



## Judicial Council of California . Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

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Title	Agenda Item Type
Child Support: Notice of Change of Responsibility for Managing Child Support Case	Action Required
	Effective Date
	January 1, 2011
Rules, Forms, Standards, or Statutes Affected	Date of Report
Form FL-634	September 14, 2010
Recommended by	Contact
Family and Juvenile Law Advisory Committee	Anna L. Maves, 916-263-8624
Hon. Jerilyn L. Borack, Cochair	<a href="mailto:anna.maves@jud.ca.gov">anna.maves@jud.ca.gov</a>
Hon. Susan D. Huguenor, Cochair	

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### Executive Summary

The proposed new form would enable a local child support agency to provide notice to the parties and the court in a title IV-D governmental child support case when the responsibility for managing the child support case changes from one county's local child support agency to a different county's local child support agency.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2011, adopt *Notice of Change of Responsibility for Managing Child Support Case* (form FL-634) so that the parents and court are informed when the responsibility for case management changes.

The proposed amended form is attached at pages 5 and 6.

## **Previous Council Action**

The Judicial Council has taken no previous action on this issue.

## **Rationale for Recommendation**

New mandatory form *Notice of Change of Responsibility for Managing Child Support Case* (form FL-634) would enable a local child support agency to provide notice to the court and the parties in a governmental child support case when the case management responsibility transfers from one county's local child support agency to a different county's local child support agency. It would also provide information to the parties about which local child support agency to contact when they have information or concerns about their cases. This form would be completed, filed with the court, and served on the parties by the local child support agency that has received the case management responsibility.

With the transition of all local child support agencies onto the statewide automated child support system, local child support agencies now have access to statewide information in governmental child support cases, even if those cases were initiated and are being enforced in a different county. On August 22, 2008, the California Department of Child Support Services (DCSS) issued a policy letter informing the local child support agencies that when a party moves from one county to another, the local child support agency's case management responsibility for that case can change. The local child support agency to which case management responsibility is transferred can administratively enforce the child support order without registering the court order in the county in which it is located.

In addition to providing notice of the change of the county with case management responsibility, this form would provide contact information and instruction to the parties specifying that all future communications regarding the child support case must be directed to the local child support agency with case management responsibility. Finally, the notice would inform the parties that any future court action must be filed with the superior court that continues to have jurisdiction over the child support issues. This essential information about which local child support agency is responsible for the day-to-day management of the child support case is not otherwise readily available to the court or the public because the state Department of Child Support Services' new policy regarding transfer of case management responsibility does not require the child support order to be registered in the court in the new managing county.

To ensure that the parties to a governmental child support action uniformly receive notice when case management responsibility transfers from one local child support agency to another and for the court to orderly administer its cases, the advisory committee recommends that this form be adopted as a mandatory Judicial Council form.

## **Comments, Alternatives Considered, and Policy Implications**

### ***Comments***

The invitation to comment on the proposal was circulated from April 19, 2010, through June 18, 2010, to the standard mailing list for family and juvenile law proposals, as well as to the regular rules and forms mailing list. These distribution lists include judges, court administrators, attorneys, social workers, probation officers, mediators, and other family and juvenile law professionals. In addition, the proposal was sent to child support commissioners, family law facilitators, court clerks, the California Department of Child Support Services (DCSS) and Child Support Directors Association (CSDA) forms committee, and title IV-D program directors.

During the formal comment period the committee received 10 written comments. Of these, 7 agreed with the proposed form, with 4 suggesting modifications; 2 did not indicate a position; and 1 disagreed with the proposed form in its entirety. The committee reviewed and analyzed the comments and, in response to many of them, made some revisions to the proposed form. A chart summarizing the comments received and the committee's responses is attached at pages 7–11.

Some commentators requested the addition of an item providing instruction and contact information for the service of any pleading on the local child support agency that continues to be a party to the child support action. When a local child support agency initiates a governmental child support action or intervenes in an existing family law case, that local child support agency becomes a party to the action. Merely transferring case management responsibility to a different local child support agency, without that local child support agency registering the child support order with its court, does not alter the party status of the first local child support agency. Because case management responsibility can change multiple times, the committee has added a new item 2, which provides instruction to the parties for service of any child support pleadings and contact information for the local child support agency that continues to be a party to the child support case.

Several commentators requested some clarifying language to better inform the parties about which court has jurisdiction over the child support case, where the pleadings should be filed, and in which court a hearing will be held. In response, the committee added a new item 3 for specifying the court by name and providing the address of the court where all pleadings must continue to be filed and where any hearings will be held. Also, the notice section of the form has been modified to reference item 3 and provide instruction to the parents.

The Child Support Director's Association (CSDA) requested that the effective date of this new form be changed from July 1, 2011, to January 1, 2011. In support of their position, CSDA states that the DCSS has already implemented the policy regarding transfers of case management responsibility, and case management responsibility is currently being transferred between local child support agencies without explanation or notice to the parties or the court. Further, rule 5.311 of the California Rules of Court allows local child support agencies a period of six months

after the effective date of the form to implement a new or revised Judicial Council form for support actions. Changing the effective date of this form from July 1 to January 1 would ensure that the form would actually be in use by July 1, 2011, rather than January 1, 2012. Moreover, DCSS will need to add this form to its statewide case management system. Previously, DCSS has indicated that it is more cost-effective to make all form changes in its statewide case management system at the same time. Because DCSS will need to revise some Judicial Council forms based on other proposals being considered by the Judicial Council with an effective date of January 1, 2011, having this proposed form become effective on the same date as the other proposals will be more cost efficient for DCSS. To keep the court and the parties informed about which local child support agency has case management responsibility, in which court all pleadings must continue to be filed, and where any subsequent hearing will be held, as well as to increase cost-effectiveness the committee recommends that the effective date of the form be January 1, 2011.

### ***Alternatives Considered***

The Family and Juvenile Law Advisory Committee considered taking no action, but the proposed adoption is necessary to improve administration of title IV-D child support cases. Given these considerations, the committee rejected the option of taking no action.

### **Implementation Requirements, Costs, and Operational Impacts**

The committee is not aware of any implementation requirements, costs, or operational impacts on the local courts arising out of the proposed form adoption. This form will be exclusively generated, filed, and served by the local child support agency; courts will not bear the cost of producing this form.

### **Attachments**

1. Form FL-634, at pages 5–6
2. Chart of Comments, at pages 7–11

GOVERNMENTAL AGENCY (Under Family Code, §§ 17400, 17406):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>DRAFT 14 icb 09/14/10 Not approved by the Judicial Council</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT:	
<b>NOTICE OF CHANGE OF RESPONSIBILITY FOR MANAGING CHILD SUPPORT CASE</b>	CASE NUMBER:

**NOTICE**

The responsibility for managing your child support case has changed from one county's local child support agency to a different county's local child support agency. The managing local child support agency listed in item 1 now has the responsibility for enforcing the child support case. You must direct all future letters, telephone calls, questions, or information regarding your child support case to the managing local child support agency listed in item 1.

However, the change in managing local child support agency does **NOT** change the authority of the superior court to hear matters concerning the child support order. All pleadings and court forms must be filed with the superior court listed in item 3 and served on the local child support agency listed in item 2 and on any other party to the case.

THE COURT AND ALL PARTIES ARE NOTIFIED OF THE FOLLOWING:

1. New Child Support Agency: The Department of Child Support Services of (specify county): \_\_\_\_\_ is now the managing local child support agency responsible for the support activities in this case. If you have any questions or information about your case, you may contact the local child support agency by telephone at (specify telephone number): \_\_\_\_\_ . You may contact the local child support agency in writing or in person at (specify address): \_\_\_\_\_

2. Serving Pleadings: You must continue to serve a copy of any pleadings and court forms on the local child support agency in the following county (specify name and address): \_\_\_\_\_

3. Court Filings: All pleadings and court forms in this action must be filed with the Superior Court of California, County of (specify name and address): \_\_\_\_\_

4. Other (specify): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE)

The local child support agency (listed in item 1) receiving case management responsibilities from another local child support agency must file with the superior court (listed in item 3) this *Notice of Change of Responsibility for Managing Child Support Case* within 10 days of receiving the case management responsibilities. This local child support agency must serve a copy of the notice on the parties and the local child support agency listed in item 2.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE BY MAIL**

1. I am at least 18 years of age, a resident of or employed in the county where the mailing took place, and not a party to this cause.
2. My residence or business address is:
  
3. I served a copy of this *Notice of Change of Responsibility for Managing Child Support Case* by enclosing it in a sealed envelope and depositing the envelope  directly in the United States mail with postage paid OR  at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices, with which I am readily familiar.
  - a. Date of deposit:
  - b. Place of deposit (*city and state*):
  - c. Addressed as follows:
    - (1) Local child support agency listed in item 2:
  
    - (2) Respondent/defendant:
  
    - (3) Other parent:
  
    - (4) Other (*specify*):

4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

 \_\_\_\_\_

(SIGNATURE OF PERSON COMPLETING THIS FORM)

**SPR10-28**

**Child Support: Notice of Change of Responsibility for Managing Child Support Case (adopt form FL-634)**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Family Law Cheryle Lynn Perez	N	The proposal contradicts itself. Paragraph 2, line 5 states that case management responsibility for that case can change, not that it will or has to change. I received a document about this and it too was contradicting, from Indio.	The commentator appears to be referencing the ITC rather than the form. This form will be sent when case management responsibility transfers from one local child support agency to a different local child support agency.
2.	Child Support Directors Association George O. Nielsen Vice-Chair	AM	<p>1. Change the second sentence in the second paragraph of the “NOTICE” box to read, “All pleadings must be filed with the superior court listed <b>in the above caption</b> and served on the local child support agency listed in <b>item 3</b> and on any other party to the case.”</p> <p>2. Add a new item 2, which would state “You must continue to serve a copy of any pleadings on the Local Child Support Agency in the following county (<i>specify name and address</i>)</p> <p>_____.</p> <p>3. Change the current item 2 to item 3.</p> <p>4. Change the effective date from July 1, 2011 to January 1, 2010. The California Department of Child Support Services already has rules and procedures determining the appropriate county to have case management responsibility for IV-D cases. California Rule of Court, Rule 5.311 allows local child support agencies a period of six months after the effective date to implement a new or revised Judicial Council form. Changing the effective date of this form to</p>	<p>The form was modified in the “Notice” section and a new item 3 was added to provide with specificity where all pleadings should be filed and where any hearing will be held.</p> <p>A new item 2 was added to the form. This new paragraph provides for the circumstance where the case management responsibility previously transferred from the county which continues to have jurisdiction over the case.</p> <p>This change was made.</p> <p>In order to keep the court and the parties informed about which local child support agency has case management responsibility, in which court all pleadings must continue to be filed, and where any subsequent hearing will be held, and in an effort to increase cost effectiveness the proposed effective date of the form was revised to January 1, 2011.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			January 1 to July 1, would ensure that the form would actually be in use by July 1, 2011.	
3.	Hon. Christine Copeland Child Support Commissioner Superior Court of San Benito County	NI	In text box below caption, use “court forms” instead of the word “pleadings.”	The phrase “court forms” was added to the form to make the form more understandable to self-represented litigants.
4.	Doug Durward	NI	Although the proposal and the form say that the superior court to use will be listed on the form, it does not seem to have a place where it is actually listed. I see that the Court address area in the caption can be filled in, so I assume this is what they mean, but it is not clear. It seems like there could be a place in the "meat" of the form.	The form was modified in the “Notice” section and a new item 3 was added to provide with specificity where all pleadings should be filed and where any hearing will be held.
5.	Hon. Louise Fightmaster Child Support Commissioner Superior Court of Sonoma County	A	While I think that this process creates a nightmare for the litigants in that they get very confused between the managing county's responsibilities and the continuing exclusive jurisdiction county's responsibilities, this new form is better than no explanation - which is all the litigants have now.	No response necessary.
6.	Susan Groves Family Law Facilitator Superior Court of San Diego County	AM	1. Bold paragraph two in the “Notice” box. 2. Add the following sentence to #2: “However, the superior court listed on this notice is still the court that will hear matters concerning your child support order.”	Both paragraphs in the “Notice” section of the form are equally important. To bold one paragraph would mislead the parties about part of the Notice being more important than other paragraphs on the form.  The form was modified in the “Notice” section and a new item 3 was added to provide with specificity where all pleadings should be filed and where any hearing will be held.
7.	Orange County Bar Association Lei Lei Wang Ekvall President	A		No response necessary.

8 Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
8.	Superior Court of Los Angeles County	A		No response necessary.
9.	Superior Court of San Diego County Michael M. Roddy Court Executive Officer	AM	<p>The following amendments to form FL-634 are recommended:</p> <ol style="list-style-type: none"> <li>1. In order to stress its importance, bold paragraph 2 in “Notice” box.</li> <li>2. In order to emphasize what court should hear matters concerning a child support order that has been issued, add the following sentence to 2.: “However, the superior court listed on this notice is still the court that will hear matters concerning your child support order.”</li> </ol>	<p>Both paragraphs in the “Notice” section of the form are equally important. To bold one paragraph would mislead the parties about part of the Notice being more important than other paragraphs on the form.</p> <p>The form was modified in the “Notice” section and a new item 3 was added to provide with specificity where all pleadings should be filed and where any hearing will be held.</p>
10.	Hon. Rebecca Wightman Child Support Commissioner Superior Court of San Francisco	AM	<p>This form is a very good idea. However, I also believe that the concepts of managing county (e.g. for day to day DCSS enforcement activities), and the county for the responsibility to hear matters concerning the child support order are very, very difficult for lay individuals to understand. While the “Notice” in the boxed section tries to make that distinction clear – lay individuals are still going to get confused.</p> <p>I also think that the second sentence of the 2nd paragraph in the boxed Notice is unclear – and possibly inaccurate depending upon the factual circumstances of a case – when it states: “All pleadings must be filed with the superior court listed on this notice and served on the local child support agency listed in item 2 and any other parties to the case.” When it mentions the</p>	<p>The form was reviewed and changes were made to clarify for the parties which local child support agency has responsibility for managing the child support case, where all pleadings and court forms must be served, and in which superior court all pleadings must be filed.</p> <p>A new item 2 was added to the form. This new paragraph provides for the circumstance where the case management responsibility previously transferred from the county which retains venue over the case. It provides instructions and contact information for the local child support agency where pleadings must continue to be served.</p>

**SPR10-28**

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	Commentator	Position	Comment	Committee Response
			<p>superior court listed on this notice – do you mean listed up on top? What if the “other” section somehow references the name of a superior court –then which one does the litigant file his/her pleadings in? Also, what happens when the managing county gets changed more than once? Example: LA case (where superior court jurisdiction remains and pleadings must be filed); managing county responsibility moves to Sierra Nevada, but then 6 months later the managing county responsibility moves to Riverside. The instruction to serve copies of all pleadings on the agency listed in item 2 is no longer accurate if the 2nd notice tells the litigant that Sierra Nevada is no longer the managing county (i.e. Sierra Nevada is not necessarily the superior court which has jurisdiction for filing of pleadings, so the notice to the litigant to file and serve pleadings on the agency listed in item 2 (Sierra Nevada in this example) will not necessarily be correct (unless I am misunderstanding the purpose and use of this notice).</p> <p>My suggestions:</p> <p>Put the 2nd paragraph in the “boxed” Notice (re: where pleadings must still be filed) in bigger font from the 1st paragraph in that box, AND bold the 2nd paragraph. Specify where on the notice (e.g. top – or as suggested below, in a new item number) the proper superior court is listed that is referenced in this paragraph.</p> <p>Put a new number 3, and a blank line: 3.</p>	<p>Both paragraphs in the “Notice” section of the form are equally important. To bold one paragraph would mislead the parties about part of the Notice being more important than other paragraphs on the form.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			_____ (specify county) in which all pleadings must be filed (i.e. the county which still retains jurisdiction notwithstanding the change in managing county). And re-number the existing number 3 "other" as number 4.	The form was modified in the "Notice" section and a new item 3 was added to provide with specificity where all pleadings should be filed and where any hearing will be held.