)).

If a child support delinquency exists at the time the case is opened by the local child support agency, the delinquency must be transferred to FTB no later than 30 days after the local child support agency's receipt of the case (subdivision (e)).

The transfer of responsibility to FTB for accounts receivable management is in support of the local child support agency for the administration of the enforcement and collection of the child support delinquency in accordance with Section 19271 of the Revenue and Taxation Code. The local child support agency continues to be

responsible for case management. Certain of such activities are described and may include any other activities prescribed by the DCSS (subdivision (f)).

This section is effective and operative on January 1, 2000. However, in accordance with Section 19271, as amended by AB 196, and subdivision (d) of this section, the transfers to FTB for accounts receivable management will be phased in over a 36-month period.

Section 19271 of the Revenue and Taxation Code, as previously amended by AB 196 (Stats. 99, Ch. 478), is further amended.

The act requires FTB to work with the DCSS to coordinate the phase-in of the transfers of the child support delinquencies focusing on the needed coordination with the transition from the district attorney offices to the local child support agencies.

When a delinquency is transferred to FTB for accounts receivable management, the act prohibits FTB from using the administrative wage garnishment (earning withholding order) it presently uses to collect delinquent child support. Instead, FTB is to use the federally mandated order/notice in accordance with Section 5246 of the Family Code.

The act prohibits a local child support agency from withdrawing, rescinding or otherwise recalling the transfer of a child support delinquency from FTB except for limited circumstances described in regulations adopted by the DCSS.

These amendments are effective and operative on January 1, 2000. However, as authorized by AB 196, the transfers to FTB will be phased in over a 36-month period.

Section 19272 of the Revenue and Taxation Code, as amended by AB 196, is further amended.

This act requires FTB to direct obligors or third parties to make any payments directly to the local child support agency that transferred the delinquency to FTB, pending implementation of a state disbursement unit, at which time child support payments of child support would be directed to that unit. Directing the payments to the local child support agency would be subject to phase-in, upon approval by DCSS, to the extent necessary to ensure that the local child support agency is capable of accepting payment.

These amendments are effective and operative on January 1, 2000, subject to phase-in upon approval by DCSS as indicated above. This provision also is contained, and continued, in AB 1671 (Stats. 99, Ch. 980; SEC. 17.5), which incorporates these changes and also makes additional changes to this section.

Section 19275 is added to the Revenue and Taxation Code.

This act provides a general cross reference of terms so that any reference to the district attorney, counties, the State Department of Social Services or Statewide Automated Child Support System in conjunction with the child support enforcement programs in California means the new entities or systems created or established under AB 150 (Stats. 99, Ch. 479) and AB 196.

This section is effective and operative on January 1, 2000.

Section 1088.8 of the Unemployment Insurance Code, as added by AB 196, is amended.

This act delays from July 1, 2000, to January 1, 2001, the operative date for the Employment Development Department's independent contractor registry.

This act will not require any reports by the department to the Legislature.