

Chapter **7** Child Support Handbook



# WORKING ACROSS BORDERS

## COOPERATION BETWEEN STATES, TRIBES, COUNTRIES Interstate/Inter-jurisdictional Enforcement

It has been difficult to collect child support when the parent obligated to pay child support lives in one *jurisdiction* and the child and custodial parent live in another. However, all state and tribal child support agencies are required to pursue child support enforcement, including location, paternity establishment, and establishment of support obligations, as vigorously for children who live outside their borders as for those under their own jurisdiction.

With the enactment of the *Full Faith and Credit for Child Support Orders Act*, and the federal mandate that all states enact the *Uniform Interstate Family Support Act (UIFSA)*, interstate enforcement of child support obligations is improving. Tribes have not been required to enact UIFSA in order to receive federal funding for child support programs, as states have been required to do. However, courts of all United States territories, states and tribes must give full faith and credit to a child support order issued by another state or tribe that had jurisdiction over the parties and the subject matter. UIFSA includes a provision designed to ensure that, when more than one state is involved, there is only one valid child support order that can be enforced for current support. The law also includes a provision that allows a child support agency to work a case involving an out-of-jurisdiction obligor directly if certain conditions are met.

UIFSA has procedures under which an enforcement official (or private attorney) can refer a case to another tribunal within the United States. The laws can be used to establish paternity and to establish, modify, or enforce a support order.

Interstate *income withholding* can be used to enforce a support order in another jurisdiction if the noncustodial parent's employer is known. Under UIFSA, income withholding can be initiated in one state and sent directly to an employer in another without involving the child support agency in that state. Laws vary, and you will need to ask your caseworker whether this option is available in your case.

All state child support agencies have an office called the Central Registry to receive incoming interstate child support cases, ensure that the information given is complete, send cases to the right local office, and respond to inquiries from out-of-jurisdiction child support offices. Standard forms make it easier for state and tribal caseworkers to find the information they need to enforce a case, and to be sure they are supplying enough information for another jurisdiction to enforce their case.



### **I know the out-of-state address of my children's father, and my caseworker sent a petition to establish my support order there. That was three months ago, and still no support payments. What's wrong?**

It could be several things: enforcement officials may not be able to serve notice on the noncustodial parent due to inadequate address information; if a hearing is necessary, it may take a while to get a court date. Generally speaking, a state must complete service of process to begin an action within 90 days of locating the noncustodial parent, and the majority of orders should be established within six months from the date of service of process. Continue to keep in touch with your caseworker to resolve any delay or provide any new information you may have.

### **I need to establish paternity for my child, and the father lives in another part of the country. How does this work?**

The fact that you and the presumed father live in different jurisdictions will not keep you from pursuing a paternity establishment action. Your state may be able to claim jurisdiction and establish paternity if the father has lived there, the child was conceived in your state, or there is another basis to exercise personal jurisdiction. Otherwise your state can petition the other jurisdiction to establish paternity under their laws. Often, genetic tests will be ordered to help prove paternity. Ask your caseworker for specific information about the laws in your state and the state where the other parent lives.

### **My caseworker filed an interstate petition for paternity. The father denied it, and the other court just dismissed the case. What went wrong?**

A responding child support office should not dismiss a case without asking for the information it needs. The initiating state is required to provide that information within 30 days. (Tribal child support agencies do not have this requirement.) Either party in a contested paternity action can request blood or genetic testing. Ask your caseworker to reopen the case. You have the right to establish paternity until your child's 18th birthday.

### **If paternity is established in another state, will the support order also be entered in that state?**

Yes. UIFSA procedures cover establishing paternity and establishing and enforcing child support orders when more than one tribunal is involved. Ask your caseworker how this is done.

### **Will location and enforcement services cost more if my agency is dealing with another state or jurisdiction? I am not receiving cash assistance.**

Possibly. It depends on what the child support office has to do to find the noncustodial parent and establish regular payment. The more solid information and leads you provide, the more efficiently your case can be worked. For non-assistance cases, service fees vary by state. Your caseworker should be able to tell you more about these costs. (See discussion about costs in Chapter 1, Introduction.)



### **I don't have a child support order. Can I establish one by petitioning the court where my ex-husband lives?**

Yes. Your child support office can also do this. Depending on the facts, it could be handled in your jurisdiction or referred to another jurisdiction under UIFSA. An affidavit of the facts, indicating the name and address of the responsible parent, details of your financial circumstances, and the needs of the child, will be included. The petition will be sent to the child support agency, the court, or the interstate official where the father lives. The responding jurisdiction will review the petition, together with information about the father's ability to pay, and set the amount to be paid.

### **I have had to wait several months for my child support agency to get a reply to its request for location assistance in another state. Why does it take so long to get an answer?**

Even though they try to be responsive, child support agencies have a very high demand for their services. An agency's ability to act rapidly depends on the characteristics of the case, the quality of information received, and the amount of staff and other resources they have to devote to it. Be sure to follow up regularly with your caseworker to make sure that each jurisdiction is actively working your case.

### **As soon as the children's father is notified about enforcement, he moves. How will I ever be able to collect my support?**

It is difficult to enforce child support payments when the noncustodial parent intentionally moves

to avoid paying. Try to be an active participant in your own case. Whenever you learn that the noncustodial parent has moved or has a new job, you tell your caseworker as soon as possible. All states are required to have a State Directory of New Hires, and employers are required to report hiring new employees within 20 days. That information, in turn, is sent to the National Directory of New Hires. This helps locate the noncustodial parent quickly if he or she moves on to a new job.

### **Isn't there a law now that makes it a federal crime to not pay child support if the child lives in another state?**

The Child Support Recovery Act of 1992 (CSRA) made it a federal crime to willfully fail to pay support for a child living in another state if the arrearages exceed \$5,000 or are unpaid for longer than a year. That law was strengthened in 1998 by Public Law 105-187, which added new categories of felonies with stronger penalties for more blatant child support evaders. Because successful prosecution depends on extensive investigation, the U.S. Attorneys' offices are very selective about the cases they accept. Priority is given to cases: (1) where there is a pattern of moving from state to state to avoid payment; (2) where there is a pattern of deception (using a false name or Social Security number); (3) where there is failure to make support payments after being held in contempt of court; and (4) where failure to make support payments is connected to some other federal offense such as bankruptcy fraud. The U.S. Attorneys may also require that it can be shown that the nonpayer has financial resources and is able to pay.



In nearly all cases, U.S. Attorneys ask that cases be reviewed and forwarded to them by state child support offices. When a child support office has screened and referred the case, the U.S. Attorneys can be reasonably sure of receiving significant information about the case and that civil and state criminal remedies are exhausted. Check with your caseworker to see if prosecution under the CSRA would be available in your case. The final decision about whether to prosecute is with the U.S. Attorney, relying heavily on information provided by the child support agency.

**My former wife lives in another state. She owns an expensive car, jewelry, and several pieces of property. Would the child support program be able to attach this property for child support?**

An interstate child support action may be filed on your behalf to ask the other state to attach this property.

**The children's mother lives in another state and every time the kids come home from there, they talk about her new car or stove or something, but she still won't pay her child support. Why can she get credit if the courts know she owes her kids so much?**

Child support office staff must report child support arrearages to credit bureaus, so that information is available to people or offices that offer credit. Also, the state notifies the noncustodial parent if the debt will be reported to the credit-reporting network. Sometimes, that is enough to encourage payment of the overdue support.

### Tribal Cases

The child support program recognizes the unique relationship between the federal government and federally recognized Indian Tribes, and acknowledges this special government-to-government relationship in the implementation of the tribal provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). For the first time in the history of the child support program, PRWORA authorized tribes and *tribal organizations* to operate child support programs like states do.

Within much of tribal territory, the authority of state and local governments is limited or non-existent. The Constitution, numerous court decisions, and federal law clearly reserve to tribes important powers of self-government, including the authority to make and enforce laws, to *adjudicate* civil and criminal disputes including domestic relations cases, to tax, and to license. States have been limited in their ability to provide child support services on tribal lands, and sometimes American Indian and Native American families have had difficulty obtaining services from state child support programs. Cooperative agreements between tribes and states have helped bring child support services to increasing numbers of American Indian families.

View the [tribes that are operating child support programs](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts) at [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts).





**My ex-husband is an American Indian who lives and works on an Indian reservation. Can the child support program help get child support for my children?**

If your ex-husband is a member of a tribe with a child support program, this will not be a problem. The state office should contact the tribal child support office and work cooperatively with them to get the child support you need. You may also want to consider applying for child support services directly from the tribal child support office.

If your ex-husband is a member of a tribe that does not operate a child support program, your caseworker should contact the tribal court and ask about the tribal procedures for child support. Most tribes have an office that handles child support cases even if they do not have funding from the federal government to operate a tribal child support program.

**My ex-husband is not an enrolled tribal member, but he works on a reservation. Will his employer withhold income from his check to make the child support payment?**

If the tribe is operating a child support program, your caseworker should send the income withholding order through the tribal child support agency. The tribal child support agency will present the income withholding order to the tribal enterprise for processing and income withholding.

If the tribe does not have funding from the federal government to operate a child support program, your caseworker should contact the tribal court and ask about the tribal procedures for honoring an income withholding order. In most instances, the tribal enterprise will honor the withholding order, but it must be processed through the tribe's procedures.

**I am an enrolled tribal member and a mother of a three-year-old and I live on a reservation. His father is not an American Indian, does not live on the reservation, and does not fall under the jurisdiction of the tribal court. How can I get him to help support his son?**

If your tribe has a child support agency, work through that office to establish and enforce an order. You can also apply for child support services with the appropriate state office. There is nothing to preclude you from applying for services with both the tribe and the state. States and tribes are working cooperatively to ensure that the children get the support that they need.



## International Cases

### **The father of my child has left the United States. How can I get my court order for child support enforced?**

The U.S. government has negotiated federal-level reciprocity declarations with several countries and is negotiating declarations with others on behalf of all U.S. jurisdictions. See the [list of countries with reciprocity agreements](http://www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries) at [www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries](http://www.acf.hhs.gov/programs/css/resource/foreign-reciprocating-countries).

If there is not a federal-level agreement, check with your state child support agency. Many state child support agencies have agreements with foreign countries to recognize child support judgments made in other countries. The [Intergovernmental Reference Guide](#) includes information given to us by the states about countries that they work with. These international child support agreements specify procedures for establishing and enforcing child support orders across borders. While requirements for getting enforcement action may vary depending on the other nation involved, a parent will be asked to provide the same information as in a domestic case, including as much specific information as possible, such as address and employer of the noncustodial parent.

If the noncustodial parent works for an American company or a foreign company with offices in the United States, income withholding might work even if the country he lives in does not have an agreement to enforce an American state's order. Even in cases where the noncustodial parent is living and working in a country that has no reciprocity agreement, approaching the foreign employer directly for help might prove successful.

### **I checked with the child support office, but my daughter's father lives in a country that has no agreement with any state to enforce child support obligations. Is there anything else to try?**

The Department of State Office of American Consular Services may provide a list of private attorneys in that country that could assist you with your child support case. You should discuss their fees and the type of services they could provide with the attorneys. Please note that the State Department does not endorse any attorneys. The Office of Consular Services information is below:

Department of State  
Office of Citizens Consular Services  
Washington, DC 20520

Phone: 1-888-407-4747 or 1-202-647-5225  
(Press zero and ask for information about obtaining foreign legal counsel.)

Website: [travel.state.gov/law/judicial/judicial\\_2519.html](http://travel.state.gov/law/judicial/judicial_2519.html) (Not all countries have local attorneys listed.)



### **My child's mother is still in this country, but I understand that she is planning to live abroad with her new husband. She owes \$14,000 in child support. Is there anything the child support office can do?**

States certify cases in which an obligor owes more than \$2,500 in unpaid child support to the Secretary of Health and Human Services, who, in turn, will transmit the certification to the Secretary of State for denial of passports. The passport can also be seized if she asks for any change — change of address, addition of a child, etc. In addition, you should ask your caseworker if the court can impose a bond to secure payment of the arrears and future support.



For information about your specific child support case or how the child support system works in your state or tribe, contact your [state or tribal child support agency](#).

For general information about the child support program, contact the Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, or visit our [website](#) at [www.acf.hhs.gov/programs/css](http://www.acf.hhs.gov/programs/css). OCSE does not have case-specific information.