

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

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

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](#) at www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts.



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. OCSE does not have case-specific information.