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Child Support Enforcement: Program Basics

Updated September 8, 2022

Congressional Research Service
https://crsreports.congress.gov
RS22380

CRS REPORT
Prepared for Members and
Committees of Congress

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SUMMARY

RS22380

September 8, 2022

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Child Support Enforcement: Program Basics

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 recipients of cash assistance by obtaining ongoing support from noncustodial parents that could be used to reimburse the state and federal governments for part of that assistance. (This purpose often is referred to as *public assistance cost-recovery*.) Relatedly, the program also sought to strengthen families by securing financial support for children from their noncustodial parents on a consistent and continuing basis to enable some of those families to remain self-sufficient and off public assistance. Over the years, CSE has evolved into a multifaceted program. While public assistance 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 assistance families (e.g., those receiving cash benefits under the Temporary Assistance for Needy Families program; TANF) and non-assistance 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, and 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 FY2021, the CSE program paid to families $28.1 billion in child support and served nearly 12.7 million child support cases. The program collects 67% of current child support obligations for which it has responsibility (21% if payments on past-due child support are taken into account), and collects payments for 66.7% of its caseload. In FY2021, total CSE expenditures amounted to $5.9 billion. On average, in FY2021 the CSE program collected $5.27 in child support payments for each $1 spent on the program.

In recent years, CSE programs have been increasingly concerned with the issues of noncustodial parents' access to and engagement with their children. The $10 million per year CSE Access and Visitation Grants Program, issues related to parenting time agreements, and the $75 million per year Responsible Fatherhood Program (administered elsewhere within HHS) are described in the final section of the 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 them by contributing to childrearing costs. Child support orders generally are established when parents divorce or separate, or when the custodial parent applies for certain public benefits.

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act).[1] The primary purpose of this program was to reduce public expenditures for recipients of cash assistance by obtaining ongoing support from noncustodial parents that could be used to reimburse the state and federal governments for part of that assistance. (This purpose often is referred to as *public assistance cost-recovery*.) Relatedly, the program also sought to strengthen families by securing financial support for children from their noncustodial parents on a consistent and continuing basis to enable some of those families to remain self-sufficient and off public assistance.[2] Over the years, CSE has evolved into a multifaceted program.[3] While public assistance 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 assistance families (e.g., those receiving cash benefits under the Temporary Assistance for Needy Families program [TANF]) and non-assistance families.

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 60 tribal nations operate CSE programs and are entitled to federal matching funds.[4] The CSE program is estimated to handle the majority of all child support cases;[5] the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between the parents.

Under federal law, families receiving cash benefits through the Temporary Assistance for Needy Families program (Title IV-A of the Social Security Act) or Medicaid coverage (Title XIX of the

[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] See S. Rept. 93-1356, pp. 42-55.

[3] See, for example, U.S. Department of Health and Human Services (HHS), Office of the Assistant Secretary for Planning and Evaluation (ASPE), "The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, August 31, 1996, https://aspe.hhs.gov/reports/personal-responsibility-work-opportunity-reconciliation-act-1996.

[4] 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 (PRWORA, P.L. 104-193), 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. Section 456(f) of the Social Security Act allows 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. For further information, see https://www.acf.hhs.gov/css/child-support-professionals/tribal-agencies.

[5] Elaine Sorensen, Arthur Pashi, and Melody Morales, *Characteristics of Families Served by the Child Support (IV-D) Program: 2016 Census Survey Results*, Office of Child Support Enforcement, November 2018, p. 3, https://www.acf.hhs.gov/sites/default/files/programs/css/iv_d_characteristics_2016_census_results.pdf.

Social Security Act)—and, at state option, families receiving Supplemental Nutrition Assistance Program (SNAP) assistance—are required to cooperate with the CSE program as a condition of receiving benefits.[6] These assistance families are not charged for CSE services. 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-assistance families an annual user fee that cannot exceed $35.[7] Child support collected by CSE agencies on behalf of non-TANF families goes to the family, usually through the state disbursement unit.

Child support payments distributed by CSE agencies increased from $1 billion in FY1978 to $29.5 billion in FY2021.[8] (The CSE program also distributed an additional $3.2 billion in child support for non-Title IV-D cases.) Over the same period, the number of children whose paternity was established or acknowledged each year increased from 111,000 to 1.473 million. The program collects 21% of child support obligations for which it has responsibility if payments on past-due child support (i.e., "arrearages") are taken into account (otherwise, 67%)[9] and collects payments for 67% of its caseload. In FY2021, total CSE expenditures (federal and state) amounted to $5.9 billion. On average, in FY2021 the CSE program collected $5.27 in child support payments for each $1 spent on the program.

Table 1, below, provides FY2021 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 CSE Access and Visitation Grants, issues related to parenting time agreements, and the Responsible Fatherhood Program (administered elsewhere within HHS).

[6] 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.

[7] Roughly half of states have opted to require that the custodial parent cooperate with the CSE program as a condition of receiving child care subsidies (see HHS, Office of the Assistant Secretary for Planning and Evaluation, *Child Support Cooperation Requirements in Child Care Subsidy Programs and SNAP: Key Policy Considerations*," November 1, 2018, https://aspe.hhs.gov/pdf-report/child-support-cooperation-requirements-child-care-subsidy-programs-and-snap-key-policy-considerations). If a state opts to exempt these families from the annual user fee, they must reimburse the federal government its portion of the fees that otherwise would have been collected.

[8] Unless otherwise noted, all FY2021 data in this report is from HHS, Office of Child Support Enforcement, *FY2021 Preliminary Data Report, Department of Health and Human Services*, https://www.acf.hhs.gov/css/policy-guidance/fy-2021-preliminary-data-report-and-tables.

[9] In FY2021, $145.5 billion in child support obligations ($32.0 billion in current support and $113.5 billion in past-due support) was owed to families receiving CSE services, but $30.5 billion was paid ($21.4 billion current, $9.1 billion past-due; numbers do not sum to total due to rounding).

Table 1. Preliminary Child Support Data—FY2021

Total CSE caseload	*Total*, 12.7 million; *TANF families*, 0.9 million; *former-TANF families*, 5.1 million; *never-TANF families*, 6.6 million
Total CSE distributed collections	*Total*, $29.522 billion; *TANF* families, $0.709 billion; *former-TANF*, $8.776 billion; *never-TANF*, $10.383 billion (plus $9.654 billion on behalf of Medicaid-only families)
Payments to families	*Total*, $28.063 billion; *TANF*, $0.117 billion; *former-TANF*, $7.697 billion; *never-TANF*, $10.209 billion (plus $9.227 billion on behalf of Medicaid-only families); in addition, $716 million in *medical support*, $97 million *passed through to current TANF families*, and $5 million *passed through to former TANF families*
Federal share of TANF reimbursement	$868 million
State share of TANF reimbursement	$514 million
Total CSE expenditures	$5.908 billion; *federal share*, $3.529 billion, *state share*, $2.379 billion
Incentive payments to states (estimated)	$509 million
Paternities established and acknowledged	1,472,708
Cases for which support orders were established	610,743 (includes only new orders; excludes modifications)
Cases for which collections were made	*Total,* 8,440,747: *TANF*, 383,200; *former-TANF*, 3,419,916; *never-TANF*, 4,637,631

Source: Table prepared by the Congressional Research Service, based on data from the Office of Child Support Enforcement (HHS), FY2021 Preliminary Data Report, available at https://www.acf.hhs.gov/css/policy-guidance/fy-2021-preliminary-data-report-and-tables.

Note: Numbers may not add to totals due to rounding. "TANF" amounts include both TANF families (Title IV-A of the Social Security Act) and collections on behalf of children receiving foster care support pursuant to Title IV-E of the Social Security Act.

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 child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.[10]

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). The SPLS in each state is an assembly of systems that includes the State Child

[10] Federal law requires every Title IV-D child support order to include a provision for health care coverage. It 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 or noncustodial parent whenever health care coverage is available to that 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, see CRS Report R43020, *Medical Child Support: Background and Current Policy*.)

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: HHS, 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.

Each state also has 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 includes 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.

In addition to the resources discussed above, a state can request the assistance of the Federal Parent Locator Service (FPLS).[11] The FPLS is an assembly of systems, including the state

[11] 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.

systems discussed above, operated by the Office of Child Support Enforcement (OCSE). It can 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.[12]

The FPLS assists federal and state agencies in identifying overpayments and fraud, and assessing benefits. Its component systems can access data from the Social Security Administration, the Internal Revenue Service, the Department of Defense, the Department of Veterans Affairs, the National Security Agency, the Federal Bureau of Investigation, and State Employment Security Agencies. The FPLS also can search its federal case registry of child support orders and the national directory of new hires (NDNH), which is a federal directory consisting of information from federal agencies and all of the state directories.[13]

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.[14] 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 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.[15]

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. (With regard to same-sex parents, states are permitted by Title IV-D of the Social Security Act to adopt gender-neutral processes for establishing parentage. However, the

[12] PRWORA (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.

[13] 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: In Brief*.)

[14] 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.

[15] 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.

procedures that are specified in Title IV-D related to genetic testing would generally not be applicable in such cases.[16])

Federal law requires states to have procedures that permit the establishment of paternity for all children under the age of 18.[17] 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;[18]
- 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.[19]

For contested paternity cases, federal law further requires that all parties submit to genetic testing.[20]

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 cooperation is required as a condition of receiving public assistance.[21]

[16] For further information, see HHS, OCSE, "Same-Sex Parents and Child Support Program Requirements," PIQ-22-02, March 29, 2022, https://www.acf.hhs.gov/css/policy-guidance/same-sex-parents-and-child-support-program-requirements.

[17] 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% as of October 1, 2006.

[18] 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.

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

[20] 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)).

[21] Families required to cooperate with the CSE agency under federal law include those receiving TANF cash assistance or Medicaid coverage, and those in states that have adopted cooperation requirements for their SNAP programs. Roughly half of states have additionally opted under their own laws to require cooperation of recipients of child care subsidies.

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.[22] 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 prorates the combined incomes of both parents to determine the child support obligation of the noncustodial parent (41 states, Guam, and the Virgin Islands);
2. "Percentage of income," in which only the noncustodial parent's income (factoring in the number of children to which child support is to be paid) is used to determine the support obligation (6 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).[23]

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.[24]

Federal law requires that states review and, if appropriate, adjust child support orders for TANF family cases at least once every three years.[25] For non-TANF family cases, such a review is not automatic but either one of the parents can request it 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.

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

[23] 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*, July 10, 2020, available at http://www.ncsl.org/research/human-services/guideline-models-by-state.aspx.

[24] 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*.

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

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.[26]

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.[27] In FY2021, 63% of collections were obtained through income withholding.[28] 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.

Federal law also provides for international enforcement of child support.[29] The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) contained provisions designed to improve child support collections in cases where the custodial parent lives in one country and the noncustodial parent lives in another country.[30] Specifically, this act included implementing

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

[27] 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.

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

[29] The United States has reciprocal agreements with certain countries to process cases and enforce child support orders. These countries include those that have joined the Hague Child Support Convention, and countries and Canadian provinces/territories that have bilateral agreements with the U.S. government and are not parties to the Hague Convention. OCSE maintains a list of these countries at http://www.acf.hhs.gov/programs/cse/international/.

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

legislation for The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the Convention).[31] (Forty other countries, including the European Union member states, have also ratified the Convention.) The enactment of the law also ensured that the United States continued to be 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 would be available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.[32]

Financing

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, referred to as "federal financial participation."[33] The federal government's reimbursement 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 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.)

[31] The Convention was adopted at the Hague Conference on Private International Law on November 23, 2007. On August 30, 2016, President Obama signed the instrument of ratification for the Convention.

[32] 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*.

[33] In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, pursuant to PRWORA (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 July 11, 2022, 60 Indian tribes or tribal organizations operated comprehensive tribal CSE programs. For a listing of the tribal programs, see https://www.acf.hhs.gov/css/resource/tribal-child-support-agency-contacts. For additional information, see CRS Report R41204, *Child Support Enforcement: Tribal Programs*.

Fourth, the federal government provides states with an incentive payment to encourage them to operate effective programs.[34] Federal law requires states to reinvest CSE incentive payments back into the CSE program or related activities.[35]

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 SNAP program to cooperate with the CSE agency, automatically qualify for CSE services free of charge.[36] 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 $35, when child support enforcement efforts on their behalf are successful (i.e., at least $550 annually is collected on their behalf).[37] 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).[38] 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

- 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.

[34] 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). According to OCSE estimates, FY2021 incentive payments are expected to amount to $509 million. For additional information on CSE incentive payments, see CRS Report RL34203, *Child Support Enforcement Program Incentive Payments: Background and Policy Issues*.

[35] 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.

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

[37] 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)).

[38] For more information on the CSE annual user fee, CRS Report RS22753, *Child Support Enforcement Annual User Fee: In Brief*.

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 child support is owed to a current or former TANF family, distribution rules determine whether the family or the state retains any support that is collected. These distribution rules are 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.[39] 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 May 2020 data, 25 states, the District of Columbia and Puerto Rico have a CSE pass-through and disregard policy; 25 states, Guam, and the Virgin Islands do not.[40]

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,
- 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

[39] 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.

[40] National Conference of State Legislatures, *Child Support Pass-Through and Disregard Policies for Public Assistance Recipients*, May 29, 2020 (http://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx).

that accrue during the time the family is on TANF belong to the state and federal government.[41])

Noncustodial Parent Access to and Engagement with their Children

Access and Visitation Grants and Parenting Time Agreements

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 agreements). 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.[42] 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,[43] 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.[44] 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.

In 2019, OCSE reported the results of their multiyear pilot program, Parenting Time Opportunities for Children (PTOC). The purpose of PTOC was to evaluate the extent to which CSE agencies could implement integrated processes for the establishment of child support orders and parenting time agreements. The study also examined the feasibility of sufficient family violence safeguards, and whether the establishment of parenting time would result in greater parental involvement or child support payments. According to OCSE, "evaluators of the project sites confirmed that parents appreciate the opportunity to address parenting time and feel that it increases the fairness of child support. Furthermore, PTOC appears to help some parents with

[41] 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.

[42] See HHS, 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.

[43] See HHS, 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.

[44] Even before PRWORA (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.

improved relationships, more time with their children, and some small increases in child support compliance."[45]

CSE administrative costs related to parenting time arrangements are not considered to be eligible expenditures for federal reimbursement. However, there has been recent congressional interest in these arrangements and the feasibility of implementing them on a more widespread basis using existing funding sources. 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
- 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."[46] 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.[47] Between FY2011 and FY2018, $75 million in mandatory funding for this program each year was provided through provisions in appropriations acts. Since FY2019, funding for this program was provided through a series of temporary extensions, the most recent of which was through September 30, 2022 (Section 149 of P.L. 116-159, as amended by P.L. 117-103, Division P, Section 401).

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.[48] Grantees include states, territories, Indian tribes and tribal organizations, and public and nonprofit community groups (including religious organizations).

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[45] HHS, OCSE, *Parenting Time Opportunities for Children Research Brief*, August 2019, p. 1, https://www.acf.hhs.gov/sites/default/files/programs/css/ptoc_research_brief.pdf.

[46] 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.

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

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

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Acknowledgments

Carmen Solomon-Fears, retired CRS Specialist in Social Policy, authored earlier versions of this report. Sylvia Bryan, CRS Research Assistant, assisted with the 2022 report update.

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