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Child Support Enforcement: Program Basics

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Summary

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act). The primary purpose of this program was to reduce public expenditures for welfare recipients by obtaining ongoing support from noncustodial parents that could reimburse the state and federal governments for part of their expenses (i.e., welfare cost-recovery). Relatedly, the program also sought to strengthen families by securing financial support for children from their noncustodial parent on a consistent and continuing basis to enable some families to remain self-sufficient and off public assistance. Over the years, CSE has evolved into a multifaceted program. While welfare cost-recovery still remains an important function of the program, its other aspects include service delivery and promotion of self-sufficiency and parental responsibility. The CSE program has different rules for welfare (i.e., the Temporary Assistance for Needy Families program; TANF) and non-welfare families.

The CSE program provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.

The CSE program has a vast array of enforcement methods at its disposal. Most child support payments are collected from noncustodial parents through income withholding. Other methods of enforcement include intercepting federal and state income tax refunds; intercepting unemployment compensation; filing liens against property; sending insurance settlement information to CSE agencies; intercepting lottery winnings, judgments, or settlements; seizing debtor parent assets held by public or private retirement funds and financial institutions; withholding, suspending, or restricting driver's licenses, professional or occupational licenses, recreational or sporting licenses; and denying, revoking, or restricting passports.

The CSE program is funded via a number of sources. The program is a federal-state matching grant program under which states must spend money in order to receive federal funding. For every dollar a state spends on CSE expenditures, it generally is reimbursed 66 cents from the federal government. This reimbursement requirement is "open ended," in that there is no upper limit or ceiling on the federal government's match of those expenditures. In addition to matching funds, states receive CSE incentive payments from the federal government. States also collect child support on behalf of families receiving TANF assistance to reimburse themselves (and the federal government) for the cost of that assistance to the family. Finally, fees and costs recovered, also help finance the CSE program.

In FY2015, the CSE program distributed $28.6 billion in child support collections and served nearly 14.7 million child support cases. However, the program still collects only 65% of current child support obligations for which it has responsibility (20% if payments on past-due child support are taken into account), and collects payments for only 61% of its caseload. In FY2015, total CSE expenditures amounted to $5.7 billion. On average, in FY2015 the CSE program collected $5.26 in child support payments for each $1 spent on the program.

Two other related programs, the $10 million per year Access and Visitation Grants Program and the $75 million per year Responsible Fatherhood Program, also are described in this report.

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Background

In general, child support is the cash payment that noncustodial parents are obligated to pay for the financial support of their children. These payments enable parents who do not live with their children to fulfill their financial responsibility to their children by contributing to the payment of childrearing costs. Child support orders generally are established when parents divorce or separate, or when the custodial parent applies for cash benefits through the Temporary Assistance for Needy Families (TANF) program (Title IV-A of the Social Security Act).

The Child Support Enforcement (CSE) program, Part D of Title IV of the Social Security Act, was enacted on January 4, 1975 (P.L. 93-647).[1] The CSE program is administered by the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS), and receives mandatory funding each fiscal year in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act. All 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and 62 tribal nations operate CSE programs and are entitled to federal matching funds.[2] The CSE program is estimated to handle 50%-60% of all child support cases;[3] the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between the parents.

Families receiving TANF benefits or Medicaid coverage (Title XIX of the Social Security Act) automatically qualify for CSE services free of charge.[4] Collections on behalf of families receiving cash TANF benefits are used, in part, to reimburse state and federal governments for the TANF payments made to the family. Other families must apply for CSE services, and states must charge all non-TANF families an annual user fee that cannot exceed $25. Child support collected on behalf of non-TANF families goes to the family, usually through the state disbursement unit.

Child support payments collected by CSE agencies increased from $1 billion in FY1978 to $28.6 billion in FY2015. Over the same period, the number of children whose paternity was established or acknowledged increased from 111,000 to 1.484 million. However, the program still collects only 20% of child support obligations for which it has responsibility if payments on past-due child support (i.e., "arrearages") are taken into account (otherwise, 65%)[5] and collects payments

[1] The CSE statute is found in Sections 451 through 469B of the Social Security Act (42 U.S.C. §651 through §669b). The CSE federal regulations are found in 45 C.F.R. §301 through §310.

[2] States were historically required to provide CSE services to Indian tribes and tribal organizations as part of their CSE caseloads. Tribes were not specifically included in the CSE statute until the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193, referred to in this report as the "1996 welfare reform law"), although several tribes had previously negotiated agreements (e.g., informal, cooperative, intergovernmental, and joint powers) with some states in a mutual effort to serve Native American children. The 1996 welfare reform law (P.L. 104-193) allowed direct federal funding of approved tribal CSE programs. In general, Native American children living on Indian reservations that have a tribal CSE program are covered by that specific tribal CSE program; Native American children who do not live on Indian reservations are covered by the state's CSE program.

[3] Kye Lippold and Elaine Sorensen, *Characteristics of Families Served by the Child Support (IV-D) Program: 2010 Census Survey Results*, Urban Institute, October 2013, p. 3.

[4] In addition, families who are required by the state Supplemental Nutrition Assistance Program (SNAP) to cooperate with the CSE agency automatically qualify for CSE services free of charge. One or both parents of a child who is placed in foster care may be ordered to pay child support, but the determination of whether this requirement should be made is left up to the state child welfare agency. Section 471(a)(17) of the Social Security Act requires the child welfare agency "where appropriate" to secure assignment of child support rights on behalf of any child receiving foster care support pursuant to Title IV-E of the Social Security Act. However, the establishment of a child support order is not a condition of Title IV-E foster care support.

[5] In FY2015, $149.1 billion in child support obligations ($33.5 billion in current support and $115.5 billion in past-due support) was owed to families receiving CSE services, but only $29.5 billion was paid ($21.8 billion current, $7.6

for only 61% of its caseload. OCSE data indicate that in FY2015, paternity had been established or acknowledged for 96% of the 10.6 million children on the CSE caseload without legally identified fathers.[6] In FY2015, total CSE expenditures amounted to $5.7 billion. On average, in FY2015 the CSE program collected $5.26 in child support payments for each $1 spent on the program.

Table 1, below, provides FY2015 data on the CSE program, including total collections and expenditures, caseload numbers, and the number of paternities and child support orders established. The balance of this report describes each of the major program elements of the CSE program. It also includes a discussion of the related programs: Access and Visitation Grants and the Responsible Fatherhood Program.

Table 1. Child Support Data—FY2015

Total CSE caseload	*Total*, 14.7 million; *TANF families*, 1.6 million; *former-TANF families*, 6.3 million; *never-TANF families*, 6.9 million
Total CSE collections	*Total*, $28.559 billion; *TANF* families, $0.808 billion; *former-TANF*, $8.959 billion; *never-TANF*, $11.425 billion (plus $7.368 billion on behalf of Medicaid-only families)
Payments to families	*Total*, $26.6 billion; *TANF*, $151 million; *former-TANF*, $8.1 billion; *never-TANF*, $11.3 billion (plus $7.1 billion on behalf of Medicaid-only families)
Federal share of TANF collections	$717 million
State share of TANF collections	$574 million
Medical support payments	$511 million
Total CSE expenditures	$5.749 billion; *federal share*, $3.474 billion, *state share*, $2.275 billion
Incentive payments to states (estimated)	$481 million
Paternities established and acknowledged	1,484,477
Families for which support orders were established	1,016,267 (includes only new orders; excludes modifications)
Families for which collections were made	For 9,028,701 *total* families; *TANF* families, 522,220; *former-TANF* families, 3,790,011; *never-TANF* families, 4,716,470

Source: Table prepared by the Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Note: Some totals are imprecise because of rounding.

Program Elements

The CSE program provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of

billion past-due; numbers do not add due to rounding).

[6] For more information regarding FY2015 data on the CSE program, https://www.acf.hhs.gov/css/resource/fy-2015-annual-report-to-congress.

child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.[7]

Parent Location

If a state's CSE program cannot locate the noncustodial parent with the information provided by the custodial parent, it must try to locate the noncustodial parent through the State Parent Locator Service (SPLS), which is an assembly of systems that includes the State Child Support Case Registry and the State Directory of New Hires. The automated State Child Support Case Registry, as required by federal law, contains records of each case in which CSE services are being provided and all new or modified child support orders. The registry includes information on the case, the child or children in the case, and both parents, as listed in **Table 2**.

Table 2. State Child Support Case Registry: Selected Data Elements

Case Information	Information on the Child(ren)	Information on Both Parents
• case identification number • case status • child support owed under the order • amounts collected • amounts distributed • any arrearages, interest, or late penalty charges • any liens imposed with respect to the order	• name • date of birth • Social Security number	• name • date of birth • Social Security number

Source: OCSE, Policy Responses Regarding the State Case Registry and the Federal Case Registry, AT-98-08, March 5, 1998, available at https://www.acf.hhs.gov/css/resource/state-case-registry-federal-case-registry-of-child-support-orders.

States also must establish an automated State Directory of New Hires that includes information from employers, including federal, state, and local governments and labor organizations. For each newly hired employee, this directory must include the name, address, and Social Security number of the employee, and the employer's name, address, and tax identification number. This information generally is supplied to the directory within 20 days after the employee is hired.

The SPLS also may use other information sources, such as telephone directories, motor vehicle registries, tax files, and employment and unemployment records.

[7] A noncustodial parent may be ordered to provide health insurance if available through his or her employer, pay for private health insurance premiums, or reimburse the custodial parent for all or a portion of the costs of health insurance obtained by the custodial parent. Federal law requires every child support order to include a provision for health care coverage. The CSE program is required to pursue private health care coverage when such coverage is available through a noncustodial parent's employer at a reasonable cost. The Deficit Reduction Act of 2005 (DRA; P.L. 109-171) requires that medical support for a child be provided by either or both parents and that it must be enforced. It authorizes the state CSE agency to enforce medical support against a custodial parent whenever health care coverage is available to the custodial parent at reasonable cost. Moreover, it stipulates that medical support may include health care coverage (including payment of costs of premiums, co-payments, and deductibles) and payment of medical expenses for a child. (For additional information on medical child support, CRS Report R43020, *Medical Child Support: Background and Current Policy*.)

In addition to the resources discussed above, a state can ask that the Federal Parent Locator Service (FPLS),[8] which is an assembly of systems operated by the Office of Child Support Enforcement (OCSE), be used for any of the following purposes:

- parent location;
- establishing parentage;
- establishing, setting the amount of, modifying, or enforcing child support obligations; or
- enforcing child custody or visitation orders.[9]

The FPLS assists federal and state agencies in identifying overpayments and fraud, and assists with assessing benefits. These systems can access data from the Social Security Administration, the Internal Revenue Service, the Department of Defense, the U.S. Department of Veteran Affairs, the National Security Agency, the Federal Bureau of Investigation, and State Employment Security Agencies. Moreover, the FPLS also can search its federal case registry of child support orders and the national directory of new hires (NDNH), which are federal directories consisting of information from the state directories and federal agencies [10]

Automation is critical to the operation and success of the CSE program so that records in the various parent location systems can be cross-checked to aid in the location of noncustodial parents.[11] Federal law requires that a designated state agency (directly or by contract) conduct automated comparisons of the Social Security numbers reported by employers to the state

[8] Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS includes the following:

• The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.

• The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders.

• The Federal Offset Program (FOP): a program that collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.

• The Federal Administrative Offset Program (FAOP): a program that intercepts certain federal payments in order to collect past-due child support.

• The Passport Denial Program (PDP): a program that works with the Secretary of State in denying passports of any person that has been certified as owing a child support debt greater than $2,500.

• The Multistate Financial Institution Data Match (MSFIDM): a program that allows child support agencies a means of locating financial assets of individuals owing child support.

For additional information on the FPLS, see http://www.acf.hhs.gov/programs/css/resource/federal-parent-locator-service-information-for-families.

[9] The 1996 welfare reform law (P.L. 104-193) permits both custodial and certain noncustodial parents to obtain information from the FPLS. The Balanced Budget Act of 1997 (P.L. 105-33), however, prohibits FPLS information from being disclosed to noncustodial parents in cases where there is evidence of domestic violence or child abuse, and the local court determines that disclosure may result in harm to the custodial parent or child.

[10] Within three business days after receipt of new hire information from the employer, the state directory of new hires is required to furnish the information to the national directory of new hires. (For additional information, see CRS Report RS22889, *The National Directory of New Hires*.)

[11] The Child Support Performance and Incentive Act of 1998 (P.L. 105-200) imposes financial penalties on states that failed to meet the law's automated data systems requirements. The HHS Secretary is required to reduce the amount the state would otherwise have received in federal CSE funding by the penalty amount for the fiscal year in question. Section 455(a)(4)(B) of the Social Security Act (42 U.S.C. §655(a)(4)(B)) stipulates that the penalty amount percentage is 4% in the case of the first year of noncompliance; 8% in the second year; 16% in the third year; 25% in the fourth year; and 30% in the fifth or any subsequent year.

directory of new hires and those associated with CSE cases that appear in the State Child Support Case Registry. It also requires the HHS Secretary to conduct similar comparisons of the federal directories.[12]

Paternity Establishment

Legally identifying the father is a prerequisite for obtaining a child support order. For any children born into a marriage, the husband is generally deemed to be the father; therefore, in divorce cases paternity generally does not need to be affirmatively established. In nonmarital birth cases, however, paternity must be established prior to when a child support order is obtained.

Federal law requires states to have procedures that permit the establishment of paternity for all children under the age of 18.[13] TANF applicants and recipients are legally required to cooperate in establishing paternity or obtaining support payments, and may be penalized for noncooperation. If it is determined that an individual is not cooperating and that individual does not qualify for any good cause or other exception, the state must reduce the family's TANF benefit by at least 25%, and may eliminate it entirely. Additional federal requirements associated with paternity establishment include the following:

- state CSE programs must establish paternity for at least 90% of the CSE cases needing such a determination;
- each state must implement a simple civil process for establishing paternity;
- an affidavit must be available that can be completed by men voluntarily acknowledging paternity and that the affidavit be entitled to full faith and credit in any state;[14]
- a signed acknowledgment of paternity must be considered a legal finding of paternity unless it is rescinded within 60 days, and thereafter may be challenged in court only on the basis of fraud, duress, or material mistake of fact; and
- no judicial or administrative action will be needed to ratify an acknowledgment that is not challenged.[15]

For contested paternity cases, federal law further requires that all parties submit to genetic testing.[16]

[12] When a match occurs, the state directory of new hires is required to report to the state CSE agency the name, address, and Social Security number of the employee, and the employer's name, address, and identification number. Within two business days, the CSE agency then instructs appropriate employers to withhold child support obligations from the employee's paycheck, unless the employee's income is not subject to income withholding.

[13] Section 466(a)(5) of the Social Security Act (42 U.S.C. §666(a)(5)). The DRA (P.L. 109-171) reduced the 90% federal matching rate for laboratory costs associated with paternity establishment to 66% beginning October 1, 2006.

[14] Section 466(a)(5)(D) of the Social Security Act (42 U.S.C. §666(a)(5)(D)) stipulates that an unmarried woman cannot put a man's name on a child's birth record/certificate unless the man has voluntarily acknowledged that he is the father of that child, or a court or administrative agency has ruled that the man is the father of the child in question.

[15] Sections 452(g) and 466 of the Social Security Act (42 U.S.C. §652(g) and §666).

[16] Federal law requires states to have procedures that create a rebuttable or, at the option of the state, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the actual father of the child (Section 466(a)(5)(G) of the Social Security Act) (42 U.S.C. §666(a)(5)(G)).

Establishment of Child Support Orders

A child support order is a legal document that obligates a noncustodial parent to provide financial support for his or her children, and stipulates the amount of the obligation and how it is to be paid. It is usually established at the time of divorce or when an unmarried couple dissolves their relationship. It also may be established when a TANF case is initiated.[17]

The child support order is established administratively by a state/county CSE agency or through the state courts. Federal law requires states to use their state-established guidelines in establishing child support orders.[18] These guidelines are a set of rules and tables that are used to determine the amount of the child support order. Child support guidelines are designed to protect the best interests of the child or children in question by trying to ensure that they continue to benefit from the financial resources of both parents in situations in which the parents go their separate ways. They are also intended to make the calculation of child support fair, objective, consistent, and predictable (which in many instances can have the added benefit of reducing conflict and tension between the parents).

States decide child support amounts based on the noncustodial parent's income or based on both parents' incomes. Other factors that may be considered include the age of child, whether a stepparent is in the home, whether the child is disabled, and the number of siblings. States currently use one of three basic types of guidelines to determine child support award amounts (i.e., the child support order):

1. "Income shares," which is based on the combined incomes of both parents (39 states, Guam, and the Virgin Islands);
2. "Percentage of income," in which the number of eligible children is used to determine a percentage of the noncustodial parents' income to be paid in child support (8 states); and
3. "Melson-Delaware," which provides a minimum self-support reserve for parents before the cost of rearing the children is prorated between the parents to determine the award amount (3 states).[19]

Review and Modification of Support Orders

The circumstances of both the noncustodial parent and custodial family can change with time. As these changes occur, child support obligations can become inadequate or inequitable. Effective review and modification of child support orders are important steps in ensuring that noncustodial parents continue to comply with realistic orders based on an actual ability to pay them.[20]

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[17] In addition to TANF families, families required to cooperate with the CSE agency also include those receiving Medicaid coverage, as well those in states that have adopted cooperation requirements for their SNAP programs.

[18] See the Family Support Act of 1988 (P.L. 100-485).

[19] The District of Columbia uses a hybrid model that starts as a percentage of income model and is then reduced by a formula based on the custodial parent's income. Information was not available for Puerto Rico. See National Conference of State Legislatures, *Child Support Guideline Models by State*, June 9, 2016, available at http://www.ncsl.org/research/human-services/guideline-models-by-state.aspx.

[20] See Office of Child Support Enforcement, *Providing Expedited Review and Modification Assistance*, Child Support Fact Sheet Series, No. 2, available at http://www.acf.hhs.gov/sites/default/files/ocse/providing_expedited_review_and_modification.pdf. Also see CRS Report R44077, *Modification of Child Support Orders: Background, Policy, and Concerns*.

Federal law requires that states review and, if appropriate, adjust child support orders for TANF family cases at least once every three years.[21] For non-TANF family cases, either one of the parents can request that the order be reviewed every three years. If a request for review and modification is made prior to when that three-year cycle has been completed, the requesting party must demonstrate that there was a substantial change in circumstances. Child support adjustments and modifications must be in accordance with a state's child support guidelines.

CSE programs usually rely on one of the parents to request a modification of the child support order. It is important for parents facing job loss, incarceration, or other substantial changes in circumstances to seek a modification to their order quickly so that they do not fall behind in their payments and thereby have to contend with past-due child support payments. Pursuant to federal law, the court cannot retroactively reduce the arrearages that a noncustodial parent owes.[22]

Enforcement

The CSE program has a vast array of enforcement methods at its disposal to help ensure that child support payments are made on time and in the full amount that is owed. Most payments are collected from noncustodial parents through income withholding.[23] In FY2015, 75% of collections were obtained through income withholding.[24] Other methods of enforcement include

- intercepting federal and state income tax refunds;
- intercepting unemployment compensation;
- filing liens against property;
- subjecting insurance settlements to withholding;
- intercepting lottery winnings, judgments, or settlements;
- seizing debtor parent assets held by public or private retirement funds and financial institutions;
- withholding, suspending, or restricting driver's licenses, professional or occupational licenses, and recreational or sporting licenses; and
- denying, revoking, or restricting passports.

Past-due child support may accumulate if the noncustodial parent is unable or unwilling to pay the child support that is owed. In addition to collecting child support arrearages through the enforcement methods above, all jurisdictions have civil or criminal contempt-of-court procedures and criminal nonsupport laws. Federal criminal penalties also may be imposed in certain cases. Federal law requires states to enact and implement the Uniform Interstate Family Support Act (UIFSA), and expand full faith and credit procedures for child support orders issued by other states.

[21] Section 466(a)(10) of the Social Security Act (42 U.S.C. §666(a)(10)).

[22] Section 466(a)(9) of the Social Security Act (42 U.S.C. §666(a)(9)).

[23] There are three exceptions to the immediate income withholding rule: (1) if one of the parties demonstrates, and the court (or administrative process) finds that there is good cause not to require immediate withholding, (2) if both parties agree in writing to an alternative arrangement, or (3) at the HHS Secretary's discretion, if a state can demonstrate that the rule will not increase the effectiveness or efficiency of the state's CSE program.

[24] This includes collections received from IV-D and non-IV-D child support cases processed through the State Disbursement Unit.

Federal law also provides for international enforcement of child support.[25] The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) contained provisions that are designed to improve child support collections in cases where the custodial parent and child live in one country and the noncustodial parent lives in another country.[26] It ensured that the United States is compliant with any multilateral child support enforcement treaties and, as part of this, required states to update their UIFSA law to incorporate verbatim any amendments adopted as of September 30, 2008, by the National Conference of Commissioners on Uniform State Laws. Additionally, the act facilitated greater access to the FPLS by foreign countries and tribal governments as part of improving child support collections. The act also amended federal law so that the federal income tax refund offset program is available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.[27]

Financing[28]

The CSE program is funded with both state and federal dollars. There are five funding streams associated with the CSE program.

CSE Funding Elements

- State dollars
- Federal matching funds (i.e., 66% of general state CSE expenditures)
- Retained child support collections from noncustodial parents on behalf of TANF families
- Incentive payments to states
- Fees and costs recovered

First, states spend their own money to operate a CSE program; the level of funding allocated by the state and/or localities determines the amount of resources available to CSE agencies.

Second, the federal government reimburses each state 66% of all allowable expenditures on CSE activities.[29] The federal government's funding is "open-ended" in that it pays its percentage of expenditures by matching the amounts spent by state and local governments with no upper limit or ceiling. For the purposes of the federal budget process, this funding is considered to be mandatory spending, and is appropriated

[25] The CSE program has reciprocating agreements regarding the enforcement of child support with 15 countries: Australia, Canada, Czech Republic, El Salvador, Finland, Hungary, Ireland, Israel, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, and the United Kingdom of Great Britain and Northern Ireland. Note: Canada is a federal state, composed of 10 provinces and 3 territories, each with its own government and power to make laws. The United States currently has bilateral, federal-level agreements with 9 Canadian provinces and 3 Canadian territories. The 9 provinces are Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Saskatchewan. The 3 territories are Northwest Territories, Nunavut, and Yukon. The United States does not have a bilateral, federal-level agreement with Quebec. (See federal Child Support Enforcement web page—http://www.acf.hhs.gov/programs/cse/international/.)

[26] For more information on P.L. 113-183, CRS Report R43757, *Child Welfare and Child Support: The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)*.

[27] For additional information on international enforcement of child support, see CRS Report R43779, *Child Support Enforcement and the Hague Convention on Recovery of International Child Support*.

[28] For additional information on the financing of the CSE program, see CRS Report RL32875, *The Child Support Enforcement Program: A Review of the Data*.

[29] In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, pursuant to the 1996 welfare reform law (P.L. 104-193), the CSE program provides tribes and tribal organizations direct federal funding equal to 100% of approved and allowable CSE expenditures during the start-up period, provides 90% federal funding for approved CSE programs during the first three years of full program operation, and provides 80% federal funding thereafter. As of January 2017, 59 Indian tribes or tribal organizations operated comprehensive tribal CSE programs and 3 Indian tribes or tribal organizations operated start-up tribal CSE programs. For a listing of the tribal programs, see https://www.acf.hhs.gov/css/resource/fy-2015-annual-report-to-congress. For additional information, see CRS Report R41204, *Child Support Enforcement: Tribal Programs*.

each fiscal year in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

Third, states collect child support on behalf of families receiving TANF assistance to reimburse themselves (and the federal government) for the cost of TANF cash payments to the family. (See "Distribution of Support" section, below).

Fourth, the federal government provides states with an incentive payment to encourage them to operate effective programs.[30] Federal law requires states to reinvest CSE incentive payments back into the CSE program or related activities.[31]

Fifth, fees and costs recovered may help finance the CSE program. Families receiving TANF benefits or Medicaid coverage, as well as families required by their state Supplemental Nutrition Assistance Program (SNAP) to cooperate with the CSE agency, automatically qualify for CSE services free of charge.[32] The CSE agency must charge all other families a fee when they apply for CSE services, not to exceed $25. CS cases that have never received TANF benefits also are charged an annual user fee, not to exceed $25, when child support enforcement efforts on their behalf are successful (i.e., at least $500 annually is collected on their behalf).[33] The CSE agency may charge these fees to the custodial or noncustodial parent, pay the fee out of state funds (or, in the case of the annual user fee, deduct it from child support paid to the family).[34] In addition, fees may be charged in other circumstances, including for performing genetic tests (for purposes of paternity establishment) on any individual who is not a recipient of TANF assistance or Medicaid. Finally, a state may at its option recover administrative costs in excess of the fees, either from the custodial parent or the noncustodial parent. Fees and administrative costs recovered must be subtracted from the state's total administrative costs before calculating the federal reimbursement amount (i.e., the 66% matching rate).

Collection and Disbursement

In order to make the processing of child support payments more efficient and economical, all states are required to have a centralized automated State Collection and Disbursement Unit (SDU) to which child support payments are paid and from which they are distributed. SDUs assist the income withholding process by providing employers with a single location in each state to send the withheld child support payments. In addition to collecting and promptly distributing money to custodial parents or other states, SDUs

[30] The CSE incentive payment—which is based in part on five performance measures related to establishment of paternity and child support orders, collection of current and past-due child support payments, and cost-effectiveness—was statutorily set by the Child Support Performance and Incentive Act of 1998 (P.L. 105-200). In the aggregate, incentive payments to states may not exceed $458 million for FY2006, $471 million for FY2007, and $483 million for FY2008 (to be increased for inflation in years thereafter). Aggregate incentive payments to states are capped at $564 million for FY2015 and estimated to amount to $481 million. For additional information on CSE incentive payments, see CRS Report RL34203, *Child Support Enforcement Program Incentive Payments: Background and Policy Issues*.

[31] The DRA (P.L. 109-171), effective October 1, 2007, prohibited federal matching of state expenditure of federal CSE incentive payments. However, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) required HHS to temporarily provide federal matching funds (in FY2009 and FY2010) on CSE incentive payments that states reinvest back into the CSE program. Currently, CSE incentive payments that are received by states and reinvested in the CSE program are no longer eligible for federal reimbursement.

[32]The DRA (P.L. 109-171), effective October 1, 2006.

[33] In addition, the state cannot charge a fee to a custodial parent or noncustodial parent who is cooperating with the CSE program as a condition of SNAP eligibility (45 C.F.R., Ch. III, 302.33(a)(3), (e)(3)(i-iii)).

[34] For more information on the CSE annual user fee, see CRS Report RS22753, *Child Support Enforcement: $25 Annual User Fee*.

- generate orders and notices of withholding to employers,
- create and maintain records associated with each payment, and
- furnish parents with a record of the current status of child support payments.

The SDU must use automated procedures, electronic processes, and computer-driven technology to the maximum extent that is feasible, efficient, and economical.

The SDU must be operated directly by the state CSE agency, by two or more state CSE agencies under a regional cooperative agreement, or by a contractor responsible directly to the state CSE agency. Alternatively, instead of a single state system, a SDU may be established by linking local disbursement units through an automated information network. In such cases, the Secretary of HHS must first agree that the system will not cost more, take more time to establish, or take more time to operate than a single state system. Like single state systems, linked systems must give employers only one location for submitting withheld income.

Federal law generally requires employers to remit to the SDU income withheld within seven business days after the employee's payday. Then, the SDU is required to send child support payments to custodial parents within two business days of when they are received.

Distribution of Support

When there is more than one claim of child support that is owed by a noncustodial parent, distribution rules determine which claim is paid first when a collection occurs. The order of payment of the child support collection is important when a payment is not enough to cover the current support, or if any arrearages are due for those claims.

To reimburse the states and federal government for the cost of TANF cash benefits, TANF families are required by federal law to assign their child support rights to the state. While the family receives TANF, the states and federal government generally retain any current support and any assigned arrearages collected up to the cumulative amount of TANF benefits paid to the family.[35] While states may opt to "pass-through" (i.e., pay) to the family some or all of the state share of the child support (thereby forgoing its share of those collections), they generally still must pay the federal government its share of child support collected on behalf of TANF families.

However, in order to help states pay for the cost of their CSE pass-through policies, federal law waives the federal government's share of child support collections that are passed through by states, up to $100 per month for one child or up to $200 per month for two or more children. (The state also must disregard the passed-through payments as income for the purposes of determining TANF eligibility in order for the federal government to waive its share.) Based on September 2016 data, 23 states, the District of Columbia and Puerto Rico have a CSE pass-through and disregard policy; 27 states, Guam, and the Virgin Islands do not.[36]

States must distribute to former TANF families the following child support collections before the state and the federal government are reimbursed (the "family-first" policy):

- all current child support,

[35] The DRA (P.L. 109-171), effective October 1, 2009, or at state option, October 1, 2008, provides that the assignment only covers child support that accrues while the family receives TANF.

[36] National Conference of State Legislatures, *Child Support Pass-Through and Disregard Policies for Public Assistance Recipients*, September 21, 2016 (http://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx).

- any child support arrearages that accrue after the family leaves TANF (these arrearages are called never-assigned arrearages), and
- any arrearages that accrued before the family began receiving TANF benefits. (Any child support arrearages that accrue during the time the family is on TANF belong to the state and federal government.[37])

Visitation Grants and Responsible Fatherhood Programs

Access and Visitation Grants

A noncustodial parent's right to visit with his or her children is commonly referred to as visitation or child access (and more recently as voluntary parenting time arrangements). State domestic relations or family laws almost universally treat child support and visitation as completely separate issues. Historically, the federal government has agreed that visitation and child support should be legally separate issues, and that only child support should be under the purview of the CSE program. Both federal and state policymakers have maintained that denial of visitation rights should not be considered a reason for stopping child support payments.[38] However, in recognition of the negative long-term consequences for children associated with the absence of their noncustodial parent, as well as evidence that contact between the child and noncustodial parent can make it more likely that child support responsibilities will be met,[39] federal and state policymakers have increasingly promoted efforts that address child support and access and visitation in the same forum.

In order to promote visitation and better relations between custodial and noncustodial parents, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) provided mandatory spending in the amount of $10 million each fiscal year from the federal CSE budget account for grants to states for access and visitation programs.[40] Eligible activities include but are not limited to mediation, counseling, education, development of parenting plans, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements.

The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) included a Sense of the Congress statement specifying that

- establishing parenting time arrangements (also known as visitation) when obtaining child support orders is an important goal that should be accompanied by strong family violence safeguards; and

[37] The DRA (P.L. 109-171) gave states the option of distributing to former TANF families the full amount of child support collected on their behalf (i.e., both current support and all child support arrearages—including arrearages collected through the federal income tax refund offset program). This provision took effect on October 1, 2009, or October 1, 2008, at state option.

[38] See OCSE, *Child Support and Parenting Time: Improving Coordination to Benefit Children*, July 2013, available at https://www.acf.hhs.gov/sites/default/files/programs/css/13_child_support_and_parenting_time_final.pdf.

[39] See OCSE, *Noncustodial Parents: Summaries of Research, Grants and Practices*, July 2009, available at https://www.acf.hhs.gov/sites/default/files/ocse/dcl_09_26a.pdf.

[40] Even before the 1996 welfare reform law (P.L. 104-193), the Family Support Act of 1988 (P.L. 100-485) authorized a limited number of grants to states for demonstration projects to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

- states should use existing funding sources to support the establishment of parenting time arrangements, including child support incentives, Access and Visitation Grants, and Healthy Marriage Promotion and Responsible Fatherhood Grants.

Responsible Fatherhood Programs

The federal government has also sought to engage noncustodial parents in the lives of their children through what are known as "responsible fatherhood programs."[41] Based on the premise that committed, involved, and responsible fathers are important in the lives of their children, these programs seek to promote the financial and personal responsibility of noncustodial parents for their children, and increase the participation of fathers in their children's lives. Some responsible fatherhood programs help noncustodial parents strengthen their parenting skills. Other programs try to discourage young men from becoming fathers until they are married and ready for the responsibility.

The Deficit Reduction Act of 2005 (P.L. 109-171) included a provision that provided mandatory funding for a Healthy Marriage Promotion and Responsible Fatherhood grants program (in Title IV-A of the Social Security Act). For FY2006-FY2010, that program was provided up to $50 million per year for competitive responsible fatherhood grants. For FY2011, funding for those fatherhood grants was increased to $75 million.[42] Between FY2011 and FY2017, $75 million in mandatory funding for this program each year was provided through provisions in appropriations acts. Most recently, the authority and funding for the responsible fatherhood grants program was extended through FY2018 by Section 102, Division M, of P.L. 115-31.

Most responsible fatherhood programs include parenting education; training in responsible decisionmaking, conflict resolution, and coping with stress; mediation services for both parents; problem-solving skills; peer support; and job-training opportunities.[43] Grantees include states, territories, Indian tribes and tribal organizations, and public and nonprofit community groups (including religious organizations).

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[41] Although programs that seek to help fathers initiate or maintain contact with their children and become emotionally involved in their children's lives are usually referred to as "fatherhood" programs, the programs are generally gender neutral. Their underlying goal is participation of the noncustodial parent in the lives of his or her children.

[42] See the Claims Resolution Act of 2010 (P.L. 111-291).

[43] For more information on responsible fatherhood programs, see CRS Report RL31025, *Fatherhood Initiatives: Connecting Fathers to Their Children*.

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