

Child Support and the Judiciary

IV-D BASICS - CHILD SUPPORT 101

All states and territories operate a child support enforcement program, usually in the human services or resources department, department of revenue, or the attorney general's office, frequently with the help of prosecuting attorneys, other law enforcement agencies, and the juvenile or family and domestic relations courts. Native American tribes can also operate culturally appropriate child support programs with federal funding. Services offered in all child support programs include:

- locating noncustodial parents
- establishing paternity
- establishing and modifying support orders including medical support
- collecting support payments and enforcing child support orders
- referring noncustodial parents to employment services

The child support program is often referred to as the “**IV-D program**” as its structure and mandates are set forth in Title IV, Part D, of the Social Security Act (Social Services Amendments of 1974, Pub. L. No. 93-647, 88 Stat. 2337 (1975)) creating a federal-state partnership in child support establishment and enforcement. Under the IV-D program, Congress reimburses states for two-thirds of their administrative costs. In addition, the federal government provides incentives to states for operating cost effective programs based on performance measures. Congress also established program requirements for states to the extent that having an effective child support enforcement program with specific procedures is a condition for states' continued eligibility for federal funding for Temporary Assistance for Needy Families (TANF) (see Marilyn Ray Smith, *Child Support at Home and Abroad: Road to the Hague*, 43 Fam. L.Q. 37 (2009), pg 45).

Selected examples of federal mandates that continued in the 1980s and 1990s are:

- Child Support Enforcement Amendments of 1984, Pub. L. No. 98-378, 98 Stat. 1305 (1984) requiring expedited processes for child support cases, income withholding, income tax refund intercepts and adoption of child support guidelines;
- Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, 100 Stat. 1874 (1986) prohibiting retroactive modification of child support orders except back to the date of service (often referred to as the Bradley Amendment);
- Family Support Act of 1988, Pub. L. No. 100-485, 102 Stat. 2343 (1988) mandating immediate wage withholding and requiring periodic review and adjustment of child support orders;
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, 110 Stat. 2105 (1996) mandating that states adopt the Uniform Interstate Family Support Act (UIFSA), have procedures for suspending licenses and seizing bank accounts, and use automated processes to collect child support;
- Deficit Reduction Act of 2005 (DRA), Pub. L. No. 109-171 revising the assignment of child support rights to provide more support for families.

For a complete glossary of common child support terms and acronyms, see *Glossary*. For information on the IV-D child support program access [OCSE](#); to review the Social Security Act provisions access [OCSE - SSA](#), and then click on the Act under “Legislation related to Child Support Enforcement”. **Families seeking government child support services must apply directly through their state/tribal/local agency** (see [Office of Child Support Enforcement](#)).

Overview of Child Support Services

History

Congress established the Child Support Services Program in 1975. Lawmakers realized that far too many children were struggling because their mother or father failed to make regular support payments. The new law, adopted as an amendment to the Social Security Act, required states to set up their own Services and collection programs. Alaska created its Child Support Enforcement Agency in 1976. The name of the agency was changed in 2004 to Child Support Services Division.

The Alaska program has grown over the years as new federal and state laws were adopted to ensure that more children receive financial support from both parents.

The Organization

The Alaska Child Support Services Division consists of about 230 employees responsible for collecting child support for tens of thousands of children.

The work is crucial to the collection and disbursement of support payments. The customer service staff handles tens of thousands of questions a year; the agency receives more than a million phone calls and letters each year. Some workers set up cases; some look for non custodial parents; others investigate difficult cases of non-support. The accounting section receives and disburses child support payments on a daily basis.

The Customer Service Section

is the main point of contact for clients of the Child Support Services Division. This section includes the Juneau, Fairbanks and Wasilla Field Offices and Outreach staff. Assigned staff must have a working knowledge of all aspects of the Child Support Services Division. Critical skills include the ability to understand the functions of Establishment, Enforcement, Review and Modification and Interstate in order to thoroughly explain case actions and assist customers with the paperwork necessary to proceed with their child support case. Additionally, the staff responds to requests for account information from financial institutions and various assistance programs and conducts genetic testing to facilitate the establishment of paternity.

The Establishment Section

The Establishment Section will work on a case if paternity or a child support order is needed. In cases where paternity is disputed or not yet legally determined, the staff handles the process to determine paternity. After verifying paternity, either by the father's affidavit or genetic testing, the staff establishes a child support order by calculating support payments and conducting conferences in disputed cases.

A father can acknowledge paternity by signing a voluntary acknowledgment. Hospitals cooperate with the agency by giving unmarried parents information and a form to acknowledge the father's paternity. Parents are not required to apply for child support services when acknowledging paternity at the hospital. Fathers also can acknowledge paternity at any time up to the child's 18th birthday by signing a form available through the Alaska Bureau of Vital Statistics.

A support order cannot be established for a child who is born to unmarried parents until paternity is established, so it is important to establish paternity as early as possible. If the man will not acknowledge that he is the father, the child support agency can order genetic testing. These tests are simple, painless and highly accurate.

Establishing a support order depends on success in several critical areas, such as locating the noncustodial parent, determining the financial needs of the child using Alaska's child support guidelines, and figuring out how much the noncustodial parent should pay each month.

The Enforcement Section

The Enforcement Section works to collect on administrative and judicial support orders when the noncustodial parent lives in Alaska. Services tools include automatic income withholding from wages, attaching bank accounts, intercepting IRS tax refunds, Alaska Permanent Fund dividends and other assets, and reporting delinquent parents to credit bureaus. All these methods can be used by the agency without directly involving the courts.

Immediate wage withholding began in November 1990 for child support orders issued or modified by the agency. Immediate wage withholding began January 1994 for all orders established by court. The law allows for an exception to immediate wage withholding if the court (or the agency) finds good cause, or if both parents agree to an alternative arrangement. But even in these cases, immediate wage withholding will be put into place if the noncustodial parent falls a month behind in payments.

If the noncustodial parent has a regular job, wage withholding for child support is treated like other forms of payroll deduction such as income tax, Social Security, union dues or any other required payment.

If the payments stop, or if the parent is self-employed, works for cash or commissions, changes jobs or moves frequently, the agency can use other collection actions such as seizing funds in the parent's bank account.

The Modification Section

The Modification Section revises administrative child support orders to match changes in a parent's financial situation.

The agency can update a support order itself if the original order was established by the agency.

If a child support order was set by the court, only the court can modify the order. The agency can help the process by reviewing the case and current income statements from the parents, then forwarding a recommendation to the court for a new support order.

The Hearing Section

The Hearing Section represents the state's interests at the formal hearing level. Either parent may request a hearing to challenge a decision in the case, and a hearing officer appointed by the Department of Revenue commissioner will rule on the issue.

The Interstate Section

The Interstate Section works on child support cases in which the noncustodial parent lives outside Alaska. Interstate caseworkers handle all aspects of child support Services, including location, paternity establishment, and establishment of support obligations.

When a noncustodial parent lives outside Alaska and the custodial parent and child live in Alaska, we send information about the noncustodial parent to the other state's child support Services office. This is called *initiating* a case to the other state. The other state, called the *responding* state, attempts to locate the

noncustodial parent and begin proceedings to establish paternity or collect support. Alaska does the same when responding to requests from other states.

Federal law requires that Alaska cooperate with other states in handling requests for assistance. The Uniform Interstate Family Support Act includes a provision to ensure there is only one valid child support order to enforce when more than one state is involved in a case.

The federal law also allows a state to work a case directly against an out-of-state noncustodial parent under certain conditions. Alaska can use interstate wage withholding to enforce a support order in another state if we know where the noncustodial parent is employed.

Family Law Section Brown Bag February 7, 2012

Establishment Process

The Division of Child Support Services is a division within the Alaska Department of Revenue.
(AS 25.27.010)

The division establishes and reviews administrative child and medical support orders.

1. How are cases initiated at CSSD (AS 25.27.020)
 - a. Applications for services from Clients
 - b. Assignments of rights to support during applications for public assistance
 - c. State custody referrals (Office of Children's Services & Division of Juvenile Justice)
 - d. Uniform Interstate Family Support Act (UIFSA) Petitions (AS 25.25.101)

2. Services available at CSSD
 - a. Paternity establishment/disestablishment services (15 AAC 125.212 – 15 AAC 125.261)
 - b. Establish child support orders and medical support orders (15 AAC 125.010 – 15 AAC 125.152)
 - c. Review and modify child support orders (15 AAC 125.310 – 15 AAC 125.340)

The Establishment process

1. Application received in CSSD's Establishment Section's Intake Team. Applications contain birth records, copies of any existing child support/child custody orders and as much locate information as possible.
 - a. Determine if there is an existing child support order.

 - b. Determine if Alaska has jurisdiction

- c. Determine if paternity is established
 - d. Forward case to appropriate team (establishment/paternity/modification)
2. If paternity is not established:
 - a. Solicit paternity complaint/affidavits from custodial parents, 4D agencies or referring jurisdictions.
 - b. Serve Notices of Paternity and Financial Responsibility and Order to Provide Financial and Medical Insurance Information on putative parents.
 - c. Conduct genetic testing if required.
 - d. Issue administrative Orders Establishing Paternity.
3. If paternity is not at issue or has been resolved and there is no existing child support order:
 - a. Locate parents.
 - b. Issue Order to Provide Financial and Medical Insurance Information.
 - c. Serve an Administrative Child Support and Medical Support Order (Notice and Finding of Financial Responsibility) on the case parties.
 - d. Conduct administrative reviews.
 - e. Issue Administrative Review Decisions
 - f. Receive appeals and refer to the Office of Administrative Hearings.
4. If a review of an existing child support order is requested:

- a. **Serve Notices of Petition for Modification of Administrative Child Support order on the case parties (first class mail).**
- b. **Issue Modified Administrative Child Support and Medical Support Orders.**
- c. **Receive appeals and refer to the Office of Administrative Hearings.**

Collection of support – Enforcement tools available to CSSD

- Wage withholding order issued directly to an employer - DWID
 - Collection of the MSO, collection on arrears and interest
 - Collection can include collection of court ordered spousal support
 - Withholding orders can also be issued to
 - Corrections
 - Garnishment of PFD, UIB, workman's comp
 - Native corporations to garnish native dividends
 - Garnishment of financial institution accounts
 - FIDM matches quarterly, banks, credit unions and other financial institutions. No WID if under \$1000 or less than four times MSO, bankruptcy
- Reporting of the arrears to credit bureaus – arrears in excess of \$1,000
- Recording or filing a lien, real or personal property or limited entry permit. \$2,500 arrears owed
- Licensing actions, suspension of NCP's driver's license and occupational license. Action taken when more than four times MSO owed or arrears exceed \$1000.
- Enforcement of medical support order
 - National Medical support order sent to NCP's employer. All Admin and Court Orders require medical support order. Provide medical insurance for the children when available thru an employer. NCP obtains, credit reducing support obligation. 50% cost of the insurance for the child(ren) only. CP obtains, credit increasing the support obligation.