

2016 Annual Child Support Training Conference & Expo



PIECING IT ALL TOGETHER

May 3–5, 2016 » Garden Grove, California

CHILD SUPPORT DIRECTORS ASSOCIATION OF CALIFORNIA

**2016 Annual Child Support
Training Conference & Expo**

**Case Law,
Legislation, & Policy
Update**

**Doug Harrison
Terry Symens-Bucher**

POLICY UPDATE

http://www.childsup.ca.gov/default.aspx

California Department of Child Support Services

Home Custodial Party Noncustodial Parent Employer Payments Reports Resources Child Support Professionals

MEET VIOLA

THE NEW VIRTUAL INTERACTIVE ONLINE APPLICATION FOR CHILD SUPPORT

Office of Governor
Edmund G. Brown Jr.
Visit his website

DCSS Director
Alisha Griffin
Visit her webpage

Welcome to the California Department of Child Support Services!

California's Child Support Services Program works with parents - custodial and noncustodial - and guardians to ensure children and families receive court-ordered financial and medical support. Child support services are available to the general public through a network of 51 county and regional child support agencies (LCSAs).

I NEED TO...

- Apply for Services
- Make a Payment
- Check My Child Support Account
- Get Publications
- Calculate Child Support
- Establish Paternity
- Contact My Local Child Support

Statewide Customer Service Survey **NEW**

Tell Us How We're Doing!
Tell us what you think, click here to take our survey.

- **Check My Child Support Account**
Customer Connect is California's self-service, child support case information system.
Access account information online anytime!
- **Make a Payment On-line**
State Disbursement Unit
- **Contact Your Local Child Support Agency**
For questions about your case or court information contact an office near you.
- **POP - Paternity Opportunity Program**
Unmarried parents can establish paternity - "fatherhood" - for

100%

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DCSS Letters and Notices

The screenshot shows a web browser window displaying the California Department of Child Support Services website. The URL in the address bar is <http://www.childsup.ca.gov/childsupportprofessionals/policies.aspx>. The page features a navigation menu with links for Home, Custodial Party, Noncustodial Parent, Employer, Payments, Reports, Resources, and Child Support Professionals. The main content area is titled "Child Support Policies and Alerts" and includes a "Program Alerts" section with links for "Compromise of Arrears Program", "Resources for Recently Activated Military Personnel", and "Signing Paternity Declarations Before the Child's Birth". Below this is a "Letters and Notices" section, which is highlighted by a large blue arrow. This section contains links for "Chief Counsel Letters (CCL)", "Child Support Certification Letters", "Child Support Services (CSS)", "Child Support Services Informational Notice (CSSIN)", "Local Child Support Agency (LCSA)", "Training Coordinator (TC)", "Email Blast (EBlast)", and "Office of Child Support Enforcement (OCSE) Policy Documents (external site)". A sidebar on the left provides navigation options under "I NEED TO ..." and "ADDITIONAL LINKS". The footer includes the department's name and a list of other state agencies: CDA, CSD, DDS, EMSA, DHCS, DMHC, MRMIB, CDPH, DOR, CDSS, DSH, and OSHPD.

Child Support Professionals » Policies

Child Support Policies and Alerts

Program Alerts

- [Compromise of Arrears Program](#)
- [Resources for Recently Activated Military Personnel](#)
- [Signing Paternity Declarations Before the Child's Birth](#)

Letters and Notices

- [Chief Counsel Letters \(CCL\)](#)
- [Child Support Certification Letters](#)
- [Child Support Services \(CSS\)](#)
- [Child Support Services Informational Notice \(CSSIN\)](#)
- [Local Child Support Agency \(LCSA\)](#)
- [Training Coordinator \(TC\)](#)
- [Email Blast \(EBlast\)](#)
- [Office of Child Support Enforcement \(OCSE\) Policy Documents \(external site\)](#)

The Department is one of twelve departments and one board under the umbrella of the California Health and Human Services Agency

CDA CSD DDS EMSA DHCS DMHC MRMIB CDPH DOR CDSS DSH OSHPD

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Child Support Services Letters

The screenshot shows a web browser window displaying the California Department of Child Support Services website. The browser's address bar shows the URL: <http://www.childsup.ca.gov/childsupportprofessionals/policies/cs>. The website header includes the CA.GOV logo and the text "California Department of Child Support Services". A navigation menu contains links for Home, Custodial Party, Noncustodial Parent, Employer, Payments, Reports, Resources, and Child Support Professionals. The breadcrumb trail reads "Child Support Professionals » Policies » CSS Letters".

On the left side, there are two sections: "I NEED TO ..." with links to "Find a Policy Letter", "Find a Training Coordinator Letter", "Find an Informational Notice", and "Find an LCSA Letter"; and "ADDITIONAL LINKS" with links to "Child Support Services Informational Notices (CSSIN)", "LCSA Letters", "Policy Letters", "Regulations", and "Training Coordinator Letters".

The main content area features a heading "Child Support Services (CSS) Letters" and a table of letters from 2016. The table has columns for Date, Letter Number, Subject, and Size (KB). The 2016 column is highlighted in blue. Each letter entry includes a red icon of a person with a speech bubble.

2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	More
Date		Letter Number										Size (KB)
03.01.2016		CSSP 16-07										60
03.01.2016		CSSP 16-06										55
03.01.2016		CSSP 16-04										49
02.09.2016		CSS 16-05										114
02.19.2016		CSS 16-03										1917
02.03.2016		CSS 16-02										84

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CSS Letters 2015

15-01  On-Site Safeguard Evaluations

15-03 Use of Federal Tax Information within the Child Support Program

15-05 California Work Opportunity and Responsibility to Kids: The Approved Relative Caregiver Funding Option Program: Implementation of Aid Codes 2P, 2S and 2T

CSS Letters 2015

15-06 Performance Improvement Process for Federal Fiscal Year 2016

15-08 Plan of Cooperation

15-09 Aid Codes K1 and 3F Processing

15-10 Texting and Auto-Dialing

CSS Letters 2015

15-11 Use of Individual Taxpayer Identification Numbers in CSE (Currently under review)

15-12 Financial Audits

CSS Letters 2016

16-02 New Information Security Manual, Access Control Standard—Single Sign-on and Two Factor Authentication

16-03 Safeguards Security Report, Formerly Called Safeguards Activity Report

16-04 Social Media Use by Local Child Support Agencies

CSS/CSSP Letters 2016

16-05 Requirements for Bilingual and Interpreter Services at Local Child Support Agencies: The Dymanny-Alatorre Bilingual Services Act

16-06 Consumer Credit Report Requests

16-07 County Welfare Department Semi-Annual Reporting and Impacts to the Department of Child Support Services

Other Letters and Notices

CSSIN: Child Support Services Informational Notices.

Example--CSSIN Letter 15-01 Child Support Legislation 2015

LCSA Letters:

Example—LCSA 16-01 Earned Income Tax Credit.

Training Coordinator Letters:

Example—Child Support Orientation Version 7.0 (last letter 2011)

New Letters under Construction

- Implementation of AB 610
- Use of Individual Taxpayer Identification Numbers in Child Support Enforcement (CSE)
- Case Data Retention and Purge Policy II
- Use of Social Media
- Confidentiality/Conflict and High Profile Cases
- Civil Rights Training
- Currency Conversion for Foreign Support Orders
- Contemporary Families

New Cases, New Law?

What you need to know.

IRMO McHugh, 231 Cal.App. 4th 1238

Trial court affirmed. Dad files motion to modify downward based upon loss of income. Court found that Dad's conduct was such that it was proper to consider the termination voluntary.

Trial court imputes income because he lost job due to his own misconduct and refusal to accept employer's terms to keep job.

Originally unpublished. Published at the request of CSDA and Orange County DCSS.

Helgestad v. Vargas, 231 Cal.App. 4th 719

Dad moves in with Mom and children six months after being ordered to pay support in a private paternity action. Trial court denied credit because there was no change in custody as in *Jackson*.

Overtured. Real issue is whether Dad actually provided support during time with Mom and kids, not custodial change. Dad did not have to file mod upon moving in. And this is not a retroactive mod.

IRMO Daugherty, 232 Cal.App. 4th 463

Trial court refuses to include derivative Social Security disability benefits received by Mom and the children as Dad's income for child support calculation purposes. Finds derivatives are children's income. Mom appeals.

Affirmed. FC section 4058 is not limitless. Besides, federal law says the children are entitled to receive the derivatives, not the disabled person.

Adoption of Baby Boy W., 232 Cal.App. 4th 438

At child's birth Mom and her family put child up for adoption. Bio-dad disagrees. Mom does not allow Dad to sign Paternity Declaration. Trial court finds bio-dad is a *Kelsey S.* father with standing to block adoption based on actions before birth.

Affirmed. An unmarried father who promptly comes forth and demonstrates his full commitment to his parenting responsibilities has constitutionally protected due process right to retain parental rights. Fact-driven.

R.M. v. T.A., 233 Cal.App. 4th 760

Mom conceives child through artificial reproductive technology with intention to be single parent. R.M. participates in birthing classes, support and at birth. Develops relationship with child. Mom and R.M. have child together (traditional way). After break-up, court finds R.M. presumed father of first child.

Affirmed. Once established, the presumption can only be rebutted by clear and convincing evidence. Protecting existing parent-child relationship trumps Mom's desire to be a single parent.

Perez v. Commissioner, 144 T.C. No. 4
2015 FA 1674

Taxpayer signs contract to be paid for “pain and suffering” as an egg donor. The payment is compensation for the painful treatments and procedures required by egg harvesting. She does not report the \$ 20,000 she received from the egg-donation agency as taxable income.

Tax Court: Payments received as compensation for an advance waiver of possible future damages for personal injuries constitute taxable income. It is not “damages” for purposes of income tax.

IRMO Davis, 61 Cal. 4th 846

For purposes of date of separation, parties must be living in separate residences. Living essentially separate lives (bank accounts, bedrooms, meals, etc.) is not sufficient to establish “separate and apart” for purposes of community property division. This is not a marital presumption case but the same reasoning could apply.

This issue also comes up in tax cases because support is not tax deductible if parties live in the same residence.

People v. Gallardo, 239 Cal.App.4th 1333

San Mateo DCSS serves IWO. At Hearing re Wage Assignment, Dad tells court he paid all support and shows DCSS' attorney copies of cancelled checks. Mom says she never received or cashed checks. Dad's request denied. He later provides same copies to DCSS. DCSS subpoenas records and Dad pays in full.

Criminal charges: Dad charged and found guilty of offering fraudulent documents in evidence and forgery. One year jail and three years' probation.

IRMO Drake, 241 Cal.App.4th 934

Orange County DCSS obtains adult incapacitated child support order for 19 year-old living in Texas residential care facility payable to Mom in California. Dad appeals.

Affirmed, reversed, remanded: Question is not best interests of child or Mom's income but the child's incapacity and means. However, payee should not be Mom—court should order payment to guardian, conservator or legal rep, or to the treatment center itself in a trust account.

Estate of Britel, 236 Cal.App. 4th 127

Mom and Dad have romantic relationship at Harvard Business School. After graduation, Mom tells Dad she's pregnant. He wants abortion and nothing to do with Mom or child. Tells only a friend that Mom is pregnant and that "she had had an abortion." Dad killed when child ten years-old.

Issue: did decedent openly hold child out as his own, as required by the Probate Code? No.

Ruling upheld: Must be an affirmative representation made in an unconcealed manner, not mere acknowledgement. No right to inherit.

IRMO Oliverrez, 238 Cal.App.4th 1242

Highly litigious. Five trial judges made orders. Mom had two attorneys, Dad six. At one point, a judge made an order denying a stipulated agreement due to “no meeting of the minds.” After three years and a trial, another judge ruled the stipulation was valid “on its own motion for reconsideration.” Prior order was “improvident and erroneous.”

Overtured. CCP 1008 has limited basis (new law or facts), must be timely, and cannot be used to reconsider a prior judge’s order.

IRMO of Siegel, 239 Cal.App. 4th 944

W files RFO that H provide proof that he obtained and maintained insurance policy as required by MSA. H files response but does not appear. Trial court construes RFO as request to enforce and makes orders that H make W “sole primary beneficiary” of his life insurance policy and establish a separate trust.

Overtured. *IRMO Lippel* controls. W’s request for information (proof) did not give H the notice required for the orders that were issued at the uncontested hearing.

Stapleton v. Commissioner, T.C. Memo 2015-171,
2015 FA 1704

Dad has children 176 days and on federal taxes claimed exemptions, child tax credit, EIC, and H/H. IRS granted partial EIC but denied all else. Dad stipulates that Mom is the “custodial parent.”

Tax Court: ability to claim qualifying children applies to unmarried parents. To qualify, parent must be custodial parent or file Form 8332 or its written equivalent. Without that, Dad cannot claim full EIC, child tax credit, exemptions or H/H.

IRMO Cecilia and David W., 241 Cal.App. 4th 1277

Mom obtains adult disabled child support for 24 year-old attending UCSD. Dad appeals.

Appellate opinion: Court has jurisdiction to order support after emancipation and for a child not living with the other parent. However, proper standard is whether child is incapacitated from making a living, not possible workplace difficulties. Also, parental standard of living only applies to minors. Proper question is whether child is without sufficient means and likely to become a public charge.

*County of L.A. CSSD v. Superior Court (Youngblood), 243
Cal.App.4th 230*

Dad served with Swiss action for paternity and support in 2009 in Nevada. Served with subsequent Judgment in 2010. UIFSA action to CSSD in 2013 and Dad opposes registration for lack of personal jurisdiction, wants genetic testing. Court orders genetic testing. CSSD appeals, then applies for writ.

Appellate court: Nonparentage is not a basis to oppose registration. Foreign paternity judgment not subject to collateral attack in UIFSA enforcement proceeding. No genetic test. However, Dad can proceed on issue of personal jurisdiction.

Guess v. Bernhardson, 242 Cal.App. 4th 820

H ordered to pay \$ 12,000/month spousal support in 1999. W records lien. H owes no arrears as of 7/2005 when he encumbers his property for \$ 2 million loan. He defaults. Bank forecloses and sells property to Bernhardson's in 2010. In 2011 W files to enforce lien for \$ 336,000 arrears.

Appellate opinion: W's lien is zero as of 7/2005 when H used property as security for loan. Unmatured installments are not added to the interest owned by the bank as of 7/2005.

Bianka v. Superior Court, 2016 WL 815525 3/2/2016

13-year-old files UPA action against her mother to have court make finding that her father abandoned her and to give sole custody to mother. Dad lives in Honduras and not a party to the action.

California Rule of Court 5.24 provides that the court may order joinder of a person if it finds that doing so would be appropriate to determine the particular issue in a proceeding and if the joined party is indispensable for it to make an order about that issue.

In re Emma B., 240 Cal.App. 4th 998

Dependency Case. H deployed overseas. W becomes pregnant. H returns home and attends birth, signs birth certificate and lives as family until child 3-months' old to "give W one more chance." Child removed due to W's drug use and neglect. Named bio-dad denies paternity and wants to be "left alone." H wants to rebut paternity presumptions and requests genetic testing but is denied. He is found to be presumed father under FC 7611(a).

Affirmed. H's marital status and conduct establishes paternity presumption. Biological paternity not relevant once presumption is established.

***V.L. v. E.L.*, U.S. Supreme Court, March 7, 2016
2016 WL 854160**

E.L. gives birth to three children while in a same-sex relationship with V.L. V.L. adopts children in Georgia with E.L.'s consent. After breakup, V.L. files action to have Georgia adoption recognized in Alabama and custody/visitation orders. Alabama Supreme Court says Alabama does not have to recognize Georgia adoption.

Per Curiam: Alabama cannot disregard the Georgia adoption so long as Georgia had jurisdiction. Once limited jurisdictional inquiry is satisfied, Full Faith and Credit applies.

Obergefell v. Hodges, 135 S.Ct. 2584

U.S. Supreme Court Holds:

1. The right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty.
2. States must recognize lawful same-sex marriages performed in other States.

LEGISLATIVE UPDATES

- **UIFSA 2008 (SB – 646)**
- **FAMILY CODE 4007.5 (AB-610)**
- **FAMILY CODE 7613 & 7613.5 (AB 960)**
- **FAMILY CODE 7612, 7960 & 7961 (AB 1049)**
- **FAMILY CODE 17400, 17325 (AB 1519)**

UIFSA 2008 (SB – 646)

Enacted the 2008 amendments to the Uniform Interstate Family Support Act (UIFSA). Amended CCP 1731 and FC 5260, 5601, 17212, 17406, and 17505 Added Part 6 (commencing with Section 5700.101)

- Addresses procedure and jurisdiction of the establishment, enforcement and modification of child support orders when there is more than one state involved.
- Determines which state's law will be used to establish, enforce or modify the child support order.
- Applies same principles to international registration, recognition, enforcement and modification of child support orders.
- For more, visit NCSL's [Preventing Sex Trafficking and Strengthening Families Act of 2014](#) page.

FAMILY CODE 4007.5

*AB 610 - Added new provisions to Section 4007.5 of the Family Code
Effective October 8, 2016*

- Requires suspension of child support order by operation of law when obligor is incarcerated or involuntarily institutionalized for period exceeding 90 days.

Exceptions to suspension include obligors incarcerated or involuntarily institutionalized for DV or failure to pay child support or otherwise has means to pay support during incarceration.

- Authorizes LCSA to administratively adjust C/S account balances if:
 - (1) LCSA verifies arrears and interest accrued in violation of statute
 - (2) LCSA confirms none of the above exceptions apply to NCP
 - (3) Neither obligor nor obligee objects to adjustment.
- Details procedures to notify obligor & obligee about suspension or adjustment of child support order. Child support obligation resumes upon release from incarceration.

LEGISLATIVE UPDATES

AB 960 - Amended Sections 7613 and 7613.5 of the Family Code, relating to parentage. Approved by Governor on October 07, 2015

- Donors of semen or ova, for purposes of assisted reproduction, are not treated as parents of the child unless otherwise agreed to by the parties.

AB 1049 - Amended Sections 7612, 7960, and 7961 of the Family Code, relating to children.

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

LEGISLATIVE UPDATES

AB 1519 - Amended Sections 2104, 17325, and 17400 of the Family Code. Added Section 69619 to the Government Code, relating to family law. Effective January 1, 2016

- DCSS not required to determine whether 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.
- Effective July 1, 2016, LCSAs authorized to electronically file pleadings signed by staff under penalty of perjury.

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Terry Symens-Bucher
terry.symens-bucher@acgov.org

Doug Harrison
dharrison@co.fresno.ca.us

Please be sure to complete the session evaluation.

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