

# Setting Appropriate Child Support Orders:

## Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States

### Subcommittee Report

August 2007

**National Judicial – Child Support Task Force  
Avoiding Inappropriate Orders Subcommittee**



**Department of Health and Human Services  
Administration for Children and Families**

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Judicial Systems in 14 States

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# 1. EXECUTIVE SUMMARY

This report makes available the results of a Presumptive Default Orders survey of State IV-D child support agencies and State judicial entities in fourteen States. The survey was conducted by members of the National Judicial – Child Support Task Force. The purpose of the survey was to gather a representative sample of States' practices and results when establishing child support orders by default because of insufficient income information or lack of noncustodial parent involvement in the process. By analyzing and publishing survey results, the National Judicial – Child Support Task Force will be able to identify opportunities when States' IV-D agencies and courts can influence the setting of more appropriate child support orders. An appropriate order is an order that:

- Is realistic (based on accurate and complete income information)
- Can be enforced with reasonable expectation of collection of current support without amassing arrears.

Members of the National Judicial – Child Support Task Force's subcommittee on Avoiding Inappropriate Orders created the survey, conducted the survey by teleconference from October 2006 – May 2007, and analyzed the results in summer 2007.

*Disclaimer: Points of view expressed in this document are those of the participants and do not necessarily represent the positions of the National Judicial – Child Support Task Force's subcommittee members, the Administration for Children and Families, or the U.S. Department of Health and Human Services.*

The States participating in the Presumptive Default Orders survey are:

1. Arizona
2. Colorado
3. Florida
4. Georgia
5. Iowa
6. Maine
7. Minnesota
8. Nebraska
9. New York
10. Ohio
11. Texas
12. Utah
13. Washington
14. Wisconsin.

For details on the States' CSE structure and dispute resolution structure, as well as individual agencies participating from each State, see Section 4.2.4, Survey participants.

Survey participants highlighted multiple opportunities within the child support establishment process to influence the setting of appropriate orders, with the goal of improving collections of current support while avoiding the accumulation of arrears. A number of vehicles exist to help meet this goal: IV-D child support agencies and judicial entities can implement procedural techniques; States can enact legislation; courts can introduce court rules; and IV-D agencies and the courts can make outreach information available to the public from websites, Call Centers, brochures, and flyers.

For details on opportunities to influence setting appropriate orders, see Section 6.

### **Subcommittee Findings and Recommendations**

The National Judicial – Child Support Task Force’s subcommittee on Avoiding Inappropriate Orders recognizes that establishing appropriate child support orders is a key component of a successful child support program. Child support programs need to consciously understand this, and need to know that this component is the result of hard work, commitment, and innovation.

More work is needed in the area of establishing appropriate child support orders. Programs and practices that are innovative and doing good work need to be identified and their successes shared. The problem of inappropriate support orders needs to be addressed both by large and small jurisdictions and an answer to the objection of “too many cases, not enough resources” needs to be found.

Based on the survey results, the subcommittee offers the following recommendations to child support programs:

1. Look at the culture of their organization. Everyone agrees that the highest order is not necessarily the “best” order. Everyone agrees that the agency has no “client” and needs to establish relationships with both parents.
2. Make every effort to obtain accurate and current income information. (Since many states have income shares, this means for both parties.)
3. Have high standards regarding actual notice (personal service) and functional notice (foreign languages, illiterate, short plain English explanations, etc.)
4. Establish a working relationship with both parents as early in the process as possible, as this saves time and improves collections.
5. Review each of the multiple opportunities in the support order establishment process to determine where new or revised procedures can make a difference. Identify where your organization can best change its practices.

## 2. FRAMEWORK FOR SETTING APPROPRIATE CHILD SUPPORT ORDERS

Survey results indicate there are multiple opportunities within the child support order establishment process to influence setting appropriate orders to improve child support collections and to avoid accumulation of arrears. Figure 1 suggests a framework IV-D child support agencies and judicial entities can use to identify checkpoints within the child support order establishment process as well as ongoing process communication activities to inform all who use the child support process.

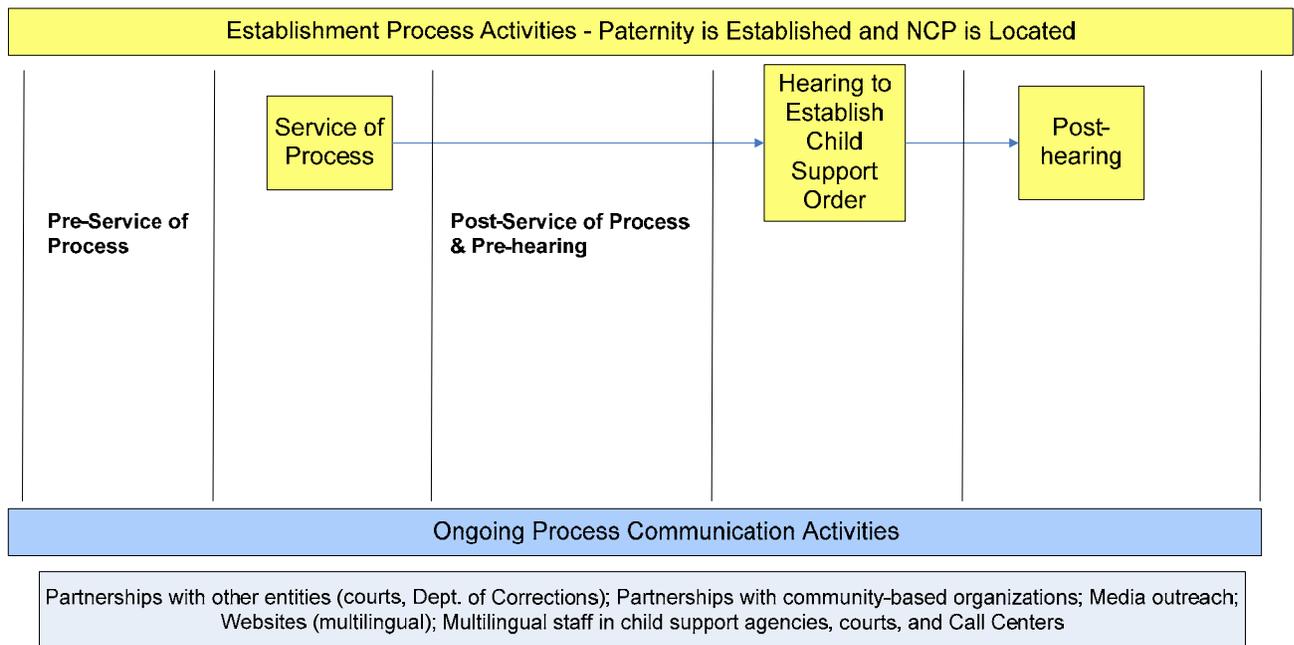


Figure 1. Framework for setting appropriate child support orders

### 2.1 PROCESS CHECKPOINTS

When the surveyed States began reporting the various tools and techniques they used to help establish appropriate child support orders, it became apparent the best way to organize the information was by its placement in the order establishment process. Accordingly, we have grouped the reported tools and techniques into five “process checkpoints.” The first checkpoint involves efforts occurring prior to the service of process. The next checkpoint is service of process, followed by a checkpoint that includes the timeframe following service of process, but before the hearing. Our fourth process checkpoint is the hearing, followed by our final checkpoint, post-hearing efforts.

Unfortunately, not all of the reported tools and techniques fit nicely into one of these five process checkpoints. The report inserts these remedies into the checkpoint that the subcommittee believes to be the “best fit,” but identifies how they may be useful at other points in the process.

## **2.2 STATES' STRUCTURE FOR CHILD SUPPORT ENFORCEMENT**

### **2.2.1 CHILD SUPPORT STRUCTURE**

While Federal law requires the States to provide all of the IV-D services outlined in the Social Security Act (42 U.S.C. § 651 et seq.), the States are granted wide discretion in deciding how to structure their respective IV-D programs. In structuring their IV-D programs, the States use one of three options: State administered/State operated, State administered/county operated, or State administered/and operated by a combination of State and county employees.

The “administration” of a IV-D program involves responsibility for maintaining a State IV-D Plan that complies with the requirements set forth in the Social Security Act. Federal regulations (45 CFR § 302.12) require the States to establish their IV-D programs in a “single and separate organizational unit to administer the IV-D plan.” These regulations allow each State considerable flexibility regarding the specific placement of the IV-D agency into the State government’s organizational structure. As a result, the States have located their IV-D agencies in a number of different agencies (e.g., Health and Human Services, Department of Revenue, Office of the Attorney General).

When we talk about the “operation” of a IV-D program, we mean the actual providing of services to the public. Federal regulations specify a State’s IV-D agency is responsible and accountable for the operation of the IV-D program and the program must be uniformly operated on a statewide basis. (See 45 CFR §§ 302.10 & 302.12.) Here again, the States are granted flexibility in determining how to structure their IV-D operations. A “State operated” program includes those States that elect to use State employees to provide IV-D services to the public. “County operated” States include those that choose to allow their local county governments to manage the actual delivery of these services. A “combination” State uses both State and county employees to deliver its IV-D services.

### **2.2.2 DISPUTE RESOLUTION**

Similarly, the States are free to elect the type of dispute resolution process they determine will best meet their needs. Some States choose to use the courts (judicial process), others use administrative process, and some use a combination of both judicial and administrative processes (combined process) to resolve formal, legal disputes related to the delivery of IV-D services.

We point out these differences in IV-D program structure and dispute resolution processes to alert the reader that the specific tools and techniques reported to work well for one State may not be appropriate for another. In some cases, the proven tools and techniques reported by the survey respondents may have to be revised or “tweaked” before they will prove useful for a State that employs a different structure or dispute resolution process.

## **3. CURRENT CHALLENGES TO SETTING APPROPRIATE CHILD SUPPORT ORDERS**

Setting appropriate child support orders is a critical success factor in enabling consistent collection of child support and in avoiding accumulation of arrears. Drawing on both their own extensive experience within IV-D child support agencies and judicial entities and from references in their Literature Search (see Section 7.2), Task Force subcommittee members identified several current challenges to setting appropriate orders. These challenges are discussed below.

### **3.1 IDENTIFYING CHALLENGES TO ESTABLISHING APPROPRIATE ORDERS**

In examining this issue, the first question is definition. What is an appropriate order? An appropriate order is an order that:

- Is realistic (based on accurate and complete income information) and
- Can be enforced with reasonable expectation of collection of current support without amassing arrears.

Task Force subcommittee members identified the following challenges to establishing an appropriate order:

- Lack of accurate and complete information (relying unduly on presumptive income or support amounts);
- Lack of effective notice to noncustodial parents (NCPs) results in NCPs not being aware of legal binding proceedings;
- Lack of functional notice to NCP (plain English and translations to NCP) results in NCPs not understanding what steps they must take to respond and the consequences of not responding; and
- Lack of encouragement/support and communication with both parents results in nonparticipation, especially by the NCP.

By contrast, a child support order established by default typically does not have these characteristics. In itself, a default order is not necessarily an inappropriate order. The default process can be used effectively to issue an appropriate order when the court has accurate and complete information and the NCP has acquiesced to the proposed support amount or otherwise advised the court that he/she is aware of the proceeding and understands the consequences.

For purposes of the Presumptive Default Orders survey, however, the subcommittee characterized default orders as cases where:

- The NCP was not physically or telephonically present at the hearing;
- Complete and accurate income or other information was not available to the court for consideration at the hearing; and
- The NCP was not represented by counsel at the hearing.

Most, but not all State participants had a similar understanding of appropriate orders and use of the term default order.

A related challenge is that most State automated child support enforcement systems do not have distinct codes to track default orders. Thus, there is currently no statistical basis to determine which problems with collecting child support are related to the order's establishment by default. Anecdotally, the survey showed that participants believe their collections from

default orders are significantly lower than collections from the entire caseload. See Section 5.1.5 for further information.

### **3.2 COMMUNICATING CHILD SUPPORT PROCESS INFORMATION**

Another challenge cited by participants is the ongoing need for communicating child support process information. Most survey participants, from both IV-D child support agencies and judicial entities, reported that their service recipients find the child support process to be complex and hard to understand. The complexity can be compounded for service recipients who have minimal education, possess diverse language backgrounds, and/or have special life circumstances such as incarceration. See Section 6 to learn how survey participants are meeting this challenge in a variety of creative ways.

### **3.3 FORMING COOPERATIVE RELATIONSHIPS WITH NONCUSTODIAL PARENTS**

Survey participants reported forming a cooperative relationship that proactively engages the noncustodial parent in information-sharing and decision-making activities to determine if the child support amount facilitates establishing an appropriate order. There are, however, implementation challenges to this approach. Many participants have used OCSE 1115 grants to create and evaluate their approaches. See Section 7 for a sample of their activities.

### **3.4 GATHERING ACCURATE INCOME INFORMATION TO SET AN APPROPRIATE ORDER**

A major challenge to setting an appropriate child support order is gathering accurate income information. Survey participants reported using a wide variety of approaches for gathering income information, including but not limited to:

- Tax return (Federal and/or State)
- Wage data
- Financial information affidavit (custodial or non-custodial parent)
- Employer or new hire database
- Government benefits (e.g., Social Security, Veterans, etc.)
- Credit reports.

See Section 5.1.3 for further details.

## 4. TASK FORCE SUBCOMMITTEE ACTIVITIES TO ADDRESS CHALLENGES

The National Judicial – Child Support Task Force is divided into five workgroup subcommittees individually addressing the following areas:

1. Avoidance of inappropriate orders
2. Inter-jurisdictional case processing and electronic data exchange
3. Model problem solving courts
4. Arrears reduction and management
5. Collaborative planning and education and cross-training for key participants.

This report covers the collaborative work done by members of the Avoiding Inappropriate Orders subcommittee. Kay Farley, Executive Director of the Government Relations Office of the National Center for State Courts, initially chaired the Avoiding Inappropriate Orders subcommittee. Five additional members representing a national cross-section of child support enforcement and judicial entities complete the subcommittee’s membership. Figure 2 lists the subcommittee members.

Name	Role/Agency	State
Jodie Metcalf, Current Chairperson	Child Support Magistrate/Manager, Court Services Division, State Court Administrator’s Office	St. Paul, MN
John Aman	Support Magistrate, State Family Court	Buffalo, NY
Larry Desbien	Section Chief, Division of Child Support Enforcement, Policy & Evaluation	Denver, CO
Kay Farley	Executive Director, Government Relations Office, National Center for State Courts	Arlington, VA
Elana Hatch	Chief Deputy District Attorney, Clark County District Attorney, Family Support	Las Vegas, NV
Lee Suskin	Court Administrator, Office of the Court Administrator	Montpelier, VT

Figure 2. Members of Avoiding Inappropriate Orders Subcommittee

### 4.1 LITERATURE SEARCH

As background research for their survey, the subcommittee members conducted a literature search on the subject of inappropriate child support orders. See Appendix 7.2 for a copy of the literature search.

## 4.2 SURVEY OF 14 STATES

The subcommittee members created a Presumptive Default Orders survey in Fall 2007. They selected 14 States to participate. Their selection was based on geographic diversity, a variety of structures for child support enforcement, and a variety of dispute resolution approaches. Subcommittee members included their own States in the survey and facilitated their respective IV-D child support and judicial entities' participation.

### 4.2.1 PURPOSE AND SCOPE

The purpose of the survey was to gather a representative sample of States' practices and results when establishing child support orders by default because of insufficient income information or lack of noncustodial parent involvement in the process. By analyzing survey results, the Judicial – Child Support Task Force can begin to identify opportunities where States' IV-D agencies and courts can influence the setting of more appropriate child support orders.

The scope of the survey is limited to IV-D cases. Paternity cases are included in the survey scope if the petition to establish paternity also includes a request to establish a support order.

It is the intent of the Task Force to provide the findings from this survey and other Task Force work products to members of the IV-D child support agency and judicial communities to assist in their collaborative efforts to better serve the needs of children and families.

### 4.2.2 SURVEY PROCESS

Larry Holtz, OCSE, directs the work of the National Judicial – Child Support Task Force. Avoiding Inappropriate Orders subcommittee chairperson, Kay Farley, advised him of the subcommittee's work plan and progress on the survey activities.

### 4.2.3 SURVEY PARTICIPANTS

The States and agencies participating in the Presumptive Default Orders survey are listed below. For a description of various State CSE structure and State dispute resolution structure, see Section 2.2.

State	Participant(s)	From		CSE structure (administered by)		Dispute Resolution Structure		
		IV-D agency	Court	State	County	Judicial	Administrative	Combined
AZ	Cochise County, AZ	√			√	√		
	La Paz County, AZ	√			√	√		
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	√	√	√		√		
CO	Division of Child Support Enforcement	√			√			√
FL	FL Dept. of Revenue	√		√				√
	Office of State Courts Administrator		√					
GA		√		√				√

GA Office of Child

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State	Participant(s)	From		CSE structure (administered by)		Dispute Resolution Structure		
		IV-D agency	Court	State	County	Judicial	Administrative	Combined
	Support Services							
	Georgia Child Support Commission, AOC		√					
IA	Dept. of Human Services, Child Support Recovery Unit	√		√		√		
		IV-D agency	Court	State	County	Judicial	Administrative	Combined
ME	Division of Support Enforcement & Recovery	√			√			√
MN	State Court Administrator's Office		√		√	√		
	Benton County	√						
	Dakota County	√						
	Faribault and Martin Counties	√						
	Hennepin County	√						
	Hennepin County Attorney		√					
NE	Young Williams Child Support Services, Douglas County, NE	√		√		√		
NY	State Family Court		√					
	Erie County Department of Social Services	√			√	√		
OH	Butler County Juvenile Court		√		√	√		
	Cuyahoga County		√					
	Franklin County Domestic Relations, Juvenile Branch		√					
TX	Office of the Attorney General, Child Support Division	√		√		√		
UT	Dept. of Human Services, Office of Recovery Services	√		√				√
WA	Division of Child Support	√			√		√	
WI	Bureau of Child Support, Division of Economic Support	√			√	√		
WI	Milwaukee County	√						

Figure 3. Presumptive Default Orders survey participants

## 5. SURVEY RESPONSES

### 5.1 PROCESS CHECKPOINT BREAKDOWN

The survey instrument consisted of twenty-four questions. These questions addressed the child support order establishment process checkpoints described in Section 2.

- Pre-service of process (Questions 1-5)
- Service of process (Questions 6, 10)
- Post-service of process, but before hearing (Questions 11-16)
- Hearing to establish initial child support order (Questions 7-9, 17-18)
- Post-hearing (Questions 19-22)

The last two questions were open-ended.

- Question 23 asked participants to describe innovations they were aware of in any court or agency in the area of setting appropriate orders. They were also asked to provide contact information for follow-up contact.
- Question 24 asked participants to describe their suggestions for possible innovations.

See Appendix 7.3, Survey Instrument, for a copy of the Presumptive Default Orders Survey.

#### 5.1.1 PRE-SERVICE OF PROCESS

Questions 1-5 asked respondents to characterize their pre-service of process activities.

##### **Question 1.**

*Does the court or the IV-D child support agency have the responsibility for initiating the service of process for the petition to establish the initial support order?*

- a. Court \_\_\_\_ Yes \_\_\_\_ No  
b. IV-D child support agency \_\_\_\_ Yes \_\_\_\_ No

##### Question 1 Responses and Analysis

All 22 participants responded to Question 1.

Responses show that the responsibility for initiating the service of process rests primarily with the IV-D child support agency.

- 18 of 22 responses (82%) showed initiation by the IV-D agency.
- 2 of 22 responses (9%) indicated initiation by the court.
  - New York
  - Ohio (Cuyahoga County)
- 2 of 22 responses (9%) showed initiation by both the IV-D agency and the court.
  - Ohio (Butler County)
    - ✓ The court initiates service of process after the IV-D child support agency files a praecipe requesting service.
    - ✓ The IV-D agency initiates service of process for an administrative law judge hearing.

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- Utah
  - ✓ The IV-D agency takes the first action for service of process in its administrative process.
  - ✓ The court may take subsequent action and initiate service of process if the issue is not resolved administratively.

Note: In Question 1, if respondents answered Yes to the court having responsibility for initiating the service of process, they were asked Questions 2 and 4. Otherwise, if respondents answered Yes to the IV-D child support agency having responsibility for initiating the service of process, they were asked Questions 3 and 5.

**Question 2 – for non-judicial court personnel only**

*Are pre-service techniques used by non-judicial court personnel to contact and engage the non-custodial parent in the establishment process? \_\_\_\_\_ Yes \_\_\_\_\_ No  
(If Yes, check all that apply.)*

- a. \_\_\_\_\_ Telephone contact\*
- b. \_\_\_\_\_ Letter asking non-custodial parent to contact the agency
- c. \_\_\_\_\_ Letter inviting non-custodial parent to scheduled meeting
- d. \_\_\_\_\_ Mail financial statement to non-custodial parent and invite contact
- e. \_\_\_\_\_ Mail draft guidelines calculation and invite contact
- f. \_\_\_\_\_ Annual notice
- g. \_\_\_\_\_ Other

*\*How does staff obtain the non-custodial parent's telephone number?*

**Question 4 – for non-judicial court personnel only**

*If non-judicial court personnel attempt to make personal contact with the non-custodial parent, prior to initiating service of process, who performs this function?*

Questions 2 and 4 Responses and Analysis

Responses to Question 2 came from the three States where courts can have responsibility for initiating service of process – New York, Ohio (Butler County), Ohio (Cuyahoga County) and Utah.

Of these, only New York uses pre-service techniques, including: notice with the court date, copy of the petition, and a financial disclosure affidavit. Responding to Question 4, New York indicated the Clerk of Court performs this function.

**Question 3 – for IV-D child support agency personnel only**

Are pre-service techniques used by the IV-D child support agency to contact and engage the non-custodial parent in the establishment process? \_\_\_\_\_ Yes \_\_\_\_\_ No  
(If yes, check all that apply.)

- a. \_\_\_\_\_ Telephone contact\*
- b. \_\_\_\_\_ Letter asking non-custodial parent to contact the agency
- c. \_\_\_\_\_ Letter inviting non-custodial to scheduled meeting
- d. \_\_\_\_\_ Mail financial statement to non-custodial parent and invite contact
- e. \_\_\_\_\_ Mail draft guidelines calculation and invite contact
- f. \_\_\_\_\_ Annual notice
- g. \_\_\_\_\_ Other

\* How does staff obtain the non-custodial parent's telephone number?

**Question 5 – for IV-D child support agency personnel only**

If the IV-D child support agency attempts to make personal contact with the non-custodial parent, prior to initiating service of process, who performs this function?

Questions 3 and 5 Responses and Analysis

In response to Question 3, 14 of the 18 respondents, where the IV-D child support agency initiates service of process, use one or more pre-service techniques to contact and engage the noncustodial parent in the establishment process. However, in the IV-D child support agencies in Ohio (Butler County) and Utah, where the IV-D agency and the court can initiate service of process, neither IV-D agency uses pre-service techniques.

Figure 4 lists the types of pre-service of process techniques used and indicates the breakdown by number and percent of respondents using each technique.

Pre-service technique	# using this technique	% using this technique
Telephone contact	13	93%
Letter asking NCP to contact agency	11	79%
Letter inviting NCP to scheduled meeting	7	50%
Mail financial statement to noncustodial parent and invite contact	8	57%
Mail draft guidelines calculation and invite contact	6	43%
Annual notice	0	n/a
Other	1	7%

Figure 4. Breakdown of pre-service of process techniques used by IV-D child support agency

Responses to Question 5 indicate that IV-D agency personnel with different job titles perform the pre-service of process contacts. Many States indicated that “caseworkers” or “IV-D staff” perform this function. A few States used more process-specific job titles, such as:

- Intake Clerk
- Locate Clerk
- Establishment Worker.

### 5.1.2 SERVICE OF PROCESS

Question 6 and Question 10 asked respondents to describe their service of process activities.

<p><b>Question 6</b>  <i>To establish a default support order, what level of service of process is used?                  (Check all that apply.)</i></p> <p>a. <input type="checkbox"/> <i>Personal service</i>                  b. <input type="checkbox"/> <i>Substitute personal service</i>                  c. <input type="checkbox"/> <i>Tacking</i>                  d. <input type="checkbox"/> <i>Certified mail</i>                  e. <input type="checkbox"/> <i>Certified mail, restricted to addressee</i>                  f. <input type="checkbox"/> <i>First class mail with acknowledgement</i>                  g. <input type="checkbox"/> <i>First class mail to verified address</i>                  h. <input type="checkbox"/> <i>First class mail to last known address</i>                  i. <input type="checkbox"/> <i>Publication</i>                  j. <input type="checkbox"/> <i>Other</i></p>
---

#### Question 6 Responses and Analysis

All 22 participants responded to Question 6.

The majority of respondents reported using two or more levels; some used four or more. Arizona (La Paz County) uses only personal service, and Iowa Department of Human Services uses only substitute personal service.

Figure 5 lists levels of service of process used and indicates the breakdown by number and % of respondents using each level.

<b>Levels of service of process</b>	<b># using this technique</b>	<b>% using this technique</b>
Personal service	21	95%
Substitute personal service	16	73%
Tacking	2	9%
Certified mail	6	27%
Certified mail, restricted to addressee	7	32%
First class mail with acknowledgement	5	23%
First class mail to verified address	3	14%
First class mail to last known address	3	14%
Publication	8	36%

Figure 5. Breakdown of levels of service of process used by IV-D agencies and courts

**Question 10**

*Do your process servers provide any information, either orally or in writing, to the non-custodial parent at the time of service or answer questions to assist the noncustodial parent in understanding the establishment process? \_\_\_\_ Yes \_\_\_\_ No*

Question 10 Responses and Analysis

All 22 participants responded to Question 10.

The procedure of having process servers provide information to the noncustodial parent at the time of service is not widely used. Only 3 of 22 participants (14%) indicated that process servers provide any additional information:

- Arizona (Cochise County)
  - Brochures (English and Spanish)
    - *Establishing Paternity – Here’s What You Need to Know*
    - *Establishing an Order to Pay Child Support – Here’s What You Need to Know*
- Colorado
  - Brochure
  - Caseworker contact information
  - Form for NCP contact information
- Florida
  - In some cases, process servers summarize documents being delivered. This practice varies and is not a statewide practice.

See Section 6, State Examples, for further details.

**5.1.3 POST-SERVICE OF PROCESS BUT BEFORE HEARING**

Questions 11-13 asked respondents about their States’ requirements for responsive pleadings.

**Question 11**

*Is a responsive pleading required for the noncustodial parent to be able to participate in the establishment process and/or participate in a hearing to establish a support order?  
\_\_\_\_ Yes \_\_\_\_ No (If yes, ask for brief description.)*

Question 11 Responses and Analysis

Fourteen participants responded to Question 11. Of these 14, only 2 require a responsive pleading:

- Arizona (Cochise County)
- Colorado requires responsive pleadings only for judicial process actions, not for administrative process actions.

**Question 12**

*Does your State charge any fees for responsive pleadings?  
\_\_\_\_ Yes \_\_\_\_ No (If yes, ask for brief description.)*

Question 12 Responses and Analysis

Though only 2 participants required responsive pleadings (Question 11), 10 participants said they do charge fees for responsive pleadings (Question 12). Another 7 indicated they do not charge fees.

Fees reported ranged from \$60 - \$330, as follows:

- \$60 for simple procedures (Arizona, La Paz County)
- \$101 to respond to a request to establish child support (Arizona, Cochise County)
- \$70-\$189 (Colorado Domestic Relations fees, Colorado District Court)
- \$240 (Arizona Office of the Attorney General and Division of Child Support Enforcement)
- \$250-\$330 (Minnesota Unified Court System fees).

**Question 13**

*If your State charges fees for responsive pleadings, are there exceptions (e.g., poverty affidavit) to the requirement?*

\_\_\_\_\_ Yes \_\_\_\_\_ No (If yes, ask for brief description.)

Question 13 Responses and Analysis

Of the 10 participants charging fees for responsive pleadings, 9 of them can make exceptions. The most common ground for an exception is poverty (also referred to as indigence or insufficient income). Participants use various procedures or statutes to process requests for these exceptions:

- Waiver form (Arizona, Cochise County)
- Affidavit of Indigence (Ohio, Franklin County)
- Waiver per statute (Minnesota, Waiver of Court Fees and Costs, MN Statute 563.01)

Questions 14 and 15 request information from two different points of view regarding pre-hearing activities to gather NCP income information. Question 14 asks the question from the court's point of view, while Question 15 asks the question from the perspective of the IV-D child support agency.

**Question 14**

*What sources are routinely accessed by the court to obtain non-custodial parent income information? (Check all that apply. We are trying to determine what the judge specifically expects to be presented to the court on a regular and routine basis.)*

- a. \_\_\_\_\_ Tax return (Federal and/or State)
- b. \_\_\_\_\_ Wage data
- c. \_\_\_\_\_ Financial information affidavit\* (custodial or non-custodial parent)
- d. \_\_\_\_\_ Custodial parent testimony
- e. \_\_\_\_\_ Employer or new hire database
- f. \_\_\_\_\_ Government benefits (e.g., Social Security, Veterans, etc.)
- g. \_\_\_\_\_ Credit reports
- h. \_\_\_\_\_ Other \_\_\_\_\_

*\*Ask for a copy of their financial information affidavit.*

Question 14 Responses and Analysis

All participants responded to Question 14.

The income sources expected by more than 50% of the courts are:

- Wage data – 64%
- Financial information affidavit (custodial or non-custodial parent) – 64%
- Tax return (Federal and/or State) – 59%.

Figure 6 presents a breakdown of all income sources the court expects to be presented on a regular and routine basis.

<b>Income sources expected by the court</b>	<b># expecting this source</b>	<b>% expecting this source</b>
Tax return (Federal and/or State)	13	59%
Wage data	14	64%
Financial information affidavit (custodial or non-custodial parent)	14	64%
Custodial parent testimony	9	41%
Employer or new hire database	10	45%
Government benefits (e.g., Social Security, Veterans, etc.)	8	36%
Credit reports	5	23%

Figure 6. Breakdown of income sources expected by the court

**Question 15**  
*Prior to the hearing, what income information does the IV-D child support agency gather and have available to present at the hearing to corroborate or refute the noncustodial parent's or the custodial parent's testimony regarding income and assets or to have on hand in case the noncustodial parent is a no-show at the hearing? (Check all that apply.)*

a.  Tax return (Federal and/or State)  
 b.  Wage data  
 c.  Financial information affidavit\* (custodial or non-custodial parent)  
 d.  Employer or new hire database  
 e.  Government benefits (e.g., Social Security, Veterans, etc.)  
 f.  Credit reports  
 g.  Other \_\_\_\_\_

*\*Ask for a copy of their financial information affidavit.*

Question 15 Responses and Analysis

All respondents answered Question 15.

All sources of income information listed in this question are used by more than 50% of respondents.

Figure 7 presents a breakdown of income information gathered and made available at the hearing by the IV-D child support agency.

<b>Income information gathered and made available at the hearing by the IV-D child support agency</b>	<b># gathering this information</b>	<b>% gathering this information</b>
Tax return (Federal and/or State)	16	73%
Wage data	21	95%
Financial information affidavit* (custodial or noncustodial parent)	17	77%
Custodial parent testimony	n/a	n/a

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Employer or new hire database	22	100%
Government benefits (e.g., Social Security, Veterans, etc.)	18	82%
Credit reports	12	55%

Figure 7. Breakdown of income information gathered and made available at the hearing by the IV-D child support agency

Question 16 focuses on whether the first document provided to the noncustodial parent advising him/her of the intention to establish a child support order contains either presumptive income or projected support amounts.

**Question 16**  
*Does the notice to the noncustodial parent include a presumptive income amount or projected child support amount based on information gathered by the child support agency? (By notice, we mean the first document provided to the noncustodial parent advising him/her of the intention to establish a child support order. It might be in a letter inviting the noncustodial parent to contact the agency prior to legal action, in the petition filed with the court, or in some other document.)*

a. Presumptive income amount \_\_\_\_ Yes \_\_\_\_ No  
 b. Projected child support amount \_\_\_\_ Yes \_\_\_\_ No

Question 16 Responses and Analysis

All respondents answered the question about including a presumptive income amount in the first NCP notice, and 21 out of 22 responded to the question of including a projected child support amount. Approximately one-third of respondents include the presumptive income amount and the projected child support amount. Seven respondents include both amounts:

- Arizona (La Paz County)
- Iowa
- Maine
- Minnesota (Benton County)
- Minnesota (Dakota County)
- Minnesota (Hennepin County)
- Utah.

The State of Washington’s notice contains the presumptive income amount only.

Figure 8 shows the participants’ implementation of this practice.

<b>First notice to NCP</b>	<b># including amount</b>	<b>% including amount</b>
Includes presumptive income amount	8	36%
Does not include presumptive income amount	14	64%
Includes projected child support amount	7	33%
Does not include projected child support amount	14	67%

Figure 8. Inclusion of presumptive income or project child support amounts in first notice to NCP

**5.1.4 HEARING**

Four survey questions are related to the hearing process to establish the original child support order.

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Question 7 looked for data on NCP appearance (in person or by telephone) at the hearing to establish the original support order.

<p><b>Question 7</b>  <i>In the last year, what percentage of noncustodial parents appeared at the hearing in person or by telephone to establish the original support order? (If not known, ask interviewee to make a best estimate.)</i></p> <p>a. _____ %  b. _____ Don't know, but estimate _____ %</p>
---

Question 7 Responses and Analysis

Seventeen of the participants said they did not know (did not track) this data but were willing to estimate a percentage. The other five participants did not know (did not track) this data and did not wish to estimate. Figure 9 shows the 17 participants' estimates.

State	Participant(s)	% Appeared at Hearing
AZ	Cochise County, AZ	35%-40%
	La Paz County, AZ	65%
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	60%
CO	Division of Child Support Enforcement	don't know
FL	FL Dept. of Revenue	don't know
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	55%
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	94%
ME	Division of Support Enforcement & Recovery	80%
MN	Benton County, MN	40%-50%
	Dakota County, MN	70%
	Faribault and Martin Counties, MN	98%
	Hennepin County, MN	80%
NE	Young Williams Child Support Services, Douglas County, NE	25%-33%
NY	State Family Court	don't know
	Erie County Department of Social Services	
OH	Butler County Juvenile Court	70%
	Cuyahoga County	75%
	Franklin County Domestic Relations, Juvenile Branch	67%
TX	Office of the Attorney General, Child Support Division	96%
UT	Dept. of Human Services, Office of Recovery Services	don't know

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WA	Division of Child Support	55%
WI	Bureau of Child Support, Division of Economic Support	don't know
WI	Milwaukee County	51%

Figure 9. Estimates of noncustodial parents who appeared at hearing to establish original child support order.

Question 8 asked for States' data on the percentage of child support orders established by default within the past year.

**Question 8**  
*In the last year, what percentage of child support orders was established by default?*

*(For this question, we mean cases in which the noncustodial parent was not physically or telephonically present at the hearing, did not have counsel present at the hearing, did not submit income or other information to the court for consideration at the hearing, did not sign a waiver to appear and stipulated order, or did not meet with or advise child support staff of willingness to accept the proposed guidelines amount. If not known, ask interviewee to make a best estimate.)*

a. \_\_\_\_\_ %  
 b. \_\_\_\_\_ Don't know, but estimate \_\_\_\_\_ %

Question 8 Responses and Analysis

18 of the participants said they did not know (did not track) this data, but were willing to estimate a percentage. The other four participants did not know (did not track) this data and did not wish to estimate. The participants' estimated percentage of orders established by default varies widely, from a low of 2%-3% (Hennepin County, Minnesota) to 50% (Douglas County, Nebraska). Figure 10 shows the 18 participants' estimates.

State	Participant(s)	% Orders Established by Default
AZ	Cochise County, AZ	30%
	La Paz County, AZ	35%
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	40%
CO	Division of Child Support Enforcement	25%
FL	FL Dept. of Revenue	don't know
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	28%
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	34%
ME	Division of Support Enforcement & Recovery	20%
MN	Benton County, MN	15%
	Dakota County, MN	15%
	Faribault and Martin Counties, MN	5%
	Hennepin County, MN	2%-3%
NE	Young Williams Child Support Services, Douglas County, NE	50%
NY	State Family Court	don't know
	Erie County Department of Social Services	

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OH	Butler County Juvenile Court	30%
	Cuyahoga County	23%
	Franklin County Domestic Relations, Juvenile Branch	33%
TX	Office of the Attorney General, Child Support Division	4%
UT	Dept. of Human Services, Office of Recovery Services	don't know
WA	Division of Child Support	don't know
WI	Bureau of Child Support, Division of Economic Support	5%
WI	Milwaukee County	32%

Figure 10. Estimated percentage of default orders in past year

Questions 17 and 18 asked respondents for data and practices when setting default orders.

<p><b>Question 17</b>  <i>What percentage of support orders are issued without any noncustodial parent income information? (If not known, ask interviewee to make a best estimate.)</i></p> <p>a. _____ %  b. _____ Don't know, but estimate _____ %</p>
--

Question 17 Responses and Analysis

15 of the participants said they did not know (did not track) this data, but were willing to estimate a percentage. The other seven participants did not know (did not track) this data and did not wish to estimate. The participants' estimated percentage of orders established without any NCP income information ranges from 0% (Franklin County, Ohio) to 30% (Butler County, Ohio). Figure 11 shows the 15 participants' estimates.

State	Participant(s)	% Orders Issued without any NCP income information
AZ	Cochise County, AZ	15%
	La Paz County, AZ	10%
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	Less than 10%
CO	Division of Child Support Enforcement	don't know
FL	FL Dept. of Revenue	don't know
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	21%
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	9%
ME	Division of Support Enforcement & Recovery	10%
MN	Benton County, MN	5%
	Dakota County, MN	5%
	Faribault and Martin Counties, MN	5%
	Hennepin County, MN	2%-3%
NE	Young Williams Child Support Services, Douglas County, NE	5%
NY	State Family Court	don't know
	Erie County Department of Social Services	
OH	Butler County Juvenile Court	30%
	Cuyahoga County	10%
	Franklin County Domestic Relations, Juvenile Branch	0%

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TX	Office of the Attorney General, Child Support Division	2%
UT	Dept. of Human Services, Office of Recovery Services	don't know
WA	Division of Child Support	don't know
WI	Bureau of Child Support, Division of Economic Support	don't know
WI	Milwaukee County	don't know

Figure 11. Estimated percentage of default orders

**Question 18**  
*If the noncustodial parent does not appear in person at the hearing or file a response to a petition to establish a support order after being served, what is the basis upon which the child support order is established? (Check all that apply.)*

a. \_\_\_\_\_ *Income is imputed based on last known wage information*  
b. \_\_\_\_\_ *Income is imputed based on earning ability*  
c. \_\_\_\_\_ *Income is imputed based on minimum wage\**  
d. \_\_\_\_\_ *Income is imputed based on a statutory minimum amount - \$ \_\_\_\_\_*  
e. \_\_\_\_\_ *Needs of the child*  
f. \_\_\_\_\_ *Amount of the public assistance*  
g. \_\_\_\_\_ *Request of the custodial parent*  
h. \_\_\_\_\_ *Support is not established; hearing rescheduled*  
i. \_\_\_\_\_ *Other \_\_\_\_\_*

*\* If minimum wage, is it the State or Federal minimum, what is the amount, and is it just the minimum or some multiple factor (e.g., 150% of minimum)?*

**Question 18 Responses and Analysis**

All participants responded to Question 18.

The most widely used bases upon which income is imputed to establish the child support order are:

- Last known wage information – 100%
- Earning ability – 82%
- Minimum wage – 95%

Figure 12 presents a breakdown of all bases upon which income is imputed to establish the child support order.

<b>Basis for imputing income to establish child support order</b>	<b># using this basis</b>	<b>% using this basis</b>
Last known wage information	22	100%
Earning ability	18	82%
Minimum wage – overall	21	95%
Statutory minimum amount	10	45%
Needs of the child	4	18%
Amount of the public assistance	1	5%
Request of the custodial parent	2	9%
Support is not established; hearing rescheduled	4	18%
NCP self-support reserve	3	14%

Figure 12. Breakdown of bases upon which income is imputed to establish the child support order

An additional question is asked about techniques used by the IV-D agency to maximize NCP participation in the process to establish the child support order. These techniques can be used throughout the child support order establishment process, from pre-service of process to the order establishment hearing.

**Question 9**

*What techniques does the IV-D child support agency use to maximize noncustodial parent participation in the process to establish support orders and increase the likelihood that the noncustodial parent will make an appearance, make contact with the agency, and/or provide current income information?*

*(Check all that apply in at least one jurisdiction. The interviewer should note which practices are not statewide.)*

a. \_\_\_\_\_ *Personal service*  
 b. \_\_\_\_\_ *Notice wording\* (plain, simple, non-legalese, basic reading level)*  
 c. \_\_\_\_\_ *Notice in foreign languages\**  
 d. \_\_\_\_\_ *Name and telephone number of contact person on notice\**  
 e. \_\_\_\_\_ *Information about establishment process with the notice\**  
 f. \_\_\_\_\_ *A reminder call regarding scheduled appointments and hearings\*\**  
 g. \_\_\_\_\_ *Allow appearance by telephone (distance or other requirements)*  
 h. \_\_\_\_\_ *Evening hearings*  
 i. \_\_\_\_\_ *Incentives for appearing (e.g., waiver of retrospective support)*  
 j. \_\_\_\_\_ *Other*

\* *Ask for a copy of their notices.*  
 \*\* *How does staff obtain the noncustodial parent's telephone number?*

Question 9 Responses and Analysis

20 participants responded to Question 18.

The most widely used techniques by the IV-D child support agencies to maximize NCP participation in the child support order establishment process are:

- Personal service – 95%
- Name and telephone number of contact person on notice – 90%
- Allow appearance by telephone – 95%

Figure 13 presents a breakdown of all techniques used by the IV-D child support agencies to maximize NCP participation.

<b>Techniques used by IV-D agencies to maximize NCP participation</b>	<b># using this technique</b>	<b>% using this technique</b>
Personal service	19	95%
Notice wording* (plain, simple, non-legalese, basic reading level)	14	70%
Notice in foreign languages	9	45%
Name and telephone number of contact person on notice	18	90%

Information about establishment process with the notice	14	70%
A reminder call regarding scheduled appointments and hearings	9	45%
Allow appearance by telephone (distance or other requirements)	19	95%
Evening hearings	2	10%
Incentives for appearing (e.g., waiver of retrospective support)	5	25%

Figure 13. Breakdown of techniques used by IV-D agencies to maximize NCP participation in child support order establishment process

### 5.1.5 POST-HEARING

Questions 19 and 20 request data, if available, to compare the percentage of current support owed in the entire caseload collected in the previous year vs. the percentage of current support owed in the entire caseload from default orders collected in the previous year.

It is important to note that child support enforcement agencies are required to track and report annually on their OCSE 157 Report the percentage of current support owed in the entire caseload collected in the previous year. By contrast, there is no requirement to track and report that percentage of current support owed in the entire caseload from the default orders that were collected upon in the previous year. A valid comparison between data reported in Question 19 (entire caseload) vs. Question 20 (default order portion of entire caseload) would necessitate OCSE's collection and reporting of data on the default order portion of the caseload as well.

#### Question 19

*In the last year, what percent of current support owed in the entire caseload is collected? (If not known, ask interviewee to make a best estimate.)*

- a. \_\_\_\_\_ %
- b. \_\_\_\_\_ Don't know, but estimate \_\_\_\_\_ %

#### Question 20

*In the last year, what percent of current support owed on default orders is collected? (If not known, ask interviewee to make a best estimate.)*

- a. \_\_\_\_\_ %
- b. \_\_\_\_\_ Don't know, but estimate \_\_\_\_\_ %

### Questions 19 and 20 Responses and Analysis

As expected due to OCSE reporting requirements, all respondents presented data concerning the percentage of current support owed in the entire caseload collected in the previous year from their OCSE 157 Report. Also as expected, participants were much less likely to be able to estimate the percentage of current support owed in the entire caseload from default orders collected in the previous year. Only 10 participants gave estimates; the other 12 participants responded with "don't know."

Figure 14 shows participants' data and estimated data reported in response to Questions 19 and 20. For the 12 participants who estimated the percentage of current support owed in the entire caseload from default orders collected in the previous year, it is clear that they perceive that the percentage of collections from default orders is consistently lower than the percentage of collections from all current support orders in the caseload.

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State	Participant(s)	% of current support collected from entire caseload (OCSE 157)	% of current support collected from default orders (estimates)
AZ	Cochise County, AZ	50%	don't know
	La Paz County, AZ	30%	15%
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	45%	20%
CO	Division of Child Support Enforcement	59.3%	don't know
FL	FL Dept. of Revenue	don't know	don't know
	Office of State Courts Administrator		
GA	GA Office of Child Support Services	54%	27%
	Georgia Child Support Commission, AOC		
IA	Dept. of Human Services, Child Support Recovery Unit	66%	don't know
ME	Division of Support Enforcement & Recovery	61%	don't know
MN	Benton County, MN	70%	don't know
	Dakota County, MN	68%	don't know
	Faribault and Martin Counties, MN	74%	don't know
	Hennepin County, MN	67%	don't know
NE	Young Williams Child Support Services, Douglas County, NE	61%	25%
NY	State Family Court	71.83%	don't know
	Erie County Department of Social Services		
OH	Butler County Juvenile Court	50%	30%
	Cuyahoga County	75%	50%
	Franklin County Domestic Relations, Juvenile Branch	68.73%	don't know
TX	Office of the Attorney General, Child Support Division	52.3%	25%-50%
UT	Dept. of Human Services, Office of Recovery Services	63.8%	don't know
WA	Division of Child Support	74%	50%
WI	Bureau of Child Support, Division of Economic Support	70.71%	10%
WI	Milwaukee County	70.71%	10%

Figure 14. Percentage of current support collected from entire caseload (OCSE 157) vs. estimated percentage of current support collected from default orders.

Questions 21 and 22 give respondents the opportunity to describe their experiences with NCPs once the default order is established.

**Question 21**  
*If a child support order is established by default, what action is taken and who takes the action when the non-custodial parent begins cooperating and provides actual income information? (Is there a defined threshold that must be met before a modification is initiated?)*

Question 21 Responses and Analysis

All participants responded to Question 21. Their responses are summarized in Figure 15.

State	Participant(s)	Comments on Actions after Default Order
AZ	Cochise County, AZ	<ol style="list-style-type: none"> <li>1. The IV-D agency Modification Clerk will review the case for possible modification. Modification is available if there's at least a 15% (+/-) change.</li> <li>2. The obligor can always go to court on his or her own.</li> </ol>
	La Paz County, AZ	<ol style="list-style-type: none"> <li>1. It rarely happens that someone cooperates after default.</li> <li>2. We had one phone call recently. The NCP called because he or she had received two more orders.</li> </ol>
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	After the Income Withholding Order (IWO) is sent to the employer, either collection begins or the obligor takes action.
CO	Division of Child Support Enforcement	<p><u>Administrative process:</u></p> <ol style="list-style-type: none"> <li>1. NCP can ask for review and adjustment <ul style="list-style-type: none"> <li>• after 3 years</li> <li>• if less than 3 years, with substantial change in circumstances</li> </ul> </li> <li>2. In new early intervention process: <ul style="list-style-type: none"> <li>• the order is held and not entered for 10 days after the hearing.</li> <li>• the child support agency contacts the NCP (phone or simplified postcard).</li> <li>• the NCP has another chance to provide accurate income information before the order goes into force.</li> </ul> </li> </ol> <p><u>Judicial process:</u></p> <ol style="list-style-type: none"> <li>1. The court enters the child support order the same day as the hearing.</li> <li>2. The order goes into force that same day.</li> </ol>
FL	FL Dept. of Revenue	<p><u>Administrative process:</u></p> <p>Either the custodial party or noncustodial parent can go to Circuit Court and request the Court to supersede the administrative order.</p> <p><u>Judicial process:</u></p> <p>A review and adjustment process is available:</p> <ul style="list-style-type: none"> <li>• when there is a substantial change in circumstances, defined as either a \$25 or 10% change in the amount of the support order</li> <li>• 3 years after the original order.</li> </ul>
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	<ol style="list-style-type: none"> <li>1. In the first 90 days after the order is entered, the case can go to a hearing if the other party, believing the imputed income to be higher, files a motion with the court for rehearing.</li> <li>2. On a case by case basis, the parties can go back to court.</li> <li>3. In the new Rapid Process Improvement pilot project, the child support agency is conducting follow up after the court order or consent order.</li> </ol>
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	<ol style="list-style-type: none"> <li>1. NCP can request a review every 2 years if there is a 20% variation from the guidelines support amount, unless health insurance is being added.</li> <li>2. NCP can request a review in less than 2 years for special circumstances, for example, proof of 50% change in net income, need to add a child, etc.</li> </ol>

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ME	Division of Support Enforcement & Recovery	NCP may move to modify if actual income is different (15%) from the amount used in establishing the order.
MN	Statewide	<ol style="list-style-type: none"> <li>1. Minnesota has a statutory threshold of \$75 plus 20%.</li> <li>2. There is a difference in approach for handling Public Assistance clients vs. clients not on Public Assistance.</li> </ol>
	Benton County, MN	<ol style="list-style-type: none"> <li>1. Prepare an agreement stipulation and a change order if it is a Public Assistance case.</li> <li>2. Prepare a motion to modify including an agreement stipulation.</li> <li>3. Inform NCP of pro se option and refer for assistance.</li> </ol>
	Dakota County, MN	<ol style="list-style-type: none"> <li>1. Prepare an agreement stipulation and a change order if it is a Public Assistance case.</li> <li>2. Prepare motion to modify including an agreement stipulation.</li> </ol>
	Faribault and Martin Counties, MN	<ol style="list-style-type: none"> <li>1. We routinely modify court orders if they fit the criteria.</li> <li>2. If the parents don't or won't, we will if it is appropriate.</li> </ol>
	Hennepin County, MN	<ol style="list-style-type: none"> <li>1. Child Support Office could start a Review and Adjustment process.</li> <li>2. Client could request a change pro se.</li> <li>3. Hennepin County does not do agreement stipulations.</li> <li>4. In Hennepin County, NCPs do not usually get another hearing.</li> </ol>
NE	Young Williams Child Support Services, Douglas County, NE	<ol style="list-style-type: none"> <li>1. Within the term of the Court (calendar year), the Court can amend the child support order.</li> <li>2. After the term of the Court (calendar year) is over, the NCP can request a modification if there is more than a 10% difference in income.</li> </ol>
NY	State Family Court	<ol style="list-style-type: none"> <li>1. NCP can make a formal request to "vacate" the child support order. There is a court rule specifying what is excusable for vacating the order and beginning the order establishment process over.</li> <li>2. A motion can be brought to obtain relief from a default judgment within a year of the judgment generally for excusable neglect; it can be brought anytime for fraud, misrepresentation, misconduct, lack of jurisdiction, or newly discovered evidence not obtainable at the time of the default.</li> </ol>
	Erie County Department of Social Services	
OH	Butler County Juvenile Court	The Child Support Enforcement Agency (CSEA) may initiate an administrative review and modification process or file a motion to modify in court. The obligee may also file a motion in court.
	Cuyahoga County	No action is taken by the court until the non-custodial parent enters an appearance by filing a motion.
	Franklin County Domestic Relations, Juvenile Branch	If child support was established administratively and the objection time has not expired, either parent can file an objection to the AO with the court and obtain a hearing before the court. If the administrative or court support order is final, the CSEA may conduct a modification of child support hearing, or the custodial parent can file a motion to modify the existing child support order with the court.
TX	Office of the Attorney General, Child Support Division	<ol style="list-style-type: none"> <li>1. <u>Automated process.</u> When NCP information is found in the New Hire database, automated wage withholding begins.</li> <li>2. <u>Manual process.</u> <ul style="list-style-type: none"> <li>• The NCP calls the child support officer to work things out.</li> <li>• If the NCP calls within the period of plenary authority (i.e., 30 days after the child support order</li> </ul> </li> </ol>

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		<p>is rendered), the NCP can file a motion for a new trial.</p> <ul style="list-style-type: none"> <li>• If the NCP calls after 30 days but within one year, the Child Support Review Process (CSRP) can be used. The NCP can try to get the order modified.</li> <li>• Also, for 4 years from the date of discovery, the NCP can use the Texas Bill of Review process in the trial court.</li> </ul> <p>Note: Participant commented that many attempts are made using the Bill of Review process, but successes are rare.</p>
UT	Dept. of Human Services, Office of Recovery Services	<ol style="list-style-type: none"> <li>1. The noncustodial parent can request review and adjustment of a default order based on change in income: <ul style="list-style-type: none"> <li>• 15% within the first 3 years</li> <li>• 10% after 3 years.</li> </ul> </li> <li>2. The request for review is processed administratively by the Department of Human Services, Office of Recovery Services, and the adjustment is completed administratively on administrative orders. Judicial orders are referred for a judicial adjustment (modification) after an administrative review to determine if the modification criteria have been met.</li> </ol>
WA	Division of Child Support	<ol style="list-style-type: none"> <li>1. During the first year after the child support order is established by default, the NCP can request a "late hearing."</li> <li>2. After 1 year, the NCP can request a "late hearing" only for "good cause," for example, incarceration or substance abuse issues.</li> <li>3. The NCP can also request a modification.</li> <li>4. State of WA has a Conference Board process for both administrative and court orders. The Conference Board is the Division of Child Support's grievance and dispute resolution method. The NCP can use the Conference Board process to request relief from unreasonable debt, for example, TANF. This process requires the cooperation of the custodial parent.</li> </ol>
WI	Bureau of Child Support, Division of Economic Support	<ol style="list-style-type: none"> <li>1. The noncustodial parent contacts the child support agency. The agency gathers information. The noncustodial parent stipulates to a support amount.</li> <li>2. The noncustodial parent is picked up on a warrant. The child support agency gathers information.</li> <li>3. Once a child support order is established by default, there can be no contingency [see Bradley Amendment, 42 USC Sec. 666.] However, the court can sometimes be creative, as in issuing a "hold open" order.</li> </ol>
WI	Milwaukee County	See WI Bureau of Child Support response above

Figure 15. Actions after default order

**Question 22**

*When these previously non-cooperating non-custodial parents come forward, have they provided any information or insights into why they did not cooperate, which resulted in a default order? (If yes, ask for a brief description.)*

Question 22 Responses and Analysis

Twenty participants commented on Question 22. None of the respondents formally track this information, but they did provide the anecdotal comments listed in Figure 16.

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State	Participant(s)	Comments on NCP Participation
AZ	Cochise County, AZ	Not usual to get information.
	La Paz County, AZ	No information provided.
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	No information provided.
CO	Division of Child Support Enforcement	<ol style="list-style-type: none"> <li>1. NCP comes forward because of a trigger action, e.g. driver's license suspension or IWO.</li> <li>2. Some say they received mail or were served, but they didn't know what it was or what to do about it.</li> <li>3. Some say they were not served – especially if substitute service was provided.</li> <li>4. Most parents say they don't understand the child support process.</li> </ol>
FL	FL Dept. of Revenue	<ol style="list-style-type: none"> <li>1. Some say they never got the paperwork.</li> <li>2. If income is imputed at minimum wage, participants don't come in.</li> </ol>
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	<ol style="list-style-type: none"> <li>1. Some say they were out of town due to a death in the family.</li> <li>2. Some report illness.</li> <li>3. Some report lack of transportation.</li> </ol>
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	<ol style="list-style-type: none"> <li>1. NCP says didn't receive notice.</li> <li>2. NCP says didn't understand notice.</li> <li>3. NCP says didn't respond in hopes "it will go away."</li> </ol>
ME	Division of Support Enforcement & Recovery	No information provided.
MN	Benton County, MN	<p>Anecdotally, NCPs say:</p> <ol style="list-style-type: none"> <li>1. If I ignore the personal service, the court hearing might be delayed.</li> <li>2. If I ignore the personal service, the child support case might go away.</li> <li>3. I didn't get the letter.</li> <li>4. Why bother? I'm going to lose anyway.</li> <li>5. I didn't read my mail.</li> <li>6. I didn't get my mail [from over the road truck drivers].</li> <li>7. I'm angry at the custodial parent.</li> <li>8. I'm scared.</li> </ol>
	Dakota County, MN	See Benton County
	Faribault and Martin Counties, MN	See Benton County
	Hennepin County, MN	See Benton County

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NE	Young Williams Child Support Services, Douglas County, NE	<ol style="list-style-type: none"> <li>1. My participation won't make any difference.</li> <li>2. The custodial parent has interfered and told the NCP, "You don't have to show up."</li> <li>3. There has been a defect in service. This information usually comes up at a contempt hearing.</li> </ol>
NY	State Family Court	<p>NCPs say they miss the court date because:</p> <ol style="list-style-type: none"> <li>1. They forgot.</li> <li>2. They entered the wrong date on calendar.</li> </ol>
	Erie County Department of Social Services	
OH	Butler County Juvenile Court	<ol style="list-style-type: none"> <li>1. Incarcerated</li> <li>2. Drug dependency</li> <li>3. No relationship with the mother or child</li> <li>4. Refusal by mother for parenting time</li> </ol>
	Cuyahoga County	<ol style="list-style-type: none"> <li>1. NCPs rarely come forward unless the order starts to be enforced and either: <ul style="list-style-type: none"> <li>• it seems high to them and they file something to oppose the order or</li> <li>• when they are brought in on an enforcement proceeding, they then give information contradictory to the figures used for the order.</li> </ul> </li> <li>2. Sometimes service was actually unsuccessful and the noncustodial parent did not actually know about the order.</li> </ol>
	Franklin County Domestic Relations, Juvenile Branch	<p>The three most common reasons are:</p> <ol style="list-style-type: none"> <li>1. Noncustodial parent was in jail;</li> <li>2. Noncustodial parent claims not to have received service of process / notice of hearing;</li> <li>3. Noncustodial parent ignored the service/notice.</li> </ol>
TX	Office of the Attorney General, Child Support Division	NCPs report problems with service of process.
UT	Dept. of Human Services, Office of Recovery Services	NCPs say they didn't understand the child support process, particularly the administrative process, since it can move to completion without a hearing.
WA	Division of Child Support	<ol style="list-style-type: none"> <li>1. NCP doesn't seem to care until wage garnishment begins and the issue becomes more real.</li> <li>2. Some NCPs work "under the table" and don't want to participate for that reason.</li> <li>3. Some NCPs have a "you can't catch me" attitude.</li> </ol>
WI	Bureau of Child Support, Division of Economic Support	See Milwaukee County, WI responses.
WI	Milwaukee County	<ol style="list-style-type: none"> <li>1. When there is a good relationship between the custodial and non-custodial parents, they don't want to "mess it up" by involving the child support agency.</li> <li>2. Incarcerated NCPs don't even know that they have default orders – either default paternity or default child support.</li> </ol>

Figure 16. Reasons for NCP lack of participation in child support process

## 5.2 REQUEST FOR INNOVATIONS

In addition to the process checkpoint questions described in Section 5.1, survey participants were also asked to share their knowledge of current innovations and to propose innovations needed to address the challenges of setting an appropriate order.

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**Question 23**

Are you aware of any court or agency that is doing something innovative in this area?  
 \_\_\_\_ Yes \_\_\_\_ No (If yes, ask interviewee to provide contact name and number and a brief description of the innovation.)

Participants from 12 offices shared the following current innovations within their offices or State.

Current innovations:

State	Participant(s)	Comments on Current Innovations
AZ	Cochise County, AZ	We are trying to forge a more non-adversarial relationship with the payor by increased communications, encouraging settlements, seeking State forgiveness of arrears, etc. These efforts are part of an internal initiative in 2007.
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	<ol style="list-style-type: none"> <li>1. The Arizona legislature is currently considering a bill (HB 2249) to establish an administrative process to establish child support orders. [Update: This provision was removed from HB 2249 as passed.]</li> <li>2. The Arizona legislature is also considering a bill (HB 2594) to eliminate interest on past child support judgments.</li> </ol>
CO	Division of Child Support Enforcement	<ol style="list-style-type: none"> <li>1. Colorado now has Family Court Facilitators in some courts. The facilitators assist pro se litigants.</li> <li>2. The Colorado courts have a Self-Help Center at the Colorado Judicial Branch Website at: <a href="http://www.courts.state.co.us/chs/court/forms/selfhelpcenter.htm">http://www.courts.state.co.us/chs/court/forms/selfhelpcenter.htm</a></li> <li>3. Some child support agencies have hired a CSE Liaison for the courts. The CSE Liaison helps educate judges on child support processes and writes a newsletter.</li> </ol>
GA	GA Office of Child Support Services	Georgia has new legislation effective January 1, 2007.
	Georgia Child Support Commission, AOC	<ol style="list-style-type: none"> <li>1. Senate Bill 382 went into effect on January 1, 2007. See summary information at: <a href="http://www.legis.state.ga.us/legis/2005_06/sum/sb382.htm">http://www.legis.state.ga.us/legis/2005_06/sum/sb382.htm</a></li> <li>2. Also, out of Senate Bill 382 are the child support guidelines, which are codified as the Official Code of Georgia Annotated (O.C.G.A.) 19-6-15. The Rule includes a financial affidavit. See: <a href="http://www.georgiacourts.org/csc/rule24.pdf">http://www.georgiacourts.org/csc/rule24.pdf</a></li> <li>3. Several electronic worksheets are available or planned. See Georgia Child Support Commission's Website at: <a href="http://www.georgiacourts.org/csc/">http://www.georgiacourts.org/csc/</a></li> </ol>
IA	Dept. of Human Services, Child Support Recovery Unit	<ol style="list-style-type: none"> <li>1. The State of Iowa's 1115 grant establishes rapport with the NCP early in the process. This approach represents a change in standard agency practices. Staff is being trained and is beginning to use the new approach.</li> <li>2. Services to customers from non-English language backgrounds are being provided by: <ul style="list-style-type: none"> <li>• Spanish language staff in the call center</li> <li>• Use of Language Line interpretation service (for multiple languages)</li> <li>• "Borrowing" Spanish language interpreters from</li> </ul> </li> </ol>

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		other agencies to assist a customer.
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MN	Statewide	<p>1. In a statewide initiative by the Department of Corrections in collaboration with the Child Support Enforcement Division, the Department of Corrections hires child support staff to work at the Prisoner Intake Center to advise incoming NCPs about child support procedures and options while they are incarcerated.</p> <p>2. Strategies to Help Low Income Families (SHLIF) project. <a href="http://mfsrc.org/conference_info/2006_conf/2006_Handouts/171500/171500F.pdf">http://mfsrc.org/conference_info/2006_conf/2006_Handouts/171500/171500F.pdf</a></p> <p>3. Kathy DeNeui from Faribault &amp; Martin Counties commented:          “We are working diligently on the SHLIF project in MN. I participate on that workgroup and I'm tracking cases where we are dealing with arrears adjustments and assuring we are setting appropriate up-front orders. We take into consideration on our arrears adjustment cases all of the NCP's cases.”</p> <p>“Our goal is to assure current support is being paid whenever possible and if that means we compromise some State of MN arrears to assure that happens, we are doing that. I have statistics since August of 2006 on what we have accomplished on 78 cases that we have applied those strategies.</p> <ul style="list-style-type: none"> <li>• We stopped interest from accruing if they paid 6 months of child support.</li> <li>• We have secured some full payments.</li> <li>• We have adjusted arrears off on Public Assistance cases to assure NPA CPs are getting current support.</li> <li>• We have made deals if they pay their current [support] for 6 months for one CP.</li> <li>• We have a State Public Assistance arrears-only case. We will give them credit for every month they make the current support on their arrears cases.”</li> </ul>
MN	Benton County, MN	In St. Cloud, at the Stearns County Law Library, staff meets with individuals to help them understand the child support process and forms.
	Dakota County, MN	<ol style="list-style-type: none"> <li>1. Self Help Center</li> <li>2. Child Support Orientation and Law Clinic (quarterly)</li> <li>3. Outreach campaign in libraries</li> <li>4. Early Compliance Initiative. After the support order is established, caseworkers track payments at 30-day, 60-day, and 90-day check points. They contact the NCP if there is a non-payment at any of these 3 check points.</li> </ol>
	Faribault and Martin Counties, MN	We offer service of process in our office versus having law enforcement or a process server for the NCP on every case where the NCP is working with us. The offer of personally serving in the office allows the Child Support Officer (CSO) to go through the documents, explain the process and what happens next, etc. It sets the tone again of cooperation, showing that the CSO is there to be an impartial person explaining the facts for both parties. This works very well. Our CSOs do the contacts for legal personal service.
	Hennepin County, MN	<ol style="list-style-type: none"> <li>1. Self Help Desk</li> <li>2. Information Website</li> <li>3. Bilingual community information sessions</li> </ol>

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		<ol style="list-style-type: none"> <li>4. Outreach to incarcerated parents</li> <li>5. Referral to Parent Education Program (PEP) and Fatherhood Project</li> <li>6. Survey of unmarried couples is in progress. Focus is on couple as parents. Co-parenting, not marriage, is the primary goal.</li> </ol>
NY	State Family Court	<p>No innovations because of these barriers:</p> <ol style="list-style-type: none"> <li>1. Courts are too busy with caseloads.</li> <li>2. Child support agency does not perceive default orders as a problem because the Federal performance standards still count a default order as an established order. State must meet 80% Federal order establishment criteria.</li> <li>3. However, child support agency does become concerned when arrearages mount.</li> </ol>
	Erie County Department of Social Services	
	Franklin County Domestic Relations, Juvenile Branch	<ol style="list-style-type: none"> <li>1. CSEA call center staff have the capability to conference call with interpreters skilled in 91 languages in order to converse with non-English speaking clients and public officials from around the world.</li> <li>2. The CSEA initiated withholding of State Medicaid payments to a physician obligor.</li> <li>3. The CSEA has initiated "agreed entry Wednesdays" to allow parties in agreement to appear and enter into an agreed entry regarding support payments and arrearages. The entries are prepared by CSEA attorneys to reflect the parties' agreement, and journalized with the court. These entries gain consistent reliable support payments, even though they may compromise potentially uncollectible unassigned arrearages (roughly \$2.8 million last year).</li> </ol>
UT	Dept. of Human Services, Office of Recovery Services	A participant cited a helpful 1-page Child Support Quick Guide in plain English that she learned about on an OCSE teleconference a few years ago. The Quick Guide was an insert to the initial notice.
WA	Division of Child Support	<ol style="list-style-type: none"> <li>1. Some localities are using flexible processes.</li> <li>2. Some localities are using informal processes.</li> <li>3. Attempts are underway to educate courts and prosecutors to: <ul style="list-style-type: none"> <li>• Establish accurate orders</li> <li>• Avoid default orders</li> <li>• Do earlier intervention for mediation.</li> </ul> </li> </ol>
WI	Bureau of Child Support, Division of Economic Support	See comments from Milwaukee County, WI
WI	Milwaukee County	<ol style="list-style-type: none"> <li>1. Community outreach activities <ul style="list-style-type: none"> <li>• Legal Mondays</li> <li>• Wisconsin Fatherhood Collaborative</li> </ul> </li> <li>2. Provide free Legal Services to NCPs early in the process (2005 Section 1115 grant)</li> <li>3. "Hold open" child support order until more financial information is available</li> <li>4. Created specific code in KIDS automated child support system to track default paternity and child support orders.</li> </ol>

**Question 24**

*Do you have any suggestions for possible innovations? \_\_\_\_ Yes \_\_\_\_ No (If yes, ask for a brief description.)*

Participants from 17 offices shared the following suggestions for possible innovations.

Possible innovations:

State	Participant(s)	Comments on Possible Innovations
AZ	Cochise County, AZ	No comments
	La Paz County, AZ	No comments
	Div. of Child Support Enforcement; Office of the Attorney General, Phoenix, AZ	No comments
CO	Division of Child Support Enforcement	<ol style="list-style-type: none"> <li>1. We are seeing an increasing number of requests for forms in Spanish due to the expanding population of parents whose first language is Spanish.</li> <li>2. A challenge to providing Spanish language forms is that all forms are currently generated in Colorado's automated CSE system only in English.</li> <li>3. Some courts require English only forms. However, judges in Denver County (includes City of Denver) are accepting English/Spanish forms.</li> <li>4. A problem arose when a county attorney required Spanish-speaking parents to go directly to a court hearing to use an interpreter instead of using the administrative negotiation process. Court hearings are held in a different building on a different date, and some Spanish-speaking parents became no-shows. To avoid this problem, the county child support agency recently hired a certified Spanish/English interpreter for negotiation conferences. The position was first grant-funded, and then agency-funded.</li> <li>5. Bilingual staff can sometimes assist in negotiation conferences, but they may not know the necessary child support terminology.</li> </ol>
FL	FL Dept. of Revenue	<ol style="list-style-type: none"> <li>1. When preparing default orders, take into consideration the education level and employability of the noncustodial parent.</li> <li>2. Innovations are needed to overcome resistance, for example, "I'm too busy" to participate in the process.</li> <li>3. Better approaches are needed when the noncustodial parent has income that is "under the table."</li> </ol>
	Office of State Courts Administrator	
GA	GA Office of Child Support Services	<ol style="list-style-type: none"> <li>1. We would like to learn what other States are doing.</li> <li>2. We would like to learn what courts are doing regarding income potential.</li> </ol>
	Georgia Child Support Commission, AOC	
IA	Dept. of Human Services, Child Support Recovery Unit	Expand State of Iowa's 1115 grant activities to establish rapport with NCP through pre-service telephone contact.
ME	Division of Support Enforcement & Recovery	No comments
MN	All survey participants	<ol style="list-style-type: none"> <li>1. Additional funding for child support services.</li> <li>2. More information from the Federal level about what other States are doing.</li> </ol>

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		<ol style="list-style-type: none"> <li>3. States share with each other ways to get information about child support services out to the community.</li> <li>4. Greater awareness in the child support community that social attitudes are shifting. More NCPs are making voluntary payments and staying engaged with their children.</li> <li>5. NCPs need reassurance that their money goes to support their children and not to support Mom.</li> <li>6. Greater awareness and revised strategies to serve the higher percentage of child support caseloads with a poor work history and substance abuse issues.</li> <li>7. Revision of Federal performance measures to reflect a new caseload profile. For example, revise requirement for Service of Process within 90 days after locating the NCP.</li> </ol>
NE	Young Williams Child Support Services, Douglas County, NE	<ol style="list-style-type: none"> <li>1. Do outreach to fatherhood groups. Douglas County is currently working with one or two groups to inform fathers about the child support process and their roles and responsibilities.</li> <li>2. Track data on default orders more discretely. Be able to track the number of default orders entered and percentage of collections on default orders. Douglas County began tracking this data several months ago.</li> </ol>
NY	State Family Court	Pre-court hearing contacts with NCP by the child support agency could help to:
	Erie County Department of Social Services	<ul style="list-style-type: none"> <li>• Solicit NCP participation ahead of court hearing</li> <li>• Educate NCPs about the process and its implications for them</li> </ul>
OH	Butler County Juvenile Court	<ol style="list-style-type: none"> <li>1. [Need] a more comprehensive process that would address all parenting issues. In our county, 80% of the paternity and child support orders are established in an administrative process. The Child Support Enforcement Agency has no authority to address parenting issues such as visitation.</li> <li>2. Also, if money were available, [need] job training, job placement services, and GED programs for obligors. We tried to begin such a program in the mid-1990s, but there were insufficient resources to continue.</li> </ol>
	Cuyahoga County	No comments
	Franklin County Domestic Relations, Juvenile Branch	Mandate the use of genetic testing to establish paternity. Using DNA testing to establish paternity is reliable and relatively inexpensive. It eliminates doubt, as well as numerous subsequent motions for relief from judgment from men who acknowledged paternity without DNA testing.
TX	Office of the Attorney General, Child Support Division	No comments
UT	Dept. of Human Services, Office of Recovery Services	No comments
WA	Division of Child Support	<ol style="list-style-type: none"> <li>1. Work with courts to “speak the same language.”</li> <li>2. Educate court facilitators.</li> <li>3. There has been a cultural change in the past 10 years, for example, moving away from setting orders high.</li> <li>4. Look for improvements for <u>pro se</u> [self-represented] litigants.</li> <li>5. Look at the current practice of using a parent’s imputed</li> </ol>

		income based on federal median net income for full time workers in the absence of information to the contrary. Using federal median net income for default orders often sets the orders too high.
WI	Bureau of Child Support, Division of Economic Support	Suggest expanding the survey to include paternity default hearings that result in default support orders.
WI	Milwaukee County	No comments

## 6. OPPORTUNITIES TO INFLUENCE SETTING APPROPRIATE ORDERS

Survey results indicate there are multiple opportunities within the child support establishment process to influence setting appropriate orders to improve child support collections and avoid accumulation of arrears. Figure 17 identifies examples of specific activities within the framework of the child support establishment process taken from State practices shared during the Presumptive Default Orders survey.

This chart will be used as a guide to discussion in Section 6. The chart can also be used by IV-D child support agencies and judicial entities as a guide to identify and expand their own activities to support setting appropriate orders.

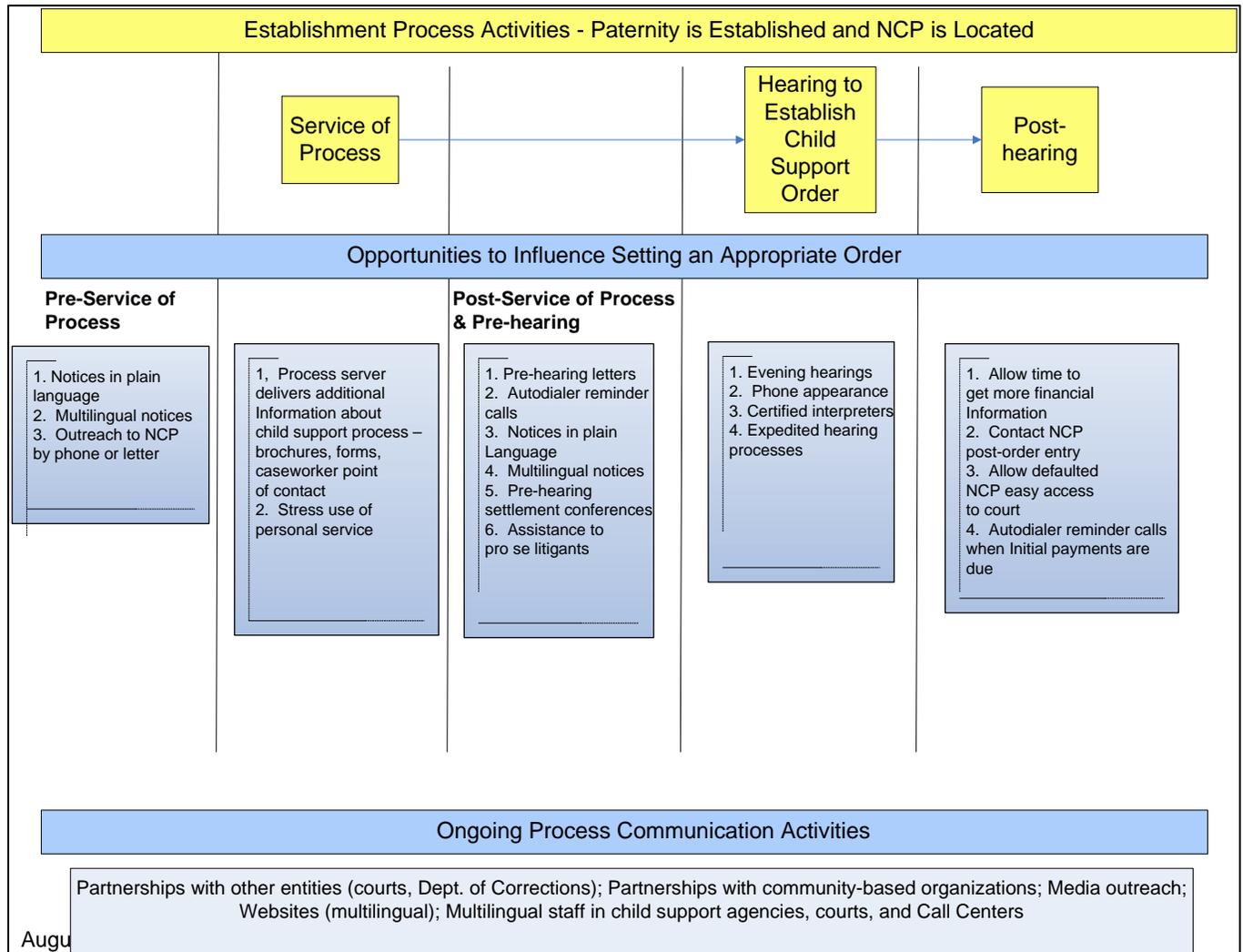


Figure 17. Opportunities to Influence Setting an Appropriate Order

## 6.1 TYPES OF OPPORTUNITIES

The survey respondents identified a number of opportunities designed to improve the likelihood of establishing a child support order that better represents the financial circumstances of the parties. These opportunities included procedural techniques, public outreach, forms, State statutes, and Court Rules. Some of these new initiatives were pilot-tested in one or more counties while others were implemented on a statewide basis.

Many of these innovative opportunities focus on involving the noncustodial parent in the order establishment process as early as possible. Others focus on pre-hearing efforts designed to ensure that the parties understand the process and the importance of accurate and complete financial information to a fair outcome. Some focus on early intervention after the entry of a default order. For example, some respondents report success in obtaining the NCP's post-default cooperation by showing flexibility regarding the support arrears accumulating under the default order.

Respondents identified the need for a "culture shift" within the IV-D program to serve as a foundation for improvements in this area. These respondents cited a need to eradicate the idea that higher order amounts necessarily better serve children and a need to understand that the CP is not the IV-D program's client, with the NCP being the program's adversary.

The report groups the opportunities into three categories: procedural techniques, legislative approaches, and court rules. The specific remedies that make up these three categories are organized into the order establishment process checkpoints discussed above (pre-service of process; service of process; post service of process/pre-hearing; hearing; post hearing). These categories reflect the need for the State IV-D agencies and State court systems to work collaboratively because comprehensive changes to the existing child support order establishment process cannot be accomplished by one side alone. While both can point out possible opportunities, the court system cannot revise the legislation and operating procedures employed by a State IV-D agency, just as a State IV-D agency cannot make changes to the rules that govern the judicial process.

Once again, due to the differences between the States in the operation of their IV-D programs and their choice of dispute resolution processes, not all of the reported opportunities will work for all States. The point is, many States are taking action to address the inappropriate order problem and it seems prudent to compile and publish these achievements so other States can see what is working elsewhere.

### 6.1.1 PROCEDURAL TECHNIQUES AND PRACTICES

The surveyed States reported using procedural techniques and practices to achieve their goal of establishing appropriate support orders much more often than they reported using legislation and/or court rules. For the purposes of this report, procedural techniques and practices are those tools that do not require enabling legislation or court rules. For example, outreach efforts by the IV-D agency to inform parties of the importance of participating in the order establishment process are "procedural" because they do not require legislation or a court rule to implement.

When the State IV-D agencies were created, most State legislatures granted them broad oversight authority to operate their programs in a manner that effectively and efficiently carried out the program's objectives. As a result, when a IV-D program is already authorized to establish paternity and child support orders for IV-D cases, most IV-D agencies can implement procedural techniques and practices to best achieve that end.

### **6.1.2 LEGISLATIVE APPROACHES**

The survey respondents cited statutes that are either in place currently or in development (e.g., House or Senate Bills). Most State IV-D agencies seek new legislation only when the remedy they are pursuing is beyond the legislature's existing grant of authority. This means unless Federal law mandates the adoption of a new IV-D remedy or practice, most State IV-D agencies should be able to fashion procedures to implement their existing grants of authority. However, when a State IV-D agency is interested in revising the foundation of the State's Child Support Guidelines, new legislation (or Court Rules) probably will be required. The key is to determine whether the desired procedure or practice can be implemented within the framework of existing State IV-D legislation. If it can, new legislation should not be required.

### **6.1.3 COURT RULES**

Court rules govern every aspect of bringing an action before a court for all case types. For example, court rules outline how to initiate an action, the types of forms or pleadings that must be filed with the court, the timeframes for managing every aspect of the case's progression through the system, how to conduct the hearing, and how to appeal an adverse decision. As State and Federal laws and society's expectations of the courts have changed, court rules have been amended and new court rules have been established to respond to these changes.

Survey respondents reported using new or revised court rules to assist their efforts to obtain more appropriate child support orders. In some cases, it was the advance of technology that prompted a change to the court rules, like a telephonic appearance before the court or the submission of evidence by facsimile transmission. In other cases, it may be the court system's desire to employ pleadings and forms that are written in "plain English" to enhance a pro se litigant's comprehension of their meaning.

## **6.2 STATES' PROCEDURAL TECHNIQUES AND PRACTICES**

Survey participants reported many procedural techniques and practices already in use in their States to facilitate establishing an appropriate order. This section briefly describes these techniques and practices. As noted, further information may be available in Appendix 7.4.1, State Examples – Procedural Techniques and Practices.

### **6.2.1 PRE-SERVICE OF PROCESS**

#### Outreach to parents

1. State of Colorado Division of Child Support Enforcement uses FAX or mail outreach to incarcerated parents.
2. State of Minnesota counties (Benton, Hennepin, Faribault, and Martin) make telephone contact with the NCP prior to service.
3. State of Minnesota has a statewide initiative with the Department of Corrections. In collaboration with the Child Support Enforcement Division, the Department of Corrections hires child support staff to work at the Prisoner Intake Center to advise incoming NCPs about child support procedures and options while they are incarcerated.

4. State of Minnesota (Benton County) IV-D agency staff meets with individuals at the Stearns County Law Library in St. Cloud to help them understand the child support process and forms.
5. State of Nebraska (Douglas County) child support office sends a letter asking the NCP to contact the office. If the NCP contacts and comes into the child support office, the caseworker can arrange for pre-filing genetic testing and voluntary court appearance. The caseworker can also give the NCP information on options.
6. State of Wisconsin (Milwaukee County) representatives from Milwaukee County Child Support Agency participate in "Legal Mondays," a public radio show to present information on child support to the community. The staff gives consistent messages such as, "If you don't appear, that means you do not object."
7. State of Wisconsin (Milwaukee County) Child Support Agency participates in the Wisconsin Fatherhood Collaborative. The Collaborative is made up of social service agencies serving fathers and children with employment and education services. The Child Support Agency focuses on the education of fathers about the child support process. For further information, see Appendix 7.4.1.
8. State of Utah IV-D child support agency can offer genetic testing at State expense prior to service if paternity is an issue.
9. State of Washington sends out an information package including a brochure on how to request a hearing, forms (income), the right to object, and other process information.

#### Notices in plain, simple, non-legalese language at a basic reading level

1. Douglas County, Nebraska, Child Support Services uses notices in plain language to communicate during the paternity and child support establishment process. See Appendix 7.4.1 for a sample notice.
2. State of Florida notices are worded at 6<sup>th</sup> to 8<sup>th</sup> grade level. There are separate administrative notices for non-English speakers.
3. State of Iowa sends notices in three languages: English, Spanish, and Vietnamese.

#### Multilingual services

1. State of Georgia offers these multilingual services:
  - Call Center (workdays)
  - Access to bilingual staff for Limited English Speaking clients
  - Website information in Spanish
2. State of Iowa offers these services:
  - Spanish language staff in Call Center
  - Use of Language Line interpretation service (for multiple languages)
  - "Borrowing" Spanish language interpreters from other agencies to assist a customer.
3. State of Minnesota (Hennepin County) sends notices in English, Spanish, Russian, Hmong, and Vietnamese.
4. State of Utah offers Language Line interpretation service (for multiple languages).
5. State of Washington provides notices in Spanish and Vietnamese.

### **6.2.2 SERVICE OF PROCESS**

#### Process server delivers additional information

1. Child Support Services of Arizona has its process servers offer the noncustodial parent informational brochures, "Establishing Paternity" and "Establishing an Order to Pay Child Support" (English and Spanish).
2. State of Colorado Division of Child Support Enforcement trained process servers in Denver County to:
  - Deliver a short 1-page brochure.

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- Ask if there are any questions. If yes, the process server gives the child support worker's contact information.
- Ask noncustodial parent to fill out his/her contact information form. If done, the process server sends the form into the child support agency.

They paid the process server \$2-\$5 extra for performing these services.

3. In State of Florida, process servers summarize the documents being delivered. This practice varies – it is not statewide.
4. State of Washington includes an information package including: brochure on how to request a hearing, forms (income), the right to object, and other process information.

### Service of process in IV-D child support agency

1. State of Minnesota (Faribault & Martin Counties) offers service of process in the IV-D agency office on every case where the noncustodial parent is working with the agency. The offer of personally serving in the office allows the Child Support Officer (CSO) to go through the documents, explain the process and what happens next, etc. It sets the tone again of cooperation and that the CSO is there to be an impartial person explaining the facts for both parties.

### **6.2.3 POST-SERVICE OF PROCESS BUT PRE-HEARING**

#### Online information

The State of Georgia makes information (case alerts, payment alerts, etc.) available through the CSE portal at: <http://www.ocse.dhr.georgia.gov/portal/site/DHR-OCSE>

#### Pre-hearing outreach

1. The State of Iowa Bureau of Collections/Child Support Recovery Unity (CSRU) implemented an OCSE 1115 Demonstration Project, "Making Connections, Improving Collections." One of its major objectives is to reduce default support orders by obtaining orders commensurate with ability to pay. Several early intervention contact points were established. See Appendix 7.4.1 for further information.
2. In the State of Nebraska (Douglas County) after service of process with a scheduled court date, the child support office continues to try to contact the NCP (up to 3 times). The caseworker attempts to verify income, verify address, and determine if there are unusual circumstances (multiple families, medical issues, etc.).
3. The State of Washington has a diligent settlement process. The IV-D agency works with both parties to get to settlement.

#### Multilingual forms

State of Colorado Division of Child Support Enforcement reported a challenge to providing Spanish language forms because all forms are currently generated in Colorado's automated CSE system only in English.

#### Autodialer reminder calls for hearing appointments

The State of Arizona automated child support system (ATLAS) has an autodialer feature. Caseworkers can direct the system to place reminder calls for hearing appointments.

#### Pre-hearing meetings

The State of Florida offers the option for an informal discussion with both parents about the child support guidelines (administrative process).

#### Assistance to pro se litigants

1. Through an OCSE Section 1115 grant, the Milwaukee County, Wisconsin Department of Child Support offers a free walk-in Family Law Self-Help Clinic 4 days a week at the Milwaukee County Courthouse. The project goal is to test whether legal services provided to

noncustodial parents early in the child support process will improve their interactions with their children and the custodial parent and result in an increase of regular collections. Services are provided by volunteer attorneys from the Milwaukee Bar Association and Child Support Enforcement staff for assistance with:

- Preparation and completion of family law forms and documents
- Procedures for properly completing, filing, and serving of paperwork.

See Appendix 7.4.1 for additional information.

2. The State of Arizona posts its forms associated with Arizona Rules of Family Law Procedure at: [http://supreme.state.az.us/selfserv/ARFLP\\_forms.htm](http://supreme.state.az.us/selfserv/ARFLP_forms.htm)
3. The State of Georgia posts multiple electronic worksheets to guide pro se litigants and practitioners through the calculation of child support obligations. See Georgia Child Support Commission's Website at: <http://www.georgiacourts.org/csc/>
4. The State of Colorado provides a brochure, "What You Need to Know About Representing Yourself in Court. A Basic Introduction for Individuals Who Are Appearing in Court without an Attorney." Colorado Judicial Branch (.pdf format) available at: <http://www.courts.state.co.us>
5. The State of Washington has courthouse facilitators to help individuals complete forms.

#### **6.2.4 HEARING**

##### Evening hearings

1. State of Colorado Division of Child Support Enforcement reported that "some counties have used evening hearings, but participation has been low."
2. State of Minnesota (Dakota County) scheduled evening hearings (at 5pm) for 3-4 years. The appointment could be set either by the caseworker or by the parents. The practice was discontinued because most 5pm time slots were not used.

##### Phone appearance

1. Arizona Superior Court allows telephonic hearings in certain circumstances, including lack of transportation due to poverty and distance from court.
2. State of Maine allows appearance by telephone (distance or other requirements).
3. State of Nebraska (Douglas County) can arrange telephone appearances where the noncustodial parent is distant or incarcerated. The NCP pays for the cost of call.

##### Multilingual court summons

State of Florida issues court summons in 3 languages: English, Spanish, and Haitian Creole.

##### Expedited hearing processes

Franklin County, Ohio Child Support Enforcement Agency (CSEA)

The CSEA has initiated "agreed entry Wednesdays" to allow parties in agreement to appear and enter into an agreed entry regarding support payments and arrearages. The entries are prepared by CSEA attorneys to reflect the parties' agreement, and journalized with the court. These entries gain consistent reliable support payments, even though they may compromise potentially uncollectible unassigned arrearages (roughly \$2.8 million last year).

#### **6.2.5 POST-HEARING**

##### Contact NCP post-order entry

1. State of Minnesota (Dakota County) has an Early Compliance Initiative. After the support order is established, caseworkers track payments at 30-day, 60-day, and 90-day check points. They contact the NCP if there is a non-payment at any of these 3 check points.

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2. State of Nebraska (Douglas County) Child Support Services sends a letter after the filing but before the order is entered. The letter contains the name and phone number of a legal specialist (paralegal) who can assist the NCP.
3. State of Georgia child support agency is conducting follow-up after the court order or consent order under its Rapid Process Improvement pilot project.

Autodialer reminder calls when initial payments are due

The State of Arizona automated child support system (ATLAS) has an autodialer feature. Caseworkers can direct the system to place reminder calls when initial payments are due.

Track data on default orders discretely

State of Nebraska (Douglas County) began tracking the number of default orders entered and percentage of collections on default orders in early 2007.

### **6.3 STATES' LEGISLATIVE APPROACHES**

Survey participants reported many legislative initiatives planned or in use in their States to facilitate establishing an appropriate order. This section briefly describes these bills or statutes. As noted, further information may be available in Appendix 7.4.2, State Examples – Legislative Approaches.

#### **6.3.1 PRE-SERVICE OF PROCESS**

60 days to serve process seeking child support order or lose right to assess arrears

Washington State is an administrative process State and has a statute that requires that its administrative summons and petition (seeking a child support order) be served upon the NCP within 60 days from the date the State assumes responsibility for the support of the child for whom support is sought. This law provides that if the NCP is not served within the 60 days from the date the State assumed responsibility for the child, the State is precluded from seeking reimbursement from the NCP for the time period following the 60<sup>th</sup> day until the date of service. The law allows this 60-day rule to be tolled provided the State IV-D agency is exercising reasonable efforts to locate the NCP. See Appendix 7.4.2.1 for additional information.

#### **6.3.2 SERVICE OF PROCESS**

No legislative remedies identified for this process checkpoint.

#### **6.3.3 POST-SERVICE OF PROCESS BUT PRE-HEARING**

No legislative remedies identified for this process checkpoint.

#### **6.3.4 HEARING**

No interest may be assessed on pre-order arrears

An Arizona survey respondent reported a new bill (HB 2594 – signed by the governor on May 4, 2007) intended to assist in the establishment of appropriate orders that focuses on the entry of the child support order. This new law precludes the entry of an award of interest on a judgment assessed by the court at the time of entry of the initial order. See Appendix 7.4.2.4 for additional information.

#### **6.3.5 POST-HEARING**

Opportunity to contest imputed income

Georgia recently revised its child support guidelines statute and this change included a provision to help ensure that the order is based on accurate income information. This new provision applies in cases where income was imputed and allows a party to challenge the imputed amount. Under the new statute, O.C.G.A. § 19-6-5-(f)(4)(C), a party wishing to contest the amount of the imputed income has 90 days to request a review of the income. This new Georgia law allows the moving party to raise this challenge without meeting the requirements for

a modification (significant variance) or the State's standards for a review and adjustment. See Appendix 7.4.2.5 for additional information.

#### "Hold Open" order

Wisconsin reports success in establishing more appropriate child support orders in default situations. By means of an agreement with the courts, the IV-D agency is allowed to hold the obligation provision of a default order open while it obtains more reliable income information. This practice is accomplished under the authority of Wisc. Stat. § 767.511, which requires the court to consider all relevant financial information in determining the child support payment. Admittedly, the statute does not expressly allow for the default order to be "held open," but the IV-D agency and the courts agree that this practice meets the intent of the statute. See Appendix 7.4.2.5 for additional information.

#### Opportunity to request a "late" hearing

The State of Washington reports a statute that allows a defaulted party to request a late hearing after one year from the date of service provided that party can demonstrate "good cause" for failing to timely request a hearing. See Appendix 7.4.2.5 for additional information.

#### Compromising arrears and the "Bradley Amendment"

1. The Revised Code of Washington allows the State's IV-D agency to compromise or "charge-off" past-due child support when certain conditions are met. State IV-D staff report success with this remedy, named Conference Board, in their dealings with NCPs with large arrearages that accumulated under default orders entered without the benefit of accurate income information. It is important to note that compromising arrears is not barred by the Bradley Amendment (42 U.S.C. § 666(a)(9)) because it does not involve a retroactive modification of the arrears by a court. Rather, it recognized that arrears are owed but, as the party to whom the arrears belong, it may choose to forgive the payment of some or all of the arrears in exchange for an agreement to pay a new current support obligation established with accurate income information. See Appendix 7.4.2.5 for additional information.
2. Minnesota learned that a name change would allow their IV-D agency to manage the payment of arrears without running afoul of the Bradley Amendment. In the past, Minnesota's child support guidelines included a "retroactive modification" provision. Using a modification proceeding to retroactively modify a judgment of child support is clearly contrary to the Bradley Amendment. However, charging-off part or all of a child support judgment is allowed provided the party to whom the arrears are owed consents to the charge-off. Minnesota's newly revised child support guidelines, effective January 1, 2007, allow this form of debt management and retired the use of the term "retroactive modification." See Appendix 7.4.2.5 for additional information.

## **6.4 STATES' COURT RULES**

Survey participants reported some Court Rules in use in their States to facilitate establishing an appropriate order. This section briefly describes these rules. As noted, further information may be available in Appendix 7.4.3, State Examples – Court Rules.

### **6.4.1 PRE-SERVICE OF PROCESS**

No survey respondent referenced a Court Rule that applied to this process checkpoint.

### **6.4.2 SERVICE OF PROCESS**

No survey respondent referenced a Court Rule that applied to this process checkpoint.

### **6.4.3 POST-SERVICE OF PROCESS BUT PRE-HEARING**

#### Obtaining accurate and complete financial information pre-hearing

In an effort to ensure that the courts have complete financial information prior to a hearing to establish a child support order, Georgia Uniform Superior Court Rule (24.2) requires both parties to file financial affidavits with the court and provide a copy to the other party before the hearing. This includes actions seeking temporary child support orders, permanent child support orders, modifications of existing child support orders, and other related proceedings. The moving party must file his/her affidavit at the time of filing and the responding party must file his/her affidavit with his/her answer or, if the proceeding is to establish a temporary order, at least five days prior to the hearing. See Appendix 7.4.3.3 for additional information.

### **6.4.4 HEARING**

#### Allowing a party or witness to appear by telephone or other electronic means

New York Court Rule 205.44 allows a party or witness to provide testimony via telephone or other electronic means in a child support hearing. An application to testify via telephone must be filed with the court at least three days prior to the hearing date. See Appendix 7.4.3.4 for additional information.

#### Meeting the need for qualified interpreters

Several States reported the increasing need for qualified interpreters in child support judicial proceedings. States stressed the need for a list of qualified interpreters that have met certification requirements established by the courts. In 2006, Iowa revised its Court Rules relating to certifying interpreters for use in judicial proceedings. Rule 14 lists the qualifications needed to be a certified interpreter and requires a criminal check be conducted as part of the application process. See Appendix 7.4.3.4 for additional information.

#### Setting a minimum support award under the child support guidelines

In a footnote to the Court Rule establishing its child support guidelines (Iowa Court Rule 9), Iowa states its policy that all parents owe a duty to support their children. In recognition of this policy, Iowa's child support guidelines statute establishes minimum support obligations (\$50 per month for one child, \$75 for two children, \$100 for three children, or \$125 for four or more children). The footnote does note that "the appropriate figure is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. 1381a. See Appendix 7.4.3.4 for additional information.

### **6.4.5 POST-HEARING**

#### Requesting a "late hearing" to obtain relief from a default order

New York Court Rules allow a defaulted party in either a child support order or paternity establishment proceeding one year to seek relief from the terms of a default order. See New York Family Court §§ 427 & 525.

## 7. APPENDICES

### 7.1 NATIONAL JUDICIAL–CHILD SUPPORT TASK FORCE

In September 1998 and again in May 2003, OCSE worked with the National Center for State Courts (NCSC) to host a national judicial symposium entitled "Children, Courts and the Federal Child Support Enforcement Program." The goal was to improve collaboration between child support agencies and partners from the courts and judiciary.

Those symposia resulted in the issuance of resolutions by the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) in early 2004 calling for greater collaboration between IV-D agencies and their judicial/court counterparts to deal with, among other issues, three crucial areas of mutual interest focusing on (1) the reduction of default orders, (2) reduction in uncollectible arrears, and (3) improvement of interstate case processing. Later in 2004, OCSE facilitated the formation of the National Judicial–Child Support Task Force to aid in the process of attempting to reach those goals.

#### 7.1.1 MEMBERSHIP

The National Judicial–Child Support Task Force's voluntary membership is comprised of more than thirty-five professionals representing State and tribal child support enforcement agencies, State courts, State judicial officers, State court administrators, national court organizations, judicial associations, the Office of Child Support Enforcement and the Administration for Children and Families regional offices. Since its beginning, the Task Force has met face-to-face three times each year, when possible. Additionally, members interact extensively between meetings to develop collaboration planning guides and tools that promote and enhance child support program-judicial collaboration efforts.

#### 7.1.2 PURPOSE AND MISSION

The purpose and mission statement of the National Judicial-Child Support Task Force is:

*To engage Federal, State and tribal child support programs and judicial/legal systems in collaborative efforts to better serve the needs of children and families.*

#### 7.1.3 STRATEGIC PLAN

To achieve its purpose and mission, the Task Force developed a model Strategic Plan. This Plan establishes a recommended roadmap for maximizing collaboration and resultant benefits at the regional, State and tribal levels. The National Judicial-Child Support Task Force Strategic Plan is designed to complement and support the mission, goals and objectives of the National Child Support Enforcement Strategic Plan for Fiscal Years 2005 to 2009 and the policies of the Conference of Chief Justices and Conference of State Court Administrators regarding the support of children and problem solving courts.<sup>1</sup> The Strategic Plan can be downloaded from the OCSE Website at: <http://www.acf.hhs.gov/programs/cse/pol/dcl/2006/dcl-06-37.htm>.

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<sup>1</sup> See CCJ Resolution 19 (January 2004) and COSCA Resolution IV (December 2003), in Support of Pursuing Child Support Initiatives; and CCJ/COSCA Resolution 22 (July 2004), in Support of Problem-Solving Courts.

#### 7.1.4 TASK FORCE POINT OF CONTACT

For further information on the National Judicial-Child Support Task Force, or to contribute a Judicial-Child Support program collaboration best idea or best practice, contact Larry Holtz, OCSE, at (202) 401-5376; email: [larry.holtz@acf.hhs.gov](mailto:larry.holtz@acf.hhs.gov).

## 7.2 LITERATURE SEARCH

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## 7.3 SURVEY INSTRUMENT

### Presumptive Default Orders Survey

Setting Appropriate Child Support Orders: Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States

*The scope of the survey is limited to IV-D cases. Paternity cases are included in the survey scope if the petition to establish paternity also includes a request to establish a support order.*

*We should ask a few questions to enable us to understand the context for the answers.*

*- Is it a State administered or county administered State?*

*- Is the State a judicial, administrative, or combined process State?*

- *It is a judicial process State if a judge must sign or approve the underlying support order, even if the agency works with the non-custodial parent to develop the support amount and presents a stipulated order to the judge.*
- *It is an administrative process if the executive branch hearing officer can sign an enforceable support order without any intervention by a judge.*
- *It is a combined process State if both judges and administrative hearing officers can and do sign enforceable orders.*

1) Does the court or the IV-D child support agency have the responsibility for initiating the service of process for the petition to establish the initial support order? *(The interviewer should note if the practice is not uniform statewide. We are only interested in the initial establishment, not related to an appeal or enforcement. )*

- a. Court  Yes  No
- b. IV-D child support agency  Yes  No

2) Are pre-service techniques used by non-judicial court personnel to contact and engage the non-custodial parent in the establishment process?  Yes  No *(If yes, check all that apply.)*

- a.  Telephone contact\*
- b.  Letter asking non-custodial parent to contact the agency
- c.  Letter inviting non-custodial parent to scheduled meeting
- d.  Mail financial statement to non-custodial parent and invite contact
- e.  Mail draft guidelines calculation and invite contact
- f.  Annual notice
- g.  Other \_\_\_\_\_

\* How does staff obtain the non-custodial parent's telephone number?

3) Are pre-service techniques used by the IV-D child support agency to contact and engage the non-custodial parent in the establishment process?  Yes  No *(If yes, check all that apply.)*

- a.  Telephone contact\*
- b.  Letter asking non-custodial parent to contact the agency
- c.  Letter inviting non-custodial to scheduled meeting
- d.  Mail financial statement to non-custodial parent and invite contact
- e.  Mail draft guidelines calculation and invite contact
- f.  Annual notice
- g.  Other \_\_\_\_\_

\* How does staff obtain the non-custodial parent's telephone number?

4) If non-judicial court personnel attempt to make personal contact with the non-custodial parent, prior to initiating service of process, who performs this function? \_\_\_\_\_

5) If the IV-D child support agency attempts to make personal contact with the non-custodial parent, prior to initiating service of process, who performs this function? \_\_\_\_\_

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- 6) To establish a default support order, what level of service of process is used? *(Check all that apply.)*
- a.  Personal service
  - b.  Substitute personal service
  - c.  Tacking
  - d.  Certified mail
  - e.  Certified mail, restricted to addressee
  - f.  First class mail with acknowledgement
  - g.  First class mail to verified address
  - h.  First class mail to last known address
  - i.  Publication
- 7) In the last year, what percentage of non-custodial parents appeared in person or by telephone at the hearing to establish the original support order? *(If not known, ask interviewee to make a best estimate.)*
- a.  %
  - b.  Don't know, but estimate  %
- 8) In the last year, what percentage of child support orders was established by default? *(For this question, we mean, cases in which the non-custodial parent was not physically or telephonically present at the hearing, did not have counsel present at the hearing, did not submit income or other information to the court for consideration at the hearing, did not sign a waiver to appear and stipulated order, or did not meet with or advise child support staff of willingness to accept the proposed guidelines amount. If not known, ask interviewee to make a best estimate.)*
- a.  %
  - b.  Don't know, but estimate  %
- 9) What techniques does the IV-D child support agency use to maximize non-custodial parent participation in the process to establish support orders and increase the likelihood that the non-custodial parent will make an appearance, make contact with the agency, and/or provide current income information? *(Check all that apply in at least one jurisdiction. The interviewer should note which practices are not statewide.)*
- a.  Personal service
  - b.  Notice wording\* *(plain, simple, non-legalese, basic reading level)*
  - c.  Notice in foreign languages\*
  - d.  Name and telephone number of contact person on notice\*
  - e.  Information about establishment process with the notice\*
  - f.  A reminder call regarding scheduled appointments and hearings\*\*
  - g.  Allow appearance by telephone *(distance or other requirements)*
  - h.  Evening hearings
  - i.  Incentives for appearing *(e.g., waiver of retrospective support)*
  - j.  Other \_\_\_\_\_
- \* Ask for a copy of their notices.  
\*\* How does staff obtain the non-custodial parent's telephone number?
- 10) Do your process servers provide any information, either orally or in writing, to the non-custodial parent at the time of service or answer questions to assist the non-custodial parent in understanding the establishment process?  Yes  No *(If yes, ask for brief description and ask for a copy of the material to be mailed, faxed, or e-mailed.)*
- 11) Is a responsive pleading required for the non-custodial parent to be able to participate in the establishment process and/or participate in hearing to establish a support order?  Yes  No *(If yes, ask for brief description.)*
- 12) Does your State charge any fees for responsive pleadings?  Yes  No *(If yes, ask for brief description.)*
- 13) If your State charges fees for responsive pleadings, are there exceptions (e.g. poverty affidavit) to the requirement?  Yes  No *(If yes, ask for brief description.)*

Setting Appropriate Child Support Orders: Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States

- 14) What sources are routinely accessed by the court to obtain non-custodial parent income information? (*Check all that apply. We are trying to determine what the judge specifically expects to be presented to the court on a regular and routine basis.*)
- a.  Tax return (*Federal and/or State*)
  - b.  Wage data
  - c.  Financial information affidavit\* (*custodial or non-custodial parent*)
  - d.  Custodial parent testimony
  - e.  Employer or new hire database
  - f.  Government benefits (*e.g., Social Security, Veterans, etc.*)
  - g.  Credit reports
  - h.  Other \_\_\_\_\_
- \* Ask for a copy of their financial information affidavit.
- 15) Prior to the hearing, what income information does the IV-D child support agency gather and have available to present at the hearing to corroborate or refute the non-custodial parent's or the custodial parent's testimony regarding income and assets or to have on hand in case the non-custodial parent is no show at the hearing? (*Check all that apply.*)
- a.  Tax return (*Federal and/or State*)
  - b.  Wage data
  - c.  Financial information affidavit\* (*custodial or non-custodial parent*)
  - d.  Employer or new hire database
  - e.  Government benefits (*e.g., Social Security, Veterans, etc.*)
  - f.  Credit reports
  - g.  Other \_\_\_\_\_
- \* Ask for a copy of their financial information affidavit.
- 16) Does the notice to the non-custodial parent include a presumptive income amount or projected child support amount based on information gathered by the child support agency? (*By notice, we mean the first document provided to the non-custodial parent advising him/her of the intention to establish a child support order. It might be in a letter inviting the non-custodial parent to contact the agency prior to legal action, in the petition filed with the court, or some other document.*)
- a. Presumptive income amount  Yes  No
  - b. Projected child support amount  Yes  No
- 17) What percentage of support orders are issued without any non-custodial parent income information? (*If not known, ask interviewee to make a best estimate.*)
- a.  %
  - b.  Don't know, but estimate  %
- 18) If the non-custodial parent does not appear in person at the hearing or file a response to a petition to establish a support order after being served, what is the basis upon which the child support order is established? (*Check all that apply.*)
- a.  Income is imputed based on last known wage information
  - b.  Income is imputed based on earning ability
  - c.  Income is imputed based on minimum wage\*
  - d.  Income is imputed based on a statutory minimum amount - \$ \_\_\_\_\_
  - e.  Needs of the child
  - f.  Amount of the public assistance
  - g.  Request of the custodial parent
  - h.  Support is not established; hearing rescheduled
  - i.  Other \_\_\_\_\_

\* If minimum wage, is it the State or Federal minimum, what is the amount, and is it just the minimum or some multiple factor (e.g., 150% of minimum)?

- 19) In the last year, what percent of current support owed in the entire caseload is collected? (*If not known, ask interviewee to make a best estimate.*)
- a.  %

Setting Appropriate Child Support Orders: Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States

- b. \_\_\_\_\_ Don't know, but estimate \_\_\_\_\_%
- 20) In the last year, what percent of current support owed on default orders is collected? *(If not known, ask interviewee to make a best estimate.)*
- a. \_\_\_\_\_ %
- b. \_\_\_\_\_ Don't know, but estimate \_\_\_\_\_%
- 21) If a child support order is established by default, what action is taken and who takes the action when the non-custodial parent begins cooperating and provides actual income information? *(Is there a defined threshold that must be met before a modification is initiated?)*
- 22) When these previously non-cooperating non-custodial parents come forward, have they provided any information or insights into why they did not cooperate, which resulted in a default order? *(If yes, ask for a brief description.)*
- 23) Are you aware of any court or agency that is doing something innovative in this area? \_\_\_\_\_ Yes \_\_\_\_\_ No *(If yes, ask interviewee to provide contact name and number and a brief description of the innovation.)*
- 24) Do you have any suggestions for possible innovations? \_\_\_\_\_ Yes \_\_\_\_\_ No *(If yes, ask for a brief description.)*

*The survey interview should be concluded by a request for copies of any forms and materials that may assist the Work Group in understanding the State's policies and procedures.*

State: \_\_\_\_\_

Court or Agency: \_\_\_\_\_

Interviewee Name: \_\_\_\_\_

Interviewee Title: \_\_\_\_\_

Interviewee Contact Number: \_\_\_\_\_

Interview Conducted By: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

## 7.4 STATE EXAMPLES

### 7.4.1 PROCEDURAL TECHNIQUES AND PRACTICES

#### 7.4.1.1 Pre-Service of Process

Notices in plain, simple, non-legal language at a basic reading level

This sample notice was provided by Douglas County, NE.

Child Support Services  
Douglas County  
A Program of the Nebraska Department of Health and Human Services  
Office of Child Support Enforcement Services

April 14, 2009

JOHN WATSON  
9876 HARRISON STREET  
NORFOLK, VA 23100

RE: CSE Case Number: 987654321

Dear John Watson:

We currently have a case in our office with your child Breeanna Adams. We would like to work with you to establish support for your child. Please contact me at the below listed number within 10 days to discuss your case.

I would like the opportunity to resolve this matter with your cooperation. Please be aware that failure to contact me within ten days may result in further legal action.

Sincerely,  
RACHEL THOMPSON  
CHILD SUPPORT SPECIALIST

402-341-4554 ext 3306

## Early Intervention Project

### **Iowa Department of Human Services Bureau of Collections**

#### **"Making Connections, Improving Collections"**

This grant responds to 2004 Priority Area 5: Increasing Payments and Avoiding Non-Custodial Parents' (NCPs) Debts through Stratifying NCPs by Likelihood of Paying, Taking Steps Appropriate to Their Classification, and Taking Prompt Action. The Bureau of Collections proposes to develop an innovative and coordinated approach to improve front-end services to parents in the child support system, thereby increasing the financial and emotional support of children. This proposal builds on lessons learned from child support programs in this and other countries and on the expertise developed in the private collection industry.

Through this grant, Iowa seeks to shape a trusting relationship with child support program customers, particularly non-custodial parents (NCPs), to encourage them to engage in the support establishment process and in problem solving if they encounter difficulty in making their support payments. Advanced statewide training will enhance child support specialists' ability to initiate personal contacts in a manner that succeeds in gaining NCP involvement in support establishment and encouraging their compliance with support orders. An additional intended benefit of this approach is to increase the number of NCPs willing and able to co-parent their children.

This project will prescribe early intervention strategies for cases in accordance with the stratification of targeted NCPs. The major objectives of the proposed project are to: obtain non-default orders commensurate with the obligor's capacity to pay; encourage timely payment of order amounts in new cases; and, remedy quickly any payment problems that do occur to prevent the accumulation of child support arrearages.

**Grant Number:** 90FD0093

**Project Officer:** Bob Clifford bclifford@acf.hhs.gov

**Project Period:** 09/30/2004 to 02/28/2006

#### Community Partnership

The Milwaukee County, WI Child Support Agency participates in the Wisconsin Fatherhood Collaborative. The Collaborative is made up of social service agencies serving fathers and children with employment and education services. The Child Support Agency focuses on education of fathers about the child support process.

One of the Collaborative's activities is a conference held at a church in the community. At a recent conference, over 1,200 fathers registered to attend. The Child Support Agency presented a workshop on the child support process and how to get a driver's license back. Participants who complete the workshop receive a certificate. They can then bring the certificate in to the Child Support Agency offices for caseworker review of their case. Caseworkers review the father's circumstances and look for opportunities to assist, for example, with forgiveness of State interest (12% rate). So far, 380 fathers have come in for this caseworker review. As a result, several participants have stipulated to child support orders averaging \$22/month. In addition, 38 referrals have been made to a Collaborative partner's employment program.

Another Collaborative activity is a bimonthly "Dads and Kids" Breakfast for 250 dads and their children held on a week end at the Fatherhood Center. Representatives from the Child Support Agency help find sponsors for the Breakfast. They also volunteer their time to attend the

breakfast, where they can meet informally with fathers to answer questions. For example, fathers ask if they will be arrested for non-payment, and the staff responds no, the Child Support Agency cannot issue an arrest warrant. Child Support Agency staff encourages fathers at the breakfast to come into the agency offices for a more thorough caseworker review.

Benefits realized from these initiatives include:

- Opportunity for Child Support Agency to increase engagement with clients
- Better informed clients
- Increased collections
- Potential reduction of arrears (State interest forgiveness).

#### **7.4.1.2 Service of Process**

No follow-ups at this time.

#### **7.4.1.3 Post-Service of Process but Pre-Hearing**

##### Assistance to pro se litigants- Milwaukee Co, WI

##### "Milwaukee Legal Advocacy Project"

This three-year project responds to 2005 Priority Area 1: Reducing Intervention and Use of Adversarial or Formal Proceedings While Increasing Financial Security for Children Born Out of Wedlock. The State of Wisconsin proposes to test whether legal services provided to non-custodial parents early in the child support process will improve their interactions with their children and the custodial parent and result in an increase of regular collections.

The project will test whether advocacy will overcome the critical factors that lead low-income non-custodial parents into adversarial or formal proceedings. The grantee will provide advocacy services at the child support system's front-end, thereby reducing the need to later initiate or pursue adversarial action. The demonstration project will take place in Milwaukee County, and build on an existing program that provides services later in the proceeding, at the adversarial stage. Services will be contracted out to a local organization to provide services to 200 non-custodial parents randomized to an experimental group and a control group. This project is expected to result in increased collections and improved relationships between custodial and non-custodial parents because the assistance earlier on in the process will help identify and diffuse potential problem situations before they become adversarial.

Grant Number: 90FD0105

Project Officer: John Jolley [jkjolley@acf.hhs.gov](mailto:jkjolley@acf.hhs.gov)

Project Period: 08/01/05 to 07/31/08

[http://www.acf.hhs.gov/programs/cse/grants/abstracts/fy2005\\_1115\\_abstracts.html](http://www.acf.hhs.gov/programs/cse/grants/abstracts/fy2005_1115_abstracts.html)

##### Pre-hearing outreach

The State of IA Bureau of Collections/Child Support Recovery Unit (CSRU) implemented an OCSE 1115 Demonstration Project, "Making Connections, Improving Collections." One of its major objectives is to reduce default support orders by obtaining orders commensurate with ability to pay. Several early intervention contact points were established. Findings and lessons learned from this project are on the OCSE website.

#### **7.4.1.4 Hearing**

No follow-ups at this time.

#### **7.4.1.5 Post-Hearing**

No follow-ups at this time.

### **7.4.2 LEGISLATIVE APPROACHES**

#### **7.4.2.1 Pre-Service of Process**

##### R.C.W. § 74.20A.055(2): The “60-Day Rule”

The notice shall be served upon the debtor within sixty days from the date the State assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so, the entire sixty-day period is tolled until such time as the debtor can be located.

#### **7.4.2.2 Service of Process**

No follow-ups at this time.

#### **7.4.2.3 Post-Service of Process but Pre-Hearing**

##### O.C.G.A. § 19-6-5(f)(4)(C). Reliable Evidence of Income

If income is imputed pursuant to subparagraph (A) of this paragraph, the party believing the income of the other party is higher than the amount imputed may provide within 90 days, upon motion to the Court, evidence necessary to determine the appropriate amount of child support based upon reliable evidence. A hearing shall be scheduled after the motion is filed. The Court may increase, decrease, or the amount of current child support may remain the same from the date of filing of either Parent’s initial filing or motion for reconsideration. While the motion for reconsideration is pending, the obligor shall be responsible for the amount of child support originally ordered. Arrearages entered in the original child support order based upon imputed income shall not be forgiven. When there is reliable evidence to support a motion for reconsideration of the amount of income imputed, the party shall not be required to demonstrate the existence of a significant variance or other such factors required for modification of an order pursuant to subsection (k) of this Code section.

#### **7.4.2.4 Hearing**

##### A.R.S. § 25-515. Judgments for past support; interest

Any portion of a judgment for past support assessed by the court pursuant to section 25-320, subsection C or section 25-809, subsection B for any period of time before the order for support does not accrue interest.

#### 7.4.2.5 Post-Hearing

##### Wisconsin's "Hold Open" Order, Wisc. Stat. § 767.511(lg)

Consideration of financial information. In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported under s. 49.22 (2m) to the department or the county child support agency under s. 59.53 (5).

##### Washington's R.C.W. § 74.20A.055(4)(d): Late hearing request

If the responsible parent or custodial parent files the application more than one year after the date of service, the office of administrative hearings shall schedule an adjudicative proceeding at which the parent who requested the late hearing must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

(i) If the presiding officer finds that good cause exists, the presiding officer shall proceed to hear the parent's objection to the notice and determine the support obligation;

(ii) If the presiding officer finds that good cause does not exist, the presiding officer shall treat the application as a petition for prospective modification of the amount for current and future support established under the notice and finding. In the modification proceeding, the presiding officer shall set current and future support under chapter 26.19 RCW. The petitioning parent needs to show neither good cause nor a substantial change of circumstances to justify modification of current and future support.

##### Washington's R.C.W. § 74.20A.220: Charging off child support debts as uncollectible — Compromise — Waiver of any bar to collection

Any support debt due the department from a responsible parent may be written off and cease to be accounted as an asset if the secretary finds there are no cost-effective means of collecting the debt.

The department may accept offers of compromise of disputed claims or may grant partial or total charge-off of support arrears owed to the department up to the total amount of public assistance paid to or for the benefit of the persons for whom the support obligation was incurred. The department shall adopt rules as to the considerations to be made in the granting or denial of partial or total charge-off and offers of compromise of disputed claims of debt for support arrears. The rights of the payee under an order for support shall not be prejudiced if the department accepts an offer of compromise, or grants a partial or total charge-off under this section.

The responsible parent owing a support debt may execute a written extension or waiver of any statute which may bar or impair the collection of the debt and the extension or waiver shall be effective according to its terms.

##### Minnesota's Statutes 2006 § 518A.62 Child Support Debt and Arrearage Management

In order to reduce and otherwise manage support debts and arrearages, the parties, including the public authority where arrearages have been assigned to the public authority, may compromise unpaid support debts or arrearages owed by one party to another, whether or not docketed as a judgment. A party may agree or disagree to compromise only those debts or arrearages owed to that party.

### **7.4.3 COURT RULES**

#### **7.4.3.1 Pre-Service of Process**

No follow-ups at this time.

#### **7.4.3.2 Service of Process**

No follow-ups at this time.

#### **7.4.3.3 Post-Service of Process but Pre-Hearing**

##### Georgia Uniform Superior Court Rule 24.2

At the time of filing any action for temporary or permanent child support, alimony, equitable division of property, modification of child support or alimony or attorneys fees, the filing party shall file with the Clerk of Court the affidavit specifying his or her financial circumstances in the form set forth herein and, in cases involving child support, the schedules required by O.C.G.A. § 19-6-15 (effective January 1, 2007, as thereafter amended or revised), and shall serve the same upon the opposing party. In protective order actions filed under OCGA § 19-13-1, et. seq. and in other emergency actions, the affidavit and schedules may be filed and served on or before the date of the hearing or at such other time as the court orders, and shall not be required at the time of filing of the action.

Notice of the date of any temporary hearing shall be served upon the adverse party at least 15 days before the date of the hearing, unless otherwise ordered by the court.

The opposing party shall serve the affidavit specifying his or her financial circumstances in the form set forth herein and the schedules, where applicable, and shall file with the Clerk of Court and exchange this information with the opposing party:

- (a) at least five days prior to any temporary hearing;
- (b) at least five days prior to any court ordered mediation; or
- (c) with his or her answer or thirty days after service of the complaint, whichever first occurs, if no application for a temporary award is made and the parties do not participate in mediation prior to trial.

Any amendments to the affidavits or schedules shall be exchanged at least 10 days prior to hearing or trial. Each party shall submit the proposed worksheet required by O.C.G.A. § 19-6-15 (effective January 1, 2007 and as amended or revised thereafter) at the time of hearing or trial. On the request of either party, and upon good cause shown to the court, the affidavits, worksheets, schedules, and any other financial information may be sealed, upon order of the court. No social security numbers or account numbers shall be included in any document filed with the Court.

Failure of any party to furnish the above financial information, in the discretion of the court, may subject the offending party to the penalties of contempt and may result in continuance of the hearing until such time as the required financial information is furnished or such other sanctions or remedies are deemed appropriate in the court's discretion.

[Statute provides example of form.]

#### 7.4.3.4 Hearing

##### Iowa Court Rule 14.1 Qualifications of a court interpreter

###### 14.1(1) *Qualifications.*

*a. Minimum age.* A court interpreter shall be at least 18 years old.

*b. Education.* A court interpreter shall have at least a high school diploma or its equivalent.

*c. Court interpreter application form.* A court interpreter shall complete an application form, developed by the State court administrator, on which the interpreter shall provide information about the interpreter's education, experience, and references to assist the court in determining the interpreter's qualifications for court interpreting.

*d. Oath.* A court interpreter shall sign an oath asserting the interpreter has the knowledge and skills to be a competent court interpreter, that the interpreter understands and will abide by the Code of Professional Conduct for Judicial Branch Interpreters in Chapter 15 of the Iowa Court Rules, and that the interpreter will interpret in court to the best of the interpreter's ability.

*e. Criminal records search.* Beginning January 1, 2007, a criminal records search shall be completed by the State court administrator. This requirement may be waived for an interpreter who has had a criminal records search completed prior to this date.

*f. Criminal record.* A person who has been convicted of the following types of crimes shall be barred from being a court interpreter:

(1) *Felony.* A person who has been convicted of a felony in any jurisdiction shall be barred from being a court interpreter. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction.

(2) *Other crime of dishonesty or moral turpitude.* A person who has been convicted in any jurisdiction of a crime of dishonesty or moral turpitude, but less serious than a felony, shall be barred from being a court interpreter.

The State court administrator may waive this prohibition based on mitigating factors that include, but are not limited to: length of time since the offense, seriousness of the offense, age of the person at the time of the offense, evidence of the person's good character exhibited since the offense, and the person's candor in the application process.

*g. Disciplinary action in another jurisdiction.* An interpreter who has been barred or suspended from court interpreting in any other jurisdiction due to ethical violations or incompetence shall be similarly prohibited from being a court interpreter in Iowa.

##### New York Court Rule Section 205.44 Testimony by telephone, audio-visual or other electronic means in child support and paternity cases

(a) This section shall govern applications for testimony to be taken by telephone, audio-visual means or other electronic means in accordance with sections 433, 531-a and 580-316 of the Family Court Act.

(b) A party or witness seeking to testify by telephone, audio-visual means or other electronic means must complete an application on the form officially promulgated by the Chief Administrator of the Courts and set forth in Chapter IV of Subtitle D of this Title and, except for good cause shown, must file such application with the court not less than three days in advance of the hearing date. The applicant shall attempt to arrange to provide such testimony at a designated tribunal or the child support enforcement agency, as defined in the Federal Social Security Act (42 U.S.C. title IV-D) in that party's State, or county if within the State. The court may permit the testimony to be taken at any suitable location acceptable to the court, including but not limited to, the party's or witness' counsel's office, personal residence or place of business.

(c) The applicant must provide all financial documentation ordered to be disclosed by the court pursuant to section 424 or 580-316 of the Family Court Act, as applicable, before he or she will be permitted to testify by telephone, audio-visual means or other electronic means. The

financial documentation may be provided by personal delivery, mailing, facsimile, telecopier or any other electronic means that is acceptable to the court.

(d) The court shall transmit a copy of its decision by mail, facsimile, telecopier, or electronic means to the applicant and the parties. The court shall state its reasons in writing for denying any request to appear by telephone, audio-visual means or other electronic means.

#### **7.4.3.5 Post-Hearing**

No follow-ups at this time.

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