

Title 9. Family Law

Chapter I. Office of Child Support Enforcement, Department of Finance and Administration

Subchapter A. Generally

Part 5. Office of Child Support Enforcement Policy Manual — Enforcement

Subpart 1. Enforcement of Support Obligations

9 CAR § 5-101. Overview.

(a)(1) The Office of Child Support Enforcement will:

(A) Pursue collection of child and medical support obligations; and

(B) Utilize all appropriate administrative and judicial remedies available

under state law.

(2) Once an order is established, the noncustodial parent is responsible for making payments by the date set in the order.

(3) Enforcement of support obligations will be initiated on the date the noncustodial parent fails to make payments in an amount equal to one (1) month of support.

(b)(1) Upon completion of legal activity necessary to establish an obligation for support and the amount of the support obligation, the case will be returned to the caseworker, who will be responsible for monitoring payments made by the noncustodial parent to ensure that he or she complies with the support obligation.

(2) A child support obligation commences on the date specified in the order.

(3) If no start date is set out in the order, the first payment falls due on the date the order was filed with the clerk of court.

(c) Enforcement through income withholding, intercept of unemployment benefits or workers' compensation benefits, income tax intercept, additional payments ordered to be paid on the child support arrearage or judgment, contempt proceedings, or any other means of collection shall be available for the collection of a child support arrearage or judgment until such is satisfied.

(d)(1) Administrative remedies must be attempted and exhausted before judicial remedies begin.

(2) Judicial remedies must be taken in accordance with expedited process timeframes.

(3) The most common judicial remedy is a motion and order to appear and show cause.

(4) Cases will be reviewed by the assigned attorney for next appropriate action.

(e) **Expedited process.** The office must take an enforcement action from the date of delinquency or locate, whichever is later, within:

(1) Thirty (30) calendar days if no service of process is required; and

(2) Sixty (60) calendar days if service of process is required.

(f) **Suspense.** Cases may be suspended for a specific date in the future only if there is a direct order by a court to cease all collection action as ordered by the court.

(g) **Spousal support.**

(1) The office will enforce spousal support obligations in cases where:

(A) The custodial party is living with the child; and

(B) Spousal support and child support obligations are included in the same order.

(2) Once a noncustodial parent's responsibility to pay child support has ended and there are no longer child support arrears, the office will no longer collect current or past due spousal support.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-102. Administrative remedies.

(a) Caseworkers must use all appropriate administrative methods as described in this part to enforce orders as the remedy of first choice.

(b) If administrative remedies have failed or are inappropriate, court action to enforce orders should then be used as a last resort.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-103. Past due support.

(a)(1) Past due child support, also known as arrears:

(A) Constitutes a judgment by operation of law; and

(B) Is subject to garnishment even in the absence of a court-ordered judgment on arrears.

(2) State law allows for the garnishment of wages until the total amount of child support judgment and costs are paid.

(3)(A) Other sources of income, such as bank accounts, may also be garnished.

(B) The portion of Department of Veterans Affairs benefits received in lieu of retired/retainer pay is subject to garnishment.

(4) The caseworker shall make a diligent effort to:

(A) Locate all sources of money belonging to the noncustodial parent; and

(B) Keep an accurate record of all attempts to locate money sources.

(5) Should the caseworker locate a money source belonging to the noncustodial parent and an arrearage exists, the caseworker should consult with the appropriate Office of Child Support Enforcement attorney.

(6) All necessary, proper, and reasonable steps to garnish said money source will be taken.

(b) **Delinquency notices.** The office may send a delinquency notice to the noncustodial parent when the unpaid support equals thirty (30) days' obligation.

(c) **Interest.**

(1) The owner of the judgment or the counsel of record of the owner of the judgment may request in writing, prior to the entry of a judgment on arrears, that interest not accrue on past due support.

(2) If interest is reduced to a judgment by the court or the amount of interest owed is received as a sum certain from another state, the office will:

- (A) Include the sum certain amount as child support debt owed; and
- (B) Collect by all appropriate enforcement means.

(3) In intergovernmental cases, the initiating state is responsible for notifying the responding state at least annually, or on request, of any interest charges.

(4)(A) In nonintergovernmental cases where there is no judgment or finding of the amount of interest owed by the court and the custodial party wishes to collect interest, the custodial party may obtain, at his or her own expense, a certified calculation of the total amount of interest owed from a licensed accountant or other reliable financial source.

(B) The calculation must be accompanied by a professional opinion on official letterhead that states the calculation is:

(i) Reasonable based on the information provided for the calculation;
and

(ii) Calculated in accordance with state law pertaining to child support interest.

(C) Documentation supporting the calculation must be attached in order for the office to include the interest amount as a child support debt.

(d) Posting security, bond, or guarantee to secure payment of past due support.

(1) The office must petition, and the court may require, noncustodial parents to post security, bond, or give some other guarantee to secure payment of overdue support.

(2) Advance notice must be provided to the noncustodial parent regarding the delinquency of the support payment and the requirements for posting the:

- (A) Security;
- (B) Bond; or
- (C) Guarantee.

(3) The office will also inform the noncustodial parent of his or her rights and the methods available for contesting the action.

Authority. Arkansas Code § 9-14-206.

Subpart 2. Income Withholding

9 CAR § 5-201. Overview.

(a) Income withholding is used as an initial enforcement effort if the noncustodial parent is employed or if there is another source of periodic income subject to withholding.

(b)(1) Every court order should contain an order for the immediate withholding of income unless the:

(A) Court finds that there is good cause not to implement withholding; or

(B) Parties enter into an alternative agreement regarding withholding

which is incorporated into the court order.

(2) For open enforcement cases, the Office of Child Support Enforcement will include income withholding in every child support order.

(c)(1) The office, an attorney representing the custodial party, or the custodial party may initiate the income withholding process.

(2) An additional amount equal to twenty percent (20%) of the periodic payment must be deducted to apply against any accrued arrearage unless the court orders a specific amount or a set percentage to be paid on arrears.

(d)(1) The office must issue a wage withholding notice:

(A) Within fifteen (15) calendar days from receipt of the order if the employer's address is known on that date;

(B) Thereafter within two (2) business days of the date the employer's address is obtained; or

(C) Two (2) business days from electronic notice of the employer's address, such as from the State New Hire Registry.

(2) By law, the employer must begin the withholding no later than the first pay period that occurs after fourteen (14) calendar days following the date the notice was mailed.

(e) Intergovernmental income withholding.

(1) The office will initiate income withholding by sending an income withholding notice to an employer in any state where:

- (A) The noncustodial parent is located; and
- (B) Employment is verified.

(2) If the employer fails to implement withholding, the office will forward a request to the other state's child support agency to enforce the income withholding order.

(f) **Bankruptcy.** If income withholding is in place when a noncustodial parent (employee) files bankruptcy, the caseworker will refer the case to the office attorney for review and advice on how to proceed.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-202. Initiated income withholding.

(a) In the case of court orders which do not address income withholding, Arkansas law provides for payment of child support obligations by mandatory initiated income withholding.

(b) Initiated income withholding must take effect:

- (1) When the amount of the delinquency is equal to the total court-ordered support payable for thirty (30) calendar days; and
- (2) Upon proper notice to the noncustodial parent.

(c) The provision will also apply when partial payments have been made but total arrears are equal to the obligation due for one (1) month.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-203. Withholding of lump-sum payments.

(a) Arkansas law requires that orders for payment of money for the support and care of any children include a provision for the withholding of the full amount of past

due support owed by the noncustodial parent not to exceed fifty percent (50%) of the net lump-sum payment (entire amount of lump sum less any amount required by law to be withheld) paid to the noncustodial parent.

(b) Lump-sum payments are defined as:

(1) A form of income paid to an individual at other than regular or periodic intervals;

(2) Payment regardless of frequency that is dependent upon meeting a condition precedent, including the performance of a contract;

(3) A job performance standard or quota;

(4) The liquidation of unused sick or vacation pay or leave;

(5) The settlement of a claim; or

(6) An award for length of service.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-204. Withholding from Social Security Disability.

(a) Income withholding can be used to offset payments from Social Security Disability (SSD) benefits.

(b) If there is a lump-sum disability payment made to the noncustodial parent, the Office of Child Support Enforcement may intercept up to fifty percent (50%) of the payment to be paid towards arrears.

(c) If there is a lump-sum disability payment made to the family, the office will seek a determination from the court whether the noncustodial parent is entitled to credit against the child support order for the Social Security Administration lump-sum payment.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-205. Withholding from unemployment insurance benefits.

(a)(1) State law provides for an information exchange with the Division of Workforce Services and the withholding of unemployment insurance benefits (UIB) to apply against a court-ordered child support obligation.

(2) Intercept of UIB is subject to income withholding for the amount of the obligation.

(3) The amount withheld cannot exceed Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq., limits.

(b) In order to be considered for withholding of UIB:

(1) There must be a valid court order for child support, and the court order must direct the division to withhold from UIB; or

(2) The noncustodial parent must agree that the division will withhold from UIB.

(c) **Intercept agreement.**

(1)(A) There should be a provision in a court order for income withholding that permits withholding from UIB.

(B) If the income withholding provision is not in the order, a Notice Regarding Unemployment Compensation with the Agreement to Withhold from Unemployment Insurance Benefits will be sent to the noncustodial parent.

(C)(i) This signed form is sufficient to begin income withholding from UIB.

(ii) If the noncustodial parent fails to sign and return the agreement, court action will be necessary to change the order and permit withholding from UIB.

(2)(A) The amount to be deducted will be:

(i) The amount stated in the order; or

(ii) The current support amount plus an additional twenty percent (20%) for arrears or the amount ordered paid on arrears.

(B) The amount to be paid on arrears must be either in the court order or in the agreement that the noncustodial parent signs.

(C) The total amount to be withheld is subject to Consumer Credit Protection Act limits.

(d) **Requests for withholding to other states.**

(1) A direct request to withhold from UIB will be sent to states that will accept them.

(2) If the noncustodial parent is receiving UIB benefits in a state that will not accept a direct withholding, an interstate referral to the noncustodial parent's state of residence will be required.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-206. Workers' compensation withholding.

(a)(1) State law authorizes the withholding of workers' compensation benefits for child support.

(2) Up to twenty-five percent (25%) of periodic payments or up to fifty percent (50%) of lump-sum payments may be withheld.

(b) State law also authorizes a data match between Workers' Compensation Commission files and Office of Child Support Enforcement files on a monthly basis.

(c)(1) Custodial parties and other state child support agencies are not required to open a child support case with the office to offset workers' compensation benefits paid to the noncustodial parent.

(2) The commission will accept a lien, a notice to withhold, a court order, or a divorce decree directly from the:

- (A) Custodial party;
- (B) Other state agency; or
- (C) Private attorneys representing the parties.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-207. Computing amount for withholding.

(a) The Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq., and state law limits the amount of wages that are subject to withholding for support.

(b) The maximum amounts are expressed in percentages and depend on two (2) variables:

(1) Whether the noncustodial parent is supporting a spouse or other dependent child; and

(2) Whether the arrearage owed equals or exceeds twelve (12) weeks of support.

(c) Below is the breakdown of which percentage applies:

(1) Fifty percent (50%) of the disposable earnings if the noncustodial parent is supporting a spouse or dependent child other than the spouse or child for whose support the court order was issued;

(2) Fifty-five percent (55%) of the disposable earnings if the conditions of subdivision (c)(1) of this section exist and the amount of arrears are equal to twelve (12) weeks support or greater;

(3) Sixty percent (60%) of the disposable earnings if the noncustodial parent is not supporting a spouse or dependent child other than the spouse or child with respect to whose support the court order was issued; and

(4) Sixty-five percent (65%) of the disposable earnings if the conditions of subdivision (c)(3) of this section exist and there is an amount of arrearage of twelve (12) weeks support or greater.

(d)(1) If the total to be withheld for current and past due support exceeds Consumer Credit Protection Act limits and if all notices and orders for current support have been satisfied, the employer shall make prorated disbursements of the remaining amount available for disbursement toward arrears.

(2) "Prorated" means the proportionate amount each notice or order for payment of past due support bears to the total amount due for payment of past due support under all notices and orders.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-208. Contested withholding.

(a)(1) The only grounds available to an obligor to contest wage withholding are that the:

(A) Person who received the notice was not the person obligated to pay the support;

(B) Arrears are incorrect; or

(C) Current support amount is incorrect.

(2)(A) The Office of Child Support Enforcement will conduct an informal review of the income withholding order issued by the agency, upon the request of the noncustodial party, to confirm that:

(i) He or she is the person identified as the person who owes the support; and

(ii) The amount of current and past due support is correct.

(B) However, if the noncustodial parent wants to request a hearing with the court, he or she must do so within ten (10) calendar days of the date of the notice of income withholding.

(3) Once implemented, income withholding remains in effect, following the noncustodial parent from one (1) employer to another until the support obligation is terminated or is set aside by the court.

(b) If withholding is contested within ten (10) calendar days, the caseworker will immediately forward the case to the Supervisor/Field Manager for administrative review.

(c) Contest of an income withholding order issued in another state.

(1) A noncustodial parent may contest with the office the validity or enforcement of an income withholding order issued in another state and received directly by an employer in Arkansas by registering the order in a court of this state and filing a contest to that order in the same manner as if the order had been issued by a court in this state.

(2) The noncustodial parent must give notice of the contest to the following:

(A) The support enforcement agency providing services to the custodial party;

(B) Each employer that has directly received an income withholding order relating to that noncustodial parent;

(C) The person designated to receive payments in the income withholding order; and

(D) To the custodian if no person is designated to receive payments.

(3)(A) If a noncustodial parent contests an income withholding notice that was issued in another state, the caseworker will contact the other state to advise that the noncustodial parent has contested the direct income withholding.

(B) If the other state initiates intergovernmental enforcement pursuant to the Uniform Interstate Family Support Act, Arkansas Code § 9-17-101 et seq., the order will be registered.

Authority. Arkansas Code §§ 9-14-206, 9-14-208.

Subpart 3. Federal Offset Program

9 CAR § 5-301. Overview.

(a) The Federal Offset Program helps states collect delinquent child support debts owed to the custodial party and/or the state by the following remedies:

- (1) Federal Income Tax Refund Offset Program;
- (2) Administrative Offset Program; and
- (3) Passport Denial Program.

(b) Certification requirements.

(1) Certification requirements apply to all available remedies in the Federal Offset Program.

(2)(A) In intergovernmental cases, the initiating state will certify for federal offset.

(B) Past due support.

(i) May include medical support only if a specific dollar amount is included in the order.

(ii) May include spousal support if the custodial party is living with the child and spousal support and child support obligations are included in the same order.

(iii) May not include fees or court costs or any other non-child support debts owed to the state or to the family.

(3) The Office of Child Support Enforcement must:

(A) Verify the accuracy of the arrears;

(B) Have a copy of the order, including any modifications;

(C) Obtain a copy of the payment record or an affidavit signed by the custodial party attesting to the amount of support owed;

(D) Verify the accuracy of the noncustodial parent's name, Social Security number, and current address;

(E) Have the custodial party's current, or last known, address; and

(F) Certify that the information is accurate and that the state has afforded the noncustodial parent all due process rights.

(4) Selection for the Federal Offset Program is as follows and is mandatory if the noncustodial parent's arrears balances meet the following criteria:

(A) The combined TEA arrears from all cases must be at least one hundred fifty dollars (\$150); and

(B) The combined non-TEA arrears from all cases must be at least five hundred dollars (\$500).

(c) Due process.

(1)(A) Noncustodial parents who meet the above criteria will be notified by a Pre-Offset Notice before being certified for offset.

(B) The Pre-Offset Notice will inform the noncustodial parent of the right to contest that past due support is owed or the amount of past due support, as well as the procedures for requesting an administrative hearing to contest the offset.

(C) Requests for an administrative hearing must be received within thirty (30) days of the date of the Pre-Offset Notice.

(2)(A) Past due child support will remain subject to collection by offset until paid in full in cases open for enforcement services.

(B) Any past due support that accrues after the notice is sent will be added to the debt and is subject to offset without further notification.

(3) If past due support is paid to a zero dollars (\$0) balance or is modified to a zero dollars (\$0) balance and then accrues an arrearage at a later date, a new Pre-Offset Notice will be sent to the noncustodial parent prior to recertification for the new arrearage.

(4) A notice will be sent annually as a reminder to noncustodial parents who continue to meet the criteria for the Federal Offset Program.

(d) Offset priority.

(1)(A) The United States Department of the Treasury's Financial Management Service operates the Treasury Offset Program, which maintains a centralized Master Debtor File.

(B) This file contains a list of taxpayers who owe debts to various agencies, including child support debts submitted by states to the office for federal income tax refund and administrative offset.

(C) Funds that are offset for repayment of past-due child support are forwarded through the United States Department of Health and Human Services to the states that submitted the noncustodial parent for offset.

(2) Federal Management Service applies payment offsets, both tax refund and administrative, to a noncustodial parent's federal debts in the following order:

- (A) Federal tax debt (Internal Revenue Service);
- (B) Past due child support (TEA and non-TEA cases);
- (C) Other federal debts (education loan debts); and
- (D) State tax debts.

(3)(A) If multiple states submit the same noncustodial parent, the state with the earliest submission is first in the distribution of offsets.

(B) If a case was deleted and is then recertified at a later date (for example, if a case is closed for enforcement and then reopened), the priority for that case is based on the date the recertification was processed.

(e) **Bankruptcies.** Unless specific instructions to the contrary are provided by the appropriate legal department, the office may continue to process federal administrative offsets, tax refund offsets, and passport denials while a noncustodial party is in bankruptcy.

(f) **Cost of offset.** The cost of each tax and administrative offset, not to exceed twenty-five (\$25.00), will be passed on to the custodial party in non-TEA cases where the offset was one hundred dollars (\$100) or greater.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-302. Federal Income Tax Refund Offset Program.

(a) Child support payments received by the Federal Tax Offset Program can only apply to child or spousal support arrears.

(b) Moneys from the Federal Tax Offset Program received by the Office of Child Support Enforcement in excess of the amount of arrears will be returned to the noncustodial parent.

(c) Injured spouse.

(1)(A) Financial Management Service will offset a refund from a joint income tax return to pay a past due support obligation if either tax filer is certified as being legally responsible for providing support.

(B) The United States Department of the Treasury will notify the spouse at the time of offset regarding the steps to take to protect his or her share of the refund.

(C) The noncustodial party's spouse may file an Injured Spouse Allocation Form when filing the joint tax return or any time after the offset.

(D) If the noncustodial parent's spouse files the appropriate form with the original tax return, the Internal Revenue Service will determine what, if any, portion of the refund is owed to the spouse based on that person's income and tax debt and will only offset the noncustodial parent's share of the tax refund.

(2) As provided in federal regulations, the office will delay the distribution of refunds based on a joint return for six (6) months to allow the Internal Revenue Service

time to process the form that may have been filed after the return and offset was processed.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-303. Administrative Offset Program.

(a) Administrative offset allows for the interception of certain federal payments in order to collect past due child support.

(b) These payments can be recurring or one-time payments.

(c) The type of payments that can be intercepted include:

- (1) Payments to private vendors who perform work for a government agency;
- (2) Payments received from an agricultural subsidy;
- (3) Federal retirement payments; and
- (4) Relocation and travel reimbursements owed to federal employees.

(d) Some payments are excluded from administrative offset, including:

- (1) Department of Veterans Affairs disability benefits;
- (2) Federal student loans;
- (3) Railroad retirement payments; and
- (4) Payments made under certain programs based on financial need, such as

Supplemental Security Income.

(e) Federal payments eligible for administrative offset are intercepted as follows:

(1) **Vendor/miscellaneous payments.**

(A) Qualifying vendor and miscellaneous payments can be offset at one hundred percent (100%).

(B) For example, employee expense reimbursement or agricultural subsidy; and

(2) **Federal retirement payments.**

(A) Retirement pay is offset at a rate of twenty-five percent (25%).

(B) If an income withholding is in place for federal retirement, the case will be excluded from retirement administrative offset.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-304. Debt Check Program.

(a)(1) The Debt Check Program is operated by Financial Management Service (FMS).

(2) It is a debt management program for use by federal agencies and outside lenders who issue federal loans, loan insurance, and loan guarantees.

(3) The program allows these agencies and lenders to conduct a search to confirm whether potential recipients of federal financial assistance owe delinquent non-tax debt to the federal government or owe delinquent child support.

(4) If records indicate a debt is owed, the applicant could be denied from receiving the loan, loan insurance, or loan guarantee.

(b) The Office of Child Support Enforcement reports to FMS those cases in which no payments, excluding tax offset, have been received in the last ninety (90) days.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-305. Passport Denial Program.

(a)(1) When a noncustodial parent's arrears from all of his or her cases meets or exceeds two thousand five hundred dollars (\$2,500), the United States Office of Child Support Enforcement submits the name to the United States Department of State for passport denial.

(2) The noncustodial parent's passport will remain flagged until arrears are paid in full or the conditions specified below are met.

(b) Release from passport denial.

(1) When a noncustodial parent's arrears are paid to zero dollars (\$0), passport flags are automatically removed by a weekly update.

(2) The local child support office may request removal sooner if the arrears are zero dollars (\$0) or if one (1) of the acceptable reasons for release, listed below, is met.

(3) If the individual was erroneously submitted for passport denial, a request for immediate release of the flag will be submitted.

(4) Release of a passport without the payoff of arrears may be approved in the following circumstances:

(A) If a noncustodial parent received a judgment of instant debt, i.e., there was no previous court order, and a noncustodial parent is now ordered to pay retroactive support for a child, the passport can be released if the noncustodial parent has followed the order without exception, including making all ordered payments toward arrears;

(B)(i) If a noncustodial parent must travel due to a life or death emergency of an immediate family member, verification of the emergency by a medical doctor or from the American Red Cross is mandatory, along with a payment of at least twenty-five percent (25%) of the arrears.

(ii) "Immediate family" means the following in relation to the noncustodial parent:

- (a) Parent or guardian;
- (b) Child, natural or adopted;
- (c) Grandparent;
- (d) Sibling;
- (e) Aunt;
- (f) Uncle;
- (g) Stepchild;
- (h) Step-parent;
- (i) Step-sibling; or
- (j) Spouse;

(C)(i) If a noncustodial parent is on active military duty and needs the removal of a passport flag due to being deployed overseas, the passport flag will be removed upon receipt of a:

- (a) Copy of the deployment orders; or

(b) Letter from the commanding officer stating the passport is required for military duty.

(iii) This does not apply to civilians voluntarily going overseas to work at a military base or with a private business; and

(D) If a noncustodial parent requires a passport for work-related travel, the following is required:

(i) A letter from the employer stating the noncustodial parent is required to travel as a condition of his or her employment;

(ii)(a) If one is not already in place, an Income Withholding Order will be issued to the employer.

(b) If the employee has not yet started work for the job for which the travel is required, the employer must be the one to which an Income Withholding Order may be issued; and

(iii) A payment of the current support amount for the month plus not less than twenty-five percent (25%) of the total amount of arrears.

Authority. Arkansas Code §§ 9-14-206, 9-14-208.

Subpart 4. State Income Tax Refund Offset

9 CAR § 5-401. Overview.

(a) State law authorizes collection of current support and past due child and medical support, as well as fees, costs, and other debts as defined by state law, through the interception of state income tax refunds.

(b)(1) A listing of delinquent obligors and the amount of past due child and medical support and fees and costs certified for collection are combined with other debts owed to Arkansas and submitted to the Revenue Division.

(2) This list is matched against the Revenue Division taxpayer file.

(3) When a tax refund becomes available for an individual whose debt has been certified, the Revenue Set-Off Unit forwards the funds to the Office of Child Support Enforcement and the refund is applied against the amount of the debt.

(4) The Revenue Division pays any excess directly to the taxpayer.

(5) Medical support, overpayments, cost, and fees are subject to tax intercept.

(c) Collections from a noncustodial parent as a result of state income tax refund offset are treated as a regular child support payment and disbursed accordingly.

Authority. Arkansas Code §§ 9-14-206, 9-14-208.

9 CAR § 5-402. Eligibility for offset.

(a) In addition to the legislative requirements, the Office of Child Support Enforcement has established the following criteria for submissions for state intercept:

(1) There must be a court order for support;

(2)(A) Arrearage must be at least:

(i) Fifty dollars (\$50.00) for TEA or foster care cases; and

(ii) One hundred dollars (\$100) for non-TEA cases.

(B) Instant debt balances will be included in the certified amount, however, cases with orders less than thirty (30) days old from the effective date will not be certified regardless of the arrearage amount;

(3)(A) The fees of the noncustodial parent must total at least fifty dollars (\$50.00).

(B) Fees and TEA arrears may be combined to reach the fifty-dollar threshold for TEA certification; and

(4) There must be an assignment of child support rights to the State of Arkansas for TEA, Medicaid, and IV-E foster care cases or a contract for child and/or medical support for non-TEA cases.

(b) Arkansas must be the responding state in intergovernmental cases, i.e., the noncustodial parent must reside in Arkansas.

Authority. Arkansas Code §§ 9-14-206, 9-14-208.

9 CAR § 5-403. State tax pre-offset notices.

The individual who is being certified to the Revenue Division will be given written notice in advance of the agency's intent to intercept his or her tax refund.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-404. State tax offset informal complaint resolution.

(a) The local Office of Child Support Enforcement will attempt to resolve complaints or questions regarding state tax offset informally.

(b) The customer should be informed that they must submit a written request in order to contest the offset through an administrative hearing within the timeframes indicated in the pre-offset notice.

Authority. Arkansas Code § 9-14-206.

Subpart 5. License Suspension

9 CAR § 5-501. Administrative suspension of licenses.

(a)(1) State law authorizes and establishes procedures for the suspension of specified state-issued licenses, including commercial driver's and regular driver's licenses, including motorcycles; permanent license plates; recreational licenses; and occupational, professional, and business licenses of a noncustodial parent, if certain conditions exist on a case.

(2)(A) When interviewing the noncustodial parent, the local Office of Child Support Enforcement office should request that the noncustodial parent allow the Office of Child Support Enforcement to copy the noncustodial parent's driver's or commercial driver's license and Social Security card for identification purposes and for future reference.

(B) This information is to be maintained in the file at the local Office of Child Support Enforcement office.

(3) All licensing authorities affected may not be capable of interface automation with the Office of Child Support Enforcement database.

(4) Periodically, staff should make inquiries with custodial parties or other knowledgeable sources to determine if a noncustodial parent holds a state-issued license subject to suspension.

(5) **Note.**

(A) There are two (2) classes of state ID cards that do not fall within the definition of "license":

(i) Class ID (issued for identification only); and

(ii) Class X (issued for persons who have been ticketed for a traffic violation in Arkansas, but have not been licensed to drive in Arkansas).

(B) Class ID and Class X will not be suspended.

(b) One (1) of the following two (2) conditions must be met in order to suspend a noncustodial parent's license or license plate:

(1) **Condition 1.** The noncustodial parent is delinquent on a court-ordered child support payment in an amount equal to three (3) months' obligation or more, or the noncustodial parent is delinquent on payments toward an adjudicated arrearage in an amount equal to a three (3) months' obligation or more; or

(2) **Condition 2.** The noncustodial parent is the subject of an outstanding failure to appear, body attachment, or bench warrant related to a child support proceeding.

(c) The following are exceptions to the above conditions:

(1)(A) If the noncustodial parent was assessed retroactive support, the noncustodial parent is not delinquent in child support payments for those retroactive support payments.

(B) For example, if the noncustodial parent is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of

support retroactively, then the noncustodial parent is not delinquent because there was never an obligation to pay anything before the court date.

(C) Instant debt will not be considered an adjudicated arrearage for the purpose of this policy.

(D) However, if the noncustodial parent fails to pay on a retroactive support order for three (3) months or in a total amount equal to at least three (3) months' obligation, license suspension may be appropriate;

(2) The noncustodial parent pays the delinquency below an amount equal to three (3) months' obligation;

(3) Noncustodial parents:

(A) Who are currently in compliance with a written agreement with the Office of Child Support Enforcement requiring periodic installment payments for liquidation of a child support delinquency or adjudicated arrearage;

(B) Currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring periodic payments for liquidation of the judgment; or

(C) Who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding; and

(4)(A) The noncustodial parent enters an agreed order or written installment agreement with the Office of Child Support Enforcement with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency.

(B) The agreed order or written installment agreement should contain a provision that stipulates that if the noncustodial parent becomes thirty (30) days' delinquent on the agreed order or written agreement, the:

(i) License or licenses affected will be suspended immediately; and

(ii) Noncustodial parent specifically waives all rights to an administrative hearing or further notice prior to the suspension or suspensions.

(C) The Office of Child Support Enforcement can place a suspension against an expired license, which will prevent the noncustodial parent from receiving a

new license until arrangements have been made with the Office of Child Support Enforcement to pay current support and an amount toward arrears.

(d) **Bankruptcy.**

(1) If the noncustodial parent has filed for bankruptcy, any release of an already suspended license or any prospective suspension of his or her license shall be determined on a case-by-case basis by the caseworker with the following exception.

(2) If the case is one in which the noncustodial parent does not have any ongoing obligation, then:

(A) A suspended license should be immediately released; and

(B) No further suspension referrals sent unless prior approval is received from the legal department.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

Codification Notes. "ID" means identification.

9 CAR § 5-502. Notice of intent to suspend license.

(a)(1) If either Condition 1 or Condition 2 noted above in 9 CAR § 5-501(b) exists and none of the five (5) exceptions apply, a Notice of Intent to Suspend License will be mailed to the noncustodial parent.

(2) Notices should be sent certified mail to the most current address as provided by the licensing authorities or to the address provided to the court by the noncustodial parent, unless a verified address has been obtained.

(3)(A) In the event a notice sent by certified mail is rejected or unclaimed, a subsequent mailing of the notice by regular first-class mail shall be considered sufficient.

(B) It must be narrated/documentated.

(b) The notice will:

(1) Specifically identify all known licenses and permanent license plates held by the noncustodial parent; and

(2) Inform the noncustodial parent that the specified licenses or license plates will be suspended in sixty (60) days unless the noncustodial parent requests an administrative hearing within thirty (30) calendar days following the date of the notice.

(c) The notice shall advise the noncustodial parent that identified licenses will be suspended unless the request for a hearing is received within thirty (30) calendar days of the date of the notice.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

9 CAR § 5-503. License suspension informal complaint resolution.

(a)(1) Following issuance of the Notice of Intent to Suspend License, the noncustodial parent may avoid license suspension by:

(A) Contacting the local Office of Child Support Enforcement office; and

(B) Entering into an agreed order or written installment agreement with the Office of Child Support Enforcement as described in 9 CAR § 5-501(c)(4) listed above.

(2) Agreed orders and written installment agreements made after issuance of a License Suspension Notice should include a condition that requires that some payment be made by the noncustodial parent before expiration of the notice of intent to suspend.

(b)(1) In the event the noncustodial parent contests the accuracy of the arrearage information or the duration of the delinquency, he or she can schedule an appointment with the local Office of Child Support Enforcement office to resolve the issue.

(2) Issues that cannot be resolved by the local Office of Child Support Enforcement office will be forwarded to Office of Child Support Enforcement Central Office for an administrative hearing if requested by the noncustodial parent.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

9 CAR § 5-504. License suspension and reinstatement.

(a)(1) If the sixty (60) days has expired and no appeal is pending, the license will be suspended.

(2) The noncustodial parent must enter into an installment agreement before the license will be reinstated.

(3) Additionally, the noncustodial parent may avoid suspension or obtain reinstatement by paying the delinquency to an amount below three (3) months' obligation.

(b)(1) In some instances, noncustodial parents may initiate action on their own accord resulting in a court order eliminating the presence of Condition 1 or 2 listed in 9 CAR § 5-501(b).

(2) If the noncustodial parent takes such action eliminating the threshold condition for license suspension prior to the effective date of the intended suspension, the responsible local Office of Child Support Enforcement office must upon notification notify the:

(A) Central Office Program Support section to take action to set aside suspension activity on the case; and

(B) Noncustodial parent accordingly.

(c)(1) Office of Child Support Enforcement Central Office staff is responsible for keying or requesting any suspensions or reinstatements of licenses and license plates.

(2) If the noncustodial parent pays the arrearage below an amount equal to three (3) months' obligation or the court enters a judgment on arrears, the license will be reinstated.

(3) Following license suspension, the noncustodial parent may obtain license reinstatement by entering into an agreed order or written installment agreement with the Office of Child Support Enforcement as described in Office of Child Support Enforcement policy.

(4) The agreed order or written installment agreement should contain a provision requiring a lump-sum payment in addition to requiring the periodic payment of current support and regular periodic payments on the arrearage/delinquency.

(5) It is imperative that the Office of Child Support Enforcement Central Office be notified to immediately take necessary actions to restore the license or permanent license plate of the obligor when the condition warranting suspension has been removed.

(d)(1) In the event of fraud or mistake resulting in a wrongful suspension, the Office of Child Support Enforcement shall immediately notify the licensing authority involved to restore the license or permanent license plate of the noncustodial parent as appropriate.

(2) When an enforcement case closes, the Office of Child Support Enforcement loses its authority to enforce the child support order.

(3) Although the case may remain open for payment processing, the Office of Child Support Enforcement cannot take any action on the case to enforce or collect child support.

(4) Therefore, when an enforcement case is closed:

(A) The Office of Child Support Enforcement cannot continue a license suspension action against the noncustodial parent; and

(B) His or her licenses should be reinstated.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

9 CAR § 5-505. Referrals and injunctions for suspended license.

(a) Whenever the Office of Child Support Enforcement determines that the noncustodial parent has engaged in an activity despite suspension of the license, a referral should be made to the licensing authority and/or to law enforcement, as appropriate.

(b) In some cases, the local Office of Child Support Enforcement office may consider seeking a court injunction from the appropriate circuit court restraining the noncustodial parent from any activity not permitted during license suspension.

(c) The assigned Office of Child Support Enforcement attorney should be consulted if the local Office of Child Support Enforcement office believes that injunctive relief should be pursued.

Authority. Arkansas Code §§ 9-14-206, 9-14-238.

9 CAR § 5-506. Law license review.

Noncustodial parents who are licensed attorneys and who meet one (1) of the conditions and none of the exceptions listed previously may be referred to the Clerk of the Supreme Court for review of their law license.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

Subpart 6. Lien and Levy

9 CAR § 5-601. Overview.

(a) In cases in which there is overdue child support, and in an effort to secure assets to satisfy any current support obligation and any arrearage, the Office of Child Support Enforcement is authorized to take any of the following actions:

(1) Intercept or seize periodic or lump-sum payments from:

(A) A state or local agency, including:

(i) Unemployment compensation;

(ii) Workers' compensation; and

(iii) Certain veteran's benefits;

(B) Judgments;

(C) Settlements;

(D) Prizes; and

(E) Lotteries;

(2) Attach and seize assets of the obligated parent held in financial institutions;

(3) Attach public and private retirement funds, including any union retirement fund and railroad retirement; and

(4) Impose liens and, in appropriate cases, force the sale of property and distribute proceeds.

(b) State law requires each financial entity (defined as any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit) to cooperate with the office to develop, implement, and operate an electronic automated data match system using automated data exchanges to provide the office, each calendar quarter, with the following information:

(1) The name, record address, Social Security number, or other taxpayer identification number and other identifying information for each noncustodial parent who maintains an account at their respective financial institution.

(c)(1) The office enters into cooperative agreements with financial entities to provide for automatic data exchanges to the maximum extent feasible in order to locate account assets of noncustodial parents.

(2) Any information obtained from any financial entity shall become a business record of the Office of Child Support Enforcement and be subject to privacy safeguards.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-602. Liens on assets held by financial entities.

(a)(1) The Office of Child Support Enforcement may impose a lien, seize assets, or freeze an account based on verification of an account held by an individual at any time information becomes available to the caseworker.

(2) The caseworker shall notify the Lien/Levy Section when such information becomes available.

(3) The process to seize the asset will be completed by the Lien/Levy Section staff.

(b) The following criteria must be met to qualify for a lien on assets held by financial entities:

- (1) The case must be an open enforcement case;
- (2) Arrears must be at least five hundred dollars (\$500) or equal to three (3) months' obligation, whichever is greater;
- (3) No payment received within the last forty-five (45) days;
- (4) The noncustodial parent is not currently a TEA recipient;
- (5) The noncustodial parent's source of income may not include Supplemental Security Income; and
- (6) A Family Violence Indicator is not attached to the parties.

(c) An account is defined as any of the following:

- (1) Demand deposit account;
- (2) Checking or negotiable withdrawal order account;
- (3) Savings account;
- (4) Money market mutual fund account; and
- (5) Time deposit account.

(d)(1) Withholdings, intercepts, and seizures may be initiated by the office without obtaining a prior order from any court.

(2) The office shall provide written notice to the noncustodial parent or alternate account holder informing him or her:

- (A) That withholding, intercept, or seizure has commenced;
- (B) Of the right to an administrative hearing; and
- (C) Of the procedures to follow if he or she desires to contest the action

or actions.

(3) The notice to the noncustodial parent or alternate account holder shall include the information provided to the:

- (A) Employer;
- (B) Agency; or
- (C) Financial institution.

(e) Financial entities shall, in response to a notice of lien or levy, surrender assets held by such financial entities on behalf of any noncustodial parent who is subject to a child support lien pursuant to a judgment or by operation of law.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-603. Liens against insurance claims.

(a) Cases meeting the following criteria are matched with insurance carriers through the Child Support Lien Network (CSLN) and Federal Insurance Match program to identify any claim payments due to the noncustodial parent:

- (1) Case is open for enforcement;
- (2) Arrears are at least five hundred dollars (\$500); and
- (3) The noncustodial parent is not receiving TEA in Arkansas or TANF in another state.

(b)(1) Upon receipt of the match, a Notice to Withhold Insurance Assets is sent to the:

- (A) Insurance company;
- (B) Obligor;
- (C) Office of Child Support Enforcement; and
- (D) Noncustodial parent's attorney.

(2) The noncustodial parent has fifteen (15) calendar days from the date on the notice to request an administrative hearing.

(3) If no hearing is requested, the insurance company is notified to remit to the office the amount of the arrears or the amount of the noncustodial parent's share of the settlement, whichever is less.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-604. Administrative review and administrative hearings.

(a)(1) Upon receipt of the Notice of Lien and Levy, the noncustodial parent, or alternate account holder, may contact Office of Child Support Enforcement Central Office, Lien and Levy Section, to:

- (A) Contest the validity of the freeze and seize; and
- (B) Ask for an administrative hearing.

(2) The Lien and Levy Section caseworker must review the record to determine whether the:

- (A) Case was certified correctly; or
- (B) Issues raised by the noncustodial parent, or alternate account owner, are valid.

(3) If the issues raised by the noncustodial parent, or alternate account owner, are resolved by the Lien and Levy Section caseworker, then:

- (A) Necessary action will be taken in accordance with the resolution; and
- (B) A letter outlining the resolution will be sent to the noncustodial parent or alternate account owner.

(b)(1) Should the Lien and Levy Section caseworker be unable to resolve the issues or if the noncustodial parent or alternate account owner remains dissatisfied, then the noncustodial parent or alternate account owner may request an administrative hearing in writing.

(2) See 9 CAR pt. 9 concerning proper administrative hearing policy.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-605. Lottery.

(a) All open enforcement cases with arrears in excess of five hundred dollars (\$500) will be referred to the Office of the Arkansas Lottery for offset of any winnings claimed by the noncustodial parent.

(b) The amount subject to withholding is the full balance due on all the noncustodial parent's cases.

(c) Collections of lottery winnings will be distributed to current support first and then to arrears.

(d)(1) Referrals will be deleted when the case is closed.

(2) Payment processing cases will not be referred.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-606. Liens on real and personal property.

(a) The Office of Child Support Enforcement may impose a lien against the real and personal property of a noncustodial parent who:

(1) Owes overdue support; and

(2) Resides or owns property in the state.

(b) State law provides:

(1) For relief from the fraudulent transfer of property and assets by a noncustodial parent in an attempt to avoid liens; and

(2) A creditor provisions needed to obtain avoidance of the transfer to the extent necessary to satisfy a claim subject to the limitations in state law.

(c) A settlement agreement between the noncustodial parent, a child support creditor, and/or the office may be obtained.

Authority. Arkansas Code § 9-14-206.

Subpart 7. Automated Credit Reporting

9 CAR § 5-701. Overview.

(a)(1) Child support debt information may be reported to consumer reporting agencies (Credit Bureau).

(2) To be reported, the amount owed:

(A) Must exceed one thousand dollars (\$1,000); and

(B) May not include instant debt amounts entered as judgments at the time the court issues a support order, so long as regular payments have been made as ordered by the court.

(b)(1) The Office of Child Support Enforcement must send the noncustodial parent a notice by regular mail to his or her last known address prior to the disclosure of information to a consumer reporting agency.

(2) The notice must inform the noncustodial parent of:

(A) The amount of overdue support to be released;

(B) The procedures for contesting the accuracy of the information; and

(C) A statement that if he or she fails to contest the disclosure within seven (7) calendar days of the mailing date on the notice, the information will be released.

Authority. Arkansas Code § 9-14-206.

Subpart 8. Referrals for Review for Criminal Prosecution

9 CAR § 5-801. State criminal nonsupport.

(a) The Office of Child Support Enforcement may refer cases for state criminal nonsupport to the appropriate prosecuting attorney for consideration if, upon review of the case, it appears the obligation to support is not being met.

(b) Additionally, referrals to the appropriate prosecuting attorney are required if:

(1) The office has had enforcement responsibility for at least twelve (12) consecutive months;

(2) More than ten thousand dollars (\$10,000) is owed and remains unpaid;

(3) Regular child support payments are not being paid; and

(4) The custodial party has completed and signed an affidavit containing the required information, including a request that the noncustodial parent be prosecuted for the criminal offense of nonsupport.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-802. Federal criminal nonsupport.

(a) Failure to pay child support is also a federal crime and may be prosecuted as such pursuant to the Child Support Recovery Act of 1992, Pub. L. No. 102-521, and the Deadbeat Parents Punishment Act of 1998, Pub. L. No. 105-187.

(b) To be eligible for prosecution under federal law, the following elements must be present:

(1) The willful failure to pay a known child support obligation, which has remained unpaid for longer than one (1) year or, in the case of a felony prosecution, two (2) years, or the amount of the past due obligation is greater than five thousand dollars (\$5,000), or in the case of a felony prosecution, ten thousand dollars (\$10,000) for a child who resides in another state; or

(2) An additional basis exists for the prosecution of the failure to pay child support as a felony if the:

(A) Noncustodial parent has traveled in interstate or foreign commerce with the intent to evade the support obligation; and

(B) Obligation has remained unpaid for a period of one (1) year or longer or is greater than five thousand dollars (\$5,000).

(c)(1) Cases meeting the criteria for this type of prosecution may be forwarded to designated Office of Child Support Enforcement staff for review and forwarding, if appropriate, to the United States Attorney's Office for the federal district in which the custodial party resides.

(2) The United States Attorney's Office will exercise its prosecutorial discretion in determining whether to accept or decline a case for prosecution and the level at which an accepted case will be prosecuted.

Authority. Arkansas Code § 9-14-206.

Codification Notes. Section 2 of the Child Support Recovery Act of 1992 and the Deadbeat Parents Punishment Act of 1998 are codified at 18 U.S.C. § 228.

Subpart 9. Enforcing Medical Support

9 CAR § 5-901. Overview.

(a)(1) The Office of Child Support Enforcement must enforce medical support following the same program standards outlined in this part for enforcing child support.

(2) If the obligated parent does not provide proof of healthcare coverage within thirty (30) calendar days of the file mark date on the court order, the caseworker must take enforcement action to secure medical support.

(3) The caseworker must request employers and other groups offering healthcare insurance coverage to notify the office of lapses in coverage.

(b) **Medical bills.** The office will not initiate or pursue legal action to obtain judgment for medical bills not covered by medical insurance.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-902. Employer-sponsored healthcare coverage.

(a) In all cases where either party is ordered to provide medical support through his or her employer and child support enforcement services are provided by the Office of Child Support Enforcement, the National Medical Support Notice (NMSN) will be used as required by federal regulations.

(b)(1) The NMSN must be sent to the employer within two (2) business days of receiving employment information or matching with employer information contained in the National Directory of New Hires.

(2) If the obligated parent changes employers, the office will send a National Medical Support Notice to the new employer within two (2) business days of identifying the new employer unless medical support is provided by a third party.

(c)(1) The Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq., limits apply to the combined total withheld for both child support and medical coverage.

(2) See 9 CAR § 5-207, Computing amount for withholding, for a discussion of Consumer Credit Protection Act limits.

(3) Income withholding for child support must take priority over the deduction for healthcare premiums.

(d) The office will notify the employer when there is no longer a current order for medical support in effect for which the agency is responsible.

(e) The employer and the healthcare administrator must follow Arkansas law to:

(1) Implement income withholding for healthcare coverage premiums;

(2) Enroll the child; and

(3) Provide information regarding the policy to the family.

Authority. Arkansas Code § 9-14-206.

Subpart 10. Recovery of Child Support

9 CAR § 5-1001. Overview.

(a) The Office of Child Support Enforcement will continue collection after the emancipation of a child until:

(1) A written request is made by the custodial party to stop enforcing the case;

(2) All arrears are paid;

(3) There is an administrative determination that the debt is uncollectible; or

(4) The case meets other federal case closure criteria.

(b)(1) Any arrears that have not been reduced to judgment by the time the youngest child attains the age of twenty-three (23) are subject to the statute of limitations regarding collection of child support.

(2) The office will not take enforcement action to collect support arrears for which an affirmative defense of statute of limitations exists with the exception of those actions permitted by federal law:

(A) Offset of federal income tax refunds;

(B) Denial of passports; and

(C) Administrative offset of payment from the federal government to individuals regardless of the age of the child.

(c)(1) All enforcement techniques apply to collection of the past due amount of support, including:

(A) Adjudication of arrears;

(B) Garnishment;

(C) Execution;

(D) Wage withholding;

(E) Contempt;

(F) Liens on property; and

(G) Federal tax and administrative offset.

(2) State income tax refunds may be intercepted to recover TEA and non-TEA arrears.

(d)(1) The office will accept recovery cases from another IV-D agency or by application from the custodial party on behalf of a child age twenty-two (22) or younger who was the subject of a child support order.

(2) If the child is age twenty-three (23) or older, the office can accept the case if:

(A) There is a court-ordered judgment; or

(B) Permitted by the laws of the state issuing the support order.

Authority. Arkansas Code § 9-14-206.

9 CAR § 5-1002. Recovery of child support in intergovernmental cases.

(a) In cases in which the order was entered in another state, the statute of limitations of the state that issued the order or the Arkansas statute of limitations, whichever is longer, will apply and control how long arrears may be collected.

(b) In cases in which the Arkansas statute of limitations would be a bar to collection of the arrears, the law of the issuing state must be reviewed to determine if collection may continue.

(c) If collection of the child support arrears is not possible under Arkansas law or the law of the issuing state, the caseworker will send a sixty-day closure notice to the applicant for services or the initiating state, as appropriate, and the case will be closed.

Authority. Arkansas Code § 9-14-206.

Subpart 11. Redirecting Child Support to the Physical Custodian

9 CAR § 5-1101. Overview.

(a) A custodial party may redirect payments to an alternate caretaker (a nonrelative caretaker) by designating in a record that the alternate caretaker will have the child for a temporary time period.

(b)(1) Arkansas law authorizes redirection of court-ordered child support from one custodial party to another physical custodian without obtaining a court order when the physical custodian has had, or is anticipated to have, physical custody of a child for more than eight (8) consecutive weeks, other than court-ordered visitation, during which there is an obligation to pay child support.

(2) The new physical custodian cannot be the noncustodial parent.

(c) The notice must:

(1) Comply with the requirements of Arkansas Code § 9-14-234, as amended by Acts 2019, No. 904, and may be given by the Office of Child Support Enforcement, the custodial party, or the physical custodian; and

(2) Include a statement from the custodial parent or physical custodian that the child has or will be residing with the physical custodian for more than eight (8) consecutive weeks.

Authority. Arkansas Code § 9-14-206.

Subpart 12. Termination of Support

9 CAR § 5-1201. Overview.

(a) Unless the court orders otherwise, a noncustodial parent's duty to pay child support for a child shall automatically terminate by operation of law:

(1) When the child reaches eighteen (18) years of age, unless the child is still attending high school;

(2) If the child is still attending high school, the support obligation ends upon the child's high school graduation or the end of the school year after the child reaches nineteen (19) years of age, whichever is earlier;

(3) If a child has reached eighteen (18) years of age and is home-schooled, upon receipt of proof of home schooling, support will continue until the end of the school year after the child has reached nineteen (19) years of age or receives a GED confirmation, whichever is earlier;

(4) When the child:

(A) Is emancipated by a court of competent jurisdiction;

(B) Marries; or

(C) Dies;

(5) Upon the marriage of the parents of the child to each other; or

(6) Upon a final or interlocutory decree of adoption of the child, relieving the noncustodial parent of all parental rights and responsibilities.

(b) If arrears are still owed at the time of emancipation, wage withholding and/or enforcement efforts will continue until arrears are paid in full.

Authority. Arkansas Code § 9-14-206.

Codification Notes. “GED” means general educational development test.

9 CAR § 5-1202. Noncustodial parent may initiate termination of support.

(a)(1) If there are no child support arrearages, the noncustodial parent may terminate income withholding for child support without petitioning the court by giving written notice, in person or by certified mail, to the:

- (A) Noncustodial parent’s employer;
- (B) Custodial party;
- (C) Office of Child Support Enforcement;
- (D) Arkansas Child Support Clearinghouse; and
- (E) Clerk of the court.

(2) The notice must:

(A) Be given no earlier than thirty (30) calendar days before the termination of the duty to pay support; and

(B) Contain:

(i) The name and address of the noncustodial parent;

(ii) The name and address of the noncustodial parent’s employer;

(iii) A statement that income withholding for child support will be terminated;

(iv) The date of termination; and

(v) The basis for termination of income withholding.

(b)(1) The custodial party, the office, or the clerk of the court may file a written objection to the termination.

(2) The written objection to the termination must be made by certified mail to the noncustodial parent and to his or her employer within ten (10) calendar days after receipt of the notice of intent to terminate income withholding for child support.

(3) It must:

(A) State that the noncustodial parent's duty to pay child support has not been fulfilled as required by court order; and

(B) Set forth the reasons for nonfulfillment.

(4) If a written objection is filed as provided in this subsection, income withholding for child support shall continue until such time as an order is entered which terminates, alters, or amends income withholding for child support.

(5) **Note.** For information on automatic modification of the support amount when one (1) child emancipates, see 9 CAR § 6-101 et seq.

Authority. Arkansas Code § 9-14-206.