

## DEPARTMENT OF BENEFIT PAYMENTS

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December 22, 1975

ALL-COUNTY LETTER NO. 75-263

TO: ALL DISTRICT ATTORNEYS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: CHILD SUPPORT LEGISLATION

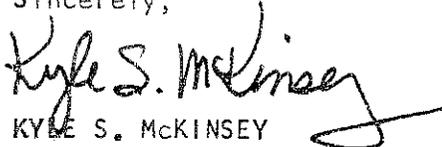
REFERENCE:

In addition to AB 2326, two significant pieces of legislation dealing with the child support and paternity program were enacted during the last session of the California Legislature. They are:

- (1) Chapter 509 of the Statutes of 1975 (AB 593 - McAlister). This bill provides that pensions, annuities, retirements and other benefits received from governmental agencies may be subject to execution for court-ordered child support.
- (2) Chapter 1244 of the Statutes of 1975 (SB 347 - Beilenson). This bill enacts the Uniform Parentage Act and eliminates the distinction between legitimate and illegitimate children.

Both these bills will become effective January 1, 1976. Copies are attached for your information.

Sincerely,

  
KYLE S. MCKINSEY  
Deputy Director

Attachments

cc: CWDA

**OBSOLETE**

Superseded by ACL # 77-15  
Issued 3-17-77

Assembly Bill No. 593

CHAPTER 509

An act to amend Section 4701 of the Civil Code and Section 690.18 of the Code of Civil Procedure, relating to exemptions from execution.

[Approved by Governor September 5, 1975. Filed with Secretary of State September 6, 1975.]

LEGISLATIVE COUNSEL'S DIGEST

AB 593, McAlister. Exemptions from execution.

Present law provides that all money received by a California resident as a pension or as an annuity or retirement or disability or death or other benefit, or a return of contributions and interest thereon, from the United States government; the state; or any county, city, or city and county, or other political subdivision of the state, or any public trust, or public corporation, or from the governing body of any of them, or from any public board or boards, or from any retirement, disability, or annuity system established by any of them pursuant to statute is exempt from execution.

This bill would provide that all such moneys are subject to execution for court-ordered spousal and child support payments.

It would also make a related change.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4701 of the Civil Code is amended to read:  
4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive such payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child. Such order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar (\$1) for each payment made pursuant to such order. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court. The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(b) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon both a petition by the person to whom support has been ordered to have been paid and a finding by the court that the parent so ordered is in arrears in payment in a sum equal to the amount of two months of such payments within the 24-month period immediately preceding submission of such petition, the court shall order the defaulting parent to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive such payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of such order is served. The Judicial Council shall prescribe forms for such orders. The employer may deduct the sum of one dollar (\$1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and such county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

For purposes of this subdivision, arrearages in payment shall be computed on the basis of the payments owed and unpaid on the date that the defaulting parent has been given notice pursuant to law of the application for the order of assignment, and the fact that the defaulting parent may have subsequently paid such arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

Upon a petition by the defaulting parent, the court shall terminate such order of assignment entered pursuant to this subdivision if (1) there has been 18 continuous and uninterrupted months of full

payment under the wage assignment or (2) the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(d) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(e) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the parent obligated to make support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents (\$2.50) for the services of the district attorney under this subdivision.

(f) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(g) Notwithstanding any other provision of law, the provisions of this section shall be applicable to all money received by any person as a pension, or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the state, or any county, city, or city and county, or other political subdivision of the state, or any public trust, or public corporation, or from the governing body of any of them, or from any public board or boards, or from any retirement, disability, or annuity system established by any of them pursuant to statute.

(h) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in subdivision (g), other than the United States government, such entity shall comply with any request for a return of employee contributions by an employee named in such order by delivering such contributions to the clerk of the court from which such order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of

moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of such fact to the parties, and any agency through whom payments have been ordered under Section 4702. Such moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, release the moneys to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

SEC. 2. Section 690.18 of the Code of Civil Procedure is amended to read:

690.18. (a) Except with regard to court-ordered child or spousal support payments, all money received by any person, a resident of the state, as a pension, or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon, from the United States government, or from the state, or any county, city, or city and county, or other political subdivision of the state, or any public trust, or public corporation, or from the governing body of any of them, or from any public board or boards, or from any retirement, disability, or annuity system established by any of them pursuant to statute, whether the same shall be in the actual possession of such pensioner or beneficiary, or deposited by him.

(b) All money held, controlled, or in process of distribution by the state, or a city, city and county, county, or other political subdivision of the state, or any public trust or public corporation, or the governing body of any of them, or by any public board or boards, derived from the contributions by the state or such city, county, city and county, or other political subdivision, or such public trust, public corporation, governing body, or public board or boards, or by any officer or employee thereof, for retirement or pension purposes or the payment of disability, death, or other benefits, or the payment of benefits payable to, or the reimbursement of benefits paid to, employees thereof under the provisions of the Unemployment Insurance Code, and all rights and benefits accrued or accruing to any person under any system established pursuant to statute by the state, city, city and county, county, or other political subdivision of the state, or any public trust or public corporation for retirement, annuity, or pension purposes or payment of disability or death benefits, and all vacation credits accumulated by a state employee pursuant to the provisions of Section 18050 of the Government Code, or any other public employee pursuant to any law for the accumulation of vacation credits applicable to such employee. Such moneys, benefits, and credits shall be exempt without filing a claim of exemption as provided in Section 690.50.

(c) All money held, controlled, or in process of distribution by any

private retirement plan, including, but not limited to, union retirement plans, or any profit-sharing plan designed and used for retirement purposes, or the payment of benefits as an annuity, pension, retirement allowance, disability payment or death benefit from such retirement or profit-sharing plans, and all contributions and interest thereon returned to any member of any such retirement or profit-sharing plan, are exempt from execution, attachment, or garnishment in any bankruptcy proceeding. The exemption given by this subdivision shall not apply to any moneys held in any retirement program established pursuant to the Federal "Self-Employed Individuals Tax Retirement Act of 1962" (P.L. 87-792; 76 Stat. 809), nor to any moneys received in any manner by persons from any such retirement program so established.

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Senate Bill No. 347

CHAPTER 1244

An act to amend Sections 196, 196a, 197, and 224 of, and to add Part 7 (commencing with Section 7000) to Division 4 of, and to repeal Sections 195, 200, 215, 216, 230, 231, and 4453 of, the Civil Code, to amend Sections 605, 621, 1310, 1311, 1312, 1313, 1315, and 1316 of, and to repeal Section 661 of, the Evidence Code, to amend Sections 10450 and 10456 of, to add Sections 10450.5 and 10456.5 to, and to repeal Article 5 (commencing with Section 10440), of Chapter 8 of Division 9 of the Health and Safety Code, and to amend Section 1403 of, to add Section 255 to, and to repeal Sections 255 and 256 of, the Probate Code, relating to children.

[Approved by Governor October 1, 1975. Filed with  
Secretary of State October 1, 1975.]

LEGISLATIVE COUNSEL'S DIGEST

SB 347, Beilenson. Children.

Present law contains numerous distinctions as to the legal treatment of children deemed legitimate and those deemed illegitimate.

This bill eliminates the distinction between legitimate and illegitimate children and enacts the Uniform Parentage Act to provide a procedure to establish the parent-child relationship without regard to distinctions based on legitimacy. It also makes related changes.

It also would specify that no reimbursement or appropriation is made by the act as costs to local government are insignificant.

*The people of the State of California do enact as follows:*

SECTION 1. Section 195 of the Civil Code is repealed.

SEC. 2. Section 196 of the Civil Code is amended to read:

196. The parent entitled to the custody of a child must give him support and education suitable to his circumstances. If the support and education which the father of a child is able to give are inadequate, the mother must assist him to the extent of her ability.

SEC. 2.5. Section 196a of the Civil Code is amended to read:

196a. The father as well as the mother of a child must give him support and education suitable to his circumstances. A civil suit to enforce such obligations may be maintained in behalf of a minor child, and in such action the court shall have power to order and enforce performance thereof, the same as in a suit for dissolution of marriage.

SEC. 3. Section 197 of the Civil Code is amended to read:

197. The mother of an unmarried minor child is entitled to its custody, services and earnings. The father of the child, if presumed to be the father under subdivision (a) of Section 7004, is equally

entitled to the custody, services and earnings of the unmarried minor. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody, services and earnings.

SEC. 4. Section 200 of the Civil Code is repealed.

SEC. 5. Section 215 of the Civil Code is repealed.

SEC. 6. Section 216 of the Civil Code is repealed.

SEC. 7. Section 224 of the Civil Code is amended to read:

224. A child having a presumed father under subdivision (a) of Section 7004 cannot be adopted without the consent of its parents if living; however, if one parent has been awarded custody by judicial decree, or has custody by agreement of the parents, and the other parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of such child when able to do so, then the parent having custody alone may consent to such adoption, but only after the parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires him or her to appear at the time and place set for the appearance in court under Section 227; failure of a parent to pay for the care, support and education of such child for such period of one year or failure of a parent to communicate with such child for such period of one year is prima facie evidence that such failure was willful and without lawful excuse; nor a child with no presumed father under subdivision (a) of Section 7004 without the consent of its mother if living; except that the consent of a father or mother is not necessary in the following cases:

1. When such father or mother has been judicially deprived of the custody and control of such child (a) by order of the court declaring such child to be free from the custody and control of either or both of his parents pursuant to Chapter 4 (commencing with Section 232) of Title 2 of Part 3 of Division 1 of this code, or (b) by similar order of the court of another jurisdiction, pursuant to any law of that jurisdiction authorizing such order; or when such father or mother has, in a judicial proceeding in another jurisdiction, voluntarily surrendered his right to the custody and control of such child pursuant to any law of that jurisdiction provided for such surrender.

2. Where such father or mother of any child has deserted the child without provision for its identification.

3. Where such father or mother of any child has relinquished such child for adoption as provided in Section 224m; or where such father or mother has relinquished such child for adoption to a licensed or authorized child-placing agency in another jurisdiction pursuant to the law of that jurisdiction.

SEC. 8. Section 230 of the Civil Code is repealed.

SEC. 9. Section 231 of the Civil Code is repealed.

SEC. 10. Section 4453 of the Civil Code is repealed.

SEC. 11. Part 7 (commencing with Section 7000) is added to

Division 4 of the Civil Code, to read:

### PART 7. UNIFORM PARENTAGE ACT

7000. This part shall be known and may be cited as the "Uniform Parentage Act."

7001. As used in this part, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

7002. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

7003. The parent and child relationship may be established as follows:

(1) Between a child and the natural mother it may be established by proof of her having given birth to the child, or under this part.

(2) Between a child and the natural father it may be established under this part.

(3) Between a child and an adoptive parent it may be established by proof of adoption.

7004. (a) A man is presumed to be the natural father of a child if he meets the conditions as set forth in Section 621 of the Evidence Code or in any of the following subdivisions:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and,

(i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) With his consent, he is named as the child's father on the child's birth certificate, or

(ii) He is obligated to support the child under a written voluntary promise or by court order.

(4) He receives the child into his home and openly holds out the child as his natural child.

(b) Except as provided in Section 621 of the Evidence Code, a presumption under this section is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise under this section which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

7005. (a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the State Department of Health, where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

7006. (a) A child, the child's natural mother, or a man presumed to be his father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father

under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Health, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(e) An action under this section may be brought before the birth of the child.

(f) The district attorney may also bring an action under this section in any case in which he believes that the interests of justice will be served thereby.

7007. (a) The superior court has jurisdiction of an action brought under this part.

(b) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may have been conceived by that act of intercourse.

(c) The action may be brought in the county in which the child resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

7008. The child shall be made a party to the action. If he is a minor he shall be represented by a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under Section 7004, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7018 and an opportunity to be heard. The court may align the parties.

7010. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes except for actions brought pursuant to Section 270 of the Penal Code.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued as prescribed in Article 6 (commencing with Section 10450) of Chapter 8, of Division 9 of the Health and Safety Code.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and

confinement.

(d) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts.

7011. The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pretrial proceedings, including blood tests, to be paid by the parties in proportions and at times determined by the court.

7012. (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this part or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

7013. The court has continuing jurisdiction to modify a judgment or order made under this part.

7014. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in any public agency or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown.

7015. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this part applicable to the father and child relationship apply.

7016. (a) Any promise in writing to furnish support for a child, growing out of a presumed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to subdivision (d) of Section 7006.

(b) In the best interest of the child or the mother, the court may, and upon the promisor's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

7017. (a) If a mother relinquishes or consents to or proposes to relinquish for adoption a child who has (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221), Title 2, Part 3, Division 1 of the Civil Code, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished or consented to the adoption of such child.

(b) If a mother relinquishes or consents to or proposes to relinquish for adoption a child who does not have (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, voluntarily relinquished or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the superior court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

(c) In an effort to identify the natural father, the court shall cause inquiry to be made by the State Department of Health, a licensed county adoption agency, or the licensed adoption agency to which the child is to be relinquished of the mother and any other appropriate person. The inquiry shall include the following: whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child. The department or the licensed adoption agency shall report the findings to the court.

(d) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subdivision (f). If any of them fails to appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine parentage and custodial rights in whatever order the court deems proper. If the court finds that the man representing himself to be the natural father is a presumed father under subdivision (a) of Section 7004, then the court shall issue an order providing that the father's consent shall be

required for an adoption of the child. In all other cases, the court shall issue an order providing that only the mother's consent shall be required for the adoption of the child.

(e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.

(f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the provisions of the Code of Civil Procedure for the service of process in a civil action in this state, provided that publication or posting of the notice of the proceeding shall not be required. Proof of giving the notice shall be filed with the court before the petition is heard. However, if a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to such person.

7018. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

SEC. 12. Section 605 of the Evidence Code is amended to read:

605. A presumption affecting the burden of proof is a presumption established to implement some public policy other than to facilitate the determination of the particular action in which the presumption is applied, such as the policy in favor of establishment of a parent and child relationship, the validity of marriage, the stability of titles to property, or the security of those who entrust themselves or their property to the administration of others.

SEC. 13. Section 621 of the Evidence Code is amended to read:

621. Notwithstanding any other provision of law, the issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

SEC. 14. Section 661 of the Evidence Code is repealed.

SEC. 15. Section 1310 of the Evidence Code is amended to read:

1310. (a) Subject to subdivision (b), evidence of a statement by a declarant who is unavailable as a witness concerning his own birth, marriage, divorce, a parent and child relationship, relationship by blood or marriage, race, ancestry, or other similar fact of his family history is not made inadmissible by the hearsay rule, even though the declarant had no means of acquiring personal knowledge of the matter declared.

(b) Evidence of a statement is inadmissible under this section if the statement was made under circumstances such as to indicate its lack of trustworthiness.

SEC. 16. Section 1311 of the Evidence Code is amended to read:

1311. (a) Subject to subdivision (b), evidence of a statement concerning the birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a person other than the declarant is not made inadmissible by the hearsay rule if the declarant is unavailable as a witness and:

(1) The declarant was related to the other by blood or marriage;  
or

(2) The declarant was otherwise so intimately associated with the other's family as to be likely to have had accurate information concerning the matter declared and made the statement (i) upon information received from the other or from a person related by blood or marriage to the other or (ii) upon repute in the other's family.

(b) Evidence of a statement is inadmissible under this section if the statement was made under circumstances such as to indicate its lack of trustworthiness.

SEC. 17. Section 1312 of the Evidence Code is amended to read:

1312. Evidence of entries in family Bibles or other family books or charts, engravings on rings, family portraits, engravings on urns, crypts, or tombstones, and the like, is not made inadmissible by the hearsay rule when offered to prove the birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a member of the family by blood or marriage.

SEC. 18. Section 1313 of the Evidence Code is amended to read:

1313. Evidence of reputation among members of a family is not made inadmissible by the hearsay rule if the reputation concerns the birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a member of the family by blood or marriage.

SEC. 19. Section 1315 of the Evidence Code is amended to read:

1315. Evidence of a statement concerning a person's birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of family history which is contained in a writing made as a record of a church, religious denomination, or religious society is not made inadmissible by the hearsay rule if:

(a) The statement is contained in a writing made as a record of an act, condition, or event that would be admissible as evidence of such act, condition, or event under Section 1271; and

(b) The statement is of a kind customarily recorded in connection with the act, condition, or event recorded in the writing.

SEC. 20. Section 1316 of the Evidence Code is amended to read:

1316. Evidence of a statement concerning a person's birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of family history is not made inadmissible by the hearsay rule if the

statement is contained in a certificate that the maker thereof performed a marriage or other ceremony or administered a sacrament and:

(a) The maker was a clergyman, civil officer, or other person authorized to perform the acts reported in the certificate by law or by the rules, regulations, or requirements of a church, religious denomination, or religious society; and

(b) The certificate was issued by the maker at the time and place of the ceremony or sacrament or within a reasonable time thereafter.

SEC. 21. Article 5 (commencing with Section 10440) of Chapter 8 of Division 9 of the Health and Safety Code is repealed.

SEC. 22. Section 10450 of the Health and Safety Code is amended to read:

10450. Whenever the existence or nonexistence of the parent and child relationship has been determined by a court of this state or a court of another state, and upon receipt of a certified copy of the court order, application, and payment of the required fee, the State Registrar shall establish a new birth certificate for such child in the manner prescribed in Article 4 (commencing with Section 10430) of this chapter, if the original record of birth is on file in the office of the State Registrar.

SEC. 22.5. Section 10450.5 is added to the Health and Safety Code, to read:

10450.5. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

SEC. 23. Section 10456 of the Health and Safety Code is amended to read:

10456. Upon receipt of the application and payment of the required fee, and in the absence of conflicting information on the originally registered certificate of live birth, the State Registrar shall review the application for acceptance for filing, and if accepted shall establish a new birth certificate for such child in the manner prescribed in Article 4 (commencing with Section 10430) of this chapter, if the original record of birth is on file in the office of the State Registrar.

SEC. 23.5. Section 10456.5 is added to the Health and Safety Code, to read:

10456.5. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

SEC. 24. Section 255 of the Probate Code is repealed.

SEC. 25. Section 255 is added to the Probate Code, to read:

255. (a) The rights of succession by a child, as set forth in this division, are dependent upon the existence, prior to the death of the decedent, of a parent and child relationship between such child and the decedent.

(b) The rights of succession by issue through a deceased child of

a decedent, as set forth in this division, are dependent upon the existence, prior to the death of the deceased child, of a parent and child relationship between such issue and a deceased child and upon the existence prior to the death of the decedent or the deceased child of a parent and child relationship between such deceased child and the decedent.

(c) The rights of succession to a child's estate by a parent and all persons who would take an intestate share of the decedent's estate through such parent, as set forth in this division, are dependent upon the existence, prior to the death of the decedent, of a parent and child relationship between the parent and the decedent child.

(d) For purposes of this division, a parent and child relationship exists where such relationship is (1) presumed and not rebutted pursuant to, or (2) established pursuant to, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code.

SEC. 26. Section 256 of the Probate Code is repealed.

SEC. 27. Section 1403 of the Probate Code is amended to read:

1403. Either parent of a child living or likely to be born, may appoint a guardian of the person and estate, or person or estate of such child, by will or by deed, to take effect upon the death of the parent appointing, with the written consent of the other parent if the other parent's consent would be required for an adoption of such child, unless the other parent is dead or incapable of consent.

SEC. 28. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the additional net costs, if any, imposed on local government by this act are insignificant in nature and will not cause any financial burden on local government.