

# Child Support Handbook



Children Need the Support and Love of Both Parents

Office of Child Support Enforcement  
Administration for Children and Families  
U.S. Department of Health and Human Services



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# Child Support Handbook

## FOREWORD



The child support program is a federal/state/local/tribal partnership to collect child support: We want to send the strongest possible message that parents cannot walk away from their children. Our goals are to ensure that children have the financial support of both their parents, to foster responsible behavior toward children, and to emphasize that children benefit when both parents are involved in their lives.

The federal child support program was established in 1975 under Title IV-D of the Social Security Act. It functions in all states and several tribes and territories, through the state/county Social Services Department, Attorney General's Office, or Department of Revenue. Most states work with prosecuting attorneys, other law enforcement agencies, and officials of family or domestic relations courts to carry out the program at the local level. American Indian and Native American tribes, too, can operate child support programs in the context of their cultures and traditions with federal funding.

State and tribal child support programs locate noncustodial parents, establish paternity, establish and enforce support orders, modify orders when appropriate, collect and distribute child support payments, and refer parents to other services. While programs vary from state to state, their services are available to all parents who need them.

The federal Office of Child Support Enforcement (OCSE) is part of the U.S. Department of Health and Human Services. It helps states develop, manage, and operate their programs effectively and according to federal law. OCSE pays the major share of state program operating costs, provides location services, policy guidance and technical help to enforcement agencies, conducts audits and educational programs, supports research, and shares ideas for program improvement.

This Child Support Handbook is a guide to help you get the child support payments your children need and deserve. Although it is written for parents who are working through state and tribal child support offices, it will also be useful to those working with private attorneys.

We dedicate this Handbook to the millions of parents who put their children first by responsibly providing for their emotional and financial support.



We have organized the Handbook so that you can refer directly to the sections you need. Your state or tribal child support program is available to help:

- Find a noncustodial parent: **Finding the Noncustodial Parent**
- Establish legal fatherhood for children: **Establishing Fatherhood**
- Establish and maintain a fair, financial and medical support order: **Establishing the Support Order**
- Enforce support orders: **Collecting Support**
- Distribute the money that is collected: **Where the Money Goes**
- With interstate, tribal, and international enforcement: **Working across Borders**

To ensure that children have *parentage* established and to establish fair child support payments, state and tribal child support programs provide:

- Voluntary in-hospital paternity acknowledgement
- *Genetic testing* at the request of either party in disputed paternity cases
- Child support *guidelines* for determining child support orders established in each state
- Review of child support orders at least every three years at the request of either parent

Tools that are available to collect child support include:

- *Income withholding*
- Revocation of drivers, professional, recreational and occupational licenses of parents who are not current in their child support payments
- Seizure of assets, including financial accounts
- Liens on property
- Denial of passports
- Federal and state tax refund offset

To ensure that state and local child support offices have access to information, the federal government operates the Federal Parent Locator Service (FPLS), which includes the *Federal Case Registry (FCR)* and the *National Directory of New Hires (NDNH)*. The FPLS has access to information from state and federal government agencies. The FCR maintains caseload information from all states and territories.

The Administration for Children and Families (ACF) Office of Child Support Enforcement (OCSE) has a [website](#) with current information about the child support program, policy matters, a list of [state and tribal office addresses](#) with links to state websites, and a [frequently asked questions](#) section. The web address is [www.acf.hhs.gov/programs/css](http://www.acf.hhs.gov/programs/css).



The more you take an active role in learning about the child support program and getting information to your caseworker, the more success you will have in obtaining regular and full child support payments for your children.

To learn more about how the program will work for you, or to apply for child support services, call your local child support office. Check the county listings in your telephone book to get the telephone number, or call or write the state or tribal child support agency.

If you have access to the internet, there is a listing of child support agencies at: [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts)

Información sobre el cumplimiento del sustento de menores en español está disponible en: [www.acf.hhs.gov/programs/css/resource/nuestros-hijos-nuestra-responsibilidad](http://www.acf.hhs.gov/programs/css/resource/nuestros-hijos-nuestra-responsibilidad)

\* Words in *italics* are defined in our online [Glossary](#).

Chapter **1** Child Support Handbook

# INTRODUCTION



Are you a parent – divorced, separated or never married – with children to support? Are you a noncustodial parent with questions about your rights and responsibilities? Do you need to locate a parent? ...establish paternity? ...get a child support order? Do you need help to collect child support?

We want to make it as easy as possible for children to have the love and the financial support of both their parents as they grow up. We want to ensure that child support orders are fair – that noncustodial parents are not burdened by a debt they cannot pay – and that children receive regular support payments. We want to ensure that people who bring a child into the world shoulder the responsibility that it entails.

**Those parents who are willing and able to pay** support have their children’s best interests at heart. These children likely will flourish and grow to responsible adulthood. If the parents miss a payment, a caseworker’s early telephone call will often reveal the reason – a change of job or other circumstance, an error in payment identification – and the problem usually can be resolved.

**For parents who are willing but unable to pay**, a number of states have started programs to improve job skills or find employment. States are looking at the benefits of ensuring that child support orders are set at a realistic amount. Many states work with these parents effectively to ensure that child support debt does not drive them away from their children.

**Parents who are unwilling but able to pay** face strong enforcement tools, such as wage withholding, tax offset, passport denial, and asset seizures. Just as important, parents who have a close relationship with their children are more inclined to pay child support: removing barriers to access may lead to increased collections, and to a better chance for children to have a secure, successful adulthood.

**For parents who are unwilling and unable to pay**, services are sometimes available to give them the skills to earn enough money to support their children and help them discover the satisfaction of parenting. Setting fair support orders and helping these parents acquire job and parenting skills might help them to make their children’s lives, and their own, more rewarding.

We hope the child support program will serve the families who need it well: that children will have all of the love and support – both emotional and financial – that both parents, working together, can provide for them.



We have learned a great deal from research. There is clear and convincing evidence that children benefit greatly if both parents are actively involved in their lives. It is critical to children as they grow and develop.

### **Children need two involved parents.**

Over the last four decades, the number of children growing up in homes without fathers has dramatically increased. In 1960, fewer than 10 million children did not live with their fathers. Today, the number is nearly 25 million. More than one-third of these children will not see their fathers at all during the course of a year. Studies show that children who grow up without responsible fathers are significantly more likely to experience poverty, perform poorly in school, engage in criminal activity, and abuse drugs and alcohol. From the point of view of ensuring financial support, research suggests that there is a positive correlation between noncustodial fathers' involvement with their children and their payment of child support.

Visitation and custody seem closely connected to child support, although the law presently separates the issues. However, each state receives grant money from the federal Office of Child Support Enforcement to develop model programs to promote access and visitation programs to increase noncustodial parents' involvement in their children's lives. Your state child support agency can tell you about the program in your state, and if there are other resources through the courts or other systems set up by the state.

### **Most noncustodial parents, like custodial parents, want to be good parents.**

Most parents love their children and want to do right by them, whether they live with their children or not. However, not all parents have the same level of financial security. Just like custodial parents, some noncustodial parents struggle to make ends meet. And sometimes, there are other problems that interfere with healthy parenting, including regular child support payments. Child support offices work with both parents, regardless of their circumstances, to provide respectful and effective services that can help parents address the issues that stand in the way of being the parents they want to be.

The Department of Health and Human Services (HHS) supports programs and policies that reflect the critical role that both fathers and mothers play in building strong and successful families and in the well-being of children. Some programs reach out directly to fathers to promote responsible fatherhood and strengthen parenting skills. Other programs work to discourage young people from becoming parents until they are married and ready for the responsibility. HHS also partners with states and with faith-based and community organizations to promote healthy relationships and responsible fatherhood in local communities. Find more information about HHS initiatives promoting fatherhood at [fatherhood.hhs.gov](http://fatherhood.hhs.gov).



## Child support orders should be fair.

The goal of the child support program is to ensure that children receive reliable support from their parents. Unfortunately, child support debt can drive a wedge between a parent and child. Child support orders that are set too high relative to low-income obligors' ability to pay contribute to child support arrears.

Another cause of child support orders not matching a parent's ability to pay is the establishment of orders by default. Default orders are written if a noncustodial parent fails to appear in the child support case being brought against him or her. All too often, a noncustodial parent will not get the notice of the proceeding, or will not understand that a fairer order might be written if he or she attends the hearing.

The most effective way to avoid arrears for low-income noncustodial parents is to make sure that they are a part of the order establishment process and that the process ends with a reasonable obligation based upon the noncustodial parent's ability to pay it. A number of states' guideline formulas rely on a "self-support reserve" for the basic living expenses of a noncustodial parent before a child support obligation is determined.

## Enforcement, when required, should be effective.

In addition to actions that can be taken through law enforcement and judicial proceedings (such as citations for contempt of court and filing of state and federal criminal charges), over the years, Congress has provided the child support program with strong enforcement tools including: wage withholding, offsetting federal and state income tax refunds, and the ability to secure liens on property.

Most—nearly 70 percent—of child support is collected through payroll and other income withholding. Child support programs have additional enforcement tools to collect support:

### **An expanded Federal Parent Locator Service:**

Provisions in the 1996 bipartisan welfare reform legislation established a Federal Case Registry and National Directory of New Hires to track delinquent parents across state lines. This legislation required that employers report all new hires to state agencies for transmittal to the national directory. It also required expanded and streamlined procedures for direct withholding of child support from wages.

**Financial Institution Data Matching:** In 1998, Congress made it easier for multistate financial institutions to match records by working with the federal Office of Child Support Enforcement. Accounts of non-payers can be seized or frozen to help satisfy a child support debt.

**Passport Denial:** The State Department is notified for passport denial when a parent falls \$2,500 behind in child support payments. If that person applies for a passport, or tries to renew or update it, the passport will be denied until the state that submitted the case is satisfied that the debt is paid or a payment plan is agreed to.

**Project Save Our Children:** An initiative on criminal child support enforcement, Project Save Our Children, is succeeding in its pursuit of chronic delinquent parents who owe large sums of child support. Multi-agency regional task forces, involving federal and state law enforcement agencies, work together to obtain convictions in interstate cases.





In this Handbook, you will find the basic steps to follow to establish paternity, to obtain a support order, and to collect the support due, whether you are working with your state, local, or tribal *child support program* or your own attorney. There is information for noncustodial parents about providing financial and emotional support to your children, about keeping in touch with them, and keeping support orders fair. Although the function of the child support program is to collect and distribute child support payments, throughout the Handbook we hope to give the message that children fare best when both parents play an active, supportive role in their lives.

Child support enforcement is handled according to state or tribal laws and practices. The states and tribes determine the forum under which child support activities take place. In this Handbook, we may use the term “*tribunal*” to refer to the office (court, judicial, or administrative) with authority to make legally binding decisions.

### Who can get help?

Any parent or person with custody of a child who needs help to establish a child support or medical support order or to collect support payments can apply for child support services. People who have received assistance under the *Temporary Assistance for Needy Families (TANF)*, *Medicaid*, and *federally assisted Foster Care* programs are automatically referred for child support services.

Either parent can get help to have a child support order reviewed at least every three years, or whenever there is a substantial change of circumstances, to ensure that the order remains fair. An unmarried father can apply for services to establish paternity – a legal relationship with his child.

A *noncustodial parent* whose case is not in the child support program can apply for services and make payments through the program. Doing so ensures that there is a record of payments.

Location services are available for noncustodial parents whose children have been hidden from them in violation of a custody or visitation order.

Although the majority of custodial parents are mothers, keep in mind that either the mother or father may have primary custody of the child.

### Where do I apply for help in obtaining child support?

You can apply through the local, state or tribal child support office. Usually, applying to your local child support agency is most effective; however, you have the right to apply to another tribunal if that will result in service that is more efficient. The telephone numbers for state child support agencies can be found in telephone directories, usually under the state/county social services agency.

### What does the child support agency need to know?

No matter where you start in the process – establishing paternity, finding a noncustodial parent, establishing or enforcing a support order – the child support office must have enough information to work on your case effectively. All information you provide will be treated in confidence. The more details you provide, the easier it will be to process your case and collect child support payments for your children.



## What documents do I need to bring to the child support agency?

Bring as much as you can of the following information and documents. This will help the child support office to locate the parent, establish paternity, and establish and/or enforce your child support order.

- Information about the noncustodial parent
  - name, address and Social Security number
  - name and address of current or recent employer
  - names of friends and relatives, names of organizations to which he or she might belong
  - information about his or her income and assets – pay slips, tax returns, bank accounts, investments or property holdings
  - physical description, or photograph, if possible
- birth certificates of children
- if paternity is an issue, written statements (letters or notes) in which the alleged father has said or implied that he is the father of the child
- your child support order, divorce decree, or separation agreement if you have one
- records of any child support received in the past
- information about your income and assets
- information about expenses, such as your child's health care, daycare, or special needs

You play a big role in getting the child support your children deserve.

## Is there an application fee?

People receiving assistance under Medicaid, Foster Care, or cash assistance programs do not have to pay for child support services. For all others, a fee of up to \$25 is charged, although some states absorb all or part of the fee or collect payment from the noncustodial parent.

## Are there any other costs?

Because child support agencies may recover all or part of the actual costs of their services from people who are not in a public assistance program, there may be other costs to parents. These can include the cost of legal work done by agency attorneys, costs of establishing paternity, and costs of locating a noncustodial parent. The costs may be deducted from the child support payment before it is sent to you or may be collected from the noncustodial parent. Not all states recover the costs of their services. Your local child support office can tell you about the practices in your state.

Due to a change in law, there is a \$25 annual fee for those individuals who do not receive public assistance after the state has collected and disbursed \$500 on their behalf in a given year. In some states, this fee is charged to the noncustodial parent, in others it is charged to the custodial parent. States also have the option to pay the fee themselves or take it out of the child support collection. Your local child support office can tell you about the practices in your state.



**My state recovers costs from the custodial parent. How will I know how much will be deducted from my support checks?**

Your caseworker should be able to estimate the costs involved in your case, and give you an idea of how much they will deduct from each check before sending it to you.

**Will there be an extra cost if the child support agency is dealing with the child support agency in another state?**

There may be extra costs if more than one tribunal is handling your case. Ask your caseworker to estimate these costs, if any.

**Will the child support agency keep track of my child support payments to make sure they keep coming? I am not in a cash assistance program.**

Child support offices are required to monitor payments to make sure they are made regularly and fully. But you should inform the agency if payments are late or for the wrong amount, or if you receive payments directly. When you monitor your case, you can keep the child support office informed so that it can act quickly if needed.

**The noncustodial parent lives across the state. I cannot afford to take time off from work to travel there for a hearing. How can I get enforcement of my child support?**

Most local child support offices handle enforcement in different jurisdictions of the same state without your having to travel outside your own jurisdiction. Ask your local child support office for details about how enforcement would work in your case.

**I am applying for TANF. Do I have to provide information about the father?**

To be eligible for assistance programs, you must provide information to help identify the father and collect child support from him. Any child support collected will be used to help support your children – going either directly to you or to repay the state for your assistance grant. Your state child support agency will explain how the child support will be used.



**I don't have any way to support my baby without help, but her father is dangerous. I'm afraid to tell the caseworker who he is.**

If you think that you or your baby would not be safe if you try to establish paternity or collect child support, and you need to be in a cash assistance program, you can talk with your caseworker about showing good cause for not naming the father. There are safeguards in place to protect you, such as a family violence indicator that can be placed in your records so that your personal information is not released to anyone who is not authorized to view it.

**My children and I need money now. The noncustodial parent left us ten years ago. Can the child support office still take my case?**

If you apply for services, the child support office will try to find the noncustodial parent to establish or enforce a child support obligation. Be sure to give your caseworker all the information you have that might help find the parent.

Chapter **2** Child Support Handbook

# FINDING THE NONCUSTODIAL PARENT



In most cases, the child support agency must know where the other parent lives or works to establish the paternity of a child, obtain an order for support, and enforce that order.

The most important information that you can provide is the noncustodial parent's Social Security number and any employer information that you know about. When a person makes a legal claim against another, the *defendant* must be given notice of the legal action to take the necessary steps to protect his or her rights. To notify the noncustodial parent in advance – for example, by certified mail or personal service – under the state's service of process requirements child support officials need a correct address. If you do not have the address, the child support office can try to find it.

State and tribal child support agencies, with due process and security safeguards, have access to information from the following:

- State and local government:
  - vital statistics
  - state tax files
  - real and titled personal property records
  - occupational and professional licenses and business information
  - employment security agency
  - public assistance agency
  - motor vehicle department
  - law enforcement departments

- Records of private entities like public utilities and cable television companies (such as names and addresses of individuals and their employers as they appear in customer records)
- Credit bureaus
- Information held by financial institutions, including asset and liability data
- The *State Directory of New Hires (SDNH)*, to which employers must report new employees
- The *Federal Parent Locator Service (FPLS)*

The FPLS, which includes the *Federal Case Registry (FCR)* and the *National Directory of New Hires (NDNH)*, has access to information from:

- The Internal Revenue Service, the Department of Defense, the National Personnel Records Center including quarterly wage data for federal employees, the Social Security Administration, and the Department of Veterans Affairs
- State Directories of New Hires
- *State Workforce Agencies (SWA)*



The FCR includes all *IV-D* child support cases from the 54 states and territories and non-*IV-D* support orders established after October 1998. The NDNH contains new hire records, quarterly wage records for almost all employed people, and unemployment insurance claims.

If you have access to the internet, there is information about the FPLS at:

[www.acf.hhs.gov/programs/css/fpls](http://www.acf.hhs.gov/programs/css/fpls)

### **I think the noncustodial parent is still in the area. What information will the child support office need to find him?**

Most important are the Social Security number and any recent employer's name and address. Also helpful are the names, addresses and phone numbers of relatives, friends, or former employers who might know where he or she works or lives. Unions and local organizations, including professional organizations, might also have information.

### **What if I don't have the Social Security number?**

Social Security numbers are now required on applications (not on the licenses themselves) for professional licenses, drivers' licenses, occupational and recreational licenses, and marriage licenses; on divorce records, support orders, and paternity determinations or acknowledgements; and on death records.

If none of these is available, or the Social Security number was not yet required when the document was issued, the child support office can subpoena information about bank accounts, insurance policies, credit cards, pay slips, or income tax returns. If you and the other parent filed a joint federal income tax return in the last

three years, the child support office can get the Social Security number from the IRS.

Your caseworker may be able to get the Social Security number with at least three of the following pieces of information: the parent's name, place of birth, date of birth, his or her father's name, and his or her mother's maiden name.

### **What if the noncustodial parent cannot be found locally?**

Your child support office will ask the State Parent Locator Service (SPLS) to do a search. Using the Social Security number, the SPLS will check the records of state agencies such as the motor vehicle department, state workforce agency, state revenue department, law enforcement agencies, and correctional facilities. If the SPLS finds that the parent has moved to another state, it can ask the other state to search, and send a request to the Federal Parent Locator Service (FPLS).

### **Can my lawyer or I ask the FPLS to find an address for the other parent?**

Not directly. However, you or your attorney can submit a request to use the FPLS through the local or state child support agency.

### **Can state and federal location efforts be made at the same time?**

Yes. For instance, a search can be initiated by the state to another jurisdiction and to the FPLS at the same time. The FPLS matches child support case data with data in the FCR and with the employment data in the NDNH and has access to information from other federal agencies. Locate information is returned to the state(s) for processing.



### **Can enforcement agencies use the federal income tax return to find out where the noncustodial parent lives and what he or she earns?**

Yes. Under certain conditions, the IRS, working through the federal Office of Child Support Enforcement, may disclose information to the child support office that income providers submit on IRS Form 1099. This information is a valuable tool to help find a noncustodial parent and determine his or her financial assets. The information may only be used for the purpose of enforcing child support orders.

Information available through Form 1099 includes both earned and unearned income, including wages, earnings on stocks and bonds, interest from bank accounts, unemployment compensation, capital gains, royalties and prizes, and employer and financial institution addresses. Even very small businesses submit 1099 asset information to the IRS, so this can be a good source of information. Any information obtained from the IRS must be verified through a second source, such as an employer or bank, before the child support agency can use it.

### **What will happen when the caseworker has the current address of the noncustodial parent?**

The caseworker will verify the home and work addresses and take the next appropriate action on the case, which may include asking the noncustodial parent to come to the child support office for an interview, or notifying him or her that legal action may be taken.

### **The father of my child is in the military, but I don't know where he is stationed. Can the child support agency find him?**

Yes. The FPLS can provide the current duty station of a parent who is in any of the uniformed services.

### **If the child support office can't find the noncustodial parent, does that mean I can't get cash assistance?**

No. You can get assistance from the TANF program if you are trying to help find the noncustodial parent. Your state, local, or tribal child support agency will tell you what information you will need to provide to get assistance.

Chapter **3** Child Support Handbook



# ESTABLISHING FATHERHOOD

A father can acknowledge paternity by signing a written admission or *voluntary acknowledgement of paternity*. All states have programs that give unmarried parents the opportunity to acknowledge the father's paternity of the newborn at the hospital. States must also help parents acknowledge paternity up until the child's eighteenth birthday through vital records offices or other offices designated by the state.

Paternity can also be established at a court or administrative hearing or by *default* if the man was served notice of a paternity hearing but did not appear. Parents are not required to apply for child support services when acknowledging paternity. An acknowledgment of paternity becomes a *finding* of paternity unless the man who signed the acknowledgment denies that he is the father within 60 days. Generally, this finding may be challenged only on the basis of fraud, duress, or material mistake of fact.

If it becomes necessary to seek child support, a finding of paternity creates the basis for the obligation to provide support. A support order cannot be established for a child who is born to unmarried parents until paternity has been established.

It is important to establish paternity as early as possible. While child support offices must try to establish paternity up to the child's eighteenth birthday, it is best to do it as soon as possible after the child's birth.

If a man is not certain that he is the father, the child support agency can arrange for *genetic testing*. These tests are simple to take and highly accurate.

Even if the parents plan to marry after their baby is born, establishing paternity helps to protect the relationship between the child and the father.

## What are the benefits of establishing paternity?

In addition to providing a basis for child support, paternity establishment can provide basic emotional, social, and economic ties between a father and his child. There are strong indications that children whose fathers take active roles in their upbringing lead more successful lives.

Once paternity is established legally, a child gains legal rights and privileges. Among these may be rights to inheritance, rights to the father's medical and life insurance benefits, and rights to social security and possibly veterans' benefits.





The child also has a chance to develop a relationship with the father, and to develop a sense of identity and connection to the “other half” of his or her family. It can be important for the health of the child for doctors to have knowledge of the father’s medical history.

### What will the child support agency need to know to try to establish paternity?

The caseworker needs as much information as you can provide about the alleged father and the facts about your relationship with him, your pregnancy, and the birth of your child. Some of these questions may be personal, but states must keep the information that you give confidential.

The caseworker will also want to know whether he ever provided any financial support, or in any other way acknowledged – through letters or gifts – that that the child was his. A picture of the alleged father with the child is helpful, as well as any information from others who could confirm your relationship with him.

### What if he denies he is the father, or says he’s not sure?

Paternity can be determined by administrative procedures which take into account highly accurate tests conducted on cells gathered by swabbing the inside of the cheek of the man, mother and child. A few jurisdictions may need blood samples. Genetic test results indicate a *probability of paternity* and can establish a legal *presumption of paternity*. These tests can exclude a man who is not the biological father and can also show the likelihood of paternity if he is not excluded. Each party in a contested paternity case must submit to genetic tests at the request of either party or the child support agency.

Because genetic testing is so accurate now, states are struggling with the question of what to do if paternity was established by acknowledgement or because the child was born during a marriage, but later testing proves that the man is not the biological father. Some states have procedures for *disestablishing* paternity. Often, though, when a father/child relationship has been established, states are reluctant to break that bond. State laws and practices determine whether or not paternity can be disestablished.

### If genetic tests are necessary, who pays for them?

If the state orders the tests, the state must pay the cost of the testing. If the father is identified by the tests, some states will charge him for their costs.

If a party disputes the original test result, he or she can pay for a second genetic test and the state must then obtain additional testing.

### What happens if I am not sure who the father is?

If you are not sure, more than one man may be required to take a genetic test. These tests are very accurate, and it is almost always possible to determine who fathered a baby and to rule out anyone who did not.



### **My boyfriend is on a military base abroad and I am about to have his baby. How can I establish paternity and get an order for support?**

You can apply for child support services at your local child support office. If he is willing to sign documents to acknowledge paternity and agree to support, then enforcement can proceed by an income withholding order. If the man is on a naval ship or lives on a military base abroad and will not acknowledge paternity, it may be necessary to wait until he returns to the United States for genetic testing to be done.

### **The father of my child said I would never get a paternity judgment against him because he'd just leave the state. What happens in this case?**

If the accused father fails to respond to a formal *complaint* properly served upon him, a *default judgment* may be entered in court. The default judgment establishes paternity. At the same time, a court order for support may be issued. If the parent has disappeared, state and federal parent locator services can be used to help find him. States must give *full faith and credit* to paternity determinations made by other states in accordance with their laws and regulations.

### **My boyfriend and I are still in high school, and our baby is 6 months old. Why should legal paternity be established if the father has no money to support the child?**

When the father gets older and starts working, he will be able to support the child. Having paternity established legally, even if the order for support is minimal or delayed in order to finish school, means collecting child support will be easier later. Aside from establishing a financial commitment from the father, establishing paternity fosters a personal relationship between the father and child.

Some states have laws enforcing child support obligations with respect to minor parents. If a custodial parent is receiving TANF assistance, the parents of the noncustodial minor parent may be responsible for paying child support. Check with your child support agency to see if your state enforces "grandparent liability."

### **My baby's father lives out of state. Can I still have paternity established?**

Yes, you can. For example, if the baby was conceived in your state, if the father used to live there, or there is another basis for exercising personal jurisdiction, your state can claim "*long arm*" jurisdiction over him, and require that he appear for paternity establishment. If your state cannot claim jurisdiction, the child support agency can petition the state where he lives to establish paternity. Your caseworker will be able to tell you what needs to be done in your case.



### **What happens after paternity is established?**

If it becomes necessary to establish a child support order, a child support caseworker may discuss the child's financial and medical needs with the father and what he is required to pay for child support according to the state child support guidelines. If a court issues a child support order later, it may also include the exact terms of custody, visitation, and other parental rights.

### **I don't want my daughter's father in our lives. I'd rather work two jobs and support my child myself than have him establish paternity. As long as I don't receive public assistance, why does establishing paternity matter?**

There are few situations when it is not in children's best interest to have paternity established. Knowing their father and having his emotional and financial support is very important to children. In the future, information may be necessary for medical reasons, and paternity establishment may make obtaining appropriate medical attention easier. Also, remember, the child's father has the right to request genetic testing to prove that he is the father and he can then establish the legal right to a relationship with his child.

### **My child's father wants to declare paternity. Is there an easy way for him to do this?**

All states offer parents the opportunity to voluntarily acknowledge a child's paternity until the child reaches the age of 18. Forms are available at the hospital or from the state vital records agency. More information is available from the child support agency.

Chapter **4** Child Support Handbook



# ESTABLISHING THE SUPPORT ORDER

Establishing a support order depends on how much success you and your caseworker or lawyer have in several critical areas, such as locating the noncustodial parent, if necessary; identifying what he or she should pay; and determining the financial needs of the child.

A child support order determines the amount of the *obligation* and how it should be paid. All states have child support *guidelines* (a calculation of how much a parent should contribute to the child's financial support) that must be used to establish support orders unless it is shown, in writing, that doing so is not in the best interest of the child. Most state guidelines consider the needs of the child, other dependents, and the ability of the parents to pay. States must use the guidelines unless they can be shown to be inappropriate in a particular case.

Federal law requires every child support order to include a provision for health care coverage. Medical support can take several forms.

The custodial or noncustodial parent may be ordered to:

- provide health insurance if available through his/her employer,
- pay for health insurance (health care coverage) premiums or reimbursement to the custodial parent for all or a portion of the costs of health insurance obtained by the custodial parent, and/or
- pay additional amounts to cover a portion of ongoing medical bills or as reimbursement for uninsured medical costs.

States today can have arrangements for establishing the support order by an *administrative procedure* or other expedited legal procedure. The hearing may be conducted by a master or a referee of the court, or by an administrative hearings officer. An order approved by this kind of procedure, whether contested or made by agreement between the parties, must be based on the appropriate child support guidelines for setting a child support order and generally has the same effect as one established in court. It is legally binding on the parties concerned.

If an agreement for support is made between the parents, it should provide for the child's present and future well-being. It may be useful to discuss these issues together if you can, or with a mediator or family counselor. You may contact your state or tribal agency to learn more about child support guidelines: [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts)



### **What is the most important action that a custodial or noncustodial parent can take to ensure that the order amount is fair?**

The most important action is to appear at the support order hearing with the documents requested in the notification of the hearing. When both parents appear and bring the necessary documents, the tribunal making the determination will be able to make a fully informed and fair decision.

### **How does the caseworker find out about the other parent's income or assets?**

The caseworker will make every possible effort to identify the parent's employment, property owned, and any other sources of income or assets. This information must be verified before the support order is final. Under certain situations, the Internal Revenue Service may provide financial information about the parent's earned and unearned income, such as interest payments and unemployment compensation. Employers are now required to report their new hires to the state, and the state then provides the information to the *National Directory of New Hires (NDNH)*, which is a part of the *Federal Parent Locator Service (FPLS)*. The FPLS can provide income information from the NDNH and from states' quarterly wage records. The child support agency now has access to financial institution data, such as bank accounts and credit bureau data, which may provide information about employers and assets.

### **I'm sure the other parent is willing to pay support. Can we make an agreement between ourselves and present it to the court?**

Laws vary from state to state, but parents who can work out a fair support agreement between themselves can avoid the discord that may occur with contested support hearings. You can get help from a lawyer, mediator or family counselor to present your proposal to the court or administrative hearing officer. The court's sole interest in your agreement is to see that it is fair to all parties, that the welfare of the children is protected, and that the agreement reflects the guidelines.

### **Are the earnings of both parents considered in setting support awards?**

Some states base their guidelines on both parents' incomes (an income-share model), some only on the income of the noncustodial parent (a percentage model). In the models based only on the noncustodial parent's income, it is presumed that the custodial parent is contributing towards the child(ren)'s needs by providing care, food, clothing, and shelter.

### **My wife and I are working out a joint custody agreement. How would the court decide the amount of child support for each of us?**

That depends a lot on the terms of your custody agreement and on your state's child support guidelines; some states have guideline formulas that take joint custody into account. The same factors would apply: state guidelines, each parent's ability to pay, and the needs of the child.



### **My husband's income is enough to support the children and me without a drop in our standard of living after the divorce. Do the courts consider this?**

These decisions, again, are based on the state's guidelines. However, when one or both parents have high income, the tribunal may decide that strict application of the guidelines is not in the best interest of the children. Such a decision may result in a higher and more appropriate support amount than the amount recommended by the guidelines.

### **I have custody and I just heard that my son's mother has had three promotions in the last four years, but the child support is still like it was six years ago. Is there some way to find out when she has a raise?**

Either parent may ask for a review of the order to make sure it is still accurate. Child support offices will review child support orders at least every three years, or if there is a significant change of circumstances, or if either parent requests such a review. Some states have a procedure for an automatic update. Ask your caseworker for information about reviewing and, if appropriate, modifying your child support order. As part of the review, the caseworker will verify the current income of the noncustodial parent. States can adjust child support orders up or down according to child support guidelines, a cost of living adjustment, or automated methods determined by the state.

### **What can I do to get my support increased if it is too low?**

Check with your child support office to see if your support order should be modified. The agency will consider the income and assets of the *noncustodial parent*, and, in many states, your financial situation; and any special needs of the child. If your support amount is found to be low based on the current financial situation, the agency can seek a legal modification.

### **My ex-husband has remarried and has another family to support. How will this affect the support that my children are due?**

Even though the noncustodial parent has a second family, this does not eliminate his responsibility to the first family. In some states, the judge may grant the noncustodial parent a decrease in the obligation based on application of the child support guidelines. You must be notified beforehand and given an opportunity to contest the proposed change. Other factors that could lower the support order include increases in your earnings, or poor health or decreased earning ability of the noncustodial parent. If your child leaves school and becomes employed, that can reduce, or stop, child support payments, too.



### **My children’s father is divorcing again and will have another child support order. He lives in another state and I’m afraid that this other order will be enforced before mine.**

State guidelines may indicate how child support is to be shared when there is more than one support order. If his income will not provide for both orders, the amount of support for your children may be reduced, but you will receive a share of the support collected. For orders enforced by income withholding, states must have a formula for sharing the available income among the support orders. Each family must receive a portion of the available money, and current support has priority over arrearages. Depending on your state child support guidelines, it is also possible that the second support order may be grounds for his requesting a modification of your order. Ask your caseworker for more information.

### **I am the custodial parent. I can’t get health insurance with my job but my ex-wife gets good benefits where she works. Can she be required to put the children on her insurance?**

Yes. The child support agency must petition the court to include *medical support* in any order for child support, for example, when employment related or other group health insurance is

available to the noncustodial parent at a reasonable cost. If a custodial parent has access to better health care coverage, the support order may include that coverage instead and increase the noncustodial parent’s obligation to offset the cost. Court orders can also be modified to include health care coverage.

States must have laws that should make medical support enforcement easier. For example, insurers can no longer refuse to enroll a child in a health care plan because the parents are not married or because the child does not live in the same household as the enrolled parent. In addition, child support agencies can require an employer to include a child on a medical insurance plan when the noncustodial parent participates in a group health plan but does not enroll the child.

This law provides that custodial parents can obtain information about coverage directly from an insurer, submit claims directly to the insurer, and be reimbursed directly by an insurer. For specific information about these laws in your state, contact the child support office.

Chapter **5** Child Support Handbook

# COLLECTING SUPPORT



A main objective of the child support program is to make sure that child support payments are made regularly and in the correct amount. While *noncustodial parents* who are involved in their children's lives are usually willing to pay child support, lapses of payment do occur. When they do, a family's budget can be quickly and seriously threatened.

Some noncustodial parents do not pay regularly, and some spend a lot of effort and energy evading their responsibility for their children. The anxiety the *custodial parent* feels when payments are not regular can easily disrupt the family's life.

For this reason, Congress decided that *immediate income withholding* should be included in all child support orders. (States must also apply withholding to sources of income other than wages, such as commissions and bonuses; and to worker's compensation, disability, pension, or retirement benefits.) For child support orders issued or modified through state child support programs, immediate income withholding began on November 1, 1990. Immediate income withholding began January 1, 1994 for all initial orders that are not established through the child support program. The law allows for an exception to immediate income withholding if the *tribunal* finds good cause, or if both parents agree to an alternative arrangement. In these cases, if an *arrearage* equal to one month's payment occurs, that will automatically trigger withholding.

If the noncustodial parent has a regular job, income withholding for child support can be treated like other forms of payroll deduction, such as income tax, social security, union dues, or any other required payment.

If payments are skipped or stop entirely, especially if the noncustodial parent is self-employed, moves or changes jobs frequently, or works for cash or commissions, the child support office will try to enforce the support order through other means. Subject to due process safeguards, states have laws which allow them to use enforcement techniques such as: state and federal income tax offset, *liens* on real or personal property owned by the debtor, freezing of bank accounts, orders to withhold and deliver property to satisfy the debt, passport denial, or seizure and sale of property with the proceeds from the sale applied to the support debt. The child support office can use these methods without directly involving the courts.





All states have agreements with financial institutions doing business in their state for the purpose of conducting a quarterly data match known as the *Financial Institution Data Match (FIDM)*. The purpose of FIDM is to identify accounts belonging to noncustodial parents who are delinquent in their child support obligations. Once identified, these accounts may be subject to liens and levies issued by state or local child support agencies. An institution doing business in two or more states (*multistate financial institution*) has the option to conduct the quarterly data match with the Office of Child Support Enforcement or with the states where the institution does business. States are responsible for issuing levies to the financial institutions to collect the past-due child support.

Under the Passport Denial Program, states certify cases in which an obligor owes more than \$2,500 in unpaid child support. The Office of Child Support Enforcement transmits the information to the Department of State so that a U.S. passport will not be issued, or renewed, to someone who is not supporting his or her children. Passports can be seized if the holder requests a change, such as a new address or an additional dependant. In some cases, the child support agency can help to obtain a federal warrant. The Department of State can then start procedures to revoke the passport or arrest the obligor at the border when he or she returns to the United States.

If actions available through the child support program are not successful, state child support agencies can take cases to court for other enforcement actions such as show cause hearings, contempt of court proceedings, and criminal prosecutions.

### **The noncustodial parent refuses to pay child support, but owns a good deal of property in the county. Can a lien be issued on the property?**

Yes. However, a lien on property does not by itself result in the immediate collection of any money. It only prevents the owner from selling, transferring, or borrowing against the property until the child support debt is paid. Even so, the presence of a property lien may encourage the noncustodial parent to pay the past-due child support in order to get clear title to the property. States are now required to give full faith and credit to liens issued by another state.

### **Is it possible to collect the support payments from personal property?**

Under some state laws, the enforcement official can issue an order to withhold and deliver. The order is sent to the person, company, or institution that is holding property belonging to the debtor, such as a bank account, investments, or personal property. The holder of the property must deliver it either to the enforcement agency or court that issued the support order. Some states permit the property to be attached or seized and sold to pay the debt. Some states require noncustodial parents with a poor payment history to pledge property as a guarantee of payment. Non-payment results in forfeiture of the property.



### **Can I have the income withholding applied to my existing child support order?**

Yes. You can apply for the income withholding through your local child support office or your attorney. Though there are limits on how much of a person's check can be withheld, income withholding can be used for both ongoing support and arrearages. Ask the child support agency how this can be done.

### **Why can't my attorney work on my child support problem while I am receiving services from the child support program?**

Your attorney can work with the child support program. For best results, the attorney and staff in the child support agency should coordinate their efforts to prevent duplication of services and conflicting enforcement decisions.

### **My child's mother works for a big company and has moved several times in her job. Can income withholding work in this case?**

Yes. States must recognize the income withholding orders from other states, and continue the income withholding as ordered, without regard to where the noncustodial parent or the custodial parent and children live.

### **My ex-husband has a good job and is willing to have the payments deducted from his paycheck, but his employer won't do it. What can I do?**

Under every state's law, an employer **must** withhold the support if ordered to, or if the noncustodial parent requests it. If you run into problems with an employer, seek the assistance of your child support office. The state child support agency staff will send the employer a withholding notice, which is binding on the employer. An employer who fails to withhold the income in accordance with the notice is liable for the accumulated amount that should have been withheld from the noncustodial parent's income. Employers who have questions about income withholding can find [information and contacts](http://www.acf.hhs.gov/programs/css/employers/employer-contact-program-information) on the Office of Child Support Enforcement website: [www.acf.hhs.gov/programs/css/employers/employer-contact-program-information](http://www.acf.hhs.gov/programs/css/employers/employer-contact-program-information)

### **The children's father is paid in cash under the table. Income withholding won't work for me. What will?**

Automatic billing, telephone reminders, and delinquency notices from your child support office might convince him to make regular payments. Other techniques, such as property attachment, credit bureau reporting, tax refund offset, and liens might work for the arrearages. States can suspend or revoke drivers, professional, occupational, and recreational licenses if an arrearage develops. If none of these are successful, your child support office can take the case to court for stronger enforcement methods.



### **The children's father works irregularly and doesn't have much money. What can I do?**

Sometimes, a noncustodial parent works part time or is out of work. While all parents have the responsibility to support their children, sometimes they struggle to pay their entire support obligation. Either parent may request that the support order be adjusted to reflect the parents' financial circumstances. In addition, some courts may order noncustodial parents to participate in an employment program or child support offices may refer parents to services to help them get back on their feet and working regularly.

### **My ex-wife has her own computer programming service. How can the child support office find out how much she earns, and how can they collect the money?**

The child support office has access to information from the Internal Revenue Service to determine her income and assets. This information will help to set the support order amount.

Cases involving self-employed noncustodial parents can be challenging to work, and often take more time and effort. If it is not possible to arrange for an allotment or withholding, it may be possible to secure liens on her payments from regular clients or to garnish her bank account. If her business depends on having a license, she may make arrangements to pay rather than risk losing her license. Knowing that arrears will be

reported to a credit bureau may give her a strong incentive to comply with the order. Provide your caseworker with as much information as you can about the business and her clients.

### **My children's father owns a cross-country moving van. Why won't the child support office put a lien on it?**

Most states will not attach property that a person needs to make a living. Talk to your caseworker about what kinds of property are available for liens and attachment in your state.

### **Can past-due child support be taken from the state income tax refund?**

All states with state income tax must have laws that require the *offset* of state income tax refunds to collect past-due child support. The money first goes to satisfy current support due for that month, next for past-due support owed to families, and finally to states to repay cash assistance provided the family.

### **How does the non-paying parent find out that his or her state tax refund will be taken?**

The state must notify the noncustodial parent in advance of taking the action. The notice specifies the amount owed in arrears and the amount to be offset. It also tells whom to contact if the person wants to contest the offset.



### **Can federal income tax refunds be offset the same way?**

Yes. States can request an offset of federal tax refunds for past-due support over \$500 owed to families on behalf of both minor and non-minor children, as well as over \$150 owed to states that have provided assistance. States may choose how they distribute collections from federal tax refund offsets. Some states pass some or all of the offset collections through to the family. Others apply some or all of the offset collections to money owed to state and federal governments for assistance provided before distributing to families who are owed support.

### **My ex-spouse is in the Army. How do I go about having child support payments deducted from a paycheck? And can I get medical coverage for my child?**

Members of the military are subject to the same income withholding requirements as other public or private employees. If a service member is not meeting a support obligation, an income withholding order can be sent to the Defense Finance and Accounting Service (DFAS) Center in Cleveland, Ohio. Ask your child support office for information on how to start this action. See [information on working with military and veteran parents](#) on the Office of Child Support Enforcement website at: [www.acf.hhs.gov/programs/css/military-veterans](http://www.acf.hhs.gov/programs/css/military-veterans)

The DFAS website also has useful [child support information](#).

To get medical coverage for a child of a military member, the child must be enrolled in the [Defense Enrollment Eligibility Reporting System \(DEERS\)](#) at <http://tricare.mil/Welcome/Eligibility.aspx>.

Contact the Defense Manpower Data Center support office for enrollment information.

800-334-4162 (California only)  
800-527-5602 (Alaska and Hawaii only)  
800-538-9552 (all other states)

### **My children's father retired from the Navy when he was only 40, just before our divorce. Can his military retirement check be garnished for back child support?**

Yes. It is possible to garnish the income of retired members of the military. With the assistance of your caseworker or lawyer, you can get a garnishment order from the court and send it with a certified copy of your child support order to DFAS (as above). Your local child support office can tell you the exact procedures and follow through on your behalf.



### **The children's mother works for the federal government. She was recently transferred and stopped making payments. What do I have to do to get them started again?**

All federal employees are subject to income withholding. Transfers within a department should not affect an income withholding order because there is a central payment office for each department. If you do not have a formal support order, ask a child support office or an attorney about establishing one. If you have a child support order, your child support office or attorney can help you to secure payments by income withholding. If she has moved to a different department, the Federal Parent Locator Service (FPLS) can provide her new location.

### **My child's father is a contractor who receives payments from the federal government. Can the federal payments be seized for back child support?**

Various types of payments can be seized through *Administrative Offset* to pay child support. They include both recurring and one-time payments. Types of payments that can be intercepted include payments to private vendors who perform work for a government agency, federal retirement payments, and relocation and travel reimbursements owed to federal employees.

Some payments cannot be intercepted through this program. They include Department of Veterans Affairs disability benefits, federal student loans, some Social Security payments,

Railroad Retirement payments, Black Lung benefits, and payments made under certain programs based on financial need, or those that are excluded by the head of the federal agency that administers them.

A case is eligible for an Administrative Offset when the noncustodial parent owes at least \$25 in past due support and is at least 30 days delinquent in his or her child support payments. People who owe child support debts subject to Administrative Offset will be notified via a Pre-Offset Notice, which also includes information about the Federal Tax Refund Offset and Passport Denial programs. The Pre-Offset Notice also provides information about how to contest the debt amount.

States must submit to OCSE those cases that meet the criteria for the Federal Tax Refund Offset Program. The states use the same process to submit to the Administrative Offset Program. When a match occurs between the records of people who owe child support debts and the payment records for federal payees, the *Financial Management Service (FMS)* in the Department of the Treasury will seize the amount and transmit it to the state, through the federal Office of Child Support Enforcement. FMS will also send a notice to the noncustodial parent explaining the type of offset that occurred and referring him or her to the appropriate child support agency for further information.



### **The children's father lost his job and is collecting unemployment compensation. Can child support payments be deducted and sent to me?**

Yes. Unemployment compensation, and other state and federal benefits can be tapped for child support. Ask your caseworker about the procedures, and make sure you tell your caseworker immediately if you learn about changes in the father's employment situation.

### **By my own calculation, my ex owes me \$3,475 in past-due child support. Can the child support agency try to collect it for me?**

If this support was owed before the child support office became involved in your case, the child support office will have to verify the amount owed. You may have to present evidence of the debt to a court before collection procedures can start. While the debt is being verified, the agency can try to collect support payments for current months.

### **I heard that my children's father is buying a very expensive car. He owes over \$5,000 in back support. Can the credit agency be told this?**

Yes. By law, the child support office must periodically report the amount of past-due child support to credit reporting agencies. Consult your caseworker for more information.

### **My ex-wife has declared bankruptcy and says she doesn't have to pay child support. Is that true?**

Child support payments generally cannot be discharged in bankruptcy. This means that the parent who owed child support cannot escape this duty by filing for bankruptcy. As of October 1994, bankruptcies do not act as a *stay*, or hold, on actions to establish paternity or to establish or modify child support obligations. The relationship between child support and bankruptcy is complex, and you may need the help of someone familiar with bankruptcy law. Ask your caseworker how the child support office can help.

### **My daughter's father says that since he gives her gifts and money he does not have to pay child support.**

An order for support specifies how support is to be paid and gifts or payments made outside the order are generally not considered a credit against the ordered child support amount. If he is not paying as ordered, check with the child support agency about enforcing the order. If you do not have a support order, you can talk with staff in the child support agency about establishing one.



### **The child support office is not enforcing my case. Can I take it to a federal court?**

If your caseworker and state child support office have had no response to their requests for enforcement in another *jurisdiction*, it is possible for the case to be heard by a federal court. This is not done often, and the decision to use a federal court will be made by federal investigators with help from the referring child support agency. The U.S. Attorney that has jurisdiction in your area makes the final decision about whether to prosecute. If you are not satisfied with the services you are receiving in your local child support office, you may ask your state child support agency for help. See [state and tribal agency addresses](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts) at [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts).

Chapter **6** Child Support Handbook



# WHERE THE MONEY GOES

It is important that families receive their child support payments as quickly as possible. Any delay can quickly and seriously threaten a family’s budget. For this reason, states are required to distribute most payments within two days of their receipt. When two states are involved, each one must send payments out within two days.

Each state has established a payment processing center, often called a *State Disbursement Unit (SDU)* — a single unit to receive and send out payments for child support. These SDUs are intended to get payments out with a minimum of turnaround time. They have the additional advantage of providing a single place in the state to which employers can send child support payments collected from their employees.

The SDUs are responsible for:

- receipt and disbursement of all payments;
- accurate identification of payments;
- prompt disbursement of the custodial parent’s share of any payment;
- furnishing to any parent, upon request, timely information on the current status of payments under a support order; and
- maintaining a statewide record of support orders.

Families who receive public assistance under the *Temporary Assistance for Needy Families (TANF)* program, must “assign,” or sign over, their right to unpaid child support to the state. States have different laws and policies. Some states “pass through” child support collections to families who receive TANF without reducing the assistance payment. Other states keep the money when collected to repay TANF benefits received by the family.

After the family leaves the assistance program, the total current support collection goes to the family. Amounts collected beyond the amount ordered as current support are considered to be payments towards arrearages owed to the family or to the state. Under current laws, families receive their post-assistance arrears before the state collects money to repay the government for the assistance payments.





### Will I receive the entire amount of support paid?

If you have not received cash assistance, you will receive the total child support payment (less any fees the state may collect). If you are receiving cash assistance, check with your state child support agency. Some states will pass some or all of the child support payments through to you. Others will use the entire amount to repay the money provided to your family. If you are not receiving cash assistance now but did in the past, and if amounts are still owed to the state, any support collected beyond the amount ordered for current support and for arrearages owed to you may be used to reduce the arrearages owed to the state.

### My child's father told me weeks ago that his federal tax refund was taken for child support. When will I get the money?

It usually takes three to five weeks from the time the money is offset from the obligor's tax refund until the state receives it. The Department of the Treasury has encouraged states to hold collections from joint tax returns for up to six months in case the obligor's spouse who does not owe child support files for his or her share of the refund. The Office of Child Support Enforcement and Treasury Department will work together to provide information to the states if the spouse has filed a claim for his or her part of the refund and has received the money. States will be able to distribute the offset to the family when they receive that information. When a family receives or used to receive TANF benefits, states have the option to keep federal tax refunds to repay the benefits. Check with your child support agency to see if the money has been collected and, if so, when you can expect to receive it.

Chapter **7** Child Support Handbook

# WORKING ACROSS BORDERS



## COOPERATION BETWEEN STATES, TRIBES, COUNTRIES Interstate/Inter-jurisdictional Enforcement

It has been difficult to collect child support when the parent obligated to pay child support lives in one *jurisdiction* and the child and custodial parent live in another. However, all state and tribal child support agencies are required to pursue child support enforcement, including location, paternity establishment, and establishment of support obligations, as vigorously for children who live outside their borders as for those under their own jurisdiction.

With the enactment of the *Full Faith and Credit for Child Support Orders Act*, and the federal mandate that all states enact the *Uniform Interstate Family Support Act (UIFSA)*, interstate enforcement of child support obligations is improving. Tribes have not been required to enact UIFSA in order to receive federal funding for child support programs, as states have been required to do. However, courts of all United States territories, states and tribes must give full faith and credit to a child support order issued by another state or tribe that had jurisdiction over the parties and the subject matter. UIFSA includes a provision designed to ensure that, when more than one state is involved, there is only one valid child support order that can be enforced for current support. The law also includes a provision that allows a child support agency to work a case involving an out-of-jurisdiction obligor directly if certain conditions are met.

UIFSA has procedures under which an enforcement official (or private attorney) can refer a case to another tribunal within the United States. The laws can be used to establish paternity and to establish, modify, or enforce a support order.

Interstate *income withholding* can be used to enforce a support order in another jurisdiction if the noncustodial parent's employer is known. Under UIFSA, income withholding can be initiated in one state and sent directly to an employer in another without involving the child support agency in that state. Laws vary, and you will need to ask your caseworker whether this option is available in your case.

All state child support agencies have an office called the Central Registry to receive incoming interstate child support cases, ensure that the information given is complete, send cases to the right local office, and respond to inquiries from out-of-jurisdiction child support offices. Standard forms make it easier for state and tribal caseworkers to find the information they need to enforce a case, and to be sure they are supplying enough information for another jurisdiction to enforce their case.



**I know the out-of-state address of my children’s father, and my caseworker sent a petition to establish my support order there. That was three months ago, and still no support payments. What’s wrong?**

It could be several things: enforcement officials may not be able to serve notice on the noncustodial parent due to inadequate address information; if a hearing is necessary, it may take a while to get a court date. Generally speaking, a state must complete service of process to begin an action within 90 days of locating the noncustodial parent, and the majority of orders should be established within six months from the date of service of process. Continue to keep in touch with your caseworker to resolve any delay or provide any new information you may have.

**I need to establish paternity for my child, and the father lives in another part of the country. How does this work?**

The fact that you and the presumed father live in different jurisdictions will not keep you from pursuing a paternity establishment action. Your state may be able to claim jurisdiction and establish paternity if the father has lived there, the child was conceived in your state, or there is another basis to exercise personal jurisdiction. Otherwise your state can petition the other jurisdiction to establish paternity under their laws. Often, genetic tests will be ordered to help prove paternity. Ask your caseworker for specific information about the laws in your state and the state where the other parent lives.

**My caseworker filed an interstate petition for paternity. The father denied it, and the other court just dismissed the case. What went wrong?**

A responding child support office should not dismiss a case without asking for the information it needs. The initiating state is required to provide that information within 30 days. (Tribal child support agencies do not have this requirement.) Either party in a contested paternity action can request blood or genetic testing. Ask your caseworker to reopen the case. You have the right to establish paternity until your child’s 18th birthday.

**If paternity is established in another state, will the support order also be entered in that state?**

Yes. UIFSA procedures cover establishing paternity and establishing and enforcing child support orders when more than one tribunal is involved. Ask your caseworker how this is done.

**Will location and enforcement services cost more if my agency is dealing with another state or jurisdiction? I am not receiving cash assistance.**

Possibly. It depends on what the child support office has to do to find the noncustodial parent and establish regular payment. The more solid information and leads you provide, the more efficiently your case can be worked. For non-assistance cases, service fees vary by state. Your caseworker should be able to tell you more about these costs. (See discussion about costs in Chapter 1, Introduction.)



### **I don't have a child support order. Can I establish one by petitioning the court where my ex-husband lives?**

Yes. Your child support office can also do this. Depending on the facts, it could be handled in your jurisdiction or referred to another jurisdiction under UIFSA. An affidavit of the facts, indicating the name and address of the responsible parent, details of your financial circumstances, and the needs of the child, will be included. The petition will be sent to the child support agency, the court, or the interstate official where the father lives. The responding jurisdiction will review the petition, together with information about the father's ability to pay, and set the amount to be paid.

### **I have had to wait several months for my child support agency to get a reply to its request for location assistance in another state. Why does it take so long to get an answer?**

Even though they try to be responsive, child support agencies have a very high demand for their services. An agency's ability to act rapidly depends on the characteristics of the case, the quality of information received, and the amount of staff and other resources they have to devote to it. Be sure to follow up regularly with your caseworker to make sure that each jurisdiction is actively working your case.

### **As soon as the children's father is notified about enforcement, he moves. How will I ever be able to collect my support?**

It is difficult to enforce child support payments when the noncustodial parent intentionally moves

to avoid paying. Try to be an active participant in your own case. Whenever you learn that the noncustodial parent has moved or has a new job, you tell your caseworker as soon as possible. All states are required to have a State Directory of New Hires, and employers are required to report hiring new employees within 20 days. That information, in turn, is sent to the National Directory of New Hires. This helps locate the noncustodial parent quickly if he or she moves on to a new job.

### **Isn't there a law now that makes it a federal crime to not pay child support if the child lives in another state?**

The Child Support Recovery Act of 1992 (CSRA) made it a federal crime to willfully fail to pay support for a child living in another state if the arrearages exceed \$5,000 or are unpaid for longer than a year. That law was strengthened in 1998 by Public Law 105-187, which added new categories of felonies with stronger penalties for more blatant child support evaders. Because successful prosecution depends on extensive investigation, the U.S. Attorneys' offices are very selective about the cases they accept. Priority is given to cases: (1) where there is a pattern of moving from state to state to avoid payment; (2) where there is a pattern of deception (using a false name or Social Security number); (3) where there is failure to make support payments after being held in contempt of court; and (4) where failure to make support payments is connected to some other federal offense such as bankruptcy fraud. The U.S. Attorneys may also require that it can be shown that the nonpayer has financial resources and is able to pay.



In nearly all cases, U.S. Attorneys ask that cases be reviewed and forwarded to them by state child support offices. When a child support office has screened and referred the case, the U.S. Attorneys can be reasonably sure of receiving significant information about the case and that civil and state criminal remedies are exhausted. Check with your caseworker to see if prosecution under the CSRA would be available in your case. The final decision about whether to prosecute is with the U.S. Attorney, relying heavily on information provided by the child support agency.

**My former wife lives in another state. She owns an expensive car, jewelry, and several pieces of property. Would the child support program be able to attach this property for child support?**

An interstate child support action may be filed on your behalf to ask the other state to attach this property.

**The children's mother lives in another state and every time the kids come home from there, they talk about her new car or stove or something, but she still won't pay her child support. Why can she get credit if the courts know she owes her kids so much?**

Child support office staff must report child support arrearages to credit bureaus, so that information is available to people or offices that offer credit. Also, the state notifies the noncustodial parent if the debt will be reported to the credit-reporting network. Sometimes, that is enough to encourage payment of the overdue support.

### Tribal Cases

The child support program recognizes the unique relationship between the federal government and federally recognized Indian Tribes, and acknowledges this special government-to-government relationship in the implementation of the tribal provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). For the first time in the history of the child support program, PRWORA authorized tribes and *tribal organizations* to operate child support programs like states do.

Within much of tribal territory, the authority of state and local governments is limited or non-existent. The Constitution, numerous court decisions, and federal law clearly reserve to tribes important powers of self-government, including the authority to make and enforce laws, to *adjudicate* civil and criminal disputes including domestic relations cases, to tax, and to license. States have been limited in their ability to provide child support services on tribal lands, and sometimes American Indian and Native American families have had difficulty obtaining services from state child support programs. Cooperative agreements between tribes and states have helped bring child support services to increasing numbers of American Indian families.

View the [tribes that are operating child support programs](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts) at [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts).



**My ex-husband is an American Indian who lives and works on an Indian reservation. Can the child support program help get child support for my children?**

If your ex-husband is a member of a tribe with a child support program, this will not be a problem. The state office should contact the tribal child support office and work cooperatively with them to get the child support you need. You may also want to consider applying for child support services directly from the tribal child support office.

If your ex-husband is a member of a tribe that does not operate a child support program, your caseworker should contact the tribal court and ask about the tribal procedures for child support. Most tribes have an office that handles child support cases even if they do not have funding from the federal government to operate a tribal child support program.

**My ex-husband is not an enrolled tribal member, but he works on a reservation. Will his employer withhold income from his check to make the child support payment?**

If the tribe is operating a child support program, your caseworker should send the income withholding order through the tribal child support agency. The tribal child support agency will present the income withholding order to the tribal enterprise for processing and income withholding.

If the tribe does not have funding from the federal government to operate a child support program, your caseworker should contact the tribal court and ask about the tribal procedures for honoring an income withholding order. In most instances, the tribal enterprise will honor the withholding order, but it must be processed through the tribe's procedures.

**I am an enrolled tribal member and a mother of a three-year-old and I live on a reservation. His father is not an American Indian, does not live on the reservation, and does not fall under the jurisdiction of the tribal court. How can I get him to help support his son?**

If your tribe has a child support agency, work through that office to establish and enforce an order. You can also apply for child support services with the appropriate state office. There is nothing to preclude you from applying for services with both the tribe and the state. States and tribes are working cooperatively to ensure that the children get the support that they need.



## International Cases

### **The father of my child has left the United States. How can I get my court order for child support enforced?**

The U.S. government has negotiated federal-level reciprocity declarations with several countries and is negotiating declarations with others on behalf of all U.S. jurisdictions. See the [list of countries with reciprocity agreements](http://www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries) at [www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries](http://www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries).

If there is not a federal-level agreement, check with your state child support agency. Many state child support agencies have agreements with foreign countries to recognize child support judgments made in other countries. The [Intergovernmental Reference Guide](#) includes information given to us by the states about countries that they work with. These international child support agreements specify procedures for establishing and enforcing child support orders across borders. While requirements for getting enforcement action may vary depending on the other nation involved, a parent will be asked to provide the same information as in a domestic case, including as much specific information as possible, such as address and employer of the noncustodial parent.

If the noncustodial parent works for an American company or a foreign company with offices in the United States, income withholding might work even if the country he lives in does not have an agreement to enforce an American state's order. Even in cases where the noncustodial parent is living and working in a country that has no reciprocity agreement, approaching the foreign employer directly for help might prove successful.

### **I checked with the child support office, but my daughter's father lives in a country that has no agreement with any state to enforce child support obligations. Is there anything else to try?**

The Department of State Office of American Consular Services may provide a list of private attorneys in that country that could assist you with your child support case. You should discuss their fees and the type of services they could provide with the attorneys. Please note that the State Department does not endorse any attorneys. The Office of Consular Services information is below:

Department of State  
Office of Citizens Consular Services  
Washington, DC 20520

Phone: 1-888-407-4747 or 1-202-647-5225  
(Press zero and ask for information about obtaining foreign legal counsel.)

Website: [travel.state.gov/law/judicial/judicial\\_2519.html](http://travel.state.gov/law/judicial/judicial_2519.html) (Not all countries have local attorneys listed.)



**My child’s mother is still in this country, but I understand that she is planning to live abroad with her new husband. She owes \$14,000 in child support. Is there anything the child support office can do?**

States certify cases in which an obligor owes more than \$2,500 in unpaid child support to the Secretary of Health and Human Services, who, in turn, will transmit the certification to the Secretary of State for denial of passports. The passport can also be seized if she asks for any change — change of address, addition of a child, etc. In addition, you should ask your caseworker if the court can impose a bond to secure payment of the arrears and future support.



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# NONCUSTODIAL PARENTS' RIGHTS AND RESPONSIBILITIES

Bringing a child into the world means making a commitment to care for him or her throughout childhood – ensuring the best possible environment to grow in. Children need safe places to live, nourishing food, education, and a solid foundation of values.

Mothers and fathers bring different, but equally important, qualities to their children. In a divorce or non-marital situation, either parent may be granted custody of the child – or both may share equally in the physical custody and/or decision-making responsibilities.

## **I'm getting a divorce and my spouse wants me to pay child support directly to her. Can I insist on paying through the child support office?**

A noncustodial parent can apply for child support services if the case is not being enforced through the child support program, unless the support order requires you to pay her directly. Since January 1994, support orders must include a provision for *income withholding* unless both parents and the courts agree on another payment method. If your order does not call for income withholding, you can request this service. If you do, you will have a record that you have made payments as required. If you are self-employed, you may be able to arrange for an automatic transfer of funds to the child support agency through *electronic funds transfer* (EFT). Either parent can apply for child support services, which include collecting and distributing payments.

**I'm the noncustodial parent. I love my kids. I pay my child support. About half the time when I go to pick them up for my weekend, my ex-wife has made other plans for them. It's not fair that the state will enforce my child support obligation but not do anything about my right to see my kids.**

Many state or local governments have developed procedures for enforcing visitation orders. Also, the federal government has made funding available to states for developing model programs to ensure that children will be able to have the continuing care and emotional support of both parents. Check with your local child support agency and clerk of court to see what resources are available to you and to find out about laws that address custody and visitation. See a [list of state Access and Visitation contacts](#).



## After I pay my child support, I don't even have enough money for a place to live. When my child support order was set, I was making about \$300 a month more than I am now. Can I get the order changed?

Either parent can request a review and adjustment, if appropriate, of a child support obligation at least every 36 months, or sooner if there has been a substantial change in circumstances such as reduced income of the obligated parent or a change in medical support provisions. Check with your child support office to see if your child support obligation is in line with state guidelines and ask how to request a review.

If your case does not meet the state's standards for review, either because the order has been reviewed within your state's review period or the change in income is smaller than would merit an adjustment under state standards, you may still be able to petition the court for a hearing. In this case, it may be helpful to have the services of an attorney. Your local legal aid society may be able to advise you about finding low-cost counsel if you cannot afford a private attorney. Also, a number of states have information about how to handle your case *pro se* (a legal term for representing yourself) to have the courts determine if your support obligation should be changed. Contact your local child support office or the clerk of the court for more information.

In addition, some courts and child support offices partner with employment programs and other agencies to provide employment services to noncustodial parents who are struggling to make ends meet and support their children. Again, contact your local child support office.

## Is there a limit to the amount of money that can be taken from my paycheck for child support?

The amount that can be withheld from an employee's wages is limited by the Federal Consumer Credit Protection Act (FCCPA) to 50 percent of *disposable income* if an obligated parent has a second family and 60 percent if there is no second family. These limits are each increased by 5 percent (to 55% and 65%) if payments are in arrears for a period equal to 12 weeks or more. State law may further limit the amount that can be taken from a wage earner's paycheck.

## I can't find my child and the custodial parent. What can I do?

One of the services of the child support program is helping to locate children in parental kidnapping cases. Federal law allows the use of the Federal Parent Locator Service (FPLS) in parental kidnapping or child custody cases (including cases in which the custodial parent has hidden the child in violation of a visitation order) if: 1) a civil action to make or enforce a custody order has been filed in the state courts; or 2) a criminal custodial interference case is being investigated or prosecuted.

Requests for information from the FPLS in custody and parental kidnapping cases must come from a state child support agency. See [state and tribal child support agency contact information](#). States may collect a fee from people using the service to cover processing costs.



## **I just found out that I was named the father of a child I never even knew about. How can that happen and what can I do about it?**

If you have received papers naming you as the father of a child, and providing information about attending a hearing, contacting the child support agency or some other tribunal, or other action that you must take, it is very important to follow up as required by the document you received. Check with the child support agency to see how to request genetic testing, or to learn about paternity establishment in your state.

There are cases in which a man can be determined to be the father of a child if he was “properly served” notice of a paternity hearing but did not go. What constitutes “proper service” is determined by the state – it may be in the form of a registered letter, a notice delivered to the person’s legal residence, or even a notice published in the newspaper. Check with the child support agency in the state where paternity was established to see what can be done. If the paternity was established by fraud, duress, or material mistake of fact, it may be possible, depending on state law, to challenge the paternity finding.

Also, there are cases in which the alleged father is misidentified – if names are closely similar, for example. There, too, your best information about resolving this will come from the [state or tribal child support agency](#) if it was not provided in the notice that you received about the paternity.

## **How long do I have to pay?**

Emancipation and the age of majority for termination of child support are determined by the states and tribes. Some states have provision

for child support payments while a child is in college. See state and tribal ages of majority in the [Intergovernmental Reference Guide](#).

You can also check with the child support agency.

For particular situations -- if a child leaves school before reaching the age of majority, is still in school but is emancipated, or is enrolled but not attending classes, for example -- check with the child support agency to see how the state handles them.

If a child is handicapped, parents may be required to pay support after that child becomes an adult.

## **I pay child support every month. I buy extras like school clothes and pay for field trips. Why can't I claim my child as a dependent?**

Under domestic relations tax provisions set forth by the Internal Revenue Code, for divorced or separated parents, the parent who has custody for a greater portion of the calendar year is entitled to the dependency exemption for the child (See 26 U.S.C. 152(e)). In some cases, a court or administrator will address the issue of who can claim the dependency. Also, the parent with custody can provide the other parent with a written statement that he/she may take the exemption for a given year. See [IRS Publication 504](#).

In the case of parents who have never married, the IRS gives information about who can be claimed as a dependent in their [Publication 501](#)



## **My current wife is working and when we filed our taxes, the whole refund was taken.**

If a couple filed a joint return and only one of them is liable for child support payments, in non-community property states the other spouse can file an amended return to receive his or her share of the tax refund. The person who is not responsible for the child support debt can file tax [Form 8379](#), the Injured Spouse Claim and Allocation. Follow the instructions on Form 8379 carefully and provide the required documents.

## **I tried to get a passport for a business trip abroad. The State Department denied it because of child support. I don't know which state said I owe child support.**

If you do not know which state certified your case, or if you have never owed back child support, check the list provided with the Department of State denial letter for the contact information it gives for the state where you currently live. If you don't have the list, staff in the state child support agency can check with the federal Office of Child Support Enforcement to see which state certified the case and can get you contact information for resolving any problem.

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# CONCLUSION



The success you have in getting regular, adequate, and full child support payments can often depend on how well you can make the child support enforcement system work for you. At the same time, it is important to remember that not all the solutions to your child support problems are within your control. The legal rights and welfare of all parties must be carefully guarded, and sometimes laws that protect the rights of one parent seem unfair to the other.

Knowledge is power. The more you know about child support procedures where you and the noncustodial parent live, the better you will be able to exercise your rights and responsibilities under the law, and the more successful you will be in obtaining the support that rightfully belongs to your children. As you proceed with your child support case, it is a good idea to keep a written account of the actions taken and the outcomes of those actions. Do not hesitate to ask questions and make suggestions to your caseworker.

If you are not satisfied with the actions taken on your behalf, you have recourse to appeal your case to the head of the local child support office as well as to the director of the state or tribal child support agency. Keep in mind that it is always best to communicate the problem in writing.

An informed parent can help make the child support system work. This, together with improvements that state and tribal child support programs, legislatures, and courts are making, can benefit parents and their children.



For information about your specific child support case or how the child support system works in your state or tribe, contact your [state or tribal child support agency](#).

For general information about the child support program, contact the Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, or visit our [website](#) at [www.acf.hhs.gov/programs/css](http://www.acf.hhs.gov/programs/css). OCSE does not have case-specific information.