

Date of Hearing: June 18, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Eloise Gómez Reyes, Chair
SB 337 (Skinner) – As Amended May 17, 2019

SENATE VOTE: 38-0

SUBJECT: Child support

SUMMARY: Raises the California Work Opportunity and Responsibility to Kids (CalWORKs) child support disregard from the first \$50 per month to the first \$100 per month for a family with one child, or the first \$200 per month for a family with two or more children; places certain limitations, for CalWORKs applications received before October 1, 2009, on the assignment of rights to child support to the county for CalWORKs applicants or recipients; and, to the extent permitted by federal law, excludes an arrearage or otherwise past-due amount that is determined to have been established in error or to be uncollectible from the definition of “child support delinquency.” Specifically, **this bill:**

- 1) States Legislative intent to increase the amount of child support payments received and to strengthen family unity between children and their noncustodial parent, thereby improving the health and well-being of low-income children.
- 2) Exempts from inclusion in the definition of “child support delinquency,” to the extent permitted by federal law, an arrearage or otherwise past-due amount that a local child support agency or the Department of Child Support Services (DCSS) determines was established in error or has determined to be uncollectible.
- 3) Requires DCSS, in determining the meaning of “uncollectible” for purposes of arrearages and otherwise past due amounts owed to the state, to consider a number of factors including, among others and as specified: income and assets available to pay the arrearage or otherwise past due amount, source of income, age of arrearage or otherwise past due amount, and incarceration history.
- 4) Requires DCSS to adopt regulations to implement the provisions of this bill and current law related to child support delinquencies by July 1, 2020, and authorizes DCSS to implement and administer those provisions through a child support services letter or similar instruction until such regulations are adopted, as specified.
- 5) Increases, when child support is collected on behalf of a CalWORKs recipient in payment of the required support obligation, the amount that must be passed through to the recipient from the first \$50 per month to the first \$100 per month for a family with one child, or the first \$200 per month for a family with two or more children, as specified.
- 6) Requires, for CalWORKs applications received prior to October 1, 2009, an applicant’s or recipient’s assignment of rights to child support to the county to apply only to support that accrues during the period of time that the applicant is receiving CalWORKs assistance and, further, requires any assigned rights to support that accrued prior to receiving aid to be discontinued, as specified.

- 7) Prohibits a continuous appropriation, as specified, from being made for purposes of implementing the provisions of this bill.
- 8) Makes technical changes, including deleting outdated language.

EXISTING LAW:

- 1) Establishes in federal law the Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work programs designed to provide cash assistance and other supports and services to low-income families. (42 United States Code Section [U.S.C.] 601 *et seq.*)
- 2) Establishes the state's TANF program, the CalWORKs program. CalWORKs provides cash assistance and other supports and services to low-income families and is administered by the counties. (Welfare and Institutions Code [WIC] Section 11200 *et seq.*)
- 3) Establishes income, asset, and real property limits used to determine eligibility for the CalWORKs program, and CalWORKs grant amounts, based on family size and county of residence. (WIC 11150 to 11160, 11450 *et seq.*)
- 4) Requires any CalWORKs recipient who is required to participate in welfare-to-work activities to enter into a written welfare-to-work plan with the county welfare department, requires the welfare-to-work plan to include the activities and services which will move the recipient into employment, establishes additional requirements related to the plan, and delineates allowable welfare-to-work activities, as specified. (WIC 11325.21, 11322.6)
- 5) Requires a county to, at the time an individual applies for CalWORKs, or a recipient's eligibility is determined, provide program information, including a description of the responsibility of the participant to cooperate in establishing paternity and enforcing child support obligations, and to assist individuals in establishing paternity and obtaining child support as a condition of eligibility. (WIC 11324.8)
- 6) Requires, as a condition of eligibility for CalWORKs aid, each applicant or recipient to assign to the county any rights to support from any other person the applicant or recipient may have on their own behalf or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, not exceeding the total amount of CalWORKs cash assistance provided to the family, as specified. Further, stipulates that, for applications received on or after October 1, 2009, the assignment shall apply only to support that accrues during the period of time that the applicant is receiving CalWORKs assistance. (WIC 11477 (a)(1))
- 7) Requires support that has been assigned pursuant to CalWORKs rules and that accrues while the family is receiving CalWORKs aid to be permanently assigned until the entire amount of aid paid has been reimbursed. (WIC 11477 (a)(2))
- 8) Requires, as a condition of eligibility for CalWORKs aid, each applicant or recipient to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with

respect to a child of the individual for whom aid is requested or obtained, unless the applicant or recipient qualifies for a good cause exception, as specified. (WIC 11477 (b)(1))

- 9) Requires the county welfare department to determine if an applicant or recipient has good cause for noncooperation with CalWORKs child support rules prior to referral of the applicant or recipient to the local child support agency for child support services, as specified. (WIC 11477.02)
- 10) Requires a county department, in cases in which the paternity of a child has not been established to the satisfaction of that department, to refer the applicant to local child support agency at the time the application is signed, as specified. (WIC 11479).
- 11) Requires money from noncustodial parents paid for child or spousal support with respect to whom an assignment has been made per CalWORKs rules to be paid directly to the local child support agency and not directly to the family, as specified. (WIC 11457)
- 12) Requires the first \$50 of any amount of child support collected in a month in payment of the required CalWORKs support obligation to be paid to the CalWORKs recipient, as specified. (Family Code [FAM] Section 17504)
- 13) Defines, in federal law, “excepted portion,” for purposes of the TANF program, to mean that portion of the amount of support collected on behalf of a family during a month that does not exceed \$100 per month, or in the case of family that includes two or more children, that does not exceed \$200 per month. (42 U.S.C. 657 (a)(6)(B)(ii))
- 14) Exempts states from being required, in cases where a family receives TANF assistance from the state, to pay the federal government the federal share of the excepted portion of any amount collected on behalf of the family during any month in which the state pays the excepted portion to the family and the excepted portion is disregarded in determining the amount and type of assistance provided to the family, as specified. (42 U.S.C. 657 (a)(6)(B)(i))
- 15) Stipulates that any month in which the cost of CalWORKs cash aid provided to a recipient for the month is fully reimbursed by child support shall not be counted as a month of receipt of aid for purposes of CalWORKs time limits, as specified. (WIC 11454.5 (a)(3))
- 16) Defines “child support delinquency” to mean an arrearage or otherwise past due amount that accrues when an obligor fails to make any court-ordered support payment when due, which is more than 60 days past due, and the aggregate amount of which exceeds \$100. (FAM 17500 (c))
- 17) Requires the local child support agency to submit child support delinquencies to DCSS for purposes of supplementing the collection efforts of the local child support agencies, as specified. (FAM 17500)

FISCAL EFFECT: According to the Senate Appropriations Committee on May 16, 2019, this bill may result in revenue loss for the state in the tens of millions of dollars annually, as well as automation costs for DCSS, and administrative costs for the California Department of Social

Services. This bill may also result in potential cost savings, in the low millions of dollars, from a reduction in workload associated with excluding arrearage.

COMMENTS:

CalWORKs: CalWORKs is the state's TANF program, providing eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. CalWORKs is administered at the county level; it is funded largely through the federal TANF block grant and state maintenance-of-effort contributions. Families participating in CalWORKs have access to a range of services that can include child care and services aimed at addressing mental health needs, substance use disorders, experiences of domestic violence, and learning disabilities, among other issues. Unless deemed exempt or otherwise not required to participate per CalWORKs rules, parents are required to develop and participate in a welfare-to-work plan. CalWORKs-approved welfare-to-work activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance abuse, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment.

A number of changes to the CalWORKs program were adopted with the passage of SB 1041 (Senate Committee on Budget and Fiscal Review), Chapter 47, Statutes of 2012. These changes included the establishment of the 24-month time clock. Unless exempted per CalWORKs rules, an adult recipient is expected to participate in welfare-to-work activities during the up to 48 months for which they may receive assistance. For 24 of those 48 months, welfare-to-work participation requirements can include a broad range of activities, such as employment, training, education, and mental health, domestic violence, and substance use disorder services. Once this 24-month time clock "runs out," CalWORKs welfare-to-work participants must meet the more stringent federal TANF requirements in order to maintain their eligibility for aid. If a CalWORKs recipient does not meet the requirements of their welfare-to-work plan and does not have a permissible exemption or exception to those requirements, they are subject to sanction; sanction results in an individual's portion of the family's grant being subtracted from the total grant amount provided to the family to meet basic needs.

The current maximum CalWORKs grant for a family of three living in a high-cost county, if the family has no other income, is \$785 per month. However, many families earn some income and do not qualify for the maximum grant amount. For Fiscal Year (FY) 2018-19, the average monthly CalWORKs cash grant is estimated to be \$568 per household. In FY 2017-18, the average monthly CalWORKs caseload was 423,121 households.

Child support: Noncustodial parents are often responsible for paying child support payments to custodial parents and their children. A "child support order" is the amount of child support that a noncustodial parent is required to pay. In California, these orders can be established in one of two ways: privately, using an attorney or during divorce proceedings; or using the state child support system to help establish an order. The state child support program, administered by DCSS and run locally through 49 local child support agencies (LCSAs), establishes child support orders and collects payments from noncustodial parents to distribute to custodial parents and their children. The state government pays one-third of the costs of child support services, and the federal government pays two-thirds.

CalWORKs and child support: The state must, per federal TANF law, collect child support on behalf of custodial parents who receive CalWORKs; therefore, when families apply for CalWORKs, they are required to assign any rights to support over to the county. The child support payments subsequently received are distributed to the state and federal governments to reimburse the costs of CalWORKs benefits. However, there is a monthly \$50 disregard, whereby the first \$50 of support collected is passed through to the family on whose behalf the support was collected. Per federal law, states can disregard up to the first \$100 per month of collected child support for families with one child, and up to the first \$200 per month for families with two or more children. (States can pass through a higher amount, but would be required to pay the federal government a share of that amount.) Once a custodial parent exits CalWORKs, DCSS is required to continue enforcement of the support order, although the custodial parent can choose to not use the continued services of DCSS.

Of the child support cases maintained by the state's child support program in federal fiscal year 2017-18, 77% were CalWORKs cases – with 19% of the total being current CalWORKs cases and 58% being former CalWORKs cases. A March 2019 report by the Legislative Analyst's Office found that, "In 2017-18, the state collected \$410 million in child support on behalf of former and current CalWORKs families. Of this amount, \$368 million was collected as CalWORKs recoupment that was used to reimburse the state (\$168 million), counties (\$23 million), and federal (\$176 million) governments...Of the remaining amount, \$12 million was passed through to CalWORKs families."

Prior to October 1, 2009, families receiving CalWORKs were required to assign their pre-assistance child support arrears (money owed) to the county as a condition of eligibility. However, the Federal Deficit Reduction Act of 2005, limited, as of October 1, 2009, the assignment of support rights to the amount of support accruing during the period a family receives assistance; therefore, on and after October 1, 2009, CalWORKs applicants who are owed child support arrearages that accumulated when they were not receiving CalWORKs cash aid do not have to assign those arrears in order to be eligible for CalWORKs.

Need for this bill: This bill seeks to raise the CalWORKs child support disregard from the first \$50 per month to the first \$100 per month for a family with one child, or the first \$200 per month for a family with two or more children, thereby allowing for the maximum pass-through permitted by federal law. This bill would also limit, for CalWORKs applications received before October 1, 2009, the assignment of rights to the county to support that accrues during the time an applicant is receiving CalWORKs – this would parallel the current restrictions placed on the assignment of rights for CalWORKs applications received on or after October 1, 2009, as a result of implementation of the Federal Deficit Reduction Act of 2005. Additionally, this bill would, to the extent permitted by federal law, exclude for all child support cases (and not just CalWORKs cases) an arrearage or otherwise past-due amount that is determined to have been established in error or to be uncollectible from the definition of "child support delinquency."

According to the author, "The 'Child Support Reform Act,' seeks to ensure that low-income families receive the first \$100 of child support for one child, and the first \$200 for two or more children to which they are entitled. This payment structure is to align with Federal law in regards to income-disregard, thus not effecting their eligibility for social services. The act, [this bill], would overturn a decades-old law under which child-support payments meant for families who receive CalWORKs benefits go to the state rather than to the families and children who need it most.

“The Child Support Reform Act will right a historic wrong. Last year, more than 1.2 million California children living in or near poverty did not receive the full child support payments made by their parents. California must stop taking the lion’s share of support payments that rightfully belong to families and kids.”

Double referral: This bill will be referred to the Assembly Judiciary Committee should it pass out of this committee.

RELATED AND PRIOR LEGISLATION:

AB 1092 (Jones-Sawyer) of 2019 provides that if child support is assigned to the county, the DCSS or the LCSA may not charge interest on the principal amount owed. AB 1092 is awaiting hearing in the Senate Judiciary Committee.

SB 380 (Bradford), Chapter 729, Statutes of 2017, allowed, in certain instances, a CalWORKs assistance unit to receive the full child support payments for a stepsibling or half-sibling in that unit, and prohibited those child support payments from impacting CalWORKs eligibility or benefit level determination.

AB 1654 (Bonilla) of 2014 would have increased the amount of monthly child support passed through to CalWORKs recipients from \$50 per family to \$100 for a family with one child or \$200 for a family with two or more children. AB 1654 was held on the Senate Appropriations Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

All of Us or None (Sponsor)
 Anti-Recidivism Coalition (Sponsor)
 Good+ Foundation - Fatherhood Initiative (Sponsor)
 Insight Center for Community Economic Development (Sponsor)
 Legal Services for Prisoners with Children (Sponsor)
 PolicyLink (Sponsor)
 San Francisco Financial Justice Project (Sponsor)
 Tipping Point Community (Sponsor)
 Western Center on Law & Poverty, Inc. (Sponsor)
 Bay Area Legal Aid
 Center for Employment Opportunities
 Community Coalition
 Legal Services of Northern California
 National Association of Social Workers, California Chapter
 Parent Voices
 Root & Rebound

Opposition

None on file

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