

California Divorce Laws

DIVISION 3. MARRIAGE

PART 1. VALIDITY OF MARRIAGE

300. Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as authorized by this division, except as provided by Section 425 and Part 4 (commencing with Section 500).

301. An unmarried male of the age of 18 years or older, and an unmarried female of the age of 18 years or older, and not otherwise disqualified, are capable of consenting to and consummating marriage.

302. An unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the following documents is filed with the county clerk issuing the marriage license:

- (a) The written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person.
- (b) A court order granting permission to the underage person to marry, obtained on the showing the court requires.

303. If it appears to the satisfaction of the court by application of a minor that the minor requires a written consent to marry and that the minor has no parent or has no parent capable of consenting, the court may make an order consenting to the issuance of a marriage license and granting permission to the minor to marry. The order shall be filed with the county clerk at the time the license is issued.

304. As part of the court order granting permission to marry under Section 302 or 303, the court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary. The parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

305. Consent to and solemnization of marriage may be proved under the same general rules of evidence as facts are proved in other cases.

306. Except as provided in Section 307, a marriage shall be licensed, solemnized, and authenticated, and the certificate of registry of marriage shall be returned as provided in this part. Noncompliance with this part by a nonparty to the marriage does not invalidate the marriage.

307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met:

- (a) The parties to the marriage make, sign, and endorse on or attach to the license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:
 - (1) The fact, time, and place of entering into the marriage.
 - (2) The signatures and places of residence of two witnesses to the ceremony.
 - (3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination.
- The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be

true.

(b) The License and Certificate of Declaration of Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 30 days after the ceremony.

308. A marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state.

308.5. Only marriage between a man and a woman is valid or recognized in California.

309. If either party to a marriage denies the marriage, or refuses to join in a declaration of the marriage, the other party may proceed, by action, to have the validity of the marriage determined and declared.

310. Marriage is dissolved only by one of the following:

- (a) The death of one of the parties.
- (b) A judgment of dissolution of marriage.
- (c) A judgment of nullity of marriage.

PART 2. MARRIAGE LICENSE AND CERTIFICATE OF REGISTRY

350. (a) Before entering a marriage, or declaring a marriage pursuant to Section 425, the parties shall first obtain a marriage license from a county clerk.

(b) If a marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney-in-fact shall appear before the county clerk on behalf of the party who is overseas, as prescribed in subdivision (a).

351. The marriage license shall show all of the following:

- (a) The identity of the parties to the marriage.
- (b) The parties' real and full names, and places of residence.
- (c) The parties' ages.

352. No marriage license shall be granted if either of the applicants lacks the capacity to enter into a valid marriage or is, at the time of making the application for the license, under the influence of an intoxicating liquor or narcotic drug.

353. If an applicant for a marriage license is under the age of 18 years, the license may be granted only if both parties are capable of consenting to and consummating marriage as provided for in Section 302, and the consent or court order required by Section 303 are filed with the county clerk.

354. (a) Each applicant for a marriage license may be required to present authentic identification as to name.

(b) For the purpose of ascertaining the facts mentioned or required in this part, if the clerk deems it necessary, the clerk may examine the applicants for a marriage license on oath at the time of the application. The clerk shall reduce the examination to writing and the applicants shall sign it.

(c) If necessary, the clerk may request additional documentary proof as to the accuracy of the facts stated.

(d) Applicants for a marriage license shall not be required to state, for any purpose, their race or color.

(e) If a marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney-in-fact shall comply with the requirements of this section on behalf of the applicant who is overseas, if necessary.

355. (a) The forms for the application for a marriage license and the marriage license shall be prescribed by the State Department of Health Services, and shall be adapted to set forth the facts required in this part.

(b) The form for the application for a marriage license shall include an affidavit on the back, which the applicants shall sign, affirming that they have received the brochure provided for in Section

360. (a) If a certificate of registry of marriage is lost or destroyed after the marriage ceremony but before it is returned to the county recorder, the person solemnizing the marriage, in order to comply with Section 359, shall obtain a duplicate certificate of registry by filing an affidavit setting forth the facts with the county clerk of the county in which the license was issued.

(b) The duplicate certificate of registry may not be issued later than one year after issuance of the original license and shall be returned by the person solemnizing the marriage to the county recorder within 10 days after issuance.

(c) The fee for issuing the duplicate marriage license and certificate of registry is five dollars (\$5).

DIVISION 6. NULLITY, DISSOLUTION, AND LEGAL SEPARATION

PART 1. GENERAL PROVISIONS

2000. This part applies to a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.

2010. In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has jurisdiction to inquire into and render any judgment and make orders that are appropriate concerning the following:

(a) The status of the marriage.

(b) The custody of minor children of the marriage.

(c) The support of children for whom support may be ordered, including children born after the filing of the initial petition or the final decree of dissolution.

(d) The support of either party.

(e) The settlement of the property rights of the parties.

(f) The award of attorney's fees and costs.

2011. When service of summons on a spouse is made pursuant to Section 415.50 of the Code of Civil Procedure, the court, without the aid of attachment or the appointment of a receiver, shall have and may exercise the same jurisdiction over:

(a) The community real property of the spouse so served situated in this state as it has or may exercise over the community real property of a spouse who is personally served with process within this state.

(b) The quasi-community real property of the spouse so served situated in this state as it has or may exercise over the quasi-community real property of a spouse who is personally served with process within this state.

2012. (a) During the time a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending, the respondent may appear in opposition to an order made during the pendency of the proceeding and the appearance shall not be deemed a general appearance by the respondent.

(b) As used in this section, a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending from the time of the filing of the responsive pleading, if any, shall be filed and a copy served on the petitioner within 30 days of the date of the service on the respondent of a copy of the petition and summons.

2021. (a) Subject to subdivision (b), the court may order that a person who claims an interest in the proceeding be joined as a party to the proceeding in accordance with rules adopted by the Judicial Council pursuant to Section 211.

(b) An employee benefit plan may be joined as a party only in accordance with Chapter 6 (commencing with Section 2060).

2022. (a) Evidence collected by eavesdropping in violation of Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code is inadmissible.

(b) If it appears that a violation described in subdivision (a) exists, the court may refer the matter to the proper authority for investigation and prosecution.

2023. (a) On a determination that payment of an obligation of a party would benefit either party or a child for whom support may be ordered, the court may order one of the parties to pay the obligation, or a portion thereof, directly to the creditor.

(b) The creditor has no right to enforce the order made under this section, nor are the creditor's rights affected by the determination made under this section.

2024. (a) A petition for dissolution of marriage, nullity of marriage, or legal separation of the parties, or a joint petition for summary dissolution of marriage, shall contain the following notice:

"Dissolution or annulment of your marriage may automatically cancel your spouse's rights under your will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your spouse's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes. Dissolution or annulment of your marriage may also automatically cancel your rights under your spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, and survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see Part 3 (commencing with Section 231) of Division 2 of the Family Code)."

(b) A judgment for dissolution of marriage, for nullity of marriage, or for legal separation of the parties shall contain the following notice:

"Dissolution or annulment of your marriage may automatically cancel your spouse's rights under your will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your spouse's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes. Dissolution or annulment of your marriage may also automatically cancel your rights under your spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution or annulment of your marriage, or your legal separation."

2024.5. (a) Except as provided in subdivision (b), the petitioner or respondent may redact any social security number from any pleading, attachment, document, or other written material filed with the court pursuant to a petition for dissolution of marriage, nullity of marriage, or legal separation. The Judicial Council form used to file such a petition, or a response to such a petition, shall contain a notice that the parties may redact any social security numbers from those pleadings, attachments, documents, or other material filed with the court.

(b) An abstract of support judgment, the form required pursuant to subdivision (b) of Section 4014, or any similar form created for the purpose of collecting child or spousal support payments may not be redacted pursuant to subdivision (a).

2024.6. (a) Upon request by a party to a petition for dissolution of marriage, nullity of marriage, or legal separation, the court shall order a pleading that lists the parties' financial assets and liabilities and provides the location or identifying information about those assets and liabilities sealed. The request may be made by ex parte application. Nothing sealed pursuant to this section may be unsealed except upon petition to the court and good cause shown.

(b) Commencing not later than July 1, 2005, the Judicial Council form used to declare assets and liabilities of the parties in a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties shall require the party filing the form to state whether the declaration contains identifying information on the assets and liabilities listed therein. If the party making the

request uses a pleading other than the Judicial Council form, the pleading shall exhibit a notice on the front page, in bold capital letters, that the pleading lists and identifies financial information and is therefore subject to this section.

(c) For purposes of this section, "pleading" means a document that sets forth or declares the parties' assets and liabilities, income and expenses, a marital settlement agreement that lists and identifies the parties' assets and liabilities, or any document filed with the court incidental to the declaration or agreement that lists and identifies financial information.

(e) The party making the request to seal a pleading pursuant to subdivision (a) shall serve a copy of the pleading on the other party to the proceeding and file a proof of service with the request to seal the pleading.

(f) Nothing in this section precludes a party to a proceeding described in this section from using any document or information contained in a sealed pleading in any manner that is not otherwise prohibited by law.

2025. Notwithstanding any other provision of law, if the court has ordered an issue or issues bifurcated for separate trial or hearing in advance of the disposition of the entire case, a court of appeal may order an issue or issues transferred to it for hearing and decision when the court that heard the issue or issues certifies that the appeal is appropriate. Certification by the court shall be in accordance with rules promulgated by the Judicial Council.

2026. The reconciliation of the parties, whether conditional or unconditional, is an ameliorating factor to be considered by the court in considering a contempt of an exist2030.

(a) (1) In a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a governmental entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(2) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon, (A) the respective incomes and needs of the parties, and (B) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(b) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(c) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of the proceeding, or any proceeding related thereto, including after any appeal has been concluded.

(d) Any order requiring a party who is not the spouse of another party to the proceeding to pay attorney's fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party.

2030. (a) (1) In a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a governmental entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(2) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon, (A) the respective incomes and needs of the parties, and (B) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(b) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(c) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of the proceeding, or any proceeding related thereto, including after any appeal has been concluded.

(d) Any order requiring a party who is not the spouse of another party to the proceeding to pay attorney's fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party.

2031. (a) (1) Except as provided in subdivision (b), during the pendency of a proceeding for dissolution of marriage, for nullity of marriage, for legal separation of the parties, or any proceeding subsequent to entry of a related judgment, an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs or both shall be made by motion on notice or by an order to show cause.

(2) The court shall rule on an application within 15 days of the hearing on the motion or order to show cause.

(b) An order described in subdivision (a) may be made without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

2032. (a) The court may make an award of attorney's fees and costs under Section 2030 or 2031 where the making of the award, and the amount of the award, are just and reasonable under the relative circumstances of the respective parties.

(b) In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately, taking into consideration, to the extent relevant, the circumstances of the respective parties described in Section 4320.

The fact that the party requesting an award of attorney's fees and costs has resources from which the party could pay the party's own attorney's fees and costs is not itself a bar to an order that the other party pay part or all of the fees and costs requested. Financial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances.

(c) The court may order payment of an award of attorney's fees and costs from any type of property, whether community or separate, principal or income.

(d) Either party may, at any time before the hearing of the cause on the merits, on noticed motion, request the court to make a finding that the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. Upon that finding, the court may in its discretion direct the implementation of a case management plan for the purpose of allocating attorney's fees, court costs, expert fees, and consultant fees equitably between the parties. The case management plan shall focus on specific, designated issues. The plan may provide for the allocation of separate or community assets, security against these assets, and for payments from income or anticipated income of either party for the purpose described in this subdivision and for the benefit of one or both parties. Payments shall be authorized only on agreement of the parties or, in the absence thereof, by court order. The court may order that a referee be appointed pursuant to Section 639 of the Code of Civil Procedure to oversee the case management plan.

2033. (a) Either party may encumber his or her interest in community real property to pay reasonable attorney's fees in order to retain or maintain legal counsel in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties. This encumbrance shall be known as a "family law attorney's real property lien" and attaches only to the encumbering party's interest in the community real property.

(b) Notice of a family law attorney's real property lien shall be served either personally or on the other party's attorney of record at least 15 days before the encumbrance is recorded. This notice shall contain a declaration signed under penalty of perjury containing all of the following:

(1) A full description of the real property.

(2) The party's belief as to the fair market value of the property and documentation supporting that belief.

(3) Encumbrances on the property as of the date of the declaration.

(4) A list of community assets and liabilities and their estimated values as of the date of the declaration.

(5) The amount of the family law attorney's real property lien.

(c) The nonencumbering party may file an ex parte objection to the family law attorney's real property lien. The objection shall include a request to stay the recordation until further notice of the court and shall contain a copy of the notice received. The objection shall also include a declaration signed under penalty of perjury as to all of the following:

(1) Specific objections to the family law attorney's real property lien and to the specific items in the notice.

(2) The objector's belief as to the appropriate items or value and any documentation supporting that belief.

(3) A declaration specifically stating why recordation of the encumbrance at this time would likely result in an unequal division of property or would otherwise be unjust under the circumstances of the case.

(d) Except as otherwise provided by this section, general procedural rules regarding ex parte motions apply.

(e) An attorney for whom a family law attorney's real property lien is obtained shall comply with Rule 3-300 of the Rules of Professional Conduct of the State Bar of California.

2034. (a) On application of either party, the court may deny the family law attorney's real property lien described in Section 2033 based on a finding that the encumbrance would likely result in an unequal division of property because it would impair the encumbering party's ability to meet his or her fair share of the community obligations or would otherwise be unjust under the circumstances of the case. The court may also for good cause limit the amount of the family law attorney's real property lien. A limitation by the court is not to be construed as a determination of reasonable attorney's fees.

(b) On receiving an objection to the establishment of a family law attorney's real property lien, the court may on its own motion determine whether the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. If the court finds that the case involves one or more of these complex or substantial issues, the court may direct the implementation of a case management plan as provided in subdivision (d) of Section 2032.

(c) The court has jurisdiction to resolve any dispute arising from the existence of a family law attorney's real property lien.

2040. (a) In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:

(1) Restraining both parties from removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court.

(2) Restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life, and requiring each party to notify the other party of any proposed extraordinary expenditures at least five business days before incurring those expenditures and to account to the court for all extraordinary expenditures made after service of the summons on that party. Notwithstanding the foregoing, nothing in the restraining order shall preclude a party from using community property, quasi-community property, or the party's own separate property to pay reasonable attorney's fees and costs in order to retain legal counsel in the proceeding. A party who uses community property or quasi-community property to pay his or her attorney's retainer for fees and costs under this provision shall account to the community for the use of the property. A party who uses other property that is subsequently determined to be the separate property of the other party to pay his or her attorney's retainer for fees and costs under this provision shall account to the other party for the use of the property.

(3) Restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their child or children for whom support may be ordered.

(4) Restraining both parties from creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court.

(b) Nothing in this section restrains any of the following:

(1) Creation, modification, or revocation of a will.

(2) Revocation of a nonprobate transfer, including a revocable trust, pursuant to the instrument, provided that notice of the change is filed and served on the other party before the change takes effect.

(3) Elimination of a right of survivorship to property, provided that notice of the change is filed and served on the other party before the change takes effect.

(4) Creation of an unfunded revocable or irrevocable trust.

(5) Execution and filing of a disclaimer pursuant to Part 8 (commencing with Section 260) of Division 2 of the Probate Code.

(c) In all actions filed on and after January 1, 1995, the summons shall contain the following notice:

"WARNING: California law provides that, for purposes of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language of how title is held in the deed (i.e., joint tenancy, tenants in common, or community property) will be controlling and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property."

(d) For the purposes of this section:

(1) "Nonprobate transfer" means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, pay on death account in a financial institution, Totten trust, transfer on death registration of personal property, or other instrument of a type described in Section 5000 of the Probate Code.

(2) "Nonprobate transfer" does not include a provision for the transfer of property on death in an insurance policy or other coverage held for the benefit of the parties and their child or children for whom support may be ordered, to the extent that the provision is subject to paragraph (3) of subdivision (a).

(e) The restraining order included in the summons shall include descriptions of the notices required by paragraphs (2) and (3) of subdivision (b).

2041. Nothing in Section 2040 adversely affects the rights, title, and interest of a purchaser for value, encumbrancer for value, or lessee for value who is without actual knowledge of the restraining order.

2045. During the pendency of the proceeding, on application of a party in the manner provided by Part 4 (commencing with Section 240) of Division 2, the court may issue ex parte any of the following orders:

(a) An order restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring that party to notify the other party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures.

(b) A protective order, as defined in Section 6218, and any other order as provided in Article 1 (commencing with Section 6320) of Chapter 2 of Part 4 of Division 10.

2047. (a) After notice and a hearing, the court may issue a protective order, as defined in Section 6218, and any other restraining order as provided in Article 2 (commencing with Section 6340) of Chapter 2 of Part 4 of Division 10.

(b) The court may not issue a mutual protective order pursuant to subdivision (a) unless it meets the requirements of Section 6305.

2049. A judgment may include a protective order, as defined in Section 6218, and any other restraining order as provided in Article 3 (commencing with Section 6360) of Chapter 2 of Part 4 of Division 10.

2050. Upon filing of the petition, or at any time during the proceeding, a party may transmit to, or the court may order transmittal to, a health, life, or disability insurance carrier or plan the following notice in substantially the following form:

"YOU ARE HEREBY NOTIFIED, PURSUANT TO A PENDING PROCEEDING, IN RE MARRIAGE OF _____, CASE NUMBER _____, FILED IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF _____, THAT OWNERSHIP OF, OR BENEFITS PAYABLE UNDER, A POLICY OF HEALTH, LIFE, OR DISABILITY INSURANCE WHICH YOU HAVE ISSUED TO ONE OF THE PARTIES TO THIS PROCEEDING, POLICY NO. _____, IS AT ISSUE OR MAY BE AT ISSUE IN THE PROCEEDING. YOU ARE HEREBY INSTRUCTED TO MAINTAIN THE NAMED BENEFICIARIES OR COVERED DEPENDENTS UNDER THE POLICY, UNLESS THE TERMS OF THE POLICY OR OTHER PROVISIONS OF LAW REQUIRE OTHERWISE, OR UNTIL RECEIPT OF A COURT ORDER, JUDGMENT, OR STIPULATION BETWEEN THE PARTIES PROVIDING OTHER INSTRUCTIONS.

YOU ARE FURTHER INSTRUCTED TO SEND NOTICE TO THE NAMED BENEFICIARIES, COVERED DEPENDENTS, OR OTHER SPECIFIED PERSONS UPON CANCELLATION, LAPSE, OR CHANGE OF THE COVERAGE, OR CHANGE OF DESIGNATED BENEFICIARIES UNDER THE POLICY."

2051. Upon the entry of an order or judgment in the proceeding requiring a party to maintain existing health, life, or disability insurance coverage for a spouse or children or after an order or judgment in the proceeding requiring a party to purchase life or disability insurance and name the spouse or children as beneficiaries and upon receipt of the name, title, and address of the insurer, or the name of the plan's trustee, administrator, or agent for service of process, a party may transmit to, or the court may order transmittal to, the insurer or plan a copy of the order or judgment endorsed by the court, together with the following notice in substantially the following form:

"PURSUANT TO A PROCEEDING, IN RE MARRIAGE OF _____, CASE NUMBER _____, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF _____, YOUR INSURED, _____, HAS BEEN ORDERED TO MAINTAIN THE EXISTING (HEALTH) (LIFE) (DISABILITY) INSURANCE COVERAGE, POLICY NO. _____, IN FORCE FOR THE NAMED BENEFICIARIES OR COVERED DEPENDENTS AS SPECIFIED IN THE ATTACHED ORDER OR JUDGMENT. THE ATTACHED ORDER OR JUDGMENT REQUIRES YOU TO MAINTAIN THE NAMED BENEFICIARIES UNDER THE POLICY AS IRREVOCABLE BENEFICIARIES OR COVERED DEPENDENTS OF THE POLICY AND YOU MUST ADMINISTER THE COVERAGE ACCORDINGLY, UNTIL THE DATE SPECIFIED, IF ANY, IN THE ORDER OR JUDGMENT, OR UNTIL THE RECEIPT OF A COURT ORDER, JUDGMENT, OR STIPULATION PROVIDING OTHER INSTRUCTIONS. YOU ARE FURTHER INSTRUCTED TO SEND NOTICE TO THE NAMED BENEFICIARIES, COVERED DEPENDENTS, OR OTHER SPECIFIED PERSONS UPON ANY CANCELLATION, LAPSE, OR CHANGE OF COVERAGE, OR CHANGE OF DESIGNATED BENEFICIARIES UNDER THIS POLICY."

2052. Notice pursuant to this chapter may be sent by first-class mail, postage prepaid, to the last known address of the covered dependents, named beneficiaries, or other specified persons who have requested receipt of notification.

2053. The insured or policyholder who is a party to the proceeding shall furnish to the other party the name, title, and address of the insurer or the insurer's agent for service of process.

2060. (a) Upon written application by a party, the clerk shall enter an order joining as a party to the proceeding any employee benefit plan in which either party to the proceeding claims an interest that is or may be subject to disposition by the court.

(b) An order or judgment in the proceeding is not enforceable against an employee benefit plan unless the plan has been joined as a party to the proceeding.

2061. Upon entry of the order under Section 2060, the party requesting joinder shall file an appropriate pleading setting forth the party's claim against the plan and the nature of the relief sought.

2062. (a) The party requesting joinder shall serve all of the following upon the employee benefit plan:

- (1) A copy of the pleading on joinder.
- (2) A copy of the request for joinder and order of joinder.
- (3) A copy of the summons (joinder).

- (4) A blank copy of a notice of appearance in form and content approved by the Judicial Council.
- (b) Service shall be made in the same manner as service of papers generally. Service of the summons upon a trustee or administrator of the plan in its capacity as trustee or administrator, or upon an agent designated by the plan for service of process in its capacity as agent, constitutes service upon the plan.
- (c) To facilitate identification and service, the employee spouse shall furnish to the nonemployee spouse within 30 days after written request, as to each employee benefit plan covering the employee, the name of the plan, the name, title, address, and telephone number of the plan's trustee, administrator, or agent for service of process. If necessary, the employee shall obtain the information from the plan or plan sponsor.

2063. (a) The employee benefit plan shall file and serve a copy of a notice of appearance upon the party requesting joinder within 30 days of the date of the service upon the plan of a copy of the joinder request and summons.

(b) The employee benefit plan may, but need not, file an appropriate responsive pleading with its notice of appearance. If the plan does not file a responsive pleading, all statements of fact and requests for relief contained in any pleading served on the plan are deemed to be controverted by the plan's notice of appearance.

2064. Notwithstanding any contrary provision of law, the employee benefit plan is not required to pay any fee to the clerk of the court as a condition to filing the notice of appearance or any subsequent paper in the proceeding.

2065. If the employee benefit plan has been served and no notice of appearance, notice of motion to quash service of summons pursuant to Section 418.10 of the Code of Civil Procedure, or notice of the filing of a petition for writ of mandate as provided in that section, has been filed with the clerk of the court within the time specified in the summons or such further time as may be allowed, the clerk, upon written application of the party requesting joinder, shall enter the default of the employee benefit plan in accordance with Chapter 2 (commencing with Section 585) of Title 8 of Part 2 of the Code of Civil Procedure.

2070. (a) This article governs a proceeding in which an employee benefit plan has been joined as a party.

(b) To the extent not in conflict with this article and except as otherwise provided by rules adopted by the Judicial Council pursuant to Section 211, all provisions of law applicable to civil actions generally apply, regardless of nomenclature, to the portion of the proceeding as to which an employee benefit plan has been joined as a party if those provisions would otherwise apply to the proceeding without reference to this article.

2071. Either party or their representatives may notify the employee benefit plan of any proposed property settlement as it concerns the plan before any hearing at which the proposed property settlement will be a matter before the court. If so notified, the plan may stipulate to the proposed settlement or advise the representative that it will contest the proposed settlement.

2072. The employee benefit plan is not required to, but may, appear at any hearing in the proceeding. For purposes of the Code of Civil Procedure, the plan shall be considered a party appearing at the trial with respect to any hearing at which the interest of the parties in the plan is an issue before the court.

2073. (a) Subject to subdivisions (b) and (c), the provisions of an order entered by stipulation of the parties or entered at or as a result of a hearing not attended by the employee benefit plan (whether or not the plan received notice of the hearing) which affect the plan or which affect any interest either the petitioner or respondent may have or claim under the plan, shall be stayed until 30 days after the order has been served upon the plan.

(b) The plan may waive all or any portion of the 30-day period under subdivision (a).

(c) If within the 30-day period, the plan files in the proceeding a motion to set aside or modify those provisions of the order affecting it, those provisions shall be stayed until the court has resolved the motion.

(d) The duration of the stay described in subdivision (a), and the time period for filing the motion to set aside or modify provisions of the order, shall be extended to 60 days if the plan files with the

court and serves on all affected parties a request for extension within the 30-day period.

(e) Either spousal party may seek an order staying any other provisions of the order and associated orders or judgments related to or affected by the provisions to which the plan has objected, until the court has resolved the motion, in order to protect the right of the party to seek relief under subdivision (c) of Section 2074.

2074. (a) At any hearing on a motion to set aside or modify an order pursuant to Section 2073, any party may present further evidence on any issue relating to the rights of the parties under the employee benefit plan or the extent of the parties' community or quasi-community property interest in the plan, except where the parties have agreed in writing to the contrary.

(b) Any statement of decision issued by the court with respect to the order which is the subject of the motion shall take account of the evidence referred to in subdivision (a).

(c) If the provisions of the order affecting the employee benefit plan are modified or set aside, the court, on motion by either party, may set aside or modify other provisions of the order and associated orders or judgments related to or affected by the provisions affecting the plan.

2080. In a proceeding for dissolution of marriage or for nullity of marriage, but not in a proceeding for legal separation of the parties, the court, upon the request of a party, shall restore the birth name or former name of that party, regardless of whether or not a request for restoration of the name was included in the petition.

2081. The restoration of a former name or birth name requested under Section 2080 shall not be denied (a) on the basis that the party has custody of a minor child who bears a different name or (b) for any other reason other than fraud.

2082. Nothing in this code shall be construed to abrogate the common law right of any person to change one's name.

2090. This chapter may be cited as the Uniform Divorce Recognition Act.

2091. A divorce obtained in another jurisdiction shall be of no force or effect in this state if both parties to the marriage were domiciled in this state at the time the proceeding for the divorce was commenced.

2092. Proof that a person hereafter obtaining a divorce from the bonds of matrimony in another jurisdiction was (a) domiciled in this state within 12 months before the commencement of the proceeding therefor, and resumed residence in this state within 18 months after the date of the person's departure therefrom, or (b) at all times after the person's departure from this state and until the person's return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

2093. The application of this chapter is limited by the requirement of the Constitution of the United States that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

2100. The Legislature finds and declares the following:

(a) It is the policy of the State of California (1) to marshal, preserve, and protect community and quasi-community assets and liabilities that exist at the date of separation so as to avoid dissipation of the community estate before distribution, (2) to ensure fair and sufficient child and spousal support awards, and (3) to achieve a division of community and quasi-community assets and liabilities on the dissolution or nullity of marriage or legal separation of the parties as provided under California law.

(b) Sound public policy further favors the reduction of the adversarial nature of marital dissolution and the attendant costs by fostering full disclosure and cooperative discovery.

(c) In order to promote this public policy, a full and accurate disclosure of all assets and liabilities in which one or both parties have or may have an interest must be made in the early stages of a proceeding for dissolution of marriage or legal separation of the parties, regardless of the characterization as community or separate, together with a disclosure of all income and expenses of the parties. Moreover, each party has a continuing duty to immediately, fully, and accurately update and augment that disclosure to the extent there have been any material changes so that at

the time the parties enter into an agreement for the resolution of any of these issues, or at the time of trial on these issues, each party will have a full and complete knowledge of the relevant underlying facts.

2101. Unless the provision or context otherwise requires, the following definitions apply to this chapter:

- (a) "Asset" includes, but is not limited to, any real or personal property of any nature, whether tangible or intangible, and whether currently existing or contingent.
- (b) "Default judgment" does not include a stipulated judgment or any judgment pursuant to a marital settlement agreement.
- (c) "Earnings and accumulations" includes income from whatever source derived, as provided in Section 4058.
- (d) "Expenses" includes, but is not limited to, all personal living expenses, but does not include business related expenses.
- (e) "Income and expense declaration" includes the Income and Expense Declaration forms approved for use by the Judicial Council, and any other financial statement that is approved for use by the Judicial Council in lieu of the Income and Expense Declaration, if the financial statement form satisfies all other applicable criteria.
- (f) "Liability" includes, but is not limited to, any debt or obligation, whether currently existing or contingent.

2102. (a) From the date of separation to the date of the distribution of the community or quasi-community asset or liability in question, each party is subject to the standards provided in Section 721, as to all activities that affect the assets and liabilities of the other party, including, but not limited to, the following activities:

(1) The accurate and complete disclosure of all assets and liabilities in which the party has or may have an interest or obligation and all current earnings, accumulations, and expenses, including an immediate, full, and accurate update or augmentation to the extent there have been any material changes.

(2) The accurate and complete written disclosure of any investment opportunity, business opportunity, or other income-producing opportunity that presents itself after the date of separation, but that results from any investment, significant business activity outside the ordinary course of business, or other income-producing opportunity of either spouse from the date of marriage to the date of separation, inclusive. The written disclosure shall be made in sufficient time for the other spouse to make an informed decision as to whether he or she desires to participate in the investment opportunity, business, or other potential income-producing opportunity, and for the court to resolve any dispute regarding the right of the other spouse to participate in the opportunity. In the event of nondisclosure of an investment opportunity, the division of any gain resulting from that opportunity is governed by the standard provided in Section 2556.

(3) The operation or management of a business or an interest in a business in which the community may have an interest.

(b) From the date that a valid, enforceable, and binding resolution of the disposition of the asset or liability in question is reached, until the asset or liability has actually been distributed, each party is subject to the standards provided in Section 721 as to all activities that affect the assets or liabilities of the other party. Once a particular asset or liability has been distributed, the duties and standards set forth in Section 721 shall end as to that asset or liability.

(c) From the date of separation to the date of a valid, enforceable, and binding resolution of all issues relating to child or spousal support and professional fees, each party is subject to the standards provided in Section 721 as to all issues relating to the support and fees, including immediate, full, and accurate disclosure of all material facts and information regarding the income or expenses of the party.

2103. In order to provide full and accurate disclosure of all assets and liabilities in which one or both parties may have an interest, each party to a proceeding for dissolution of the marriage or legal separation of the parties shall serve on the other party a preliminary declaration of disclosure under Section 2104 and a final declaration of disclosure under Section 2105, unless service of the final declaration of disclosure is waived pursuant to Section 2105 or 2110, and shall file proof of service of each with the court.

2104. (a) After or concurrently with service of the petition for dissolution or nullity of marriage or legal separation of the parties, each party shall serve on the other party a preliminary declaration of disclosure, executed under penalty of perjury on a form prescribed by the Judicial Council. The commission of perjury on the preliminary declaration of disclosure may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury.

(b) The preliminary declaration of disclosure shall not be filed with the court, except on court order; however, the parties shall file proof of service of the preliminary declaration of disclosure with the court.

(c) The preliminary declaration of disclosure shall set forth with sufficient particularity, that a person of reasonable and ordinary intelligence can ascertain, all of the following:

(1) The identity of all assets in which the declarant has or may have an interest and all liabilities for which the declarant is or may be liable, regardless of the characterization of the asset or liability as community, quasi-community, or separate.

(2) The declarant's percentage of ownership in each asset and percentage of obligation for each liability where property is not solely owned by one or both of the parties. The preliminary declaration may also set forth the declarant's characterization of each asset or liability.

(d) A declarant may amend his or her preliminary declaration of disclosure without leave of the court. Proof of service of any amendment shall be filed with the court.

(e) Along with the preliminary declaration of disclosure, each party shall provide the other party with a completed income and expense declaration unless an income and expense declaration has already been provided and is current and valid.

2105. (a) Except by court order for good cause, before or at the time the parties enter into an agreement for the resolution of property or support issues other than pendente lite support, or, if the case goes to trial, no later than 45 days before the first assigned trial date, each party, or the attorney for the party in this matter, shall serve on the other party a final declaration of disclosure and a current income and expense declaration, executed under penalty of perjury on a form prescribed by the Judicial Council, unless the parties mutually waive the final declaration of disclosure. The commission of perjury on the final declaration of disclosure by a party may be grounds for setting aside the judgment, or any part or parts thereof, pursuant to Chapter 10 (commencing with Section 2120), in addition to any and all other remedies, civil or criminal, that otherwise are available under law for the commission of perjury.

(b) The final declaration of disclosure shall include all of the following information:

(1) All material facts and information regarding the characterization of all assets and liabilities.

(2) All material facts and information regarding the valuation of all assets that are contended to be community property or in which it is contended the community has an interest.

(3) All material facts and information regarding the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) All material facts and information regarding the earnings, accumulations, and expenses of each party that have been set forth in the income and expense declaration.

(c) In making an order setting aside a judgment for failure to comply with this section, the court may limit the set aside to those portions of the judgment materially affected by the nondisclosure.

(d) The parties may stipulate to a mutual waiver of the requirements of subdivision (a) concerning the final declaration of disclosure, by execution of a waiver under penalty of perjury entered into in open court or by separate stipulation. The waiver shall include all of the following representations:

(1) Both parties have complied with Section 2104 and the preliminary declarations of disclosure have been completed and exchanged.

(2) Both parties have completed and exchanged a current income and expense declaration, that includes all material facts and information regarding that party's earnings, accumulations, and expenses.

(3) Both parties have fully complied with Section 2102 and have fully augmented the preliminary declarations of disclosure, including disclosure of all material facts and information regarding the characterization of all assets and liabilities, the valuation of all assets that are contended to be community property or in which it is contended the community has an interest, and the amounts of all obligations that are contended to be community obligations or for which it is contended the community has liability.

(4) The waiver is knowingly, intelligently, and voluntarily entered into by each of the parties.

(5) Each party understands that this waiver does not limit the legal disclosure obligations of the parties, but rather is a statement under penalty of perjury that those obligations have been fulfilled. Each party further understands that noncompliance with those obligations will result in the court setting aside the judgment.

2106. Except as provided in subdivision (d) of Section 2105 or in Section 2110, absent good cause, no judgment shall be entered with respect to the parties' property rights without each party, or the attorney for that party in this matter, having executed and served a copy of the final declaration of disclosure and current income and expense declaration. Each party, or his or her attorney, shall execute and file with the court a declaration signed under penalty of perjury stating that service of the final declaration of disclosure and current income and expense declaration was made on the other party or that service of the final declaration of disclosure has been waived pursuant to subdivision (d) of Section 2105 or in Section 2110.

2107. (a) If one party fails to serve on the other party a preliminary declaration of disclosure under Section 2104 or a final declaration of disclosure under Section 2105, or fails to provide the information required in the respective declarations with sufficient particularity, and if the other party has served the respective declaration of disclosure on the noncomplying party, the complying party may, within a reasonable time, request preparation of the appropriate declaration of disclosure or further particularity.

(b) If the noncomplying party fails to comply with a request under subdivision (a), the complying party may do either or both of the following:

(1) File a motion to compel a further response.

(2) File a motion for an order preventing the noncomplying party from presenting evidence on issues that should have been covered in the declaration of disclosure.

(c) If a party fails to comply with any provision of this chapter, the court shall, in addition to any other remedy provided by law, impose money sanctions against the noncomplying party. Sanctions shall be in an amount sufficient to deter repetition of the conduct or comparable conduct, and shall include reasonable attorney's fees, costs incurred, or both, unless the court finds that the noncomplying party acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(d) If a court enters a judgment when the parties have failed to comply with all disclosure requirements of this chapter, the court shall set aside the judgment. The failure to comply with the disclosure requirements does not constitute harmless error.

(e) Upon the motion to set aside judgment, the court may order the parties to provide the preliminary and final declarations of disclosure that were exchanged between them. Absent a court order to the contrary, the disclosure declarations shall not be filed with the court and shall be returned to the parties.

2108. At any time during the proceeding, the court has the authority, on application of a party and for good cause, to order the liquidation of community or quasi-community assets so as to avoid

unreasonable market or investment risks, given the relative nature, scope, and extent of the community estate. However, in no event shall the court grant the application unless, as provided in this chapter, the appropriate declaration of disclosure has been served by the moving party.

2109. The provisions of this chapter requiring a final declaration of disclosure do not apply to a summary dissolution of marriage, but a preliminary declaration of disclosure is required.

2110. In the case of a default judgment, the petitioner may waive the final declaration of disclosure requirements provided in this chapter, and shall not be required to serve a final declaration of disclosure on the respondent nor receive a final declaration of disclosure from the respondent. However, a preliminary declaration of disclosure by the petitioner is required.

2111. A disclosure required by this chapter does not abrogate the attorney work product privilege or impede the power of the court to issue protective orders.

2112. The Judicial Council shall adopt appropriate forms and modify existing forms to effectuate the purposes of this chapter.

2113. This chapter applies to any proceeding commenced on or after January 1, 1993.

2120. The Legislature finds and declares the following:

(a) The State of California has a strong policy of ensuring the division of community and quasi-community property in the dissolution of a marriage as set forth in Division 7 (commencing with Section 2500), and of providing for fair and sufficient child and spousal support awards. These policy goals can only be implemented with full disclosure of community, quasi-community, and separate assets, liabilities, income, and expenses, as provided in Chapter 9 (commencing with Section 2100), and decisions freely and knowingly made.

(b) It occasionally happens that the division of property or the award of support, whether made as a result of agreement or trial, is inequitable when made due to the nondisclosure or other misconduct of one of the parties.

(c) The public policy of assuring finality of judgments must be balanced against the public interest in ensuring proper division of marital property, in ensuring sufficient support awards, and in deterring misconduct.

(d) The law governing the circumstances under which a judgment can be set aside, after the time for relief under Section 473 of the Code of Civil Procedure has passed, has been the subject of considerable confusion which has led to increased litigation and unpredictable and inconsistent decisions at the trial and appellate levels.

2121. (a) In proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court may, on any terms that may be just, relieve a spouse from a judgment, or any part or parts thereof, adjudicating support or division of property, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this chapter.

(b) In all proceedings under this chapter, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original outcome and that the moving party would materially benefit from the granting of the relief.

2122. The grounds and time limits for a motion to set aside a judgment, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud where the defrauded party was kept in ignorance or in some other manner was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the fraud.

(b) Perjury. An action or motion based on perjury in the preliminary or final declaration of disclosure, the waiver of the final declaration of disclosure, or in the current income and expense statement shall be brought within one year after the date on which the complaining party either did discover, or should have discovered, the perjury.

(c) Duress. An action or motion based upon duress shall be brought within two years after the date of entry of judgment.

(d) Mental incapacity. An action or motion based on mental incapacity shall be brought within two years after the date of entry of judgment.

(e) As to stipulated or uncontested judgments or that part of a judgment stipulated to by the parties, mistake, either mutual or unilateral, whether mistake of law or mistake of fact. An action or motion based on mistake shall be brought within one year after the date of entry of judgment.

(f) Failure to comply with the disclosure requirements of Chapter 9 (commencing with Section 2100). An action or motion based on failure to comply with the disclosure requirements shall be brought within one year after the date on which the complaining party either discovered, or should have discovered, the failure to comply.

2123. Notwithstanding any other provision of this chapter, or any other law, a judgment may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the division of assets or liabilities to become inequitable, or the support to become inadequate.

2124. The negligence of an attorney shall not be imputed to a client to bar an order setting aside a judgment, unless the court finds that the client knew, or should have known, of the attorney's negligence and unreasonably failed to protect himself or herself.

2125. When ruling on an action or motion to set aside a judgment, the court shall set aside only those provisions materially affected by the circumstances leading to the court's decision to grant relief. However, the court has discretion to set aside the entire judgment, if necessary, for equitable considerations.

2126. As to assets or liabilities for which a judgment or part of a judgment is set aside, the date of valuation shall be subject to equitable considerations. The court shall equally divide the asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division.

2127. As to actions or motions filed under this chapter, if a timely request is made, the court shall render a statement of decision where the court has resolved controverted factual evidence.

2128. (a) Nothing in this chapter prohibits a party from seeking relief under Section 2556.

(b) Nothing in this chapter changes existing law with respect to contract remedies where the contract has not been merged or incorporated into a judgment.

(c) Nothing in this chapter is intended to restrict a family law court from acting as a court of equity.

(d) Nothing in this chapter is intended to limit existing law with respect to the modification or enforcement of support orders.

(e) Nothing in this chapter affects the rights of a bona fide lessee, purchaser, or encumbrancer for value of real property.

2129. This chapter applies to judgments entered on or after January 1, 1993.

PART 2. JUDICIAL DETERMINATION OF VOID OR VOIDABLE MARRIAGE

2200. Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

2201. (a) A subsequent marriage contracted by a person during the life of a former husband or wife of the person, with a person other than the former husband or wife, is illegal and void from the beginning, unless:

(1) The former marriage has been dissolved or adjudged a nullity before the date of the subsequent marriage.

(2) The former husband or wife (i) is absent, and not known to the person to be living for the period of five successive years immediately preceding the subsequent marriage, or (ii) is generally reputed or believed by the person to be dead at the time the subsequent marriage was contracted.

(b) In either of the cases described in paragraph (2) of subdivision (a), the subsequent marriage is valid until its nullity is adjudged pursuant to subdivision (b) of Section 2210.

2210. A marriage is voidable and may be adjudged a nullity if any of the following conditions existed at the time of the marriage:

(a) The party who commences the proceeding or on whose behalf the proceeding is commenced was without the capability of consenting to the marriage as provided in Section 301 or 302, unless, after attaining the age of consent, the party for any time freely cohabited with the other as husband and wife.

(b) The husband or wife of either party was living and the marriage with that husband or wife was then in force and that husband or wife (1) was absent and not known to the party commencing the proceeding to be living for a period of five successive years immediately preceding the subsequent marriage for which the judgment of nullity is sought or (2) was generally reputed or believed by the party commencing the proceeding to be dead at the time the subsequent marriage was contracted.

(c) Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as husband and wife.

(d) The consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.

- (e) The consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabited with the other as husband or wife.
- (f) Either party was, at the time of marriage, physically incapable of entering into the marriage state, and that incapacity continues, and appears to be incurable.

2211. A proceeding to obtain a judgment of nullity of marriage, for causes set forth in Section 2210, must be commenced within the periods and by the parties, as follows:

- (a) For causes mentioned in subdivision (a) of Section 2210, by any of the following:
 - (1) The party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent.
 - (2) A parent, guardian, conservator, or other person having charge of the underaged male or female, at any time before the married minor has arrived at the age of legal consent.
- (b) For causes mentioned in subdivision (b) of Section 2210, by either of the following:
 - (1) Either party during the life of the other.
 - (2) The former husband or wife.
- (c) For causes mentioned in subdivision (c) of Section 2210, by the party injured, or by a relative or conservator of the party of unsound mind, at any time before the death of either party.
- (d) For causes mentioned in subdivision (d) of Section 2210, by the party whose consent was obtained by fraud, within four years after the discovery of the facts constituting the fraud.
- (e) For causes mentioned in subdivision (e) of Section 2210, by the party whose consent was obtained by force, within four years after the marriage.
- (f) For causes mentioned in subdivision (f) of Section 2210, by the injured party, within four years after the marriage.

2212. (a) The effect of a judgment of nullity of marriage is to restore the parties to the status of unmarried persons.

(b) A judgment of nullity of marriage is conclusive only as to the parties to the proceeding and those claiming under them.

2250. (a) A proceeding based on void or voidable marriage is commenced by filing a petition entitled "In re the marriage of ____ and ____" which shall state that it is a petition for a judgment of nullity of the marriage.

(b) A copy of the petition together with a copy of a summons in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

2251. (a) If a determination is made that a marriage is void or voidable and the court finds that either party or both parties believed in good faith that the marriage was valid, the court shall:

- (1) Declare the party or parties to have the status of a putative spouse.
- (2) If the division of property is in issue, divide, in accordance with Division 7 (commencing with Section 2500), that property acquired during the union which would have been community property or quasi-community property if the union had not been void or voidable. This property is known as "quasi-marital property".

(b) If the court expressly reserves jurisdiction, it may make the property division at a time after the judgment.

2252. The property divided pursuant to Section 2251 is liable for debts of the parties to the same extent as if the property had been community property or quasi-community property.

2253. In a proceeding under this part, custody of the children shall be determined according to Division 8 (commencing with Section 3000).

2254. The court may, during the pendency of a proceeding for nullity of marriage or upon judgment of nullity of marriage, order a party to pay for the support of the other party in the same manner as if the marriage had not been void or voidable if the party for whose benefit the order is made is found to be a putative spouse.

2255. The court may grant attorney's fees and costs in accordance with Chapter 3.5 (commencing with Section 2030) of Part 1 in proceedings to have the marriage adjudged void and in those proceedings based upon voidable marriage in which the party applying for attorney's fees and costs

is found to be innocent of fraud or wrongdoing in inducing or entering into the marriage, and free from knowledge of the then existence of any prior marriage or other impediment to the contracting of the marriage for which a judgment of nullity is sought.

PART 3. DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

2300. The effect of a judgment of dissolution of marriage when it becomes final is to restore the parties to the state of unmarried persons.

2310. Dissolution of the marriage or legal separation of the parties may be based on either of the following grounds, which shall be pleaded generally:

- (a) Irreconcilable differences, which have caused the irremediable breakdown of the marriage.
- (b) Incurable insanity.

2311. Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

2312. A marriage may be dissolved on the grounds of incurable insanity only upon proof, including competent medical or psychiatric testimony, that the insane spouse was at the time the petition was filed, and remains, incurably insane.

2313. No dissolution of marriage granted on the ground of incurable insanity relieves a spouse from any obligation imposed by law as a result of the marriage for the support of the spouse who is incurably insane, and the court may make such order for support, or require a bond therefor, as the circumstances require.

2320. A judgment of dissolution of marriage may not be entered unless one of the parties to the marriage has been a resident of this state for six months and of the county in which the proceeding is filed for three months next preceding the filing of the petition.

2321. (a) In a proceeding for legal separation of the parties in which neither party, at the time the proceeding was commenced, has complied with the residence requirements of Section 2320, either party may, upon complying with the residence requirements, amend the party's petition or responsive pleading in the proceeding to request that a judgment of dissolution of the marriage be entered. The date of the filing of the amended petition or pleading shall be deemed to be the date of commencement of the proceeding for the dissolution of the marriage for the purposes only of the residence requirements of Section 2320.

(b) If the other party has appeared in the proceeding, notice of the amendment shall be given to the other party in the manner provided by rules adopted by the Judicial Council. If no appearance has been made by the other party in the proceeding, notice of the amendment may be given to the other party by mail to the last known address of the other party, or by personal service, if the intent of the party to so amend upon satisfaction of the residence requirements of Section 2320 is set forth in the initial petition or pleading in the manner provided by rules adopted by the Judicial Council.

2322. For the purpose of a proceeding for dissolution of marriage, the husband and wife each may have a separate domicile or residence depending upon proof of the fact and not upon legal presumptions.

2330. (a) A proceeding for dissolution of marriage or for legal separation of the parties is commenced by filing a petition entitled "In re the marriage of ____ and ____" which shall state whether it is a petition for dissolution of the marriage or for legal separation of the parties.

(b) In a proceeding for dissolution of marriage or for legal separation of the parties, the petition shall set forth among other matters, as nearly as can be ascertained, the following facts:

- (1) The date of marriage.
- (2) The date of separation.
- (3) The number of years from marriage to separation.
- (4) The number of children of the marriage, if any, and if none a statement of that fact.

(5) The age and birth date of each minor child of the marriage.

2330.1. In any proceeding for dissolution of marriage, for legal separation of the parties, or for the support of children, the petition or complaint may list children born before the marriage to the same parties and, pursuant to the terms of the Uniform Parentage Act, a determination of paternity may be made in the action. In addition, a supplemental complaint may be filed, in any of those proceedings, pursuant to Section 464 of the Code of Civil Procedure, seeking a judgment or order of paternity or support for a child of the mother and father of the child whose paternity and support are already in issue before the court. A supplemental complaint for paternity or support of children may be filed without leave of court either before or after final judgment in the underlying action. Service of the supplemental summons and complaint shall be made in the manner provided for the initial service of a summons by this code.

2330.3. (a) All dissolution actions, to the greatest extent possible, shall be assigned to the same superior court department for all purposes, in order that all decisions in a case through final judgment shall be made by the same judicial officer.

(b) The Judicial Council shall adopt a standard of judicial administration prescribing a minimum length of assignment of a judicial officer to a family law assignment.

(c) This section shall be operative on July 1, 1997.

2330.5. Notwithstanding any other provision of law, if no demand for money, property, costs, or attorney's fees is contained in the petition and the judgment of dissolution of marriage is entered by default, the filing of income and expense declarations and property declarations in connection therewith shall not be required.

2331. A copy of the petition, together with a copy of a summons, in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

2332. (a) If the petition for dissolution of the marriage is based on the ground of incurable insanity and the insane spouse has a guardian or conservator, other than the spouse filing the petition, the petition and summons shall be served upon the insane spouse and the guardian or conservator. The guardian or conservator shall defend and protect the interests of the insane spouse.

(b) If the insane spouse has no guardian or conservator, or if the spouse filing the petition is the guardian or conservator of the insane spouse, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the insane spouse. If a district attorney or county counsel is appointed guardian ad litem pursuant to this subdivision, the successor in the office of district attorney or county counsel, as the case may be, succeeds as guardian ad litem, without further action by the court or parties.

(c) "Guardian or conservator" as used in this section means:

(1) With respect to the issue of the dissolution of the marriage relationship, the guardian or conservator of the person.

(2) With respect to support and property division issues, the guardian or conservator of the estate.

2333. Subject to Section 2334, if from the evidence at the hearing the court finds that there are irreconcilable differences which have caused the irremediable breakdown of the marriage, the court shall order the dissolution of the marriage or a legal separation of the parties.

2334. (a) If it appears that there is a reasonable possibility of reconciliation, the court shall continue the proceeding for the dissolution of the marriage or for a legal separation of the parties for a period not to exceed 30 days.

(b) During the period of the continuance, the court may make orders for the support and maintenance of the parties, the custody of the minor children of the marriage, the support of children for whom support may be ordered, attorney's fees, and for the preservation of the property of the parties.

(c) At any time after the termination of the period of the continuance, either party may move for the dissolution of the marriage or a legal separation of the parties, and the court may enter a judgment of dissolution of the marriage or legal separation of the parties.

2335. Except as otherwise provided by statute, in a pleading or proceeding for dissolution of marriage or legal separation of the parties, including depositions and discovery proceedings, evidence of specific acts of misconduct is improper and inadmissible.

2335.5. In a proceeding for dissolution of marriage or legal separation of the parties, where the judgment is to be entered by default, the petitioner shall provide the court clerk with a stamped envelope bearing sufficient postage addressed to the spouse who has defaulted, with the address of the court clerk as the return address, and the court clerk shall mail a copy of the request to enter default to that spouse in the envelope provided. A judgment of dissolution or legal separation, including relief requested in the petition, shall not be denied solely on the basis that the request to enter default was returned unopened to the court. The court clerk shall maintain any such document returned by the post office as part of the court file in the case.

2336. (a) No judgment of dissolution or of legal separation of the parties may be granted upon the default of one of the parties or upon a statement or finding of fact made by a referee; but the court

shall, in addition to the statement or finding of the referee, require proof of the grounds alleged, and the proof, if not taken before the court, shall be by affidavit. In all cases where there are minor children of the parties, each affidavit or offer of proof shall include an estimate by the declarant or affiant of the monthly gross income of each party. If the declarant or affiant has no knowledge of the estimated monthly income of a party, the declarant or affiant shall state why he or she has no knowledge. In all cases where there is a community estate, each affidavit or offer of proof shall include an estimate of the value of the assets and the debts the declarant or affiant proposes to be distributed to each party, unless the declarant or affiant has filed, or concurrently files, a complete and accurate property declaration with the court.

(b) If the proof is by affidavit, the personal appearance of the affiant is required only when it appears to the court that any of the following circumstances exist:

(1) Reconciliation of the parties is reasonably possible.

(2) A proposed child custody order is not in the best interest of the child.

(3) A proposed child support order is less than a noncustodial parent is capable of paying.

(4) A personal appearance of a party or interested person would be in the best interests of justice.

(c) An affidavit submitted pursuant to this section shall contain a stipulation by the affiant that the affiant understands that proof will be by affidavit and that the affiant will not appear before the court unless so ordered by the court.

2337. (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer service of the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party if the dissolution of the marriage before the division of the parties' community estate results in a taxable event to either of the parties by reason of the ultimate division of their community estate, which taxes would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and the minor children as named dependents, so long as the party is legally able to do so. At the time the party is no longer legally eligible to maintain the other party as a named dependent under the existing health and medical policies, the party or the party's estate shall, at the party's sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance coverage is not obtained, the party or the party's estate is responsible for the health and medical expenses incurred by the other party that would have been covered by the insurance coverage, and shall indemnify and hold the other party harmless from any adverse consequences resulting from the lack of insurance.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the other party's rights to pension benefits, elections, or survivors' benefits under the party's pension or retirement plan to the extent that the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(6) Prior to entry of judgment terminating status, both of the following shall occur:

(A) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution.

(B) If applicable, an order pursuant to Section 2610 shall be entered with reference to the defined benefit or similar plan pending the ultimate resolution of the distribution of benefits under the employee benefit plan.

(7) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(8) Any other condition the court determines is just and equitable.

(d) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(e) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

2338. (a) In a proceeding for dissolution of the marriage or legal separation of the parties, the court shall file its decision and any statement of decision as in other cases.

(b) If the court determines that no dissolution should be granted, a judgment to that effect only shall be entered.

(c) If the court determines that a dissolution should be granted, a judgment of dissolution of marriage shall be entered. After the entry of the judgment and before it becomes final, neither party has the right to dismiss the proceeding without the consent of the other.

2338.5. Where a judgment of dissolution or nullity of marriage or legal separation of the parties is to be granted upon the default of one of the parties:

(a) The signature of the spouse who has defaulted on any marital settlement agreement or on any stipulated judgment shall be notarized.

(b) The court clerk shall give notice of entry of judgment of dissolution of marriage, nullity of marriage, or legal separation to the attorney for each party or to the party, if unrepresented.

(c) For the purpose of mailing the notice of entry of judgment, the party submitting the judgment shall provide the court clerk with a stamped envelope bearing sufficient postage addressed to the attorney for the other party or to the party, if unrepresented, with the address of the court clerk as the return address. The court clerk shall maintain any such document returned by the post office as part of the court file in the case.

2339. (a) Subject to subdivision (b) and to Sections 2340 to 2344, inclusive, no judgment of dissolution is final for the purpose of terminating the marriage relationship of the parties until six months have expired from the date of service of a copy of summons and petition or the date of appearance of the respondent, whichever occurs first.

(b) The court may extend the six-month period described in subdivision (a) for good cause shown.

2340. A judgment of dissolution of marriage shall specify the date on which the judgment becomes finally effective for the purpose of terminating the marriage relationship of the parties.

2341. (a) Notwithstanding Section 2340, if an appeal is taken from the judgment or a motion for a new trial is made, the dissolution of marriage does not become final until the motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed.

(b) Notwithstanding any other provision of law, the filing of an appeal or of a motion for a new trial does not stay the effect of a judgment insofar as it relates to the dissolution of the marriage status and restoring the parties to the status of unmarried persons, unless the appealing or moving party specifies in the notice of appeal or motion for new trial an objection to the termination of the marriage status. No party may make such an objection to the termination of the marriage status unless such an objection was also made at the time of trial.

2342. Where a joint petition under Chapter 5 (commencing with Section 2400) is thereafter revoked and either party commences a proceeding pursuant to Section 2330 within 90 days from the date of the filing of the revocation, the date the judgment becomes a final judgment under Section 2339 shall be calculated by deducting the period of time which has elapsed from the date of filing the joint petition to the date of filing the revocation.

2343. The court may, upon notice and for good cause shown, or on stipulation of the parties, retain jurisdiction over the date of termination of the marital status, or may order that the marital status be terminated at a future specified date. On the date of termination of the marital status, the parties are restored to the status of unmarried persons.

2344. (a) The death of either party after entry of the judgment does not prevent the judgment from becoming a final judgment under Sections 2339 to 2343, inclusive.

(b) Subdivision (a) does not validate a marriage by either party before the judgment becomes final, nor does it constitute a defense in a criminal prosecution against either party.

2345. The court may not render a judgment of the legal separation of the parties without the consent of both parties unless one party has not made a general appearance and the petition is one for legal separation.

2346. (a) If the court determines that a judgment of dissolution of the marriage should be granted, but by mistake, negligence, or inadvertence, the judgment has not been signed, filed, and entered, the court may cause the judgment to be signed, dated, filed, and entered in the proceeding as of the date when the judgment could have been signed, dated, filed, and entered originally, if it appears to the satisfaction of the court that no appeal is to be taken in the proceeding or motion made for a new trial, to annul or set aside the judgment, or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure.

(b) The court may act under subdivision (a) on its own motion or upon the motion of either party to the proceeding. In contested cases, the motion of a party shall be with notice to the other party.

(c) The court may cause the judgment to be entered nunc pro tunc as provided in this section, even though the judgment may have been previously entered, where through mistake, negligence, or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for.

(d) The court shall not cause a judgment to be entered nunc pro tunc as provided in this section as of a date before trial in the matter, before the date of an uncontested judgment hearing in the matter, or before the date of submission to the court of an application for judgment on affidavit pursuant to Section 2336. Upon the entry of the judgment, the parties have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final had the judgment been entered upon the date when it could have been originally entered.

2347. A judgment of legal separation of the parties does not bar a subsequent judgment of dissolution of the marriage granted pursuant to a petition for dissolution filed by either party.

2348. (a) In addition to the requirements of Section 103200 of the Health and Safety Code, the clerk of the superior court of each county shall report annually to the Judicial Council the number of judgments entered in the county during the preceding calendar year or other 12-month period as required by the Judicial Council for each of the following:

(1) Dissolution of marriage.

(2) Legal separation of the parties.

(3) Nullity of marriage.

(b) After the Judicial Branch Statistical Information System (JBSIS) is operational statewide, the clerk of the superior court of each county shall also report annually to the Judicial Council the number of each of those judgments specified in paragraphs (1), (2), and (3) of subdivision (a), entered in the county during the preceding calendar year or other 12-month period as required by the Judicial Council, that include orders relating to child custody, visitation, or support.

(c) The Judicial Council shall include in its annual report to the Legislature on court statistics the number of each of the types of judgments entered in the state reported pursuant to subdivisions (a) and (b).

(d) The Judicial Council shall establish the applicable 12-month reporting period, the due date, and forms to be used, for submission of data pursuant to subdivisions (a) and (b). Until the Judicial Branch Statistical Information System (JBSIS) is operational statewide, the clerk of the superior court may report the data described in subdivision (a) using existing data collection systems, according to current Judicial Council statistical reporting regulations.

2400. (a) A marriage may be dissolved by the summary dissolution procedure provided in this chapter if all of the following conditions exist at the time the proceeding is commenced:

(1) Either party has met the jurisdictional requirements of Chapter 3 (commencing with Section 2320) with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(3) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.

(4) The marriage is not more than five years in duration at the time the petition is filed.

(5) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of the filing of the petition.

(6) There are no unpaid obligations in excess of four thousand dollars (\$4,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(7) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than twenty-five thousand dollars (\$25,000), and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of twenty-five thousand dollars (\$25,000).

(8) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(9) The parties waive any rights to spousal support.

(10) The parties, upon entry of the judgment of dissolution of marriage pursuant to Section 2403, irrevocably waive their respective rights to appeal and their rights to move for a new trial.

(11) The parties have read and understand the summary dissolution brochure provided for in Section 2406.

(12) The parties desire that the court dissolve the marriage.

(b) On January 1, 1985, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (6) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. On January 1, 1993, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (7) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish the amounts.

2401. (a) A proceeding for summary dissolution of the marriage shall be commenced by filing a joint petition in the form prescribed by the Judicial Council.

(b) The petition shall be signed under oath by both the husband and the wife, and shall include all of the following:

(1) A statement that as of the date of the filing of the joint petition all of the conditions set forth in Section 2400 have been met.

(2) The mailing address of both the husband and the wife.

(3) A statement whether or not the wife elects to have her maiden or former name restored, and, if so, the name to be restored.

2402. (a) At any time before the filing of application for judgment pursuant to Section 2403, either party to the marriage may revoke the joint petition and thereby terminate the summary dissolution

proceeding filed pursuant to this chapter.

(b) The revocation shall be effected by filing with the clerk of the court where the proceeding was commenced a notice of revocation in such form and content as shall be prescribed by the Judicial Council.

(c) The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at the other party's last known address.

2403. When six months have expired from the date of the filing of the joint petition for summary dissolution, the court may, upon application of either party, enter the judgment dissolving the marriage. The judgment restores to the parties the status of single persons, and either party may marry after the entry of the judgment. The clerk shall send a notice of entry of judgment to each of the parties at the party's last known address.

2404. Entry of the judgment pursuant to Section 2403 constitutes:

(a) A final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights.

(b) A waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

2405. (a) Entry of the judgment pursuant to Section 2403 does not prejudice nor bar the rights of either of the parties to institute an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(b) The court shall set aside a judgment entered pursuant to Section 2403 regarding all matters except the status of the marriage, upon proof that the parties did not meet the requirements of Section 2400 at the time the petition was filed.

2406. (a) Each superior court shall make available a brochure, the contents and form of which shall be prescribed by the Judicial Council, describing the requirements, nature, and effect of proceedings under this chapter. The brochure shall be printed and distributed by the Judicial Council in both English and Spanish.

(b) The brochure shall state, in nontechnical language, all the following:

(1) It is in the best interests of the parties to consult an attorney regarding the dissolution of their marriage. The services of an attorney may be obtained through lawyer referral services, group or prepaid legal services, or legal aid organizations.

(2) The parties should not rely exclusively on this brochure which is not intended as a guide for self-representation in proceedings under this chapter.

(3) A concise summary of the provisions and procedures of this chapter and Sections 2320 and 2322 and Sections 2339 to 2344, inclusive.

(4) The nature of services of the conciliation court, where available.

(5) Neither party to the marriage can in the future obtain spousal support from the other.

(6) A statement in boldface type to the effect that upon entry of the judgment, the rights and obligations of the parties to the marriage with respect to the marriage, including property and spousal support rights, will be permanently adjudicated without right of appeal, except that neither party will be barred from instituting an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds at law or in equity, or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(7) The parties to the marriage retain the status of married persons and cannot remarry until the judgment dissolving the marriage is entered.

(8) Other matters as the Judicial Council considers appropriate.

2450. (a) The purpose of case management is to provide judicial assistance and management to the parties in actions for dissolution of marriage for the purpose of expediting the processing of the case, reducing the expense of litigation, and focusing on early resolution by settlement.

(b) On motion of a party, or on the court's own motion, the court shall hold a preliminary status conference for the purpose of considering whether case management shall be undertaken and a case management plan ordered. However, no case management plan shall be ordered absent stipulation of the parties, and the case management plan may be terminated at any time upon stipulation of the parties or order of the court.

(c) On stipulation of the parties, the court shall order a case management plan as provided in Section 2451.

2451. A court-ordered case management plan, as stipulated by the parties, may include all of the following:

(a) Early neutral case evaluation.

(b) Alternative dispute resolution.

(c) Limitations on discovery, including temporary suspension pending exploration of settlement. There is a rebuttable presumption that an attorney who carries out discovery as provided in a case management plan has fulfilled his or her duty of care to the client as to the existence of community property.

(d) Use of telephone conference calls to ascertain the status of the case, encourage cooperation, and assist counsel in reaching agreement. However, if the court is required to issue an order other than by stipulation, a hearing shall be held.

(e) Use of telephone conference calls for hearing contested motions. These conference call hearings shall be recorded by a court reporter.

(f) Modification or waiver of the requirements of procedural statutes.

(g) The powers of the judicial officer who is managing the case under the case management plan.

(h) A requirement that any expert witness be selected by the parties jointly or be appointed by the court. However, if at any time the court determines that the issues for which experts are required cannot be settled under these conditions, the court shall permit each party to employ his or her own expert.

(i) Bifurcation of issues for trial.

(j) A case management plan pursuant to subdivision (d) of Section 2032 or subdivision (b) of Section 2034.

(k) Any other matters.

2452. The Judicial Council may, by rule, modify the procedures set forth in this chapter.

DIVISION 7. DIVISION OF PROPERTY

PART 1. DEFINITIONS

2500. Unless the provision or context otherwise requires, the definitions in this part govern the construction of this division.

2502. "Separate property" does not include quasi-community property.

PART 2. GENERAL PROVISIONS

2550. Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, or as otherwise provided in this division, in a proceeding for dissolution of marriage or for legal separation of the parties, the court shall, either in its judgment of dissolution of the marriage, in its judgment of legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community estate of the parties equally.

2551. For the purposes of division and in confirming or assigning the liabilities of the parties for which the community estate is liable, the court shall characterize liabilities as separate or community and confirm or assign them to the parties in accordance with Part 6 (commencing with Section 2620).

2552. (a) For the purpose of division of the community estate upon dissolution of marriage or legal separation of the parties, except as provided in subdivision (b), the court shall value the assets and liabilities as near as practicable to the time of trial.

(b) Upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and before trial to accomplish an equal division of the community estate of the parties in an equitable manner.

2553. The court may make any orders the court considers necessary to carry out the purposes of this division.

2554. (a) Notwithstanding any other provision of this division, in any case in which the parties do not agree in writing to a voluntary division of the community estate of the parties, the issue of the character, the value, and the division of the community estate may be submitted by the court to arbitration for resolution pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, if the total value of the community and quasi-community property in controversy in the opinion of the court does not exceed fifty thousand dollars (\$50,000). The decision of the court regarding the value of the community and quasi-community property for purposes of this section is not appealable.

(b) The court may submit the matter to arbitration at any time it believes the parties are unable to agree upon a division of the property.

2555. The disposition of the community estate, as provided in this division, is subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court.

2556. In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has continuing jurisdiction to award community estate assets or community estate liabilities to the parties that have not been previously adjudicated by a judgment in the proceeding. A party may file a postjudgment motion or order to show cause in the proceeding in order to obtain adjudication of any community estate asset or liability omitted or not adjudicated by the judgment. In these cases, the court shall equally divide the omitted or unadjudicated community estate asset or liability, unless the court finds upon good cause shown that the interests of justice require an unequal division of the asset or liability.

PART 3. PRESUMPTION CONCERNING PROPERTY HELD IN JOINT FORM

2580. The Legislature hereby finds and declares as follows:

(a) It is the public policy of this state to provide uniformly and consistently for the standard of proof in establishing the character of property acquired by spouses during marriage in joint title form, and for the allocation of community and separate interests in that property between the spouses.

(b) The methods provided by case and statutory law have not resulted in consistency in the treatment of spouses' interests in property they hold in joint title, but rather, have created confusion as to which law applies to property at a particular point in time, depending on the form of title, and, as a result, spouses cannot have reliable expectations as to the characterization of their property and the allocation of the interests therein, and attorneys cannot reliably advise their clients regarding applicable law.

(c) Therefore, a compelling state interest exists to provide for uniform treatment of property. Thus, former Sections 4800.1 and 4800.2 of the Civil Code, as operative on January 1, 1987, and as continued in Sections 2581 and 2640 of this code, apply to all property held in joint title regardless of the date of acquisition of the property or the date of any agreement affecting the character of the property, and those sections apply in all proceedings commenced on or after January 1, 1984. However, those sections do not apply to property settlement agreements executed before January 1, 1987, or proceedings in which judgments were rendered before January 1, 1987, regardless of whether those judgments have become final.

2581. For the purpose of division of property on dissolution of marriage or legal separation of the parties, property acquired by the parties during marriage in joint form, including property held in tenancy in common, joint tenancy, or tenancy by the entirety, or as community property, is presumed to be community property. This presumption is a presumption affecting the burden of proof and may be rebutted by either of the following:

(a) A clear statement in the deed or other documentary evidence of title by which the property is acquired that the property is separate property and not community property.

(b) Proof that the parties have made a written agreement that the property is separate property.

PART 4. SPECIAL RULES FOR DIVISION OF COMMUNITY ESTATE

2600. Notwithstanding Sections 2550 to 2552, inclusive, the court may divide the community estate as provided in this part.

2601. Where economic circumstances warrant, the court may award an asset of the community estate to one party on such conditions as the court deems proper to effect a substantially equal division of the community estate.

2602. As an additional award or offset against existing property, the court may award, from a party's share, the amount the court determines to have been deliberately misappropriated by the party to the exclusion of the interest of the other party in the community estate.

2603. (a) "Community estate personal injury damages" as used in this section means all money or other property received or to be received by a person in satisfaction of a judgment for damages for

the person's personal injuries or pursuant to an agreement for the settlement or compromise of a claim for the damages, if the cause of action for the damages arose during the marriage but is not separate property as described in Section 781, unless the money or other property has been commingled with other assets of the community estate.

(b) Community estate personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such a case, the community estate personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of the damages shall be assigned to the party who suffered the injuries.

2603.5. The court may, if there is a judgment for civil damages for an act of domestic violence perpetrated by one spouse against the other spouse, enforce that judgment against the abusive spouse's share of community property, if a proceeding for dissolution of marriage or legal separation of the parties is pending prior to the entry of final judgment.

2604. If the net value of the community estate is less than five thousand dollars (\$5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all the community estate to the other party on conditions the court deems proper in its judgment of dissolution of marriage or legal separation of the parties.

PART 5. RETIREMENT PLAN BENEFITS

2610. (a) Except as provided in subdivision (b), the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party's full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(1) Order the disposition of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 2550.

(2) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election, provided that no court shall order a retirement plan to provide increased benefits determined on the basis of actuarial value.

(3) Upon the agreement of the nonemployee spouse, order the division of accumulated community property contributions and service credit as provided in the following or similar enactments:

(A) Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(B) Chapter 12 (commencing with Section 22650) of Part 13 of the Education Code.

(C) Article 8.4 (commencing with Section 31685) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(D) Article 2.5 (commencing with Section 75050) of Chapter 11 of Title 8 of the Government Code.

(E) Chapter 15 (commencing with Section 27400) of Part 14 of the Education Code.

(4) Order a retirement plan to make payments directly to a nonmember party of his or her community property interest in retirement benefits.

(b) A court shall not make any order that requires a retirement plan to do either of the following:

(1) Make payments in any manner that will result in an increase in the amount of benefits provided by the plan.

(2) Make the payment of benefits to any party at any time before the member retires, except as provided in paragraph (3) of subdivision (a), unless the plan so provides.

(c) This section shall not be applied retroactively to payments made by a retirement plan to any person who retired or died prior to January 1, 1987, or to payments made to any person who retired or died prior to June 1, 1988, for plans subject to paragraph (3) of subdivision (a).

PART 6. DEBTS AND LIABILITIES

2620. The debts for which the community estate is liable which are unpaid at the time of trial, or for which the community estate becomes liable after trial, shall be confirmed or divided as provided in this part.

2621. Debts incurred by either spouse before the date of marriage shall be confirmed without offset to the spouse who incurred the debt.

2622. (a) Except as provided in subdivision (b), debts incurred by either spouse after the date of marriage but before the date of separation shall be divided as set forth in Sections 2550 to 2552, inclusive, and Sections 2601 to 2604, inclusive.

(b) To the extent that community debts exceed total community and quasi-community assets, the excess of debt shall be assigned as the court deems just and equitable, taking into account factors such as the parties' relative ability to pay.

2623. Debts incurred by either spouse after the date of separation but before entry of a judgment of dissolution of marriage or legal separation of the parties shall be confirmed as follows:

(a) Debts incurred by either spouse for the common necessities of life of either spouse or the necessities of life of the children of the marriage for whom support may be ordered, in the absence of a court order or written agreement for support or for the payment of these debts, shall be confirmed to either spouse according to the parties' respective needs and abilities to pay at the time the debt was incurred.

(b) Debts incurred by either spouse for nonnecessaries of that spouse or children of the marriage for whom support may be ordered shall be confirmed without offset to the spouse who incurred the debt.

2624. Debts incurred by either spouse after entry of a judgment of dissolution of marriage but before termination of the parties' marital status or after entry of a judgment of legal separation of the parties shall be confirmed without offset to the spouse who incurred the debt.

2625. Notwithstanding Sections 2620 to 2624, inclusive, all separate debts, including those debts incurred by a spouse during marriage and before the date of separation that were not incurred for the benefit of the community, shall be confirmed without offset to the spouse who incurred the debt.

2626. The court has jurisdiction to order reimbursement in cases it deems appropriate for debts paid after separation but before trial.

2627. Notwithstanding Sections 2550 to 2552, inclusive, and Sections 2620 to 2624, inclusive, educational loans shall be assigned pursuant to Section 2641 and liabilities subject to paragraph (2) of subdivision (b) of Section 1000 shall be assigned to the spouse whose act or omission provided the basis for the liability, without offset.

2628. Notwithstanding Sections 2550 to 2552, inclusive, and Sections 2620 to 2624, inclusive, joint California income tax liabilities may be revised by a court in a proceeding for dissolution of marriage, provided the requirements of Section 19006 of the Revenue and Taxation Code are satisfied.

PART 7. REIMBURSEMENTS

2640. (a) "Contributions to the acquisition of property," as used in this section, include downpayments, payments for improvements, and payments that reduce the principal of a loan used to finance the purchase or improvement of the property but do not include payments of interest on the loan or payments made for maintenance, insurance, or taxation of the property.

(b) In the division of the community estate under this division, unless a party has made a written waiver of the right to reimbursement or has signed a writing that has the effect of a waiver, the party shall be reimbursed for the party's contributions to the acquisition of property of the community property estate to the extent the party traces the contributions to a separate property source. The amount reimbursed shall be without interest or adjustment for change in monetary values and may not exceed the net value of the property at the time of the division.

(c) A party shall be reimbursed for the party's separate property contributions to the acquisition of property of the other spouse's separate property estate during the marriage, unless there has been a transmutation in writing pursuant to Chapter 5 (commencing with Section 850) of Part 2 of Division 4, or a written waiver of the right to reimbursement. The amount reimbursed shall be without interest or adjustment for change in monetary values and may not exceed the net value of the property at the time of the division.

2641. (a) "Community contributions to education or training" as used in this section means payments made with community or quasi-community property for education or training or for the repayment of a loan incurred for education or training, whether the payments were made while the parties were resident in this state or resident outside this state.

(b) Subject to the limitations provided in this section, upon dissolution of marriage or legal separation of the parties:

(1) The community shall be reimbursed for community contributions to education or training of a party that substantially enhances the earning capacity of the party. The amount reimbursed shall be with interest at the legal rate, accruing from the end of the calendar year in which the contributions were made.

(2) A loan incurred during marriage for the education or training of a party shall not be included among the liabilities of the community for the purpose of division pursuant to this division but shall be assigned for payment by the party.

(c) The reimbursement and assignment required by this section shall be reduced or modified to the extent circumstances render such a disposition unjust, including, but not limited to, any of the following:

(1) The community has substantially benefited from the education, training, or loan incurred for the education or training of the party. There is a rebuttable presumption, affecting the burden of proof, that the community has not substantially benefited from community contributions to the education or training made less than 10 years before the commencement of the proceeding, and that the community has substantially benefited from community contributions to the education or training made more than 10 years before the commencement of the proceeding.

(2) The education or training received by the party is offset by the education or training received by the other party for which community contributions have been made.

(3) The education or training enables the party receiving the education or training to engage in gainful employment that substantially reduces the need of the party for support that would otherwise be required.

(d) Reimbursement for community contributions and assignment of loans pursuant to this section is the exclusive remedy of the community or a party for the education or training and any resulting enhancement of the earning capacity of a party. However, nothing in this subdivision limits consideration of the effect of the education, training, or enhancement, or the amount reimbursed pursuant to this section, on the circumstances of the parties for the purpose of an order for support pursuant to Section 4320.

(e) This section is subject to an express written agreement of the parties to the contrary.

PART 8. JOINTLY HELD SEPARATE PROPERTY

2650. In a proceeding for division of the community estate, the court has jurisdiction, at the request of either party, to divide the separate property interests of the parties in real and personal

property, wherever situated and whenever acquired, held by the parties as joint tenants or tenants in common. The property shall be divided together with, and in accordance with the same procedure for and limitations on, division of community estate.

PART 9. REAL PROPERTY LOCATED IN ANOTHER STATE

2660. (a) Except as provided in subdivision (b), if the property subject to division includes real property situated in another state, the court shall, if possible, divide the community property and quasi-community property as provided for in this division in such a manner that it is not necessary to change the nature of the interests held in the real property situated in the other state.

(b) If it is not possible to divide the property in the manner provided for in subdivision (a), the court may do any of the following in order to effect a division of the property as provided for in this division:

(1) Require the parties to execute conveyances or take other actions with respect to the real property situated in the other state as are necessary.

(2) Award to the party who would have been benefited by the conveyances or other actions the money value of the interest in the property that the party would have received if the conveyances had been executed or other actions taken.

DIVISION 8. CUSTODY OF CHILDREN

PART 1. DEFINITIONS AND GENERAL PROVISIONS

3000. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

3002. "Joint custody" means joint physical custody and joint legal custody.

3003. "Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3004. "Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, subject to Sections 3011 and 3020.

3006. "Sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3007. "Sole physical custody" means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.

3010. (a) The mother of an unemancipated minor child and the father, if presumed to be the father under Section 7611, are equally entitled to the custody of the child.

(b) If one parent is dead, is unable or refuses to take custody, or has abandoned the child, the other parent is entitled to custody of the child.

3011. In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship. As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement

agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203 of this code.

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

(d) The habitual or continual illegal use of controlled substances or habitual or continual abuse of alcohol by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(e) (1) Where allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (b) of Section 6323.

(2) The provisions of this subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

PART 2. RIGHT TO CUSTODY OF MINOR CHILD

3020. (a) The Legislature finds and declares that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody or visitation of children. The Legislature further finds and declares that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.

(b) The Legislature finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as provided in Section 3011.

(c) Where the policies set forth in subdivisions (a) and (b) of this section are in conflict, any court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.

3021. This part applies in any of the following:

(a) A proceeding for dissolution of marriage.

(b) A proceeding for nullity of marriage.

(c) A proceeding for legal separation of the parties.

(d) An action for exclusive custody pursuant to Section 3120.

(e) A proceeding to determine physical or legal custody or for visitation in a proceeding pursuant to the Domestic Violence Prevention Act (Division 10 (commencing with Section 6200)).

In an action under Section 6323, nothing in this subdivision shall be construed to authorize physical or legal custody, or visitation rights, to be granted to any party to a Domestic Violence Prevention Act proceeding who has not established a parent and child relationship pursuant to paragraph (2) of subdivision (a) of Section 6323.

(f) A proceeding to determine physical or legal custody or visitation in an action pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(g) A proceeding to determine physical or legal custody or visitation in an action brought by the district attorney pursuant to Section 17404.

3022. The court may, during the pendency of a proceeding or at any time thereafter, make an order for the custody of a child during minority that seems necessary or proper.

3022.5. A motion by a parent for reconsideration of an existing child custody order shall be granted if the motion is based on the fact that the other parent was convicted of a crime in connection with falsely accusing the moving parent of child abuse.

3023. (a) If custody of a minor child is the sole contested issue, the case shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date and shall be given an early hearing.

(b) If there is more than one contested issue and one of the issues is the custody of a minor child, the court, as to the issue of custody, shall order a separate trial. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date.

3024. In making an order for custody, if the court does not consider it inappropriate, the court may specify that a parent shall notify the other parent if the parent plans to change the residence of the child for more than 30 days, unless there is prior written agreement to the removal. The notice shall be given before the contemplated move, by mail, return receipt requested, postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall also be sent to that parent's counsel of record. To the extent feasible, the notice shall be provided within a minimum of 45 days before the proposed change of residence so as to allow time for mediation of a new agreement concerning custody. This section does not affect orders made before January 1, 1989.

3025. Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, shall not be denied to a parent because that parent is not the child's custodial parent.

3025.5. In any proceeding involving child custody or visitation rights, if a report containing psychological evaluations of a child or recommendations regarding custody of, or visitation with, a child is submitted to the court, including, but not limited to, a report created pursuant to Chapter 6 (commencing with Section 3110) of this part, a recommendation made to the court pursuant to Section 3183, and a written statement of issues and contentions pursuant to subdivision (b) of Section 3151, that information shall be contained in a document that shall be placed in the confidential portion of the court file of the proceeding, and may not be disclosed, except to the following persons:

(a) A party to the proceeding and his or her attorney.

(b) A federal or state law enforcement officer, judicial officer, court employee, or family court facilitator for the county in which the action was filed, or an employee or agent of that facilitator, acting within the scope of his or her duties.

(c) Counsel appointed for the child pursuant to Section 3150.

(d) Any other person upon order of the court for good cause.

3026. Family reunification services shall not be ordered as a part of a child custody or visitation rights proceeding. Nothing in this section affects the applicability of Section 16507 of the Welfare and Institutions Code.

3027. (a) If allegations of child sexual abuse are made during a child custody proceeding and the court has concerns regarding the child's safety, the court may take any reasonable, temporary steps as the court, in its discretion, deems appropriate under the circumstances to protect the child's safety until an investigation can be completed. Nothing in this section shall affect the applicability of Section 16504 or 16506 of the Welfare and Institutions Code.

(b) If allegations of child sexual abuse are made during a child custody proceeding, the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code. Upon completion of the investigation, the agency shall report its findings to the court.

3027.1. (a) If a court determines, based on the investigation described in Section 3027 or other evidence presented to it, that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose reasonable money sanctions, not to exceed all costs incurred by the party accused as a direct result of defending the accusation, and reasonable attorney's fees incurred in recovering the sanctions, against the person making the accusation. For the purposes of this section, "person" includes a witness, a party, or a party's attorney.

(b) On motion by any person requesting sanctions under this section, the court shall issue its order to show cause why the requested sanctions should not be imposed. The order to show cause shall be served on the person against whom the sanctions are sought and a hearing thereon shall be scheduled by the court to be conducted at least 15 days after the order is served.

(c) The remedy provided by this section is in addition to any other remedy provided by law.

3027.5. (a) No parent shall be placed on supervised visitation, or be denied custody of or visitation with his or her child, and no custody or visitation rights shall be limited, solely because the parent (1) lawfully reported suspected sexual abuse of the child, (2) otherwise acted lawfully, based on a reasonable belief, to determine if his or her child was the victim of sexual abuse, or (3) sought

treatment for the child from a licensed mental health professional for suspected sexual abuse.

(b) The court may order supervised visitation or limit a parent's custody or visitation if the court finds substantial evidence that the parent, with the intent to interfere with the other parent's lawful contact with the child, made a report of child sexual abuse, during a child custody proceeding or at any other time, that he or she knew was false at the time it was made. Any limitation of custody or visitation, including an order for supervised visitation, pursuant to this subdivision, or any statute regarding the making of a false child abuse report, shall be imposed only after the court has determined that the limitation is necessary to protect the health, safety, and welfare of the child, and the court has considered the state's policy of assuring that children have frequent and continuing contact with both parents as declared in subdivision (b) of Section 3020.

3028. (a) The court may order financial compensation for periods when a parent fails to assume the caretaker responsibility or when a parent has been thwarted by the other parent when attempting to exercise custody or visitation rights contemplated by a custody or visitation order, including, but not limited to, an order for joint physical custody, or by a written or oral agreement between the parents.

(b) The compensation shall be limited to (1) the reasonable expenses incurred for or on behalf of a child, resulting from the other parent's failure to assume caretaker responsibility or (2) the reasonable expenses incurred by a parent for or on behalf of a child, resulting from the other parent's thwarting of the parent's efforts to exercise custody or visitation rights. The expenses may include the value of caretaker services but are not limited to the cost of services provided by a third party during the relevant period. (c) The compensation may be requested by noticed motion or an order to show cause, which shall allege, under penalty of perjury, (1) a minimum of one hundred dollars (\$100) of expenses incurred or (2) at least three occurrences of failure to exercise custody or visitation rights or (3) at least three occurrences of the thwarting of efforts to exercise custody or visitation rights within the six months before filing of the motion or order.

(d) Attorney's fees shall be awarded to the prevailing party upon a showing of the nonprevailing party's ability to pay as required by Section 270.

3029. An order granting custody to a parent who is receiving, or in the opinion of the court is likely to receive, assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child shall include an order pursuant to Chapter 2 (commencing with Section 4000) of Part 2 of Division 9 of this code, directing the noncustodial parent to pay any amount necessary for the support of the child, to the extent of the noncustodial parent's ability to pay.

3030. (a) No person shall be granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to be registered as a sex offender under Section 290 of the Penal Code where the victim was a minor, or if the person has been convicted under Section 273a, 273d, or 647.6 of the Penal Code, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

(b) No person shall be granted custody of, or visitation with, a child if the person has been convicted under Section 261 of the Penal Code and the child was conceived as a result of that violation.

(c) No person shall be granted custody of, or unsupervised visitation with, a child if the person has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, and the victim of the murder was the other parent of the child who is the subject of the order, unless the court finds that there is no risk to the child's health, safety, and welfare, and states the reasons for

its finding in writing or on the record. In making its finding, the court may consider, among other things, the following:

(1) The wishes of the child, if the child is of sufficient age and capacity to reason so as to form an intelligent preference.

(2) Credible evidence that the convicted parent was a victim of abuse, as defined in Section 6203, committed by the deceased parent. That evidence may include, but is not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of domestic abuse.

(3) Testimony of an expert witness, qualified under Section 1107 of the Evidence Code, that the convicted parent suffers from the effects of battered women's syndrome. Unless and until a custody or visitation order is issued pursuant to this subdivision, no person shall permit or cause the child to visit or remain in the custody of the convicted parent without the consent of the child's custodian or legal guardian.

(d) The court may order child support that is to be paid by a person subject to subdivision (a), (b), or (c) to be paid through the local child support agency, as authorized by Section 4573 of the Family Code and Division 17 (commencing with Section 17000) of this code.

(e) The court shall not disclose, or cause to be disclosed, the custodial parent's place of residence, place of employment, or the child's school, unless the court finds that the disclosure would be in the best interest of the child.

3031. (a) Where the court considers the issue of custody or visitation the court is encouraged to make a reasonable effort to ascertain whether or not any emergency protective order, protective order, or other restraining order is in effect that concerns the parties or the minor. The court is encouraged not to make a custody or visitation order that is inconsistent with the emergency protective order, protective order, or other restraining order, unless the court makes both of the following findings:

(1) The custody or visitation order cannot be made consistent with the emergency protective order, protective order, or other restraining order.

(2) The custody or visitation order is in the best interest of the minor.

(b) Whenever custody or visitation is granted to a parent in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the custody or visitation order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. Where the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

(c) When making an order for custody or visitation in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that any custody or visitation arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether custody or visitation shall be suspended or denied.

3032. (a) The Judicial Council shall establish a state-funded one-year pilot project beginning July 1, 1999, in at least two counties, including Los Angeles County, pursuant to which, in any child custody proceeding, including mediation proceedings pursuant to Section 3170, any action or proceeding under Division 10 (commencing with Section 6200), any action or proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12), and any proceeding for dissolution or nullity of marriage or legal separation of the parties in which a protective order as been granted or is being sought pursuant to Section 6221, the court shall, notwithstanding Section 68092 of the Government Code, appoint an interpreter to interpret the proceedings at court expense, if both of the following conditions are met:

(1) One or both of the parties is unable to participate fully in the proceeding due to a lack of proficiency in the English language.

(2) The party who needs an interpreter appears in forma pauperis, pursuant to Section 68511.3 of the Government Code, or the court otherwise determines that the parties are financially unable to pay the cost of an interpreter. In all other cases where an interpreter is required pursuant to this section, interpreter fees shall be paid as provided in Section 68092 of the Government Code.

(3) This section shall not prohibit the court doing any of the following when an interpreter is not present:

(A) Issuing an order when the necessity for the order outweighs the necessity for an interpreter.

(B) Extending the duration of a previously issued temporary order if an interpreter is not readily available.

(C) Issuing a permanent order where a party who requires an interpreter fails to make appropriate arrangements for an interpreter after receiving proper notice of the hearing, including notice of the requirement to have an interpreter present, along with information about obtaining an interpreter.

(b) The Judicial Council shall submit its findings and recommendations with respect to the pilot project to the Legislature by January 31, 2001. Measurable objectives of the program may include increased utilization of the court by parties not fluent in English, increased efficiency in proceedings, increased compliance with orders, enhanced coordination between courts and culturally relevant services in the community, increased client satisfaction, and increased public satisfaction.

3040. (a) Custody should be granted in the following order of preference according to the best interest of the child as provided in Sections 3011 and 3020:

(1) To both parents jointly pursuant to Chapter 4 (commencing with Section 3080) or to either parent. In making an order granting custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent, consistent with Section 3011 and 3020, and shall not prefer a parent as custodian because of that parent's sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(b) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

3041. (a) Before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall make a finding that granting custody to a parent would be detrimental to the child and that granting custody to the nonparent is required to serve the best interest of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

(b) Subject to subdivision (d), a finding that parental custody would be detrimental to the child shall be supported by clear and convincing evidence.

(c) As used in this section, "detriment to the child" includes the harm of removal from a stable placement of a child with a person who has assumed, on a day-to-day basis, the role of his or her parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of detriment does not require any finding of unfitness of the parents.

(d) Notwithstanding subdivision (b), if the court finds by a preponderance of the evidence that the person to whom custody may be given is a person described in subdivision (c), this finding shall constitute a finding that the custody is in the best interest of the child and that parental custody would be detrimental to the child absent a showing by a preponderance of the evidence to the contrary.

3041.5. (a) In any custody or visitation proceeding brought under this part, as described in Section 3021, the court may order any parent who is seeking custody of, or visitation with, a child who is the subject of the proceeding to undergo testing for the illegal use of controlled substances and the use of alcohol if there is a judicial determination based upon a preponderance of evidence that there is the habitual, frequent, or continual illegal use of controlled substances or the habitual or continual abuse of alcohol by the parent or legal custodian. This evidence may include, but may not be limited to, a conviction within the last five years for the illegal use or possession of a controlled substance. The court shall order the least intrusive method of testing for the illegal use of controlled substances or the habitual or continual abuse of alcohol by either or both parents or the legal custodian. If substance abuse testing is ordered by the court, the testing shall be

performed in conformance with procedures and standards established by the United States Department of Health and Human Services for drug testing of federal employees. The parent or legal custodian who has undergone drug testing shall have the right to a hearing, if requested, to challenge a positive test result. A positive test result, even if challenged and upheld, shall not, by itself, constitute grounds for an adverse custody decision. Determining the best interests of the child requires weighing all relevant factors. The results of this testing shall be confidential, shall be maintained as a sealed record in the court file, and may not be released to any person except the court, the parties, their attorneys, the Judicial Council (until completion of its authorized study of the testing process) and any person to whom the court expressly grants access by written order made with prior notice to all parties. Any person who has access to the test results may not disseminate copies or disclose information about the test results to any person other than a person who is authorized to receive the test results pursuant to this section. Any breach of the confidentiality of the test results shall be punishable by civil sanctions not to exceed two thousand five hundred dollars (\$2,500). The results of the testing may not be used for any purpose, including any criminal, civil, or administrative proceeding, except to assist the court in determining, for purposes of the proceeding, the best interest of the child pursuant to Section 3011, and the content of the order or judgment determining custody or visitation. The court may order either party, or both parties, to pay the costs of the drug or alcohol testing ordered pursuant to this section. As used in this section, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

3042. (a) If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an order granting or modifying custody.

(b) In addition to the requirements of subdivision (b) of Section 765 of the Evidence Code, the court shall control the examination of the child witness so as to protect the best interests of the child. The court may preclude the calling of the child as a witness where the best interests of the child so dictate and may provide alternative means of obtaining information regarding the child's preferences.

3043. In determining the person or persons to whom custody should be granted under paragraph (2) or (3) of subdivision (a) of Section 3040, the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.

(b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:

(1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.

(4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.

(5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.

(6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.

(7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of any crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if any court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) In any custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

3046. (a) If a party is absent or relocates from the family residence, the court shall not consider the absence or relocation as a factor in determining custody or visitation in either of the following circumstances:

(1) The absence or relocation is of short duration and the court finds that, during the period of absence or relocation, the party has demonstrated an interest in maintaining custody or visitation, the party maintains, or makes reasonable efforts to maintain, regular contact with the child, and the party's behavior demonstrates no intent to abandon the child.

(2) The party is absent or relocates because of an act or acts of actual or threatened domestic or family violence by the other party.

(b) The court may consider attempts by one party to interfere with the other party's regular contact with the child in determining if the party has satisfied the requirements of subdivision (a).

(c) This section does not apply to the following:

(1) A party against whom a protective or restraining order has been issued excluding the party from the dwelling of the other party or the child, or otherwise enjoining the party from assault or harassment against the other party or the child, including, but not limited to, orders issued under Part 4 (commencing with Section 6300) of Division 10, orders preventing civil harassment or workplace violence issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, and criminal protective orders issued pursuant to Section 136.2 of the Penal Code.

(2) A party who abandons a child as provided in Section 7822.

3047. A party's absence, relocation, or failure to comply with custody and visitation orders shall not, by itself, be sufficient to justify a modification of a custody or visitation order if the reason for the absence, relocation, or failure to comply is the party's activation to military service and deployment out of state.

3048. (a) Notwithstanding any other provision of law, in any proceeding to determine child custody or visitation with a child, every custody or visitation order shall contain all of the following:

(1) The basis for the court's exercise of jurisdiction.

(2) The manner in which notice and opportunity to be heard were given.

- (3) A clear description of the custody and visitation rights of each party.
 - (4) A provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both.
 - (5) Identification of the country of habitual residence of the child or children.
- (b) (1) In cases in which the court becomes aware of facts which may indicate that there is a risk of abduction of a child, the court shall, either on its own motion or at the request of a party, determine whether measures are needed to prevent the abduction of the child by one parent. To make that determination, the court shall consider the risk of abduction of the child, obstacles to location, recovery, and return if the child is abducted, and potential harm to the child if he or she is abducted. To determine whether there is a risk of abduction, the court shall consider the following factors:
- (A) Whether a party has previously taken, enticed away, kept, withheld, or concealed a child in violation of the right of custody or of visitation of a person.
 - (B) Whether a party has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of the right of custody or of visitation of a person.
 - (C) Whether a party lacks strong ties to this state.
 - (D) Whether a party has strong familial, emotional, or cultural ties to another state or country, including foreign citizenship. This factor shall be considered only if evidence exists in support of another factor specified in this section.
 - (E) Whether a party has no financial reason to stay in this state, including whether the party is unemployed, is able to work anywhere, or is financially independent.
 - (F) Whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling his or her primary residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, applying to obtain a birth certificate or school or medical records, or purchasing airplane or other travel tickets, with consideration given to whether a party is carrying out a safety plan to flee from domestic violence.
 - (G) Whether a party has a history of a lack of parental cooperation or child abuse, or there is substantiated evidence that a party has perpetrated domestic violence.
 - (H) Whether a party has a criminal record.
- (2) If the court makes a finding that there is a need for preventative measures after considering the factors listed in paragraph (1), the court shall consider taking one or more of the following measures to prevent the abduction of the child:
- (A) Ordering supervised visitation.
 - (B) Requiring a parent to post a bond in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to offset the cost of recovery of the child in the event there is an abduction.
 - (C) Restricting the right of the custodial or noncustodial parent to remove the child from the county, the state, or the country.
 - (D) Restricting the right of the custodial parent to relocate with the child, unless the custodial parent provides advance notice to, and obtains the written agreement of, the noncustodial parent, or obtains the approval of the court, before relocating with the child.
 - (E) Requiring the surrender of passports and other travel documents.
 - (F) Prohibiting a parent from applying for a new or replacement passport for the child.
 - (G) Requiring a parent to notify a relevant foreign consulate or embassy of passport restrictions and to provide the court with proof of that notification.
 - (H) Requiring a party to register a California order in another state as a prerequisite to allowing a child to travel to that state for visits, or to obtain an order from another country containing terms identical to the custody and visitation order issued in the United States (recognizing that these orders may be modified or enforced pursuant to the laws of the other country), as a prerequisite to allowing a child to travel to that county for visits.
 - (I) Obtaining assurances that a party will return from foreign visits by requiring the traveling parent to provide the court or the other parent or guardian with any of the following:
 - (i) The travel itinerary of the child.
 - (ii) Copies of round trip airline tickets.
 - (iii) A list of addresses and telephone numbers where the child can be reached at all times.
 - (iv) An open airline ticket for the left-behind parent in case the child is not returned.
 - (J) Including provisions in the custody order to facilitate use of the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with Section 3400)) and the Hague Convention on the Civil Aspects of International Child Abduction (implemented pursuant to 42

U.S.C. Sec. 11601 et seq.), such as identifying California as the home state of the child or otherwise defining the basis for the California court's exercise of jurisdiction under Part 3 (commencing with Section 3400), identifying the United States as the country of habitual residence of the child pursuant to the Hague Convention, defining custody rights pursuant to the Hague Convention, obtaining the express agreement of the parents that the United States is the country of habitual residence of the child, or that California or the United States is the most appropriate forum for addressing custody and visitation orders.

(K) Authorizing the assistance of law enforcement.

(3) If the court imposes any or all of the conditions listed in paragraph (2), those conditions shall be specifically noted on the minute order of the court proceedings.

(4) If the court determines there is a risk of abduction that is sufficient to warrant the application of one or more of the prevention measures authorized by this section, the court shall inform the parties of the telephone number and address of the Child Abduction Unit in the office of the district attorney in the county where the custody or visitation order is being entered.

(c) The Judicial Council shall make the changes to its child custody order forms that are necessary for the implementation of subdivision (b). This subdivision shall become operative on July 1, 2003.

(d) Nothing in this section affects the applicability of Section 278.7 of the Penal Code.

3060. A petition for a temporary custody order, containing the statement required by Section 3409, may be included with the initial filing of the petition or action or may be filed at any time after the initial filing.

3061. If the parties have agreed to or reached an understanding on the custody or temporary custody of their children, a copy of the agreement or an affidavit as to their understanding shall be attached to the petition or action. As promptly as possible after this filing, the court shall, except in exceptional circumstances, enter an order granting temporary custody in accordance with the agreement or understanding or in accordance with any stipulation of the parties.

3062. (a) In the absence of an agreement, understanding, or stipulation, the court may, if jurisdiction is appropriate, enter an ex parte temporary custody order, set a hearing date within 20 days, and issue an order to show cause on the responding party. If the responding party does not appear or respond within the time set, the temporary custody order may be extended as necessary, pending the termination of the proceedings.

(b) If, despite good faith efforts, service of the ex parte order and order to show cause has not been effected in a timely fashion and there is reason to believe, based on an affidavit, or other manner of proof made under penalty of perjury, by the petitioner, that the responding party has possession of the minor child and seeks to avoid the jurisdiction of the court or is concealing the whereabouts of the child, then the hearing date may be reset and the ex parte order extended up to an additional 90 days. After service has been effected, either party may request ex parte that the hearing date be advanced or the ex parte order be dissolved or modified.

3063. In conjunction with any ex parte order seeking or modifying an order of custody, the court shall enter an order restraining the person receiving custody from removing the child from the state pending notice and a hearing on the order seeking or modifying custody.

3064. The court shall refrain from making an order granting or modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California. "Immediate harm to the child" includes having a parent who has committed acts of domestic violence, where the court determines that the acts of domestic violence are of recent origin or are a part of a demonstrated and continuing pattern of acts of domestic violence.

3080. There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to Section 3011, where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child.

3081. On application of either parent, joint custody may be ordered in the discretion of the court in cases other than those described in Section 3080, subject to Section 3011. For the purpose of

assisting the court in making a determination whether joint custody is appropriate under this section, the court may direct that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110).

3082. When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section.

3083. In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

3084. In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

3085. In making an order for custody with respect to both parents, the court may grant joint legal custody without granting joint physical custody.

3086. In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

3087. An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order.

3088. An order for the custody of a minor child entered by a court in this state or any other state may, subject to the jurisdictional requirements in Sections 3403 and 3414, be modified at any time to an order for joint custody in accordance with this chapter.

3089. In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve a controversy which has arisen in the implementation of a plan for custody.

3100. (a) In making an order pursuant to Chapter 4 (commencing with Section 3080), the court shall grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. In the discretion of the court, reasonable visitation rights may be granted to any other person having an interest in the welfare of the child.

(b) If a protective order, as defined in Section 6218, has been directed to a parent, the court shall consider whether the best interest of the child requires that any visitation by that parent shall be limited to situations in which a third person, specified by the court, is present, or whether visitation shall be suspended or denied. The court shall include in its deliberations a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order. A parent may submit to the court the name of a person that the parent deems suitable to be present during visitation.

(c) Whenever visitation is ordered in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the visitation order shall specify the time, day, place, and manner of transfer of the child, so as to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members.

(d) Where the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner

of transfer of the child for visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

3101. (a) Notwithstanding any other provision of law, the court may grant reasonable visitation to a stepparent, if visitation by the stepparent is determined to be in the best interest of the minor child.

(b) If a protective order, as defined in Section 6218, has been directed to a stepparent to whom visitation may be granted pursuant to this section, the court shall consider whether the best interest of the child requires that any visitation by the stepparent be denied.

(c) Visitation rights may not be ordered under this section that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(d) As used in this section:

(1) "Birth parent" means "birth parent" as defined in Section 8512.

(2) "Stepparent" means a person who is a party to the marriage that is the subject of the proceeding, with respect to a minor child of the other party to the marriage.

3102. (a) If either parent of an unemancipated minor child is deceased, the children, siblings, parents, and grandparents of the deceased parent may be granted reasonable visitation with the child during the child's minority upon a finding that the visitation would be in the best interest of the minor child.

(b) In granting visitation pursuant to this section to a person other than a grandparent of the child, the court shall consider the amount of personal contact between the person and the child before the application for the visitation order.

(c) This section does not apply if the child has been adopted by a person other than a stepparent or grandparent of the child. Any visitation rights granted pursuant to this section before the adoption of the child automatically terminate if the child is adopted by a person other than a stepparent or grandparent of the child.

3103. (a) Notwithstanding any other provision of law, in a proceeding described in Section 3021, the court may grant reasonable visitation to a grandparent of a minor child of a party to the proceeding if the court determines that visitation by the grandparent is in the best interest of the child.

(b) If a protective order as defined in Section 6218 has been directed to the grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that visitation by the grandparent be denied.

(c) The petitioner shall give notice of the petition to each of the parents of the child, any stepparent, and any person who has physical custody of the child, by certified mail, return receipt requested, postage prepaid, to the person's last known address, or to the attorneys of record of the parties to the proceeding.

(d) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the child's parents agree that the grandparent should not be granted visitation rights.

(e) Visitation rights may not be ordered under this section if that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(f) Visitation ordered pursuant to this section shall not create a basis for or against a change of residence of the child, but shall be one of the factors for the court to consider in ordering a change of residence.

(g) When a court orders grandparental visitation pursuant to this section, the court in its discretion may, based upon the relevant circumstances of the case:

(1) Allocate the percentage of grandparental visitation between the parents for purposes of the calculation of child support pursuant to the statewide uniform guideline (Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9).

(2) Notwithstanding Sections 3930 and 3951, order a parent or grandparent to pay to the other, an amount for the support of the child or grandchild. For purposes of this paragraph, "support" means costs related to visitation such as any of the following:

(A) Transportation.

(B) Provision of basic expenses for the child or grandchild, such as medical expenses, day care costs, and other necessities.

(h) As used in this section, "birth parent" means "birth parent" as defined in Section 8512.

3104. (a) On petition to the court by a grandparent of a minor child, the court may grant reasonable visitation rights to the grandparent if the court does both of the following:

(1) Finds that there is a preexisting relationship between the grandparent and the grandchild that has engendered a bond such that visitation is in the best interest of the child.

(2) Balances the interest of the child in having visitation with the grandparent against the right of the parents to exercise their parental authority.

(b) A petition for visitation under this section may not be filed while the natural or adoptive parents are married, unless one or more of the following circumstances exist:

(1) The parents are currently living separately and apart on a permanent or indefinite basis.

(2) One of the parents has been absent for more than one month without the other spouse knowing the whereabouts of the absent spouse.

(3) One of the parents joins in the petition with the grandparents.

(4) The child is not residing with either parent. At any time that a change of circumstances occurs such that none of these circumstances exist, the parent or parents may move the court to terminate grandparental visitation and the court shall grant the termination.

(c) The petitioner shall give notice of the petition to each of the parents of the child, any stepparent, and any person who has physical custody of the child, by personal service pursuant to Section 415.10 of the Code of Civil Procedure.

(d) If a protective order as defined in Section 6218 has been directed to the grandparent during the pendency of the proceeding, the court shall consider whether the best interest of the child requires that any visitation by that grandparent should be denied.

(e) There is a rebuttable presumption that the visitation of a grandparent is not in the best interest of a minor child if the natural or adoptive parents agree that the grandparent should not be granted visitation rights.

(f) There is a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interest of a minor child if the parent who has been awarded sole legal and physical custody of the child in another proceeding or with whom the child resides if there is currently no operative custody order objects to visitation by the grandparent.

(g) Visitation rights may not be ordered under this section if that would conflict with a right of custody or visitation of a birth parent who is not a party to the proceeding.

(h) Visitation ordered pursuant to this section shall not create a basis for or against a change of residence of the child, but shall be one of the factors for the court to consider in ordering a change of residence.

(i) When a court orders grandparental visitation pursuant to this section, the court in its discretion may, based upon the relevant circumstances of the case:

(1) Allocate the percentage of grandparental visitation between the parents for purposes of the calculation of child support pursuant to the statewide uniform guideline (Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9).

(2) Notwithstanding Sections 3930 and 3951, order a parent or grandparent to pay to the other, an amount for the support of the child or grandchild. For purposes of this paragraph, "support" means costs related to visitation such as any of the following:

(A) Transportation.

(B) Provision of basic expenses for the child or grandchild, such as medical expenses, day care costs, and other necessities.

(j) As used in this section, "birth parent" means "birth parent" as defined in Section 8512.

3105. (a) The Legislature finds and declares that a parent's fundamental right to provide for the care, custody, companionship, and management of his or her children, while compelling, is not absolute. Children have a fundamental right to maintain healthy, stable relationships with a person who has served in a significant, judicially approved parental role.

(b) The court may grant reasonable visitation rights to a person who previously served as the legal guardian of a child, if visitation is determined to be in the best interest of the minor child.

(c) In the absence of a court order granting or denying visitation between a former legal guardian and his or her former minor ward, and if a dependency proceeding is not pending, a former legal guardian may maintain an independent action for visitation with his or her former minor ward. If the child does not have at least one living parent, visitation shall not be determined in a proceeding under the Family Code, but shall instead be determined in a guardianship proceeding which may be initiated for that purpose.

3110. As used in this chapter, "court-appointed investigator" means a probation officer, domestic relations investigator, or court-appointed evaluator directed by the court to conduct an investigation pursuant to this chapter.

3110.5. (a) No person may be a court-connected or private child custody evaluator under this chapter unless the person has completed the domestic violence and child abuse training program described in Section 1816 and has complied with Rules 5.220 and 5.230 of the California Rules of Court.

(b) (1) On or before January 1, 2002, the Judicial Council shall formulate a statewide rule of court that establishes education, experience, and training requirements for all child custody evaluators appointed pursuant to this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(A) The rule shall require a child custody evaluator to declare under penalty of perjury that he or she meets all of the education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements to be specified for court-connected evaluators shall include, but not be limited to, knowledge of the psychological and developmental needs of children and parent-child relationships.

(B) The rule shall require all evaluators to utilize comparable interview, assessment, and testing procedures for all parties that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(C) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court under the circumstances set forth in subdivision (d). The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(2) On or before January 1, 2004, the Judicial Council shall include in the statewide rule of court created pursuant to this section a requirement that all court-connected and private child custody evaluators receive training in the nature of child sexual abuse. The Judicial Council shall develop standards for this training that shall include, but not be limited to, the following:

(A) Children's patterns of hiding and disclosing sexual abuse occurring in a family setting.

(B) The effects of sexual abuse on children.

(C) The nature and extent of child sexual abuse.

(D) The social and family dynamics of child sexual abuse.

(E) Techniques for identifying and assisting families affected by child sexual abuse.

(F) Legal rights, protections, and remedies available to victims of child sexual abuse.

(c) In addition to the education, experience, and training requirements established by the Judicial Council pursuant to subdivision (b), on or after January 1, 2005, no person may be a child custody evaluator under this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure unless the person meets one of the following criteria:

(1) He or she is licensed as a physician under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and either is a board certified psychiatrist or has completed a residency in psychiatry.

(2) He or she is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(3) He or she is licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(4) He or she is licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(5) He or she is a court-connected evaluator who has been certified by the court as meeting all of the qualifications for court-connected evaluators as specified by the Judicial Council pursuant to subdivision (b).

(d) Subdivision (c) does not apply in any case where the court determines that there are no evaluators who meet the criteria of subdivision (c) who are willing and available, within a reasonable period of time, to perform child custody evaluations. In those cases, the parties may stipulate to an individual who does not meet the criteria of subdivision (c), subject to approval by the court.

(e) A child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that licensee.

(f) On or after January 1, 2005, a court-connected or private child custody evaluator may not evaluate, investigate, or mediate an issue of child custody in a proceeding pursuant to this division unless that person has completed child sexual abuse training as required by this section.

3111. (a) In any contested proceeding involving child custody or visitation rights, the court may appoint a child custody evaluator to conduct a child custody evaluation in cases where the court determines it is in the best interests of the child. The child custody evaluation shall be conducted in accordance with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations. If directed by the court, the court-appointed child custody evaluator shall file a written confidential report on his or her evaluation. At least 10 days before any hearing regarding custody of the child, the report shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150. The report may be considered by the court.

(b) The report shall not be made available other than as provided in subdivision (a), or as described in Section 204 of the Welfare and Institutions Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile court case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) Section 827 of the Welfare and Institutions Code.

(c) The report may be received in evidence on stipulation of all interested parties and is competent evidence as to all matters contained in the report.

3112. (a) Where a court-appointed investigator is directed by the court to conduct a custody investigation or evaluation pursuant to this chapter or to undertake visitation work, including necessary evaluation, supervision, and reporting, the court shall inquire into the financial condition of the parent, guardian, or other person charged with the support of the minor. If the court finds the parent, guardian, or other person able to pay all or part of the expense of the investigation, report, and recommendation, the court may make an order requiring the parent, guardian, or other person to repay the court the amount the court determines proper.

(b) The repayment shall be made to the court. The court shall keep suitable accounts of the expenses and repayments and shall deposit the collections as directed by the Judicial Council.

3113. Where there has been a history of domestic violence between the parties, or where a protective order as defined in Section 6218 is in effect, at the request of the party alleging domestic violence in a written declaration under penalty of perjury or at the request of a party who is protected by the order, the parties shall meet with the court-appointed investigator separately and at separate times.

3114. Nothing in this chapter prohibits a court-appointed investigator from recommending to the court that counsel be appointed pursuant to Chapter 10 (commencing with Section 3150) to represent the minor child. In making that recommendation, the court-appointed investigator shall inform the court of the reasons why it would be in the best interest of the child to have counsel appointed.

3115. No statement, whether written or oral, or conduct shall be held to constitute a waiver by a party of the right to cross-examine the court-appointed investigator, unless the statement is made, or the conduct occurs, after the report has been received by a party or his or her attorney.

3116. Nothing in this chapter limits the duty of a court-appointed investigator to assist the appointing court in the transaction of the business of the court.

3117. The Judicial Council shall, by January 1, 1999, do both of the following:

(a) Adopt standards for full and partial court-connected evaluations, investigations, and assessments related to child custody.

(b) Adopt procedural guidelines for the expeditious and cost-effective cross-examination of court-appointed investigators, including, but not limited to, the use of electronic technology whereby the

court-appointed investigator may not need to be present in the courtroom. These guidelines shall in no way limit the requirement that the court-appointed investigator be available for the purposes of cross-examination. These guidelines shall also provide for written notification to the parties of the right to cross-examine these investigators after the parties have had a reasonable time to review the investigator's report.

3118. (a) In any contested proceeding involving child custody or visitation rights, where the court has appointed a child custody evaluator or has referred a case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court shall require an evaluation, investigation, or assessment pursuant to this section. When the court has determined that there is a serious allegation of child sexual abuse, any child custody evaluation, investigation, or assessment conducted subsequent to that determination shall be considered by the court only if the evaluation, investigation, or assessment is conducted in accordance with the minimum requirements set forth in this section in determining custody or visitation rights, except as specified in paragraph (1). For purposes of this section, a serious allegation of child sexual abuse means an allegation of child sexual abuse, as defined in Section 11165.1 of the Penal Code, that is based in whole or in part on statements made by the child to law enforcement, a child welfare services agency investigator, any person required by statute to report suspected child abuse, or any other court-appointed personnel, or that is supported by substantial independent corroboration as provided for in subdivision (b) of Section 3011. When an allegation of child abuse arises in any other circumstances in any proceeding involving child custody or visitation rights, the court may require an evaluator or investigator to conduct an evaluation, investigation, or assessment pursuant to this section. The order appointing a child custody evaluator or investigator pursuant to this section shall provide that the evaluator or investigator have access to all juvenile court records pertaining to the child who is the subject of the evaluation, investigation, or assessment. The order shall also provide that any juvenile court records or information gained from those records remain confidential and shall only be released as specified in Section 3111.

(1) This section does not apply to any emergency court-ordered partial investigation that is conducted for the purpose of assisting the court in determining what immediate temporary orders may be necessary to protect and meet the immediate needs of a child. This section does apply when the emergency is resolved and the court is considering permanent child custody or visitation orders.

(2) This section does not prohibit a court from considering evidence relevant to determining the safety and protection needs of the child.

(3) Any evaluation, investigation, or assessment conducted pursuant to this section shall be conducted by an evaluator or investigator who meets the qualifications set forth in Section 3110.5.

(b) The evaluator or investigator shall, at a minimum, do all of the following:

(1) Consult with the agency providing child welfare services and law enforcement regarding the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child's safety and the child's need for protection.

(2) Review and summarize the child welfare services agency file. No document contained in the child welfare services agency file may be photocopied, but a summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded by the evaluator or investigator, except for the identity of the reporting party. The evaluator's or investigator's notes summarizing the child welfare services agency information shall be stored in a file separate from the evaluator's or investigator's file and may only be released to either party under order of the court.

(3) Obtain from a law enforcement investigator all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(4) Review the results of a multidisciplinary child interview team (hereafter MDIT) interview if available, or if not, or if the evaluator or investigator believes the MDIT interview is inadequate for purposes of the evaluation, investigation, or assessment, interview the child or request an MDIT interview, and shall wherever possible avoid repeated interviews of the child.

(5) Request a forensic medical examination of the child from the appropriate agency, or include in the report required by paragraph (6) a written statement explaining why the examination is not needed.

(6) File a confidential written report with the clerk of the court in which the custody hearing will be conducted and which shall be served on the parties or their attorneys at least 10 days prior to the hearing. This report may not be made available other than as provided in this subdivision. This report shall include, but is not limited to, the following:

(A) Documentation of material interviews, including any MDIT interview of the child or the evaluator or investigator, written documentation of interviews with both parents by the evaluator or investigator, and interviews with other witnesses who provided relevant information.

(B) A summary of any law enforcement investigator's investigation, including information obtained from the criminal background check of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(C) Relevant background material, including, but not limited to, a summary of a written report from any therapist treating the child for suspected child sexual abuse, excluding any communication subject to Section 1014 of the Evidence Code, reports from other professionals, and the results of any forensic medical examination and any other medical examination or treatment that could help establish or disprove whether the child has been the victim of sexual abuse.

(D) The written recommendations of the evaluator or investigator regarding the therapeutic needs of the child and how to ensure the safety of the child.

(E) A summary of the following information: whether the child and his or her parents are or have been the subject of a child abuse investigation and the disposition of that investigation; the name, location, and telephone number of the children's services worker; the status of the investigation and the recommendations made or anticipated to be made regarding the child's safety; and any dependency court orders or findings that might have a bearing on the custody dispute.

(F) Any information regarding the presence of domestic violence or substance abuse in the family that has been obtained from a child protective agency in accordance with paragraphs (1) and (2), a law enforcement agency, medical personnel or records, prior or currently treating therapists, excluding any communication subject to Section 1014 of the Evidence Code, or from interviews conducted or reviewed for this evaluation, investigation, or assessment.

(G) Which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence.

(H) Any other information the evaluator or investigator believes would be helpful to the court in determining what is in the best interests of the child.

(c) If the evaluator or investigator obtains information as part of a family court mediation, that information shall be maintained in the family court file, which is not subject to subpoena by either party. If, however, the members of the family are the subject of an ongoing child welfare services investigation, or the evaluator or investigator has made a child welfare services referral, the evaluator or investigator shall so inform the family law judicial officer in writing and this information shall become part of the family law file. This subdivision may not be construed to authorize or require a mediator to disclose any information not otherwise authorized or required by law to be disclosed.

(d) In accordance with subdivision (d) of Section 11167 of the Penal Code, the evaluator or investigator may not disclose any information regarding the identity of any person making a report of suspected child abuse. Nothing in this section is intended to limit any disclosure of information by any agency that is otherwise required by law or court order.

(e) The evaluation, investigation, or assessment standards set forth in this section represent minimum requirements of evaluation and the court shall order further evaluation beyond these minimum requirements when necessary to determine the safety needs of the child.

(f) If the court orders an evaluation, investigation, or assessment pursuant to this section, the court shall consider whether the best interests of the child require that a temporary order be issued that limits visitation with the parent against whom the allegations have been made to situations in which a third person specified by the court is present or whether visitation will be suspended or denied in accordance with Section 3011.

(g) An evaluation, investigation, or assessment pursuant to this section shall be suspended if a petition is filed to declare the child a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and all information gathered by the evaluator or investigator shall be made available to the juvenile court.

(h) This section may not be construed to authorize a court to issue any orders in a proceeding pursuant to this division regarding custody or visitation with respect to a minor child who is the subject of a dependency hearing in juvenile court or to otherwise supersede Section 302 of the Welfare and Institutions Code.

3120. Without filing a petition for dissolution of marriage or legal separation of the parties, the husband or wife may bring an action for the exclusive custody of the children of the marriage. The court may, during the pendency of the action, or at the final hearing thereof, or afterwards, make such order regarding the support, care, custody, education, and control of the children of the marriage as may be just and in accordance with the natural rights of the parents and the best interest of the children. The order may be modified or terminated at any time thereafter as the natural rights of the parties and the best interest of the children may require.

3121. (a) In any proceeding pursuant to Section 3120, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in Section 3120, or any proceeding related thereto, including after any appeal has been concluded.

(e) Except as provided in paragraph (g), an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in Section 3120.

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

3130. If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3411, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

3131. If a custody or visitation order has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the order, the district attorney shall take all actions necessary to locate and return the child and the person who violated the order and to assist in the enforcement of the custody or visitation order or other order of the court by use of an appropriate civil or criminal proceeding.

3132. In performing the functions described in Sections 3130 and 3131, the district attorney shall act on behalf of the court and shall not represent any party to the custody proceedings.

3133. If the district attorney represents to the court, by a written declaration under penalty of perjury, that a temporary custody order is needed to recover a child who is being detained or concealed in violation of a court order or a parent's right to custody, the court may issue an order, placing temporary sole physical custody in the parent or person recommended by the district

attorney to facilitate the return of the child to the jurisdiction of the court, pending further hearings. If the court determines that it is not in the best interest of the child to place temporary sole physical custody in the parent or person recommended by the district attorney, the court shall appoint a person to take charge of the child and return the child to the jurisdiction of the court.

3134. (a) When the district attorney incurs expenses pursuant to this chapter, including expenses incurred in a sister state, payment of the expenses may be advanced by the county subject to reimbursement by the state, and shall be audited by the Controller and paid by the State Treasury according to law.

(b) The court in which the custody proceeding is pending or which has continuing jurisdiction shall, if appropriate, allocate liability for the reimbursement of actual expenses incurred by the district attorney to either or both parties to the proceedings, and that allocation shall constitute a judgment for the state for the funds advanced pursuant to this section. The county shall take reasonable action to enforce that liability and shall transmit all recovered funds to the state.

3134.5. (a) Upon request of the district attorney, the court may issue a protective custody warrant to secure the recovery of an unlawfully detained or concealed child. The request by the district attorney shall include a written declaration under penalty of perjury that a warrant for the child is necessary in order for the district attorney to perform the duties described in Sections 3130 and 3131. The protective custody warrant for the child shall contain an order that the arresting agency shall place the child in protective custody, or return the child as directed by the court. The protective custody warrant may be served in any county in the same manner as a warrant of arrest and may be served at any time of the day or night.

(b) Upon a declaration of the district attorney that the child has been recovered or that the warrant is otherwise no longer required, the court may dismiss the warrant without further court proceedings.

3135. Part 3 (commencing with Section 3400) does not limit the authority of a district attorney or arresting agency to act pursuant to this chapter, Section 279.6 of the Penal Code, or any other applicable law.

3140. (a) Subject to subdivisions (b) and (c), before granting or modifying a custody order in a case in which one or both parents of the child have not appeared either personally or by counsel, the court shall require the parent, petitioner, or other party appearing in the case to submit a certified copy of the child's birth certificate to the court. The court or its designee shall forward the certified copy of the birth certificate to the local police or sheriff's department which shall check with the National Crime Information Center Missing Person System to ascertain whether the child has been reported missing or is the victim of an abduction and shall report the results of the check to the court.

(b) If the custody matter before the court also involves a petition for the dissolution of marriage or the adjudication of paternity rights or duties, this section applies only to a case in which there is no proof of personal service of the petition on the absent parent.

(c) For good cause shown, the court may waive the requirements of this section.

3150. (a) If the court determines that it would be in the best interest of the minor child, the court may appoint private counsel to represent the interests of the child in a custody or visitation proceeding.

(b) Upon entering an appearance on behalf of a child pursuant to this chapter, counsel shall continue to represent that child unless relieved by the court upon the substitution of other counsel by the court or for cause.

3151. (a) The child's counsel appointed under this chapter is charged with the representation of the child's best interests. The role of the child's counsel is to gather facts that bear on the best interests of the child, and present those facts to the court, including the child's wishes when counsel deems it appropriate for consideration by the court pursuant to Section 3042. The counsel's duties, unless under the circumstances it is inappropriate to exercise the duty, include interviewing the child, reviewing the court files and all accessible relevant records available to both parties, and making any further investigations as the counsel considers necessary to ascertain facts relevant to the custody or visitation hearings.

(b) At the court's request, counsel shall prepare a written statement of issues and contentions setting forth the facts that bear on the best interests of the child. The statement shall set forth a summary of information received by counsel, a list of the sources of information, the results of the counsel's investigation, and such other matters as the court may direct. The statement of issues and contentions shall not contain any communication subject to Section 954 of the Evidence Code. The statement of issues and contentions shall be filed with the court and submitted to the parties or their attorneys of record at least 10 days before the hearing, unless the court orders otherwise. At the court's request, counsel may orally state the wishes of the child if that information is not a privileged communication subject to Section 954 of the Evidence Code, for consideration by the court pursuant to Section 3042. Counsel shall not be called as a witness in the proceeding. Counsel may introduce and examine counsel's own witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately. In consultation with representatives of the Family Law Section of the State Bar and the Senate and Assembly Judiciary Committees, the Judicial Council may specify standards for the preparation of the statement of issues and contentions and may promulgate a model statement of issues and contentions, which shall include simple instructions regarding how to subpoena a witness, and a blank subpoena form.

(c) The child's counsel shall have the following rights:

(1) Reasonable access to the child.

(2) Standing to seek affirmative relief on behalf of the child.

(3) Notice of any proceeding, and all phases of that proceeding, including a request for examination affecting the child.

(4) The right to take any action that is available to a party to the proceeding, including, but not limited to, the following: filing pleadings, making evidentiary objections, and presenting evidence and being heard in the proceeding, which may include, but shall not be limited to, presenting motions and orders to show cause, and participating in settlement conferences, trials, seeking writs, appeals, and arbitrations.

(5) Access to the child's medical, dental, mental health, and other health care records, school and educational records, and the right to interview school personnel, caretakers, health care providers, mental health professionals, and others who have assessed the child or provided care to the child. The release of this information to counsel shall not constitute a waiver of the confidentiality of the reports, files, and any disclosed communications. Counsel may interview mediators; however, the provisions of Sections 3177 and 3182 shall apply.

(6) The right to reasonable advance notice of and the right to refuse any physical or psychological examination or evaluation, for purposes of the proceeding, which has not been ordered by the court.

(7) The right to assert or waive any privilege on behalf of the child.

(8) The right to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding, upon approval by the court.

3151.5. If a child is represented by court appointed counsel, at every hearing in which the court makes a judicial determination regarding custody or visitation the court shall consider any statement of issues and contentions of the child's counsel. Any party may subpoena as a witness any person listed in the statement of issues and contentions as having provided information to the attorney, but the attorney shall not be called as a witness.

3152. (a) The child's counsel may, upon noticed motion to all parties and the local child protective services agency, request the court to authorize release of relevant reports or files, concerning the child represented by the counsel, of the relevant local child protective services agency.

(b) The court shall review the reports or files in camera in order to determine whether they are relevant to the pending action and whether and to what extent they should be released to the child's counsel.

(c) Neither the review by the court nor the release to counsel shall constitute a waiver of the confidentiality of the reports and files. Counsel shall not disclose the contents or existence of the reports or files to anyone unless otherwise permitted by law.

3153. (a) If the court appoints counsel under this chapter to represent the child, counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Except as provided in subdivision (b), this amount shall be paid by the parties in the proportions the court deems just.

(b) Upon its own motion or that of a party, the court shall determine whether both parties together are financially unable to pay all or a portion of the cost of counsel appointed pursuant to this chapter, and the portion of the cost of that counsel which the court finds the parties are unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.

3160. Each superior court shall make a mediator available. The court is not required to institute a family conciliation court in order to provide mediation services.

3161. The purposes of a mediation proceeding are as follows:

(a) To reduce acrimony that may exist between the parties.

(b) To develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with Sections 3011 and 3020.

(c) To effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

3162. (a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.

(b) The standards of practice shall include, but not be limited to, all of the following:

(1) Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents, consistent with Sections 3011 and 3020.

(2) Facilitation of the transition of the family by detailing factors to be considered in decisions concerning the child's future.

(3) The conducting of negotiations in such a way as to equalize power relationships between the parties.

(c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.

(d) The Judicial Council shall offer training with respect to the standards to mediators.

3163. Courts shall develop local rules to respond to requests for a change of mediators or to general problems relating to mediation.

3164. (a) The mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court.

(b) The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1815.

3165. Any person, regardless of administrative title, hired on or after January 1, 1998, who is responsible for clinical supervision of evaluators, investigators, or mediators or who directly supervises or administers the Family Court Services evaluation or mediation programs shall meet the same continuing education requirements specified in Section 1816 for supervising and associate counselors of conciliation.

3170. (a) If it appears on the face of a petition, application, or other pleading to obtain or modify a temporary or permanent custody or visitation order that custody, visitation, or both are contested, the court shall set the contested issues for mediation.

(b) Domestic violence cases shall be handled by Family Court Services in accordance with a separate written protocol approved by the Judicial Council. The Judicial Council shall adopt guidelines for services, other than services provided under this chapter, that counties may offer to parents who have been unable to resolve their disputes. These services may include, but are not limited to, parent education programs, booklets, videotapes, or referrals to additional community resources.

3171. (a) If a stepparent or grandparent has petitioned, or otherwise applied, for a visitation order pursuant to Chapter 5 (commencing with Section 3100), the court shall set the matter for mediation.

(b) A natural or adoptive parent who is not a party to the proceeding is not required to participate in the mediation proceeding, but failure to participate is a waiver of that parent's right to object to a settlement reached by the other parties during mediation or to require a hearing on the matter.

3172. Mediation shall not be denied to the parties on the basis that paternity is at issue in a proceeding before the court.

3173. (a) Upon the adoption of a resolution by the board of supervisors authorizing the procedure, a petition may be filed pursuant to this chapter for mediation of a dispute relating to an existing order for custody, visitation, or both.

(b) The mediation of a dispute concerning an existing order shall be set not later than 60 days after the filing of the petition.

3175. If a matter is set for mediation pursuant to this chapter, the mediation shall be set before or concurrent with the setting of the matter for hearing.

3176. (a) Notice of mediation and of any hearing to be held pursuant to this chapter shall be given to the following persons:

(1) Where mediation is required to settle a contested issue of custody or visitation, to each party and to each party's counsel of record.

(2) Where a stepparent or grandparent seeks visitation rights, to the stepparent or grandparent seeking visitation rights, to each parent of the child, and to each parent's counsel of record.

(b) Notice shall be given by certified mail, return receipt requested, postage prepaid, to the last known address.

(c) Notice of mediation pursuant to Section 3188 shall state that all communications involving the mediator shall be kept confidential between the mediator and the disputing parties.

3177. Mediation proceedings pursuant to this chapter shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made in the proceeding are official information within the meaning of Section 1040 of the Evidence Code.

3178. An agreement reached by the parties as a result of mediation shall be limited as follows:

(a) Where mediation is required to settle a contested issue of custody or visitation, the agreement shall be limited to the resolution of issues relating to parenting plans, custody, visitation, or a combination of these issues.

(b) Where a stepparent or grandparent seeks visitation rights, the agreement shall be limited to the resolution of issues relating to visitation.

3179. A custody or visitation agreement reached as a result of mediation may be modified at any time at the discretion of the court, subject to Chapter 1 (commencing with Section 3020), Chapter 2 (commencing with Section 3040), Chapter 4 (commencing with Section 3080), and Chapter 5 (commencing with Section 3100).

3180. (a) In mediation proceedings pursuant to this chapter, the mediator has the duty to assess the needs and interests of the child involved in the controversy, and is entitled to interview the child where the mediator considers the interview appropriate or necessary.

(b) The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute that is in the best interest of the child, as provided in Section 3011.

3181. (a) In a proceeding in which mediation is required pursuant to this chapter, where there has been a history of domestic violence between the parties or where a protective order as defined in Section 6218 is in effect, at the request of the party alleging domestic violence in a written declaration under penalty of perjury or protected by the order, the mediator appointed pursuant to this chapter shall meet with the parties separately and at separate times.

(b) Any intake form that an agency charged with providing family court services requires the parties to complete before the commencement of mediation shall state that, if a party alleging domestic violence in a written declaration under penalty of perjury or a party protected by a protective order so requests, the mediator will meet with the parties separately and at separate times.

3182. (a) The mediator has authority to exclude counsel from participation in the mediation proceedings pursuant to this chapter if, in the mediator's discretion, exclusion of counsel is appropriate or necessary.

(b) The mediator has authority to exclude a domestic violence support person from a mediation proceeding as provided in Section 6303.

3183. (a) Except as provided in Section 3188, the mediator may, consistent with local court rules, submit a recommendation to the court as to the custody of or visitation with the child.

(b) Where the parties have not reached agreement as a result of the mediation proceedings, the mediator may recommend to the court that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110) or that other services be offered to assist the parties to effect a resolution of the controversy before a hearing on the issues.

(c) In appropriate cases, the mediator may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

3184. Except as provided in Section 3188, nothing in this chapter prohibits the mediator from recommending to the court that counsel be appointed, pursuant to Chapter 10 (commencing with Section 3150), to represent the minor child. In making this recommendation, the mediator shall inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

3185. (a) If issues that may be resolved by agreement pursuant to Section 3178 are not resolved by an agreement of all the parties who participate in mediation, the mediator shall inform the court in writing and the court shall set the matter for hearing on the unresolved issues.

(b) Where a stepparent or grandparent requests visitation, each natural or adoptive parent and the stepparent or grandparent shall be given an opportunity to appear and be heard on the issue of visitation.

3186. (a) An agreement reached by the parties as a result of mediation shall be reported to counsel for the parties by the mediator on the day set for mediation or as soon thereafter as practical, but before the agreement is reported to the court.

(b) An agreement may not be confirmed or otherwise incorporated in an order unless each party, in person or by counsel of record, has affirmed and assented to the agreement in open court or by written stipulation.

(c) An agreement may be confirmed or otherwise incorporated in an order if a party fails to appear at a noticed hearing on the issue involved in the agreement.

3188. (a) Any court selected by the Judicial Council under subdivision (c) may voluntarily adopt a confidential mediation program that provides for all of the following:

(1) The mediator may not make a recommendation as to custody or visitation to anyone other than the disputing parties, except as otherwise provided in this section.

(2) If total or partial agreement is reached in mediation, the mediator may report this fact to the court. If both parties consent in writing, where there is a partial agreement, the mediator may report to the court a description of the issues still in dispute, without specific reference to either party.

(3) In making the recommendation described in Section 3184, the mediator may not inform the court of the reasons why it would be in the best interest of the minor child to have counsel appointed.

(4) If the parties have not reached agreement as a result of the initial mediation, this section does not prohibit the court from requiring subsequent mediation that may result in a recommendation as to custody or visitation with the child if the subsequent mediation is conducted by a different mediator with no prior involvement with the case or knowledge of any communications, as defined in Section 1040 of the Evidence Code, with respect to the initial mediation. The court, however, shall inform the parties that the mediator will make a recommendation to the court regarding custody or visitation in the event that the parties cannot reach agreement on these issues.

(5) If an initial screening or intake process indicates that the case involves serious safety risks to the child, such as domestic violence, sexual abuse, or serious substance abuse, the court may provide an initial emergency assessment service that includes a recommendation to the court concerning temporary custody or visitation orders in order to expeditiously address those safety issues.

(b) This section shall become operative upon the appropriation of funds in the annual Budget Act sufficient to implement this section.

(c) This section shall apply only in four or more counties selected by the Judicial Council that currently allow a mediator to make custody recommendations to the court and have more than 1,000 family law case filings per year. The Judicial Council may also make this section applicable to additional counties that have fewer than 1,000 family law case filings per year.

3190. (a) The court may require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with a licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not limited to, mental health or substance abuse services, for not more than one year, provided that the program selected has counseling available for the designated period of time, if the court finds both of the following:

(1) The dispute between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child, poses a substantial danger to the best interest of the child.

(2) The counseling is in the best interest of the child.

(b) In determining whether a dispute, as described in paragraph (1) of subdivision (a), poses a substantial danger to the best interest of the child, the court shall consider, in addition to any other factors the court determines relevant, any history of domestic violence, as defined in Section 6211, within the past five years between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child.

(c) Subject to Section 3192, if the court finds that the financial burden created by the order for counseling does not otherwise jeopardize a party's other financial obligations, the court shall fix the cost and shall order the entire cost of the services to be borne by the parties in the proportions the court deems reasonable.

(d) The court, in its finding, shall set forth reasons why it has found both of the following:

(1) The dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child.

(2) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(e) The court shall not order the parties to return to court upon the completion of counseling. Any party may file a new order to show cause or motion after counseling has been completed, and the court may again order counseling consistent with this chapter.

3191. The counseling pursuant to this chapter shall be specifically designed to facilitate communication between the parties regarding their minor child's best interest, to reduce conflict regarding custody or visitation, and to improve the quality of parenting skills of each parent.

3192. In a proceeding in which counseling is ordered pursuant to this chapter, where there has been a history of abuse by either parent against the child or by one parent against the other parent and a protective order as defined in Section 6218 is in effect, the court may order the parties to participate in counseling separately and at separate times. Each party shall bear the cost of his or her own counseling separately, unless good cause is shown for a different apportionment. The costs associated with a minor child participating in counseling shall be apportioned in accordance with Section 4062.

3200. The Judicial Council shall develop standards for supervised visitation providers in accordance with the guidelines set forth in this section. For the purposes of the development of these standards, the term "provider" shall include any individual who functions as a visitation monitor, as well as supervised visitation centers. Provisions shall be made within the standards to allow for

the diversity of supervised visitation providers.

(a) When developing standards, the Judicial Council shall consider all of the following issues:

(1) The provider's qualifications, experience, and education.

(2) Safety and security procedures, including ratios of children per supervisor.

(3) Any conflict of interest.

(4) Maintenance and disclosure of records, including confidentiality policies.

(5) Procedures for screening, delineation of terms and conditions, and termination of supervised visitation services.

(6) Procedures for emergency or extenuating situations.

(7) Orientation to and guidelines for cases in which there are allegations of domestic violence, child abuse, substance abuse, or special circumstances.

(8) The legal obligations and responsibilities of supervisors.

(b) The Judicial Council shall consult with visitation centers, mothers' groups, fathers' groups, judges, the State Bar of California, children's advocacy groups, domestic violence prevention groups, Family Court Services, and other groups it regards as necessary in connection with these standards.

(c) It is the intent of the Legislature that the safety of children, adults, and visitation supervisors be a precondition to providing visitation services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

3201. Any supervised visitation maintained or imposed by the court shall be administered in accordance with Section 26.2 of the California Standards of Judicial Administration recommended by the Judicial Council.

3201. (a) The programs described in this chapter shall be administered by the family law division of the superior court in the county.

(b) For purposes of this chapter, "education about protecting children during family disruption" includes education on parenting skills and the impact of parental conflict on children, how to put a parenting agreement into effect, and the responsibility of both parents to comply with custody and visitation orders.

3202. (a) All supervised visitation and exchange programs funded pursuant to this chapter shall comply with all requirements of the Uniform Standards of Practice for Providers of Supervised Visitation set forth in Section 26.2 of the Standards of Judicial Administration as amended. The family law division of the superior court may contract with eligible providers of supervised visitation and exchange services, education, and group counseling to provide services under this chapter.

(b) As used in this section, "eligible provider" means:

(1) For providers of supervised visitation and exchange services, a local public agency or nonprofit entity that satisfies the Uniform Standards of Practice for Providers of Supervised Visitation.

(2) For providers of group counseling, a professional licensed to practice psychotherapy in this state, including, but not limited to, a licensed psychiatrist, licensed psychologist, licensed clinical social worker, or licensed marriage and family therapist; or a mental health intern working under the direct supervision of a professional licensed to practice psychotherapy.

(3) For providers of education, a professional with a bachelor's or master's degree in human behavior, child development, psychology, counseling, family-life education, or a related field, having specific training in issues relating to child and family development, substance abuse, child abuse, domestic violence, effective parenting, and the impact of divorce and interparental conflict on children; or an intern working under the supervision of that professional.

3203. Subject to the availability of federal funding for the purposes of this chapter, the family law division of the superior court in each county may establish and administer a supervised visitation and exchange program, programs for education about protecting children during family disruption, and group counseling programs for parents and children under this chapter. The programs shall allow parties and children to participate in supervised visitation between a custodial party and a noncustodial party or joint custodians, and to participate in the education and group counseling programs, irrespective of whether the parties are or are not married to each other or are currently living separately and apart on a permanent or temporary basis.

3204. (a) The Judicial Council shall annually submit an application to the federal Administration for Children and Families, pursuant to Section 669B of the "1996 Federal Personal Responsibility and Work Opportunity Recovery Act" (PRWORA), for a grant to fund child custody and visitation programs pursuant to this chapter. The Judicial Council shall be charged with the administration of the grant funds.

(b) (1) It is the intention of the Legislature that, effective October 1, 2000, the grant funds described in subdivision (a) shall be used to fund the following three types of programs: supervised

visitation and exchange services, education about protecting children during family disruption, and group counseling for parents and children, as set forth in this chapter. Contracts shall follow a standard request for proposal procedure, that may include multiple year funding. Requests for proposals shall meet all state and federal requirements for receiving access and visitation grant funds.

(2) The grant funds shall be awarded with the intent of approving as many requests for proposals as possible while assuring that each approved proposal would provide beneficial services and satisfy the overall goals of the program under this chapter. The Judicial Council shall determine the final number and amount of grants. Requests for proposals shall be evaluated based on the following criteria:

(A) Availability of services to a broad population of parties.

(B) The ability to expand existing services.

(C) Coordination with other community services.

(D) The hours of service delivery.

(E) The number of counties or regions participating.

(F) Overall cost effectiveness.

(G) The purpose of the program to promote and encourage healthy parent and child relationships between noncustodial parents and their children, while ensuring the health, safety, and welfare of the children.

(3) Special consideration for grant funds shall be given to proposals that coordinate supervised visitation and exchange services, education, and group counseling with existing court-based programs and services.

(c) The family law division of the superior court in each county shall approve sliding scale fees that are based on the ability to pay for all parties, including low-income families, participating in a supervised visitation and exchange, education, and group counseling programs under this chapter.

(d) The Judicial Council shall, on March 1, 2002, and on the first day of March of each subsequent year, report to the Legislature on the programs funded pursuant to this chapter and whether and to what extent those programs are achieving the goal of promoting and encouraging healthy parent and child relationships between noncustodial or joint custodial parents and their children while ensuring the health, safety, and welfare of children, and the other goals described in this chapter.

PART 3. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

3400. This part may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

3402. As used in this part:

(a) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(b) "Child" means an individual who has not attained 18 years of age.

(c) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(d) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for dissolution of marriage, legal separation of the parties, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Chapter 3 (commencing with Section 3441).

(e) "Commencement" means the filing of the first pleading in a proceeding.

(f) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(g) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(h) "Initial determination" means the first child custody determination concerning a particular child.

(i) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this part.

(j) "Issuing state" means the state in which a child custody determination is made.

(k) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(m) "Person acting as a parent" means a person, other than a parent, who: (1) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and (2) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(n) "Physical custody" means the physical care and supervision of a child.

(o) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(p) "Tribe" means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

(q) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

3403. This part does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

3404. (a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) is not subject to this part to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying this chapter and Chapter 2 (commencing with Section 3421).

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under Chapter 3 (commencing with Section 3441).

3405. (a) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying this chapter and Chapter 2 (commencing with Section 3421).

(b) Except as otherwise provided in subdivision (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced under Chapter 3 (commencing with Section 3441).

(c) A court of this state need not apply this part if the child custody law of a foreign country violates fundamental principles of human rights.

3406. A child custody determination made by a court of this state that had jurisdiction under this part binds all persons who have been served in accordance with the laws of this state or notified in accordance with Section 3408 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

3407. If a question of existence or exercise of jurisdiction under this part is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

3408. (a) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

3409. (a) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(b) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subdivision (a) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this part committed by an individual while present in this state.

3410. (a) A court of this state may communicate with a court in another state concerning a proceeding arising under this part.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subdivision (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

3411. (a) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court, on its own motion, may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

3412. (a) A court of this state may request the appropriate court of another state to do all of the following:

(1) Hold an evidentiary hearing.

(2) Order a person to produce or give evidence pursuant to procedures of that state.

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.

(4) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request.

(5) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subdivision (a).

(c) Travel and other necessary and reasonable expenses incurred under subdivisions (a) and (b) may be assessed against the parties according to the law of this state.

(d) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

3421. (a) Except as otherwise provided in Section 3424, a court of this state has jurisdiction to make an initial child custody determination only if any of the following are true:

(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

(2) A court of another state does not have jurisdiction under paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum under Section 3427 or 3428, and both of the following are true:

(A) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(B) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 3427 or 3428.

(4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).

(b) Subdivision (a) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

3422. (a) Except as otherwise provided in Section 3424, a court of this state that has made a child custody determination consistent with Section 3421 or 3423 has exclusive, continuing jurisdiction over the determination until either of the following occurs:

(1) A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships.

(2) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(b) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 3421.

3423. Except as otherwise provided in Section 3424, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under paragraph (1) or (2) of subdivision (a) of Section 3421 and either of the following determinations is made:

(a) The court of the other state determines it no longer has exclusive, continuing jurisdiction under Section 3422 or that a court of this state would be a more convenient forum under Section 3427.

(b) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

3424. (a) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to, or threatened with, mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under this part and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 3421 to 3423, inclusive. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under this part, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, any order issued by a court of this state under this section must

specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 3421 to 3423, inclusive. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 3421 to 3423, inclusive, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to Sections 3421 to 3423, inclusive, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

(e) It is the intent of the Legislature in enacting subdivision (a) that the grounds on which a court may exercise temporary emergency jurisdiction be expanded. It is further the intent of the Legislature that these grounds include those that existed under Section 3403 of the Family Code as that section read on December 31, 1999, particularly including cases involving domestic violence.

3425. (a) Before a child custody determination is made under this part, notice and an opportunity to be heard in accordance with the standards of Section 3428 must be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This part does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this part are governed by the law of this state as in child custody proceedings between residents of this state.

3426. (a) Except as otherwise provided in Section 3424, a court of this state may not exercise its jurisdiction under this chapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this part, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section 3427.

(b) Except as otherwise provided in Section 3424, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 3429. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this part, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this part does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(c) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may do any of the following:

- (1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement.
- (2) Enjoin the parties from continuing with the proceeding for enforcement.
- (3) Proceed with the modification under conditions it considers appropriate.

3427. (a) A court of this state that has jurisdiction under this part to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(b) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose,

the court shall allow the parties to submit information and shall consider all relevant factors, including:

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.
 - (2) The length of time the child has resided outside this state.
 - (3) The distance between the court in this state and the court in the state that would assume jurisdiction.
 - (4) The degree of financial hardship to the parties in litigating in one forum over the other.
 - (5) Any agreement of the parties as to which state should assume jurisdiction.
 - (6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.
 - (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.
 - (8) The familiarity of the court of each state with the facts and issues in the pending litigation.
- (c) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.
- (d) A court of this state may decline to exercise its jurisdiction under this part if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.
- (e) If it appears to the court that it is clearly an inappropriate forum, the court may require the party who commenced the proceeding to pay, in addition to the costs of the proceeding in this state, necessary travel and other expenses, including attorney's fees, incurred by the other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

3428. (a) Except as otherwise provided in Section 3424 or by any other law of this state, if a court of this state has jurisdiction under this part because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless one of the following are true:

- (1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.
 - (2) A court of the state otherwise having jurisdiction under Sections 3421 to 3423, inclusive, determines that this state is a more appropriate forum under Section 3427.
 - (3) No court of any other state would have jurisdiction under the criteria specified in Sections 3421 to 3423, inclusive.
- (b) If a court of this state declines to exercise its jurisdiction pursuant to subdivision (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 3421 to 3423, inclusive.
- (c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subdivision (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this part.
- (d) In making a determination under this section, a court shall not consider as a factor weighing against the petitioner any taking of the child, or retention of the child after a visit or other temporary relinquishment of physical custody, from the person who has legal custody, if there is evidence that the taking or retention of the child was a result of domestic violence against the petitioner, as defined in Section 6211.

3429. (a) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. However, where there are allegations of domestic violence or child abuse, any addresses of the party alleging violence or abuse and of the child which are unknown to the other party are

confidential and may not be disclosed in the pleading or affidavit. The pleading or affidavit must state whether the party:

(1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of, or visitation with, the child and, if so, identify the court, the case number, and the date of the child custody determination, if any.

(2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(b) If the information required by subdivision (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in paragraphs (1) to (3), inclusive, of subdivision (a) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

3430. (a) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 3408 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside this state is directed to appear under subdivision (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

3441. In this chapter:

(a) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(b) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

3442. Under this chapter, a court of this state may enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

3443. (a) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this part or the determination was made under factual circumstances meeting the jurisdictional standards of this part and the determination has not been modified in accordance with this part.

(b) A court of this state may utilize any remedy available under other laws of this state to enforce a child custody determination made by a court of another state. The remedies provided in this chapter are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

3444. (a) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing either:

(1) A visitation schedule made by a court of another state.
(2) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If a court of this state makes an order under paragraph (2) of subdivision (a), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Chapter 2 (commencing with Section 3421). The order remains in effect until an order is obtained from the other court or the period expires.

3445. (a) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending all of the following to the appropriate court in this state:

(1) A letter or other document requesting registration.

(2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified.

(3) Except as otherwise provided in Section 3429, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subdivision (a), the registering court shall do both of the following:

(1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

(2) Serve notice upon the persons named pursuant to paragraph (3) of subdivision (a) and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by paragraph (2) of subdivision (b) shall state all of the following:

(1) That a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.

(2) That a hearing to contest the validity of the registered determination must be requested within 20 days after service of the notice.

(3) That failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice.

At that hearing, the court shall confirm the registered order unless the person contesting registration establishes any of the following:

(1) That the issuing court did not have jurisdiction under Chapter 2 (commencing with Section 3421).

(2) That the child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(3) That the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 3408, in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

3446. (a) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(b) A court of this state shall recognize and enforce, but may not modify, except in accordance with Chapter 2 (commencing with Section 3421), a registered child custody determination of a court of another state.

3447. If a proceeding for enforcement under this chapter is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Chapter 2 (commencing with Section 3421), the enforcing court shall immediately communicate with the modifying court. The

proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

3448. (a) A petition under this chapter must be verified.

Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state all of the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this part and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under Section 3445, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subdivision (c) must state the time and place of the hearing and advise the respondent that, at the hearing, the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 3452, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

(1) That the child custody determination has not been registered and confirmed under Section 3445 and all of the following are true:

(A) The issuing court did not have jurisdiction under Chapter 2 (commencing with Section 3421).

(B) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 3408, in the proceedings before the court that issued the order for which enforcement is sought.

(2) That the child custody determination for which enforcement is sought was registered and confirmed under Section 3444, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

3449. Except as otherwise provided in Section 3451, the petition and order shall be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

3450. (a) Unless the court issues a temporary emergency order pursuant to Section 3424, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes either of the following:

(1) That the child custody determination has not been registered and confirmed under Section 3445 and one of the following is true:

(A) The issuing court did not have jurisdiction under Chapter 2 (commencing with Section 3421).

(B) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 3408, in the proceedings before the court that issued the order for which enforcement is sought.

(2) That the child custody determination for which enforcement is sought was registered and confirmed under Section 3445 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(b) The court shall award the fees, costs, and expenses authorized under Section 3452 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this chapter.

3451. (a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this state.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subdivision (b) of Section 3448.

(c) A warrant to take physical custody of a child must do all of the following:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based.

(2) Direct law enforcement officers to take physical custody of the child immediately.

(3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

3452. (a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this part.

3453. A court of this state shall accord full faith and credit to an order issued by another state, and consistent with this part, enforce a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

3454. An appeal may be taken from a final order in a proceeding under this chapter in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under Section 3424, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

3455. (a) In a case arising under this part or involving the Hague Convention on the Civil Aspects of International Child Abduction, a district attorney is authorized to proceed pursuant to Chapter 8 (commencing with Section 3130) of Part 2.

(b) A district attorney acting under this section acts on behalf of the court and may not represent any party.

3456. At the request of a district attorney acting under Section 3455, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the district attorney with responsibilities under Section 3455.

3457. The court may assess all direct expenses and costs incurred by a district attorney under Section 3455 or 3456 pursuant to the provisions of Section 3134.

3461. In applying and construing this Uniform Child Custody Jurisdiction and Enforcement Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

3462. If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

3465. A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination that was commenced before the effective date of this part is governed by the law in effect at the time the motion or other request was made.

DIVISION 9. SUPPORT

PART 1. DEFINITIONS AND GENERAL PROVISIONS

3500. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

3515. "Separate property" does not include quasi-community property.

3550. (a) As used in this section:

(1) "Obligee" means a person to whom a duty of support is owed.

(2) "Obligor" means a person who owes a duty of support.

(b) An obligor present or resident in this state has the duty of support as defined in Sections 3900, 3901, 3910, 4300, and 4400, regardless of the presence or residence of the obligee.

3551. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable under this division. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

3552. (a) In a proceeding involving child, family, or spousal support, no party to the proceeding may refuse to submit copies of the party's state and federal income tax returns to the court, whether individual or joint.

(b) The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return submitted pursuant to this section.

(c) If the court finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party who submitted it.

3554. An appeal may be taken from an order or judgment under this division as in other civil actions.

3555. Where support is ordered to be paid through the county officer designated by the court on behalf of a child or other party not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the designated county officer shall forward the support received to the designated payee within the time standards prescribed by federal law and the Department of Child Support Services.

3556. The existence or enforcement of a duty of support owed by a noncustodial parent for the support of a minor child is not affected by a failure or refusal by the custodial parent to implement any rights as to custody or visitation granted by a court to the noncustodial parent.

3557. (a) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon (1) determining an ability to pay and (2) consideration of the respective incomes and needs of the parties in order to ensure that each party has access to legal representation to preserve all of the party's rights, shall award reasonable attorney's fees to any of the following persons:

(1) A custodial parent or other person to whom payments should be made in any action to enforce any of the following:

(A) An existing order for child support.

(B) A penalty incurred pursuant to Chapter 5 (commencing with Section 4720) of Part 5 of Division 9.

(2) A supported spouse in an action to enforce an existing order for spousal support.

(b) This section shall not be construed to allow an award of attorney's fees to or against a governmental entity.

3558. In a proceeding involving child or family support, a court may require either parent to attend job training, job placement and vocational rehabilitation, and work programs, as designated by the court, at regular intervals and times and for durations specified by the court, and provide documentation of participation in the programs, in a format that is acceptable to the court, in order to enable the court to make a finding that good faith attempts at job training and placement have been undertaken by the parent.

3580. Subject to this chapter and to Section 3651, a husband and wife may agree, in writing, to an immediate separation, and may provide in the agreement for the support of either of them and of their children during the separation or upon the dissolution of their marriage. The mutual consent of the parties is sufficient consideration for the agreement.

3585. The provisions of an agreement between the parents for child support shall be deemed to be separate and severable from all other provisions of the agreement relating to property and support of the wife or husband. An order for child support based on the agreement shall be law-imposed and shall be made under the power of the court to order child support.

3586. If an agreement between the parents combines child support and spousal support without designating the amount to be paid for child support and the amount to be paid for spousal support, the court is not required to make a separate order for child support.

3587. Notwithstanding any other provision of law, the court has the authority to approve a stipulated agreement by the parents to pay for the support of an adult child or for the continuation of child support after a child attains the age of 18 years and to make a support order to effectuate the agreement.

3590. The provisions of an agreement for support of either party shall be deemed to be separate and severable from the provisions of the agreement relating to property. An order for support of either party based on the agreement shall be law-imposed and shall be made under the power of the court to order spousal support.

3591. (a) Except as provided in subdivisions (b) and (c), the provisions of an agreement for the support of either party are subject to subsequent modification or termination by court order.

(b) An agreement may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

(c) An agreement for spousal support may not be modified or revoked to the extent that a written agreement, or, if there is no written agreement, an oral agreement entered into in open court between the parties, specifically provides that the spousal support is not subject to modification or termination.

3592. If an obligation under an agreement for settlement of property to a spouse or for support of a spouse is discharged in bankruptcy, the court may make all proper orders for the support of the spouse, as the court determines are just, having regard for the circumstances of the parties and the amount of the obligations under the agreement that are discharged.

3593. Sections 3590 and 3591 are effective only with respect to a property settlement agreement entered into on or after January 1, 1970, and do not affect an agreement entered into before January 1, 1970, as to which Chapter 1308 of the Statutes of 1967 shall apply.

3600. During the pendency of any proceeding for dissolution of marriage or for legal separation of the parties or under Division 8 (commencing with Section 3000) (custody of children) or in any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section 3901 or 3910, the court may order (a) the husband or wife to pay any amount that is necessary for the support of the wife or husband, consistent with the requirements of subdivisions (l) and (m) of Section 4320 and Section 4325, or (b) either or both parents to pay any amount necessary for the support of the child, as the case may be.

3601. (a) An order for child support entered pursuant to this chapter continues in effect until the order (1) is terminated by the court or (2) terminates by operation of law pursuant to Sections 3900, 3901, 4007, and 4013.

(b) Subject to Section 3602, subdivision (a) applies notwithstanding any other provision of law and notwithstanding that the proceeding has not been brought to trial within the time limits specified in Chapter 1.5 (commencing with Section 583.110) of Title 8 of Part 2 of the Code of Civil Procedure.

3602. Unless the order specifies otherwise, an order made pursuant to this chapter is not enforceable during any period in which the parties have reconciled and are living together.

3603. An order made pursuant to this chapter may be modified or terminated at any time except as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

3604. An order made pursuant to this chapter does not prejudice the rights of the parties or the child with respect to any subsequent order which may be made.

3620. An order under this chapter shall be known as an expedited support order.

3621. In an action for child support that has been filed and served, the court may, without a hearing, make an order requiring a parent or parents to pay for the support of their minor child or children during the pendency of that action, pursuant to this chapter, the amount required by Section 4055 or, if the income of the obligated parent or parents is unknown to the applicant, then the minimum amount of support as provided in Section 11452 of the Welfare and Institutions Code.

3622. The court shall make an expedited support order upon the filing of all of the following:

(a) An application for an expedited child support order, setting forth the minimum amount the obligated parent or parents are required to pay pursuant to Section 4055 of this code or the minimum basic standards of adequate care for Region 1 as specified in Sections 11452 and 11452.018 of the Welfare and Institutions Code.

(b) An income and expense declaration for both parents, completed by the applicant.

(c) A worksheet setting forth the basis of the amount of support requested.

(d) A proposed expedited child support order.

3623. (a) An application for the expedited support order confers jurisdiction on the court to hear only the issue of support of the child or children for whom support may be ordered.

(b) Nothing in this chapter prevents either party from bringing before the court at the hearing other separately noticed issues otherwise relevant and proper to the action in which the application

for the expedited support order has been filed.

3624. (a) Subject to Section 3625, an expedited support order becomes effective 30 days after service on the obligated parent of all of the following:

- (1) The application for an expedited child support order.
 - (2) The proposed expedited child support order, which shall include a notice of consequences of failure to file a response.
 - (3) The completed income and expense declaration for both parents.
 - (4) A worksheet setting forth the basis of the amount of support requested.
 - (5) Three blank copies of the income and expense declaration form.
 - (6) Three blank copies of the response to an application for expedited child support order and notice of hearing form.
- (b) Service on the obligated parent of the application and other required documents as set forth in subdivision (a) shall be by personal service or by any method available under Sections 415.10 to 415.40, inclusive, of the Code of Civil Procedure.
- (c) Unless there is a response to the application for an expedited support order as provided in Section 3625, the expedited support order shall be effective on the obligated parent without further action by the court.

3625. (a) A response to the application for the proposed expedited support order and the obligated parent's income and expense declaration may be filed with the court at any time before the effective date of the expedited support order and, on filing, shall be served upon the applicant by any method by which a response to a notice of motion may be served.

- (b) The response to the application for an expedited support order shall state the objections of the obligated parent to the proposed expedited support order.
- (c) The simultaneous filing of the response to the application for an expedited support order and the obligated parent's income and expense declaration shall stay the effective date of the expedited support order.
- (d) No fee shall be charged for, or in connection with, the filing of the response.

3626. The obligated parent shall cause the court clerk to, and the court clerk shall, set a hearing on the application for the expedited support order not less than 20 nor more than 30 days after the filing of the response to the application for the expedited support order and income and expense declaration.

3627. The obligated parent shall give notice of the hearing to the other parties or their counsel by first-class mail not less than 15 days before the hearing.

3628. If notice of the hearing is not given as provided in Section 3627, the expedited support order becomes effective as provided in Section 3624, subject to the relief available to the responding party as provided by Section 473 of the Code of Civil Procedure or any other available relief whether in law or in equity.

3629. (a) At the hearing on the application for the expedited support order, all parties who are parents of the child or children who are the subject of the action shall produce copies of their most recently filed federal and state income tax returns.

- (b) A tax return so submitted may be reviewed by the other parties, and a party also may be examined by the other parties as to the contents of the return.
- (c) Except as provided in subdivision (d), a party who fails to submit documents to the court as required by this chapter shall not be granted the relief that the party has requested.
- (d) The court may grant the requested relief if the party submits a declaration under penalty of perjury that (1) no such document exists, or (2) in the case of a tax return, it cannot be produced, but a copy has been requested from the Internal Revenue Service or Franchise Tax Board.

3630. (a) Except as provided in subdivision (b), the amount of the expedited support order shall be the minimum amount the obligated parent is required to pay as set forth in the application.

(b) If a hearing is held on the application, the court shall order an amount of support in accordance with Article 2 (commencing with Section 4050) of Chapter 2 of Part 2.

3631. When there is a hearing, the resulting order shall be called an order after hearing.

3632. An order after hearing shall become effective not more than 30 days after the filing of the response to the application for the expedited support order and may be given retroactive effect to the date of the filing of the application.

3633. An order entered under this chapter may be modified or terminated at any time on the same basis as any other order for child support.

3634. The Judicial Council shall prepare all forms necessary to give effect to this chapter.

3650. Unless the provision or context otherwise requires, as used in this chapter, "support order" means a child, family, or spousal support order.

3651. (a) Except as provided in subdivisions (c) and (d) and subject to Article 3 (commencing with Section 3680) and Sections 3552, 3587, and 4004, a support order may be modified or terminated

at any time as the court determines to be necessary.

(b) Upon the filing of a supplemental complaint pursuant to Section 2330.1, a child support order in the original proceeding may be modified in conformity with the statewide uniform guideline for child support to provide for the support of all of the children of the same parents who were named in the initial and supplemental pleadings, to consolidate arrearages and wage assignments for children of the parties, and to consolidate orders for support.

(c) (1) Except as provided in paragraph (2) and subdivision (b), a support order may not be modified or terminated as to an amount that accrued before the date of the filing of the notice of motion or order to show cause to modify or terminate.

(2) If a party to a support order is activated to United States military duty or National Guard service and deployed out of state, the service member may file and serve a notice of activation of military service and request to modify a support order, in lieu of a notice of motion or order to show cause, by informing the court and the other party of the request to modify the support order based on the change in circumstance. The service member shall indicate the date of deployment, and if possible, the court shall schedule the hearing prior to that date. If the court cannot hear the matter prior to the date of deployment out of state, and the service member complies with the conditions set forth in the Servicemembers Civil Relief Act, Section 522 of the Appendix of Title 50 of the United States Code, the court shall grant a stay of proceedings consistent with the timelines for stays set forth in that section. If, after granting the mandatory stay required by Section 522 of the Appendix of Title 50 of the United States Code, the court fails to grant the discretionary stay described under the law, it shall comply with the federal mandate to appoint counsel to represent the interests of the deployed service member. The court may not proceed with the matter if it does not appoint counsel, unless the service member is represented by other counsel. If the court stays the proceeding until after the return of the service member, the service member shall request the court to set the matter for hearing within 90 days of return from deployment or the matter shall be taken off calendar and the existing order may not be made retroactive pursuant to subdivision (c) of Section 3653.

(3) A service member who does not file a notice of activation of military service and request to modify a support order or order to show cause or notice of motion prior to deployment out of state nonetheless shall not be subject to penalties otherwise authorized by Chapter 5 (commencing with Section 4720) of Part 5 on the amount of child support that would not have accrued if the order had been modified pursuant to paragraph (2), absent a finding by the court of good cause. Any such finding shall be stated on the record.

(4) Notwithstanding any other provision of law, no interest shall accrue on that amount of a child support obligation that would not have become due and owing if the activated service member modified his or her support order upon activation to reflect the change in income due to the activation. Upon a finding by the court that good cause did not exist for the service member's failure to seek, or delay in seeking, the modification, interest shall accrue as otherwise allowed by law.

(d) An order for spousal support may not be modified or terminated to the extent that a written agreement, or, if there is no written agreement, an oral agreement entered into in open court between the parties, specifically provides that the spousal support is not subject to modification or termination.

(e) This section applies whether or not the support order is based upon an agreement between the parties.

(f) This section is effective only with respect to a property settlement agreement entered into on or after January 1, 1970, and does not affect an agreement entered into before January 1, 1970, as to which Chapter 1308 of the Statutes of 1967 shall apply.

(g) (1) The Judicial Council, no later than 90 days after the effective date of the act adding this section, shall develop any forms and procedures necessary to implement paragraph (2) of subdivision (c). The Judicial Council shall ensure that all forms adopted pursuant to this section are in plain language.

(2) The form developed by the Judicial Council, in addition to other items the Judicial Council determines to be necessary or appropriate, shall include the following:

(A) The date of deployment and all information relevant to the determination of the amount of child support, including whether the service member's employer will supplement the service member's income during the deployment.

(B) A notice informing the opposing party that, absent a finding of good cause, the order will be made retroactive to the date of service of the form or the date of deployment, whichever is later.

(C) Notice that the requesting party must notify the court and the other party upon return from military duty and seek to bring any unresolved request for modification to hearing within 90 days of return, or else lose the right to modify the order pursuant to this section.

3652. Except as against a governmental agency, an order modifying, terminating, or setting aside a support order may include an award of attorney's fees and court costs to the prevailing party.

3653. (a) An order modifying or terminating a support order may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date, except as provided in subdivision (b) or by federal law (42 U.S.C. Sec. 666(a)(9)).

(b) If an order modifying or terminating a support order is entered due to the unemployment of either the support obligor or the support obligee, the order shall be made retroactive to the later of the date of the service on the opposing party of the notice of motion or order to show cause to modify or terminate or the date of unemployment, subject to the notice requirements of federal law (42 U.S.C. Sec. 666(a)(9)), unless the court finds good cause not to make the order retroactive and states its reasons on the record.

(c) If an order modifying or terminating a support order is entered due to a change in income resulting from the activation to United States military service or National Guard duty and deployment out of state for either the support obligor or the support obligee, the order shall be made retroactive to the later of the date of the service on the opposing party of the notice of activation, notice of motion, order to show cause to modify or terminate, or the date of activation, subject to the notice requirements of federal law (42 U.S.C. Sec. 666(a)(9)), unless the court finds good cause not to make the order retroactive and states its reasons on the record. Good cause shall include, but not be limited to, a finding by the court that the delay in seeking the modification was not reasonable under the circumstances faced by the service member.

(d) If an order decreasing or terminating a support order is entered retroactively pursuant to this section, the support obligor may be entitled to, and the support obligee may be ordered to repay, according to the terms specified in the order, any amounts previously paid by the support obligor pursuant to the prior order that are in excess of the amounts due pursuant to the retroactive order. The court may order that the repayment by the support obligee shall be made over any period of time and in any manner, including, but not limited to, by an offset against future support payments or wage assignment, as the court deems just and reasonable. In determining whether to order a repayment, and in establishing the terms of repayment, the court shall consider all of the following factors:

(1) The amount to be repaid.

(2) The duration of the support order prior to modification or termination.

(3) The financial impact on the support obligee of any particular method of repayment such as an offset against future support payments or wage assignment.

(4) Any other facts or circumstances that the court deems relevant.

3654. At the request of either party, an order modifying, terminating, or setting aside a support order shall include a statement of decision.

3660. The purpose of this article is to permit inexpensive discovery of facts before the commencement of a proceeding for modification or termination of an order for child, family, or spousal support.

3662. Methods of discovery other than that described in this article may only be used if a motion for modification or termination of the support order is pending.

3663. In the absence of a pending motion for modification or termination of a support order, a request for discovery pursuant to this article may be undertaken not more frequently than once every 12 months.

3664. (a) At any time following a judgment of dissolution of marriage or legal separation of the parties, or a determination of paternity, that provides for payment of support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party's assignee, without leave of court, may serve a request on the other party for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

(b) If there is no response within 35 days of service of the request or if the responsive income and expense declaration is incomplete as to any wage information, including the attachment of pay stubs and income tax returns, the requesting party may serve a request on the employer of the other party for information limited to the income and benefits provided to the party in the form adopted by the Judicial Council. The employer may require the requesting party to pay the reasonable costs of copying this information for the requesting party. The date specified in the request served on the employer for the production of income and benefit information shall not be less than 15 days from the date this request is issued.

(c) The requesting party shall serve or cause to be served on the employee described in this section or on his or her attorney a copy of the request served on the employer prior to the date specified in the request served on the employer for the production of income and benefit information. This copy shall be accompanied by a notice that, in a typeface that is intended to call attention to its terms, indicates all of the following:

(1) That information limited to the income and benefits provided to the employee by his or her employer is being sought from the employer named in the request for production.

(2) That the information may be protected by right of privacy.

(3) That, if the employee objects to the production of this information by the employer to the requesting party, the employee shall notify the court, in writing, of this objection prior to the date specified in the request served on the employer for the production of income and benefit information.

(4) That, if the requesting party does not agree, in writing, to cancel or narrow the scope of the request for the production of this information by the employer, the employee should consult an attorney regarding the employee's right to privacy and how to protect this right.

(d) The employee described in this section may, prior to the date specified in the request served on the employer for the production of income and benefit information, bring a motion pursuant to Section 1987.1 of the Code of Civil Procedure to quash or modify this request in the same manner as a subpoena duces tecum. Notice of this motion shall be given to the employer prior to the date specified in the request served on the employer for the production of income and benefit information. No employer shall be required to produce information limited to the income and benefits of the employee, except upon order of the court or upon agreement of the parties, employers, and employee affected.

(e) Service of a request for production of an income and expense declaration or for income and benefit information pursuant to this section or a copy thereof shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

(f) The form adopted by the Judicial Council for purposes of the request on an employer described in subdivision (b) shall state that compliance with the request is voluntary, except upon order of the court or upon agreement of the parties, employers, and employee affected.

3665. (a) A copy of the prior year's federal and state personal income tax returns shall be attached to the income and expense declaration of each party.

(b) A party shall not disclose the contents or provide copies of the other party's tax returns to anyone except the court, the party's attorney, the party's accountant, or other financial consultant assisting with matters relating to the proceeding, or any other person permitted by the court.

(c) The tax returns shall be controlled by the court as provided in Section 3552.

3666. This article may be enforced in the manner specified in Sections 1991, 1991.1, 1991.2, 1992, and 1993 of the Code of Civil Procedure and in the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure), and any other statutes applicable to the enforcement of procedures for discovery.

3667. Upon the subsequent filing of a motion for modification or termination of the support order by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this article was incomplete, inaccurate, or missing the prior year's federal and state personal income tax returns, or that the declaration was not submitted in good faith, the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information. This section is applicable regardless of whether a party has utilized subdivision (b) of Section 3664.

3668. The Judicial Council shall adopt forms which shall be used in the procedure provided by this article.

3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 11356 or 11356.2 of the Welfare and Institutions Code.

(d) This section shall not be operative if Assembly Bill 196, of the 1999-2000 Regular Session, is enacted and becomes operative.

3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 17432 or 17433.

(d) This section shall only be operative if Assembly Bill 196, of the 1999-2000 Regular Session, is enacted and becomes operative.

3691. The grounds and time limits for an action or motion to set aside a support order, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud. Where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the fraud.

(b) Perjury. An action or motion based on perjury shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the perjury.

(c) Lack of Notice.

(1) When service of a summons has not resulted in notice to a party in time to defend the action for support and a default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event later than six months after the party obtains or reasonably should have obtained notice (A) of the support order, or (B) that the party's income and assets are subject to attachment pursuant to the order.

(2) A notice of motion to set aside a support order pursuant to this subdivision shall be accompanied by an affidavit showing, under oath, that the party's lack of notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect. The party

shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(3) The court may not set aside or otherwise relieve a party from a support order pursuant to this subdivision if service of the summons was accomplished in accordance with existing requirements of law regarding service of process.

3692. Notwithstanding any other provision of this article, or any other law, a support order may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the support ordered to become excessive or inadequate.

3693. When ruling on an action or motion to set aside a support order, the court shall set aside only those provisions materially affected by the circumstances leading to the court's decision to grant relief. However, the court has discretion to set aside the entire order, if necessary, for equitable considerations.

PART 2. CHILD SUPPORT

4000. If a parent has the duty to provide for the support of the parent's child and willfully fails to so provide, the other parent, or the child by a guardian ad litem, may bring an action against the parent to enforce the duty.

4001. In any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section 3901 or 3910, the court may order either or both parents to pay an amount necessary for the support of the child.

4002. (a) The county may proceed on behalf of a child to enforce the child's right of support against a parent.

(b) If the county furnishes support to a child, the county has the same right as the child to secure reimbursement and obtain continuing support. The right of the county to reimbursement is subject to any limitation otherwise imposed by the law of this state.

(c) The court may order the parent to pay the county reasonable attorney's fees and court costs in a proceeding brought by the county pursuant to this section.

4003. In any case in which the support of a child is at issue, the court may, upon a showing of good cause, order a separate trial on that issue. The separate trial shall be given preference over other civil cases, except matters to which special precedence may be given by law, for assigning a trial date. If the court has also ordered a separate trial on the issue of custody pursuant to Section 3023, the two issues shall be tried together.

4004. In a proceeding where there is at issue the support of a child, the court shall require the parties to reveal whether a party is currently receiving, or intends to apply for, public assistance under the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) for the maintenance of the child.

4005. At the request of either party, the court shall make appropriate findings with respect to the circumstances on which the order for support of a child is based.

4006. In a proceeding for child support under this code, including, but not limited to, Division 17 (commencing with Section 17000), the court shall consider the health insurance coverage, if any, of the parties to the proceeding.

4007. (a) If a court orders a person to make specified payments for support of a child during the child's minority, or until the child is married or otherwise emancipated, or until the death of, or the occurrence of a specified event as to, a child for whom support is authorized under Section 3901 or 3910, the obligation of the person ordered to pay support terminates on the happening of the contingency. The court may, in the original order for support, order the custodial parent or other person to whom payments are to be made to notify the person ordered to make the payments, or the person's attorney of record, of the happening of the contingency.

(b) If the custodial parent or other person having physical custody of the child, to whom payments are to be made, fails to notify the person ordered to make the payments, or the attorney of record of the person ordered to make the payments, of the happening of the contingency and continues to accept support payments, the person shall refund all moneys received that accrued after the happening of the contingency, except that the overpayments shall first be applied to any support payments that are then in default.

4008. The community property, the quasi-community property, and the separate property may be subjected to the support of the children in the proportions the court determines are just.

4009. An original order for child support may be made retroactive to the date of filing the petition, complaint, or other initial pleading. If the parent ordered to pay support was not served with the petition, complaint, or other initial pleading within 90 days after filing and the court finds that the parent was not intentionally evading service, the child support order shall be effective no earlier than the date of service.

4010. In a proceeding in which the court orders a payment for the support of a child, the court shall, at the time of providing written notice of the order, provide the parties with a document describing the procedures by which the order may be modified.

4011. Payment of child support ordered by the court shall be made by the person owing the support payment before payment of any debts owed to creditors.

4012. Upon a showing of good cause, the court may order a parent required to make a payment of child support to give reasonable security for the payment.

4013. If obligations for support of a child are discharged in bankruptcy, the court may make all proper orders for the support of the child that the court determines are just.

4014. (a) Any order for child support issued or modified pursuant to this chapter shall include a provision requiring the obligor and child support obligee to notify the other parent or, if the order requires payment through an agency designated under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), the agency named in the order, of the name and address of his or her current employer.

(b) The requirements set forth in this subdivision apply only in cases in which the local child support agency is not providing child support services pursuant to Section 17400. To the extent required by federal law, and subject to applicable confidentiality provisions of state or federal law, any judgment for paternity and any order for child support entered or modified pursuant to any provision of law shall include a provision requiring the child support obligor and obligee to file with the court all of the following information:

- (1) Residential and mailing address.
- (2) Social security number.
- (3) Telephone number.
- (4) Driver's license number.
- (5) Name, address, and telephone number of the employer.
- (6) Any other information prescribed by the Judicial Council.

The judgment or order shall specify that each parent is responsible for providing his or her own information, that the information must be filed with the court within 10 days of the court order, and that new or different information must be filed with the court within 10 days after any event causing a change in the previously provided information.

(c) The requirements set forth in this subdivision shall only apply in cases in which the local child support agency is not providing child support services pursuant to Section 17400. Once the child support registry, as described in Section 16576 of the Welfare and Institutions Code is operational, any judgment for paternity and any order for child support entered or modified pursuant to any provision of law shall include a provision requiring the child support obligor and obligee to file and keep updated the information specified in subdivision (b) with the child support registry.

(d) The Judicial Council shall develop forms to implement this section. The forms shall be developed so as not to delay the implementation of the Statewide Child Support Registry described in Section 16576 of the Welfare and Institutions Code and shall be available no later than 30 days prior to the implementation of the Statewide Child Support Registry.

4050. In adopting the statewide uniform guideline provided in this article, it is the intention of the Legislature to ensure that this state remains in compliance with federal regulations for child support guidelines.

4051. This article takes effect on July 1, 1992.

4052. The court shall adhere to the statewide uniform guideline and may depart from the guideline only in the special circumstances set forth in this article.

4053. In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

(a) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.

(b) Both parents are mutually responsible for the support of their children.

(c) The guideline takes into account each parent's actual income and level of responsibility for the children.

(d) Each parent should pay for the support of the children according to his or her ability.

(e) The guideline seeks to place the interests of children as the state's top priority.

(f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.

(g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.

(h) The financial needs of the children should be met through private financial resources as much as possible.

(i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.

(j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.

(k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.

(l) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.

4054. (a) The Judicial Council shall periodically review the statewide uniform guideline to recommend to the Legislature appropriate revisions.

(b) The review shall include economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the actual application of the guideline after the guideline's operative date. The review shall also include an analysis of guidelines and studies from other states, and other research and studies available to or undertaken by the Judicial Council.

(c) Any recommendations for revisions to the guideline shall be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise to help ensure that the guideline is in compliance with federal law.

(d) The Judicial Council may also review and report on other matters, including, but not limited to, the following:

(1) The treatment of the income of a subsequent spouse or nonmarital partner.

(2) The treatment of children from prior or subsequent relationships.

(3) The application of the guideline in a case where a payer parent has extraordinarily low or extraordinarily high income, or where each parent has primary physical custody of one or more of the children of the marriage.

(4) The benefits and limitations of a uniform statewide spousal support guideline and the interrelationship of that guideline with the state child support guideline.

(5) Whether the use of gross or net income in the guideline is preferable.

(6) Whether the guideline affects child custody litigation or the efficiency of the judicial process.

(7) Whether the various assumptions used in computer software used by some courts to calculate child support comport with state law and should be made available to parties and counsel.

(e) The initial review by the Judicial Council shall be submitted to the Legislature and to the Department of Child Support Services on or before December 31, 1993, and subsequent reviews shall occur at least every four years thereafter unless federal law requires a different interval.

(f) In developing its recommendations, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following:

- (1) Custodial and noncustodial parents.
 - (2) Representatives of established women's rights and fathers' rights groups.
 - (3) Representatives of established organizations that advocate for the economic well-being of children.
 - (4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the Department of Child Support Services.
 - (5) Certified family law specialists.
 - (6) Academicians specializing in family law.
 - (7) Persons representing low-income parents.
 - (8) Persons representing recipients of assistance under the CalWORKs program seeking child support services.
- (g) In developing its recommendations, the Judicial Council shall seek public comment and shall be guided by the legislative intent that children share in the standard of living of both of their parents.

4055. (a) The statewide uniform guideline for determining child support orders is as follows: $CS = K (HN - (H\%) (TN))$.

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

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	$0.12 + 800/TN$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000, $K = (1 + 0.20) \times 0.25$, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000, $K = (2 - 0.80) \times 0.25$, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a

negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described above if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars (\$1,000), there shall be a rebuttable presumption that the obligor is entitled to a low-income adjustment. The presumption may be rebutted by evidence showing that the application of the low-income adjustment would be unjust and inappropriate in the particular case. In determining whether the presumption is rebutted, the court shall consider the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. The low-income adjustment shall reduce the child support amount otherwise determined under this section by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

4056. (a) To comply with federal law, the court shall state, in writing or on the record, the following information whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount under this article:

- (1) The amount of support that would have been ordered under the guideline formula.
- (2) The reasons the amount of support ordered differs from the guideline formula amount.
- (3) The reasons the amount of support ordered is consistent with the best interests of the children.

(b) At the request of any party, the court shall state in writing or on the record the following information used in determining the guideline amount under this article:

- (1) The net monthly disposable income of each parent.
- (2) The actual federal income tax filing status of each parent (for example, single, married, married filing separately, or head of household and number of exemptions).
- (3) Deductions from gross income for each parent.
- (4) The approximate percentage of time pursuant to paragraph (1) of subdivision (b) of Section 4055 that each parent has primary physical responsibility for the children compared to the other parent.

4057. (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.

(b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowner's insurance, and property taxes.

The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.

(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.

(5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:

(A) Cases in which the parents have different time-sharing arrangements for different children.

(B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.

(C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

4057.5. (a) (1) The income of the obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligor or by the obligor's subsequent spouse or nonmarital partner.

(2) The income of the obligee parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support, except in an extraordinary case where excluding that income would lead to extreme and severe hardship to any child subject to the child support award, in which case the court shall also consider whether including that income would lead to extreme and severe hardship to any child supported by the obligee or by the obligee's subsequent spouse or nonmarital partner.

(b) For purposes of this section, an extraordinary case may include a parent who voluntarily or intentionally quits work or reduces income, or who intentionally remains unemployed or underemployed and relies on a subsequent spouse's income.

(c) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, discovery for the purposes of determining income shall be based on W2 and 1099 income tax forms, except where the court determines that application would be unjust or inappropriate.

(d) If any portion of the income of either parent's subsequent spouse or nonmarital partner is allowed to be considered pursuant to this section, the court shall allow a hardship deduction based on the minimum living expenses for one or more stepchildren of the party subject to the order.

(e) The enactment of this section constitutes cause to bring an action for modification of a child support order entered prior to the operative date of this section.

4058. (a) The annual gross income of each parent means income from whatever source derived, except as specified in subdivision (c) and includes, but is not limited to, the following:

(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, social security benefits, and spousal support actually received from a person not a party to the proceeding to establish a child support order under this article.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) In the discretion of the court, employee benefits or self-employment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(b) The court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children.

(c) Annual gross income does not include any income derived from child support payments actually received, and income derived from any public assistance program, eligibility for which is based on a

determination of need. Child support received by a party for children from another relationship shall not be included as part of that party's gross or net income.

4059. The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable to the following items or other items permitted under this article:

(a) The state and federal income tax liability resulting from the parties' taxable income. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits. Unless the parties stipulate otherwise, the tax effects of spousal support shall not be considered in determining the net disposable income of the parties for determining child support, but shall be considered in determining spousal support consistent with Chapter 3 (commencing with Section 4330) of Part 3.

(b) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(c) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(d) Deductions for health insurance or health plan premiums for the parent and for any children the parent has an obligation to support and deductions for state disability insurance premiums.

(e) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the order to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, no deduction shall be allowed under this subdivision.

(f) Job-related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(g) A deduction for hardship, as defined by Sections 4070 to 4073, inclusive, and applicable published appellate court decisions. The amount of the hardship shall not be deducted from the amount of child support, but shall be deducted from the income of the party to whom it applies. In applying any hardship under paragraph (2) of subdivision (a) of Section 4071, the court shall seek to provide equity between competing child support orders. The Judicial Council shall develop a formula for calculating the maximum hardship deduction and shall submit it to the Legislature for its consideration on or before July 1, 1995.

4060. The monthly net disposable income shall be computed by dividing the annual net disposable income by 12. If the monthly net disposable income figure does not accurately reflect the actual or

prospective earnings of the parties at the time the determination of support is made, the court may adjust the amount appropriately.

4061. The amounts in Section 4062, if ordered to be paid, shall be considered additional support for the children and shall be computed in accordance with the following:

(a) If there needs to be an apportionment of expenses pursuant to Section 4062, the expenses shall be divided one-half to each parent, unless either parent requests a different apportionment pursuant to subdivision (b) and presents documentation which demonstrates that a different apportionment would be more appropriate.

(b) If requested by either parent, and the court determines it is appropriate to apportion expenses under Section 4062 other than one-half to each parent, the apportionment shall be as follows:

(1) The basic child support obligation shall first be computed using the formula set forth in subdivision (a) of Section 4055, as adjusted for any appropriate rebuttal factors in subdivision (b) of Section 4057.

(2) Any additional child support required for expenses pursuant to Section 4062 shall thereafter be ordered to be paid by the parents in proportion to their net disposable incomes as adjusted pursuant to subdivisions (c) and (d).

(c) In cases where spousal support is or has been ordered to be paid by one parent to the other, for purposes of allocating additional expenses pursuant to Section 4062, the gross income of the parent paying spousal support shall be decreased by the amount of the spousal support paid and the gross income of the parent receiving the spousal support shall be increased by the amount of the spousal support received for as long as the spousal support order is in effect and is paid.

(d) For purposes of computing the adjusted net disposable income of the parent paying child support for allocating any additional expenses pursuant to Section 4062, the net disposable income of the parent paying child support shall be reduced by the amount of any basic child support ordered to be paid under subdivision (a) of Section 4055. However, the net disposable income of the parent receiving child support shall not be increased by any amount of child support received.

4062. (a) The court shall order the following as additional child support:

(1) Child care costs related to employment or to reasonably necessary education or training for employment skills.

(2) The reasonable uninsured health care costs for the children as provided in Section 4063.

(b) The court may order the following as additional child support:

(1) Costs related to the educational or other special needs of the children.

(2) Travel expenses for visitation.

4063. (a) When making an order pursuant to paragraph (2) of subdivision (a) of Section 4062, the court shall:

(1) Advise each parent, in writing or on the record, of his or her rights and liabilities, including financial responsibilities.

(2) Include in its order the time period for a parent to reimburse the other parent for the reimbursing parent's share of the reasonable additional child support costs subject to the requirements of this section.

(b) Unless there has been an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, when either parent accrues or pays costs pursuant to an order under this section, that parent shall provide the other parent with an itemized statement of the costs within a reasonable time, but not more than 30 days after accruing the costs. These costs shall then be paid as follows:

(1) If a parent has already paid all of these costs, that parent shall provide proof of payment and a request for reimbursement of his or her court-ordered share to the other parent.

(2) If a parent has paid his or her court-ordered share of the costs only, that parent shall provide proof of payment to the other parent, request the other parent to pay the remainder of the costs directly to the provider, and provide the reimbursing parent with any necessary information about how to make the payment to the provider.

(3) The other parent shall make the reimbursement or pay the remaining costs within the time period specified by the court, or, if no period is specified, within a reasonable time not to exceed 30 days from notification of the amount due, or according to any payment schedule set by the health care provider for either parent unless the parties agree in writing to another payment schedule or the court finds good cause for setting another payment schedule.

(4) If the reimbursing parent disputes a request for payment, that parent shall pay the requested amount and thereafter may seek judicial relief under this section and Section 290. If the reimbursing parent fails to pay the other parent as required by this subdivision, the other parent may seek judicial relief under this section and Section 290.

(c) Either parent may file a noticed motion to enforce an order issued pursuant to this section. In addition to the court's powers under Section 290, the court may award filing costs and reasonable attorney's fees if it finds that either party acted without reasonable cause regarding his or her obligations pursuant to this section.

(d) There is a rebuttable presumption that the costs actually paid for the uninsured health care needs of the children are reasonable, except as provided in subdivision (e).

(e) Except as provided in subdivision (g):

(1) The health care insurance coverage, including, but not limited to, coverage for emergency treatment, provided by a parent pursuant to a court order, shall be the coverage to be utilized at all times, consistent with the requirements of that coverage, unless the other parent can show that the health care insurance coverage is inadequate to meet the child's needs.

(2) If either parent obtains health care insurance coverage in addition to that provided pursuant to the court order, that parent shall bear sole financial responsibility for the costs of that additional

coverage and the costs of any care or treatment obtained pursuant thereto in excess of the costs that would have been incurred under the health care insurance coverage provided for in the court order.

(f) Except as provided in subdivision (g):

(1) If the health care insurance coverage provided by a parent pursuant to a court order designates a preferred health care provider, that preferred provider shall be used at all times, consistent with the terms and requirements of that coverage.

(2) If either parent uses a health care provider other than the preferred provider inconsistent with the terms and requirements of the court-ordered health care insurance coverage, the parent obtaining that care shall bear the sole responsibility for any nonreimbursable health care costs in excess of the costs that would have been incurred under the court-ordered health care insurance coverage had the preferred provider been used.

(g) When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:

(1) The geographic access and reasonable availability of necessary health care for the child which complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order.

(2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.

(3) The special medical needs of the child.

(4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

4064. The court may adjust the child support order as appropriate to accommodate seasonal or fluctuating income of either parent.

4065. (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

(1) They are fully informed of their rights concerning child support.

(2) The order is being agreed to without coercion or duress.

(3) The agreement is in the best interests of the children involved.

(4) The needs of the children will be adequately met by the stipulated amount.

(5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

(b) The parties may, by stipulation, require the child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer pursuant to Section 4508.

(c) A stipulated agreement of child support is not valid unless the local child support agency has joined in the stipulation by signing it in any case in which the local child support agency is providing services pursuant to Section 17400. The local child support agency shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the CalWORKs program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(d) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

4066. Orders and stipulations otherwise in compliance with the statewide uniform guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" as long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits for both parents.

4067. It is the intent of the Legislature that the statewide uniform guideline shall be reviewed by the Legislature at least every four years and shall be revised by the Legislature as appropriate to

ensure that its application results in the determination of appropriate child support amounts. The review shall include consideration of changes required by applicable federal laws and regulations or recommended from time to time by the Judicial Council pursuant to Section 4054.

4068. (a) The Judicial Council may develop the following:

(1) Model worksheets to assist parties in determining the approximate amount of child support due under the formula provided in subdivision (a) of Section 4055 and the approximate percentage of time each parent has primary physical responsibility for the children.

(2) A form to assist the courts in making the findings and orders required by this article.

(b) The Judicial Council, in consultation with representatives of the State Department of Social Services, the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, the Family Law Section of the State Bar of California, a legal services organization providing representation on child support matters, a custodial parent group, and a noncustodial parent group, shall develop a simplified income and expense form for determining child support under the formula provided in subdivision (a) of Section 4055, by June 1, 1995. The Judicial Council, also in consultation with these groups, shall develop factors to use to determine when the simplified income and expense form may be used and when the standard income and expense form must be used.

4069. The establishment of the statewide uniform guideline constitutes a change of circumstances.

4070. If a parent is experiencing extreme financial hardship due to justifiable expenses resulting from the circumstances enumerated in Section 4071, on the request of a party, the court may allow the income deductions under Section 4059 that may be necessary to accommodate those circumstances.

4071. (a) Circumstances evidencing hardship include the following:

(1) Extraordinary health expenses for which the parent is financially responsible, and uninsured catastrophic losses.

(2) The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent.

The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1).

(b) The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purposes of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) of subdivision (b) of Section 4055.

(c) The Judicial Council may develop tables in accordance with this section to reflect the maximum hardship deduction, taking into consideration the parent's net disposable income before the hardship deduction, the number of children for whom the deduction is being given, and the number of children for whom the support award is being made.

4072. (a) If a deduction for hardship expenses is allowed, the court shall do both of the following:

(1) State the reasons supporting the deduction in writing or on the record.

(2) Document the amount of the deduction and the underlying facts and circumstances.

(b) Whenever possible, the court shall specify the duration of the deduction.

4073. The court shall be guided by the goals set forth in this article when considering whether or not to allow a financial hardship deduction, and, if allowed, when determining the amount of the deduction.

4074. This article applies to an award for the support of children, including those awards designated as "family support," that contain provisions for the support of children as well as for the support of the spouse.

4075. This article shall not be construed to affect the treatment of spousal support and separate maintenance payments pursuant to Section 71 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 71).

4076. (a) Whenever the court is requested to modify a child support order issued prior to July 1, 1992, for the purpose of conforming to the statewide child support guideline, and it is not using its discretionary authority to depart from the guideline pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 4057, and the amount of child support to be ordered is the amount provided under the guideline formula in subdivision (a) of Section 4055, the court may, in its discretion, order a two-step phasein of the formula amount of support to provide the obligor with time for transition to the full formula amount if all of the following are true:

(1) The period of the phasein is carefully limited to the time necessary for the obligor to rearrange his or her financial obligations in order to meet the full formula amount of support.

(2) The obligor is immediately being ordered to pay not less than 30 percent of the amount of the child support increase, in addition to the amount of child support required under the prior order.

(3) The obligor has not unreasonably increased his or her financial obligations following notice of the motion for modification of support, has no arrearages owing, and has a history of good faith compliance with prior support orders.

(b) Whenever the court grants a request for a phasein pursuant to this section, the court shall state the following in writing:

(1) The specific reasons why (A) the immediate imposition of the full formula amount of support would place an extraordinary hardship on the obligor, and (B) this extraordinary hardship on the obligor would outweigh the hardship caused the supported children by the temporary phasein of the full formula amount of support.

(2) The full guideline amount of support, the date and amount of each phasein, and the date that the obligor must commence paying the full formula amount of support, which in no event shall be later than one year after the filing of the motion for modification of support.

(c) In the event the court orders a phasein pursuant to this section, and the court thereafter determines that the obligor has violated the phasein schedule or has intentionally lowered the income available for the payment of child support during the phasein period, the court may order the immediate payment of the full formula amount of child support and the difference in the amount of support that would have been due without the phasein and the amount of support due with the phasein, in addition to any other penalties provided for by law.

4200. In any proceeding where a court makes or has made an order requiring the payment of child support to a parent receiving welfare moneys for the maintenance of children for whom support may be ordered, the court shall do both of the following:

(a) Direct that the payments of support shall be made to the county officer designated by the court for that purpose. Once the State Disbursement Unit is implemented pursuant to Section 17309, all payments shall be directed to the State Disbursement Unit instead of the county officer designated by the court.

(b) Direct the local child support agency to appear on behalf of the welfare recipient in any proceeding to enforce the order.

4201. In any proceeding where a court makes or has made an order requiring the payment of child support to the person having custody of a child for whom support may be ordered, the court may do either or both of the following:

(a) Direct that the payments shall be made to the county officer designated by the court for that purpose. Once the State Disbursement Unit is implemented pursuant to Section 17309, all payments shall be directed to the State Disbursement Unit instead of the county officer designated by the court.

(b) Direct the local child support agency to appear on behalf of the minor children in any proceeding to enforce the order.

4202. (a) Notwithstanding any other provision of law, in a proceeding where the custodial parent resides in one county and the parent ordered to pay support resides in another county, the court may direct payment to be made to the county officer designated by the court for those purposes in the county of residence of the custodial parent, and may direct the local child support agency of either county to enforce the order.

(b) If the court directs the local child support agency of the county of residence of the noncustodial parent to enforce the order, the expenses of the local child support agency with respect to the enforcement is a charge upon the county of residence of the noncustodial parent.

4203. (a) Except as provided in Section 4202, expenses of the county officer designated by the court, and expenses of the local child support agency incurred in the enforcement of an order of the type described in Section 4200 or 4201, are a charge upon the county where the proceedings are pending.

(b) Fees for service of process in the enforcement of an order of the type described in Section 4200 or 4201 are a charge upon the county where the process is served.

4204. Notwithstanding any other provision of law, in any proceeding where the court has made an order requiring the payment of child support to a person having custody of a child and the child support is subsequently assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code or the person having custody has requested the local child support agency to provide child support enforcement services pursuant to Section 17400, the local child support agency may issue a notice directing that the payments shall be made to the local child support agency, another county office, or the State Disbursement Unit pursuant to Section 17309. The notice shall be served on both the support obligor and obligee in compliance with Section 1013 of the Code of Civil Procedure. The local child support agency shall file the notice in the action in which the support order was issued.

4205. Any notice from the local child support agency requesting a meeting with the support obligor for any purpose authorized under this part shall contain a statement advising the support obligor of his or her right to have an attorney present at the meeting.

4250. (a) The Legislature finds and declares the following:

(1) Child and spousal support are serious legal obligations.

(2) The current system for obtaining, modifying, and enforcing child and spousal support orders is inadequate to meet the future needs of California's children due to burgeoning caseloads within local child support agencies and the growing number of parents who are representing themselves in family law actions.

(3) The success of California's child support enforcement program depends upon its ability to establish and enforce child support orders quickly and efficiently.

(4) There is a compelling state interest in creating an expedited process in the courts that is cost-effective and accessible to families, for establishing and enforcing child support orders in cases being enforced by the local child support agency.

(5) There is a compelling state interest in having a simple, speedy, conflict-reducing system, that is both cost-effective and accessible to families, for resolving all issues concerning children, including support, health insurance, custody, and visitation in family law cases that do not involve enforcement by the local child support agency.

(b) Therefore, it is the intent of the Legislature to: (1) provide for commissioners to hear child support cases being enforced by the local child support agency; (2) adopt uniform and simplified procedures for all child support cases; and (3) create an Office of the Family Law Facilitator in the courts to provide education, information, and assistance to parents with child support issues.

4251. (a) Commencing July 1, 1997, each superior court shall provide sufficient commissioners to hear Title IV-D child support cases filed by the local child support agency. The number of child support commissioners required in each county shall be determined by the Judicial Council as prescribed by paragraph (3) of subdivision (b) of Section 4252. All actions or proceedings filed by the local child support agency in a support action or proceeding in which enforcement services are being provided pursuant to Section 17400, for an order to establish, modify, or enforce child or spousal support, including actions to establish paternity, shall be referred for hearing to a child support commissioner unless a child support commissioner is not available due to exceptional circumstances, as prescribed by the Judicial Council pursuant to paragraph (7) of subdivision (b) of Section 4252. All actions or proceedings filed by a party other than the local child support agency to modify or enforce a support order established by the local child support agency or for which enforcement services are being provided pursuant to Section 17400 shall be referred for hearing to a child support commissioner unless a child support commissioner is not available due to

exceptional circumstances, as prescribed by the Judicial Council pursuant to paragraph (7) of subdivision (b) of Section 4252.

(b) The commissioner shall act as a temporary judge unless an objection is made by the local child support agency or any other party. The Judicial Council shall develop a notice which shall be included on all forms and pleadings used to initiate a child support action or proceeding that advises the parties of their right to review by a superior court judge and how to exercise that right. The parties shall also be advised by the court prior to the commencement of the hearing that the matter is being heard by a commissioner who shall act as a temporary judge unless any party objects to the commissioner acting as a temporary judge. While acting as a temporary judge, the commissioner shall receive no compensation other than compensation as a commissioner.

(c) If any party objects to the commissioner acting as a temporary judge, the commissioner may hear the matter and make findings of fact and a recommended order. Within 10 court days, a judge shall ratify the recommended order unless either party objects to the recommended order, or where a recommended order is in error. In both cases, the judge shall issue a temporary order and schedule a hearing de novo within 10 court days. Any party may waive his or her right to the review hearing at any time.

(d) The commissioner shall, where appropriate, do any of the following:

(1) Review and determine ex parte applications for orders and writs.

(2) Take testimony.

(3) Establish a record, evaluate evidence, and make recommendations or decisions.

(4) Enter judgments or orders based upon voluntary acknowledgments of support liability and parentage and stipulated agreements respecting the amount of child support to be paid.

(5) Enter default orders and judgments pursuant to Section 4253.

(6) In actions in which paternity is at issue, order the mother, child, and alleged father to submit to genetic tests.

(e) The commissioner shall, upon application of any party, join issues concerning custody, visitation, and protective orders in the action filed by the local child support agency, subject to Section 17404. After joinder, the commissioner shall:

(1) Refer the parents for mediation of disputed custody or visitation issues pursuant to Section 3170 of the Family Code.

(2) Accept stipulated agreements concerning custody, visitation, and protective orders and enter orders pursuant to the agreements.

(3) Refer contested issues of custody, visitation, and protective orders to a judge or to another commissioner for hearing. A child support commissioner may hear contested custody, visitation, and restraining order issues only if the court has adopted procedures to segregate the costs of hearing Title IV-D child support issues from the costs of hearing other issues pursuant to applicable federal requirements.

(f) The local child support agency shall be served notice by the moving party of any proceeding under this section in which support is at issue. Any order for support that is entered without the local child support agency having received proper notice shall be voidable upon the motion of the local child support agency.

4252. (a) The superior court shall appoint one or more subordinate judicial officers as child support commissioners to perform the duties specified in Section 4251. The child support commissioners' first priority always shall be to hear Title IV-D child support cases. The child support commissioners shall specialize in hearing child support cases, and their primary responsibility shall be to hear Title IV-D child support cases. Notwithstanding Section 71622 of the Government Code, the number of child support commissioner positions allotted to each court shall be determined by the Judicial Council in accordance with caseload standards developed pursuant to paragraph (3) of subdivision (b), subject to appropriations in the annual Budget Act.

(b) The Judicial Council shall do all of the following:

(1) Establish minimum qualifications for child support commissioners.

(2) Establish minimum educational and training requirements for child support commissioners and other court personnel that are assigned to Title IV-D child support cases. Training programs shall include both federal and state laws concerning child support and related issues.

(3) Establish caseload, case processing, and staffing standards for child support commissioners on or before April 1, 1997, which shall set forth the maximum number of cases that each child support commissioner can process. These standards shall be reviewed and, if appropriate, revised by the Judicial Council every two years.

(4) Adopt uniform rules of court and forms for use in Title IV-D child support cases.

(5) Offer technical assistance to courts regarding issues relating to implementation and operation of the child support commissioner system, including assistance related to funding, staffing, and the sharing of resources between courts.

(6) Establish procedures for the distribution of funding to the courts for child support commissioners, family law facilitators pursuant to Division 14 (commencing with Section 10000), and related allowable costs.

(7) Adopt rules that define the exceptional circumstances in which judges may hear Title IV-D child support matters as provided in subdivision (a) of Section 4251.

(8) Undertake other actions as appropriate to ensure the successful implementation and operation of child support commissioners in the counties.

(c) As used in this article, "Title IV-D" means Title IV-D of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

4253. Notwithstanding any other provision of law, when hearing child support matters, a commissioner or referee may enter default orders if the defendant does not respond to notice or other process within the time prescribed to respond to that notice.