

Fixing the Law Cutting Through the Tangle of Child Support and Custody

SUMMARY

In Orange County, child **support** and child **custody** can be and are determined by a **Family Law Court**. This court first determines child custody/visitation, which is the percentage of time allotted each parent to care for their children. Using these time allotment percentages, the Family Law Court determines the child support based on a number of financial and tax factors.¹ Under current California state law, only The Family Law Court can determine custody when the parties are in dispute.

Child Support Court is a crippled relative of the Family Law Court. Child Support Court is limited to making orders concerning child support only. However, child support cannot be ordered without an agreed custody/visitation order in place. Parents with money typically hire an attorney and utilize the Family Law Court where both custody and support can be ordered. Parents with less money seek aid from Child Support Court.

Actually, separated parents seeking the County's aid regarding child support are first directed to **Child Support Services** (CSS). In 2012, Orange County CSS serviced over 39,000 cases involving current child support.² Of these, about 15,000 were referred to the Child Support Court for resolution.³ How many of those were sent to the Family Law Court for custody determination is unknown.

Faced with the legal impossibility of advocating child support orders without first determining child custody, significantly handicaps CSS' ability to help parents resolve parenting issues which determine support. If the parties object to the CSS suggested support order, they may take the issue to a Child Support Court.⁴ Unfortunately, neither does the Child Support Court have authority to order child custody. In Orange County, determination of contested child support, when child custody is at issue, requires the attention of at least five court house court appearances: (1) the initial appointment with CSS, (2) an initial appearance in the Child Support Court, (3) an appointment with Court Services – Mediation, (4) then an appearance in a Family Law Court for custody determination, (5) followed by a return appearance before the Child Support Court for a support order based upon the Family Law Court's finding on custody.⁵

This study recommends the County seek new legislation enabling CSS to advocate child custody arrangements. If the parents challenged such custody, the Child Support Court, (the judiciary for CSS), would be within its bounds to rule on CSS' advocacy. This would significantly reduce the frustration and costs to parents, CSS and both Family Law Court and Child Support Court by at least two thirds.

¹ California Family Code § 4055

² Orange County Dept, of Child Support Services Caseload Profile & Impact of Settling Child Support Order Amounts in California – FFY 2012. (Page 4).

³ Figure supplied by Child Support Services research department

⁴ Child Support Court was created by California Family Code §§ 4250 through 4252.

⁵ Honest, this is not a make believe Kaufka novel.

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Bouncing parents back and forth between Child support Court and Family Law Court is borne out of the promise of reimbursement by the federal government of 66% of CSS and Child Support Court costs.⁶ This amounts to millions of dollars. California currently interprets the federal promise as being limited to reimbursement for child support efforts only. An alternative approach utilized by many counties throughout the nation seeking reimbursement from the federal government is to split the cost of the Child Support Court with the federal government. Typically, a county Child Support Court will arbitrarily allot a percentage of its time to child custody (for example 20%) and the balance to child support (the remaining 80%). The county will then demand reimbursement of 66% of the 80% of at the time spent on child support. Suggesting to the court how it should utilize its child support commissioner is beyond the jurisdiction of this study.

REASON FOR STUDY

California Assembly Bill 1058 (AB 1058) was passed into law September 1996 “to expedite child support cases.”⁷ Where collection alone is at issue, AB 1058 has been successful. On the other hand, AB 1058 has failed to justly **establish** child support orders due to its limitation in first establishing child custody. Child custody is an indispensable element in setting child support in accordance with state guidelines. This study explains the shortcomings of AB 1058 and offers a solution. The solution specifically responds to the judiciary’s concern, “what can be done that is not court room time intensive?”⁸

METHOD OF INVESTIGATION

- The Grand Jury interviewed the office of Legislative Affairs for the Executive Office for the County of Orange.
- The Grand Jury met with upper management of the department of Child Support Services to gain an understanding of its operations.
- The Grand Jury reviewed federal and state code:
Federal Legislation, Title IV-D (42 USC 654 through 666),
California Family Code (FC) § 17000 et al,
California FC § 20000 et al,
California FC §§ 4050 through 4057,
California FC §§ 4250 through 4253.
- The Grand Jury reviewed the Fact Sheet July 2012 Child Support Commission and Family Law Facilitator Program.
- The Grand Jury reviewed comments from the Orange County Juvenile Justice Commission.

⁶ Title IV-D refers to Title IV-D of the Social Security Act dealing with federal support of child support specifically addressed in 42 U.S.C. 654 through 666.

⁷ The FACT SHEET, July 2012, Child Support Commissioner and Family Law Facilitator Programs is accessible at www.courts.ca.gov/documents/child-support.pdf.

⁸ March 6, 2012 as expressed in the Orange County Juvenile Justice Commission

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BACKGROUND AND FACTS

Determination of child support is basically a function of (1) the number of children to be supported, (2) the percentage of time allotted each parent to care for the children, (3) the parents' incomes. A Family Law Court may adjudicate on all issues of family law including both custody and support. CSS, which offers its services at no charge, may advocate on child support issues only. A Child Support Court, which also offers its services at no charge, may rule on child support only. Because of the limitations of CSS (inability to advocate for **child custody**) and Child Support Court (inability to rule on **child custody**), the parents are dependent upon the Family Law Court to determine child custody when it is in dispute. This means that even if parents seek the free services of CSS and Child Support Court, they may be forced to set aside action in CSS and Child Support Court and make a side trip to the Family Law Court for a ruling on contested custody before proceeding with CSS or the Child Support Court. This is no small matter. Tens of thousands, if not hundreds of thousands of dollars in child support may revolve around the custody issue throughout the term of a child support order.

Whereas **CSS** provides free counsel and **Child Support Court** provides a free hearing to mothers and fathers, generally without benefit of an attorney, a Family Law Court is a room full of attorneys. It would be difficult to seek justice here for less than \$5,000 per contesting parent considering filing fees and minimal attorney fees. Furthermore, the cost to support the Family Law Courts far exceeds the filing fees. Cynically, the citizens of Orange County could ignore these costs as they are paid by the state. On the other hand, the state money allocated to run Orange County courts is limited and has resulted in the closure of one of the three Child Support Courts in order to finance courts bearing a higher priority.

An example of the morass of action resulting from limitations placed on CSS and the Child Support Court is as follows:

1. On April 1st, a single mother with two children fathered by one man comes to CSS seeking a child support order. For simplicity, we will assume paternity has already been established.
2. CSS will ask the mother to complete under penalty of perjury an Income and Expense Declaration (I&E)⁹. The I&E illustrates:
 - a. The mother's income -- \$2,000 per month,
 - b. The father's income according to the mother -- \$3,000 per month
 - c. The mother's custodial time with the children to be 95%.
3. On April 10, using the mother's I&E declaration, CSS sends the father a proposed child support order for \$898 per month.¹⁰ Included in the documents sent to the father is the mother's I&E. The father is notified that he has 30 days

⁹ An Income and Expense Declaration is a Judicial Council form (FL-150). Mother's example is attached as Exhibit A.

¹⁰ The proposed child support order was determined in accordance with state guidelines established by California FC § 4055 reduced to a ledger attached as Exhibit B.

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to respond or the proposed order will automatically go into force with the authority of law.

4. On May 1, a very angry father visits CSS claiming that the mother had been a bit careless with the truth. At CSS' invitation, the father completes his own I&E under penalty of perjury. He doesn't argue with the mother's representation of the parties' income. Rather he claims on page 4 of the I&E that he has custody of the children at least 50% of the time. He explains that he picks the children up every evening after his day job is done and cares for the children while the mother works as a waitress. He says he feeds them, tucks them into bed and returns them to the mother every morning on his way to work.
5. When the parties cannot reach accord on child custody, the telling issue for support, CSS has no option but to refer the parents to the judge at Child Support Court. CSS is good enough to set up the court date for July 1.
6. On June 25, the mother gets ill and the July 1 court date is reset for August 15.
7. On August 15, the Child Support Court hears the matter. It makes no decision because it is missing a credible factor, that being the custody time share allotted each parent. The court suggests the parents go to Family Law Court for such a ruling.
8. On August 25, the father files for an Order to Show Cause hearing before a Family Law Court. In so doing he files a Fee Waiver hoping to avoid the \$435 filing fee. (Maybe the court will get \$435 and maybe not.) The father is granted a court date of October 1. The father serves the court notice on the mother.
9. On September 10, the mother files her response with the court including her Fee Waiver request. (This is another \$435 that the court may never see.)
10. On October 1, the mother and the father both show up at court. The court requests the mediation report which doesn't exist because neither the mother nor the father had an attorney to tell them about mediation¹¹. The Family Law Court continues the case to November 1 so the parents can go to mediation on October 15.
11. The parents attend mediation to no avail. They cannot agree on custody.
12. On November 1, the mother and the father argue their cases before the judge. The Family Law Court makes a ruling that the father has 40% custody of the children.
13. On November 10, the couple returns to CSS with the Family Law Court order in hand. Neither parent is satisfied with CSS' proposed child support order. A 40% custody time share to the father yields guideline support of \$311 per month (See Appendix C).
14. On Jan 3, Child Support Court makes an order for \$311 (See Exhibit C).

If this was a misery to read, consider the 10 months of torture visited on these parents held captive to the California system of wielding the law in the CSS/Child Support Court arena under the auspices of AB1058. THIS IS NOT JUSTICE! Attorneys

¹¹ All family law cases involving custody must be heard by Court Services Mediation prior to presentation of before the court. It is the court's attempt to help parents settle matters on their own terms rather than those dictated from the judge. FC § 3170

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at CSS feel confident that given the authority to council mothers and fathers regarding child custody, they would be successful in resolving a very significant percentage of the 15,000 cases resigned to the courts – both the Child Support Court and the Family Law Court. Steps 5 through 14 above could often be eliminated. This would reduce judiciary costs significantly. Whether the state would allow the County to keep the savings is another issue.

The federal government does not intend to torture mothers and fathers nor exacerbate the cost of making child support orders. 42 U.S.C. 666(d) specifically **exempts** the state from procedures which are **not effective** and **efficient** in the enforcement of state guidelines for child support¹²

In most cases, the weight and inertia of the system defeats the appeal for justice by the parents and children concerned. Faced with the option of (1) accepting an arbitrary custody arrangement so as to establish a support order or (2) going through a tortuous process, most parents surrender to a custody arrangement having little to do with either parents' desires or the best interest of the child.¹³ From the perspective of getting the fiber through the cotton gin, the current system works.

The magnitude of the finances and emotions of parents in the throes of eking out a child custody and support arrangement is a major life changing event – an event that CSS gives due respect. CSS scheduled over 17,000 court appearances for over 9,000 families over the past 12 months. Of those, over 11,000 were initial filings; and, 6,000 were continuances. This action was expensive. To put this in other terms, there are about 250 court days available a year. Seventeen thousand court call divided by 250 days means the court has to address about 68 cases a day. That means at least one court room, one judge, a couple of clerks, a bailiff, a CSS attorney and her support staff. To be conservative, the report assumes the parties are all self-represented (i.e. they have no attorneys). It would be nearly impossible to put an actual price tag on this action; but, CSS indicated that avoidance of these court filings to any degree would be a significant savings to both the CSS and the Child Support Court. Giving CSS the ability to recommend child custody as opposed to court action would help tremendously. **This is not to infer for a moment that parents could not avail themselves to the courts if unhappy with CSS recommendations.**¹⁴

Limitations of Child Support Services and Child Support Courts

CSS was created by California Family Code § 17202:

¹² This is to state 42 U.S.C. 666(d) in positive terms rather than the double negative of the code.

¹³ To most people, a court appearance is akin to meeting with the inquisitor of the Spanish Inquisition. This is not meant as hyperbole, but the reality of the quest for justice in the family law arena.

¹⁴ Court filing statistics provided by Orange County Department of Child Support Services.

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“The department [CSS] is hereby designated the single organizational unit whose duty it shall be to administer the Title IV-D state plan for securing child and spousal support, medical support, and determining paternity...”¹⁵

Before the creation of CSS, collection of child support was left to the Orange County District Attorney. All child support action had to be dragged through the Superior Court system. CSS, created as an agency in the executive branch of state government, was granted powers to act independently of the court system in much the same way as the Internal Revenue Service (IRS). The IRS can calculate tax liabilities including interest and penalties and use its power to lien and levy personal accounts to collect its due. Likewise, CSS is empowered to calculate child support, and interest and take whatever steps are necessary to enforce the court’s order and collect the money. CSS orders are subject to judicial review by a parent before the Child Support Court in a similar manner as a taxpayer has the right to be heard by the Tax Court if he/she feels an order is unjust.

In accordance with FC § 17208:

“[CSS] shall reduce the cost of and increase the speed and efficiency of, child support enforcement operations. It is the intent of the Legislature to operate child support enforcement program through [the county CSS]...”

Child Support Court was created by California Family Code 4252(b)(2)(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... pursuant to Section 17400, for an order to establish, modify, or enforce child support...”

Title IV-D refers to Title IV-D of the Social Security Act.¹⁶ The purpose of IV-D is to stop the bleeding of welfare costs used to support single mothers and children. Support of needy mothers was created under a welfare program known as Aid for Families with Dependent Children (AFDC). It was created by Congress in 1935 and continued until 1996 when Congress replaced it with Temporary Assistance to Needy Families (TANF).¹⁷ Title IV-D’s intent is to place financial responsibility for these needy mothers and children on the men who fathered the children. The federal law put the burden of enforcing collection on the states.¹⁸ To finance the costs of establishing a child support collection program (CSS and the Child Support Court), the federal government reimbursed 66% of the states’ expenses, provided the state pays the remaining 34%.¹⁹ Although the federal government has a financial interest in replacing

¹⁵ CSS limits collection of spousal support to cases where spousal support is integrated with child support into “family support.” Family Code § 4501. A family support order is enforceable in the same manner and to the same extent as a child support order.

¹⁶ Title 42, Public Health and Welfare

¹⁷ The difference between AFDC and TANF is beyond the bounds of this report. Though claimed to be a horse of a different color, it is still a horse.

¹⁸ 42 U.S.C. 666(a)

¹⁹ 42 U.S.C. 655(a)

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TANF costs with parent-paid child support, it has no interest in financing the states' family law courts neither does the federal government have any constitutional jurisdiction to meddle in family affairs of the citizens of the states. It is therefore understandable that the federal government limits its support to the collection of child support and leaves all other family law issues to the states.

Orange County would stand to lose many millions of dollars of federal support²⁰ if the federal government interpreted County CSS and/or the Child Support Court action on child custody outside the specific guidelines of 42 U.S.C. 654, 655 and 666 which defines the County's authority to make support orders. Fortunately 42 U.S.C 666(a)(10) and 42 U.S.C. 666(d) do authorize determination of child custody in connection with support orders.

A Reasonable Interpretation of Title IV-D

This Grand Jury, and some legal minds in the County interpret federal law as permitting custody/visitation orders as a necessary part of making support orders. 42 U.S.C. 666(a)(10) states in a redacted version:

“(a) ...each State must have in effect laws requiring the following procedures...
(10) Review and adjustment of support orders upon request... of either parent...taking into account the best interest of the child involved – (I) review and adjust the order ...pursuant to section 667(a)...”

42 U.S.C. 667(a) **mandates** such a review of child support be in accordance with state guidelines (California FC §§ 4050 through, 4057) which in turn mandate the inclusion of child custody percentages between parents.

42 U.S.C. 666(d) **exempts** the state from,
“the use of any procedure or procedures...[which]... will not increase the effectiveness and efficiency of the state child support enforcement program...”

This begs to be interpreted such that the “effectiveness and efficiency” of collecting child support is absolutely dependent upon the simultaneous determination and ordering of child custody when making child support orders.

Nowhere in Title IV-D can this Grand Jury find language that denies CSS from advocating child custody. On the contrary, 42 U.S.C. 666(a)(10), 42 U.S.C. 667(a) coupled with 42 U.S.C. 666(d) is explicit in directing CSS to follow state guidelines in making child support orders. California Family Code § 4055 specifically mandates consideration of child custody in child support calculation:

“(a) The ...guideline for determining child support orders is...[among other factors]:

²⁰ The federal government contributed over \$55 million to support CSS in fiscal year 2011/2012.

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(D)...approximate percentage of time that the high earner has or will have primary physical responsibility for the children...”

These four codes (42 U.S.C. 666(a)(10), 42 U.S.C. 666(d) & 42 U.S.C. 667(a) and California FC § 4055), tied together by reference for total adherence of the law, mandate CSS consider child custody in order to advocate child support orders.

The Solution – New Legislation

CSS needs legislative authority specifically empowering it to mediate child custody orders. With such authority, it could openly and intelligently present its orders to the Child Support Court for adjudication as necessary.

The Child Support Court is to CSS as Tax Court is to the IRS. California FC § 4250(b) states in pertinent part:

“(b)...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 [CSS].”

In sequence, California FC § 4251 states:

“(b)...All actions or proceedings filed by the local child support agency [CSS] in a support action or proceeding in which enforcement services are being provided pursuant to 17400 for an order to **establish, modify** (emphasis added) or enforce child ...support...shall be referred for hearing to a child support commissioner...”

It follows that if CSS were specifically granted the authority to advocate for child custody, Child Support Court must rule on child custody. As a matter of fact, CSS advocates for custody orders daily. First it utilizes the judicial council form FL-150 (Income and Expense Declaration).²¹ On page 4, item 16, each parent is required to declare how much time he or she cares for the children (see Exhibit A). Second, California Department of Child Support Services sponsors a web site with a link to calculate child support. On the second page of the calculator is the question, “time with parent 1(%)”²² “Time with parent” is a custody issue. Pretending that custody is not currently being considered by CSS and Child Support Court is ridiculous and serves no one.

As a matter of federal law, as a matter of fact, and as a matter of practicality, custody is already on the table. Here in Orange County, **Custody is the elephant in the room.**

²¹ AB 1058 advocated the Judicial Council prepare simple forms to determine child support. FL-150 was thus developed.

²² The web site can be reached through Google, “California Department of Child Support Services” then link to “Calculate Child Support”

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The call for custody/visitation mediation and orders by CSS is not a mere local whisper. The Federal Office of Child Support Enforcement out of Washington D.C. is prompting states to empower their child support agencies to aid parents in visitation and custody issues. On April 15, 2013, Federal Office of Child Support Enforcement advanced the **Child Support and Fatherhood Initiative in the Administration's FY 2014 Budget**. Among other things, the initiative proposes that:

- [All states] establish **access and visitation** (emphasis added) responsibilities in all initial child support orders, just as custody arrangements are typically settled at the same time divorces are finalized.
- Federal resources are [to be] made available to states that choose to include **parenting time responsibilities** (emphasis added) in initial child support orders beginning in FY 2014 and all states are required to include parenting time responsibilities in all new child support orders beginning in FY 2019.²³

Prompting Orange County to seek state legislation to empower CSS to include custody and visitation in its proposed orders is all but insignificant. The Federal Government, from whom millions of dollars pass to the compliant states, will almost certainly be mandating such changes as a contingency for the continued flow of those millions. The Federal Office of Child Support Enforcement's rationale for including visitation and custody in CSS orders is that fathers who participate in the lives of their children pay support more consistently than those fathers who don't. This is the same conclusion heralded by the Orange County 2012-2013 Grand Jury report titled "*BEST INTEREST OF THE CHILD*" *Lost Child Support Cost \$1.3 Billion*.²⁴

Both this report and the Grand Jury's initial report, "*Best Interest of the Child...*" were motivated by the leadership of CSS. That CSS leadership and the federal government are in such agreement bodes well for the future of financing the County's youth as well as including paternal (do we dare say "love") in the formula.

In any event, California Family Code § 17400(a)(d)(g) must be amended as **shown below in pertinent part**:

FAMILY CODE Section 17400

- (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. **The local child support agency must determine the percentage of time each parent or pertinent party has custody of the children in order to determine child support in accordance with state guidelines beginning with Family Code section 4050. ...**

²³ Office of Child Support Enforcement, <http://www.acf.hhs.gov/programs/css/resource/child-support-and-fatherhood-initiative-in-the-administrations-fy-2014>

²⁴ http://www.ocgrandjury.org/pdfs/2012_2013_reports/BestInterestofChild021513.pdf

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(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404 **including a declaration as to the percentage of time the declarant has custody of the pertinent children.** The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor **and the percent of time the obligor has custody of the child(ren)** as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the Industrial Welfare Commission pursuant to Section 1182.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. **If the support obligor's custody time with the child(ren) is unknown to the local child support agency, the obligor's time share shall be deemed zero.** ...

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer. (B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. **Both of these shall include space for the defendant to declare what percent of the children's time they are in his/her custody.** ...

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the **custody,** support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a like or similar order under this code....

Making New Law

Proposing, drafting and ultimately gaining passage of any legislation is not within the Grand Jury's purview; however, the entity which would most profit from such legislation would be CSS. The Grand Jury's proposed language to amend FC § 17400 are roughly drafted. This Grand Jury opines that there are fine legal minds within Orange County CSS as well as other counties that might refine the proposed language.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2012/13 Grand Jury requests responses from each agency affected by the findings presented in

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this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of child support orders and parenting in Orange County, the 2012/13 Orange County Grand Jury has arrived at ten (10) principal findings as follows:

- F1 CSS is tasked to establish child support orders in accordance with state guidelines.
- F2 Child Support Court is tasked to make orders setting child support in accordance with state guidelines.
- F3 State guidelines for child support require determination of the percentage of child custody/visitation allotted each parent.
- F4 Orange County's interpretation of both IV-D and California Family Code § 17000 et al does NOT permit CSS to make orders regarding parental custody.
- F5 Child Support Court is the judiciary organ created to adjudicate issues of child support brought by CSS. FC § 4252 does NOT deny CSS from suggesting orders regarding child custody.
- F6 Denial of either CSS or Child Support Court to make custody orders creates an intolerable hardship on the parents, their children and the California Superior Court system by requiring parents go to Family Law Court to get a custody order and then return to the Child Support Court for a support order.
- F7 An amendment to FC § 17400 specifically authorizing CSS to advocate custody orders would greatly improve both CSS and Child Support Court's ability to efficiently make child support orders as they are mandated to do by IV-D.
- F8 The County of Orange is in a position to seek legislation authorizing CSS to advocate for child custody orders.
- F9 Continued denial to CSS and Child Support Court to make child support orders is an absolute waste of human effort.
- F10 The federal OFFICE OF CHILD SUPPORT ENFORCEMENT is proposing inclusion of custody/visitation orders in all CSS support orders by 2014 and mandating the same by 2019.

RECOMMENDATIONS

In accordance with California Penal Code Section 933 and 933.05, the 2012/13 Grand Jury requires a response from the agency affected by the recommendation presented in this section. The response is to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation of child support and parenting in Orange County, the 2012/13 Orange County Grand Jury makes the following recommendation.

- R1 CSS should initiate a legislative amendment to FC § 17400 by adding language which would enable CSS to advocate child custody issues before the Child

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Support Court in order to obtain equitable child support orders. Findings F1, F2, F3, F4, F5, F6, F7, F8, F9, F10.

REQUIRED RESPONSES

The California Penal Code §933 requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section §933.05 (a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

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(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section §933.05 are required from:

Responses Requested:

Orange County Child Support Services is requested to respond to **Findings F1, F2, F3, F4, F5, F6, F7, F8, F9 and F10.**

Orange County Child Support Services is requested to respond to **Recommendation 1.**

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Exhibit A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Mother (Pro Per) 123 Any Street Santa Ana, CA 92701 TELEPHONE NO. E-MAIL ADDRESS (Optional) (714)333-7777 ATTORNEY FOR (Name) Pro per	FL-150 FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS 341 The City Dr. MAILING ADDRESS CITY AND ZIP CODE Orange, CA 92868 BRANCH NAME Family Law	
PETITIONER/PLAINTIFF: Mother RESPONDENT/DEFENDANT: Father OTHER PARENT/CLAIMANT: Child Support Service	
INCOME AND EXPENSE DECLARATION	CASE NUMBER P-001578

1. **Employment** (Give information on your current job or, if you're unemployed, your most recent job.)

Attach copies of your pay stubs for last two months (black out social security numbers).

- a. Employer: Good Food Restaurant
- b. Employer's address: 456 Good Street
- c. Employer's phone number:
- d. Occupation: Waitress
- e. Date job started: Jan 2, 2013
- f. If unemployed, date job ended:
- g. I work about 40 hours per week.
- h. I get paid \$ 1300 gross (before taxes) per month per week per hour.

(If you have more than one job, attach an 8½-by-11-inch sheet of paper and list the same information as above for your other jobs. Write "Question 1—Other Jobs" at the top.)

2. **Age and education**

- a. My age is (specify): 25
- b. I have completed high school or the equivalent: Yes No If no, highest grade completed (specify):
- c. Number of years of college completed (specify): Degree(s) obtained (specify):
- d. Number of years of graduate school completed (specify): Degree(s) obtained (specify):
- e. I have: professional/occupational license(s) (specify):
 vocational training (specify):

3. **Tax information**

- a. I last filed taxes for tax year (specify year): 2012
- b. My tax filing status is single head of household married, filing separately
 married, filing jointly with (specify name):
- c. I file state tax returns in California other (specify state):
- d. I claim the following number of exemptions (including myself) on my taxes (specify): 3

4. **Other party's income.** I estimate the gross monthly income (before taxes) of the other party in this case at (specify): \$ 3000
 This estimate is based on (explain): income we shared when living together in 2012

Father's income

(If you need more space to answer any questions on this form, attach an 8½-by-11-inch sheet of paper and write the question number before your answer.) Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

Fixing the Law Cutting Through the Tangle of Child Support and Custody

PETITIONER/PLAINTIFF: Mother RESPONDENT/DEFENDANT: Father OTHER PARENT/CLAIMANT: Child Support Service	CASE NUMBER: P-001578
--------------------------------------------------------------------------------------------------------------	--------------------------

12. The following people live with me:

Name	Age	How the person is related to me? (ex: son)	That person's gross monthly income	Pays some of the household expenses?
a. Junior	3	son	0	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b. Sis	5	daughter	0	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
c. Grandma	55	mother	2000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
d.				<input type="checkbox"/> Yes <input type="checkbox"/> No
e.				<input type="checkbox"/> Yes <input type="checkbox"/> No

13. Average monthly expenses Estimated expenses Actual expenses Proposed needs

a. Home:

(1) Rent or mortgage ... \$ 500

If mortgage:

(a) average principal: \$ _____

(b) average interest: \$ _____

(2) Real property taxes ... \$ _____

(3) Homeowner's or renter's insurance (if not included above) ... \$ _____

(4) Maintenance and repair ... \$ _____

b. Health-care costs not paid by insurance ... \$ _____

c. Child care ... \$ _____

d. Groceries and household supplies ... \$ 400

e. Eating out ... \$ 25

f. Utilities (gas, electric, water, trash) ... \$ 0

g. Telephone, cell phone, and e-mail ... \$ 75

h. Laundry and cleaning ... \$ _____

i. Clothes ... \$ 100

j. Education ... \$ _____

k. Entertainment, gifts, and vacation ... \$ 100

l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.) ... \$ 300

m. Insurance (life, accident, etc.; do not include auto, home, or health insurance) ... \$ _____

n. Savings and investments ... \$ _____

o. Charitable contributions ... \$ _____

p. Monthly payments listed in item 14 (itemize below in 14 and insert total here) ... \$ _____

q. Other (specify): ... \$ 200

r. **TOTAL EXPENSES** (a–q) (do not add in the amounts in a(1)(a) and (b)) ... \$ 1800

s. **Amount of expenses paid by others** ... \$ _____

14. Installment payments and debts not listed above

Paid to	For	Amount	Balance	Date of last payment
Visa	consumables	\$ 200	\$ 3500	over due
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

15. Attorney fees (This is required if either party is requesting attorney fees.):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$ _____
- b. The source of this money was (specify): _____
- c. I still owe the following fees and costs to my attorney (specify total owed): \$ _____
- d. My attorney's hourly rate is (specify): \$ _____

I confirm this fee arrangement.

Date: _____

(TYPE OR PRINT NAME OF ATTORNEY)



(SIGNATURE OF ATTORNEY)

Fixing the Law Cutting Through the Tangle of Child Support and Custody

FL-150

PETITIONER/PLAINTIFF: Mother RESPONDENT/DEFENDANT: Father OTHER PARENT/CLAIMANT: Child Support Service	CASE NUMBER P-001578
--------------------------------------------------------------------------------------------------------------	-----------------------------

CHILD SUPPORT INFORMATION

(NOTE: Fill out this page only if your case involves child support.)

16. Number of children

- a. I have (specify number): 2 children under the age of 18 with the other parent in this case.
- b. The children spend 95 percent of their time with me and 5 percent of their time with the other parent.
 (If you're not sure about percentage or it has not been agreed on, please describe your parenting schedule here.)

Mother's
custody
time

Father's
custody
time

— alleged
by Mother

17. Children's health-care expenses

- a. I do I do not have health insurance available to me for the children through my job.
- b. Name of insurance company:
- c. Address of insurance company:
- d. The monthly cost for the **children's** health insurance is or would be (specify): \$
 (Do not include the amount your employer pays.)

18. Additional expenses for the children in this case

Amount per month

- | | |
|-----------------------------------------------------------------------------|----------|
| a. Child care so I can work or get job training | \$ _____ |
| b. Children's health care not covered by insurance | \$ _____ |
| c. Travel expenses for visitation | \$ _____ |
| d. Children's educational or other special needs (specify below): | \$ _____ |

19. Special hardships. I ask the court to consider the following special financial circumstances
 (attach documentation of any item listed here, including court orders):

Amount per month

For how many months?

- | | | |
|---------------------------------------------------------------------------------------------------------|----------|-------|
| a. Extraordinary health expenses not included in 18b. | \$ _____ | _____ |
| b. Major losses not covered by insurance (examples: fire, theft, other insured loss) | \$ _____ | _____ |
| c. (1) Expenses for my minor children who are from other relationships and are living with me | \$ _____ | _____ |
| (2) Names and ages of those children (specify): | | |

(3) Child support I receive for those children. \$ _____

The expenses listed in a, b, and c create an extreme financial hardship because (explain):

20. Other information I want the court to know concerning support in my case (specify):

Fixing the Law Cutting Through the Tangle of Child Support and Custody

Exhibit B

2007

DissoMaster 2007-1

page 1

alleged custody
time for Father

DissoMaster Data Screen Monthly Figures

Input Data	Father	Mother	Guideline (2007)	Cash Flow Analysis	Gdln.	Prop.	
Party Info	Father	Mother	Nets (adjusted)	Comb. net spendable	4559	4630	
Number of children	0	2	Father	Percent change	0%	1.6%	
<u>% time with NCP</u>	<u>5.00</u>	0.00	Mother	Father, payor of CS, Prop. CS			
Filing Status	Single	HH/MLA	Total	Payment cost	898	722	
# federal exemptions	1*	3*	Support	Net spendable income	1467	1643	
Wages + salary	3000	2000	Presumed CS	Change from guideline	0	176	
Self-employment income	0	0	Basic CS	% of combined spendable	32.2%	35.5%	
Other taxable income	0	0	Add-ons	% of saving over guideline	0%	248.1%	
TANF plus CS received	0	0	Per Kid	Total Taxes	635	334	
Other nontaxable income	0	0	Child 1	Dep. exemptions value	0	176	
New-spouse income	0	0	Child 2	# withholding allowances	1	7	
Wages + Salary	0	0	Spousal	Net wage paycheck	2326	2623	
Self-employment income	0	0	Support	Mother			
SS paid other marriage	0	0	Total	898	Payment benefit	898	793
Retirement contrib. if ATI	0	0	Proposed, Tactic 9	Net spendable income	3092	2987	
Required union dues	0	0	Presumed CS	Change from guideline	0	-105	
Nec. Job-related exp.	0	0	S. Clara SS	% of combined spendable	67.8%	64.5%	
Adj. income (ATI)	0	0	Total	% of saving over guideline	0%	-148.1%	
SS paid other marriage	0	0	Comb. Savings	Total Taxes	-194	36	
CS paid other relationship	0	0	Total releases to Father	Dep. exemptions value	0	-105	
Health insurance	0	0		# withholding allowances	6(w5)	2(w5)	
Itemized deductions	0	0	Default Case Settings	Net wage paycheck	1899	1753	
Other medical expenses	0	0	Default Tax Settings				
Property tax expenses	0	0					
Ded. interest expense	0	0					
Charitable contribution	0	0					
Miscellaneous itemized	0	0					
Required union dues	0	0					
Mandatory retirement	0	0					
Hardship deduction	0*	0*					
Other guideline deductions	0	0					
AMT Info (IRS Form 6251)	0	0					
Child support add-ons	0	0					

This is a computer
rendition of the formula
dictated by CA-FC § 4055

Fixing the Law Cutting Through the Tangle of Child Support and Custody

Exhibit C

2007

DissoMaster 2007-1

page 1

Ordered custody
for Father

DissoMaster Data Screen Monthly Figures

Input Data	Father	Mother	Guideline (2007)	Cash Flow Analysis	Gdln.	Prop.	
Party Info	Father	Mother	Nets (adjusted)	Comb. net spendable	4583	4639	
Number of children	0	2	Father	2389	Percent change	0%	1.2%
% time with NCP	40.00	0.00	Mother	2194	Father, payor of CS, Prop. CS		
Filing Status	Single	HH/MLA	Total	4583	Payment cost	311	173
# federal exemptions	1*	3*	Support		Net spendable income	2078	2216
Wages + salary	3000	2000	Presumed CS	311	Change from guideline	0	138
Self-employment income	0	0	Basic CS	311	% of combined spendable	45.3%	47.8%
Other taxable income	0	0	Add-ons	0	% of saving over guideline	0%	246.4%
TANF plus CS received	0	0	Per Kid		Total Taxes	611	325
Other nontaxable income	0	0	Child 1	84	Dep. exemptions value	0	138
New-spouse income	0	0	Child 2	227	# withholding allowances	1	7
Wages + Salary	0	0	Spousal	blocke	Net wage paycheck	2326	2623
Self-employment income	0	0	Support	d	Mother		
SS paid other marriage	0	0	Total	311	Payment benefit	311	229
Retirement contrib. if ATI	0	0	Proposed, Tactic 9		Net spendable income	2505	2423
Required union dues	0	0	Presumed CS	459	Change from guideline	0	-82
Nec. Job-related exp.	0	0	S. Clara SS	0	% of combined spendable	54.7%	52.2%
Adj. income (ATI)	0	0	Total	459	% of saving over guideline	0%	-146.4%
SS paid other marriage	0	0	Comb. Savings	56	Total Taxes	-194	36
CS paid other relationship	0	0	Total releases		Dep. exemptions value	0	-82
Health insurance	0	0	to Father	2	# withholding allowances	6(w5)	2(w5)
Itemized deductions	0	0	Default Case Settings		Net wage paycheck	1899	1753
Other medical expenses	0	0	Default Tax Settings				
Property tax expenses	0	0					
Ded. interest expense	0	0					
Charitable contribution	0	0					
Miscellaneous itemized	0	0					
Required union dues	0	0					
Mandatory retirement	0	0					
Hardship deduction	0*	0*					
Other guideline deductions	0	0					
AMT Info (IRS Form 6251)	0	0					
Child support add-ons	0	0					