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Quick Facts: Review and Adjustment of Support Orders

This Quick Facts guide provides information about child support review and modification.

The Child Support Program¹ is a successful federal-state-tribal partnership whose mission is to promote economic stability for children whose parents live apart. Establishing and collecting child support is the cornerstone of the program.

Pursuant to federal law, an obligor's income must be considered in applying state guidelines to set a support order.² The state child support program also must review a support order every three years and adjust that order if no longer appropriate given the obligor's financial circumstances.³ Further, upon request, the state must have procedures to review the order and make an adjustment to the obligation if there has been a "substantial change in circumstances."⁴

The review and adjustment process for child support is critical. Parents' financial circumstances often change, and timely modification of support to reflect those changes ensures "right-sized" orders for families. Studies confirm that having a realistic support order, given the obligor's current income and circumstances, improves the likelihood that the support will be paid regularly.⁵ Consistent payments help custodial parents budget for the child's needs and are a key component of a family's economic stability. Many states are now taking a proactive approach to ensure that child support orders truly correspond to the obligor's ability to pay.

Examples From Across the Nation

Working with Incarcerated Obligors

¹ Title IV, Part D of the Social Security Act (42 U.S.C. 651, *et seq.*)

² 45 C.F.R. § 302.56(c)(1) states that the child support guidelines for each State must take into consideration the income of the non-custodial parent.

³ 42 U.S.C. § 666(a)(10) and 45 C.F.R. § 303.8 requires procedures to review, and adjust if appropriate, support orders every 3 years or upon request if proof of a substantial change in circumstances.

⁴ *Id.*

⁵ Establishing Realistic Child Support Orders: Engaging Noncustodial Parents, Office of Child Support Enforcement, Child Support Fact-Sheet Series, No. 1, June 2012.





One of the most common situations in which a child support obligation needs modification based on a change in a parent's ability to pay is when the parent has become incarcerated, particularly for incarcerations of sufficient length to negatively impact the parent's earning ability

(see NCSEA Quick Facts on Incarcerated Parents). In 2016, the federal Office of Child Support Enforcement made several changes in federal regulation to require states to respond to incarceration of a parent for more than 180 days. In short, unless state law or rule provides for an automatic modification to a child support obligation by operation of law, states must elect either to proactively review the child support obligation of a parent who is incarcerated for more than 180 days or to notify the parents of the right to request the state to review and, if appropriate, adjust the obligation based on the changed circumstances.

States are still in the process of implementing the 2016 mandates in the amended regulations. At least one state has enacted a law providing for expiration of a child support obligation of a parent who is incarcerated under a sentence of 180 days or more. But, even before the amendments to federal regulation, many states were already implementing programs to change the child support obligations of parents who have been incarcerated.

Colorado has streamlined the Review and Adjustment for incarcerated obligors, reducing ongoing child support obligations to \$50.00 monthly, absent objection by the custodial parent.

Washington D.C. implemented a program to inform prisoners of their ability to modify their support orders during their sentencing hearing. A second program mandates that the District's Child Support Services Division review all child support orders of incarcerated parents. As a result of these programs, \$1.6 million in unenforceable arrears were avoided.

Iowa linked its Child Support Recovery Unit Program with the Iowa Prisoner Re-Entry Initiative, providing case management services (including modification assistance), as well as parenting education.

Pennsylvania established a *Non-Financial Obligation* support order that can be issued when a non-custodial parent is unable to meet his support obligation due to incarceration, unemployment, or disability.

Low Income and Recently Unemployed Obligor

The changes arising from the 2016 federal rulemaking extend beyond incarceration. The amended federal regulations specifically mandate states to take reasonable steps to obtain all available information regarding a parent's income or specific circumstances affecting the parent's ability to pay, to base the parent's child support obligation on that information, and document the factual basis for the obligation in the case record.





Even before the rule changes in 2016, many states already developed responsive review and adjustment practices to ensure that child support obligations rose and fell with changes in a parent's income or ability to pay.

Florida's Nassau and Duval Counties developed programs to accelerate the Review and Adjustment process for non-custodial parents whose income is at or below 200% of the Poverty Level.

Maryland's Prince George County automatically reviews and, if appropriate, modifies the child support orders of all obligors who have received unemployment benefits for 3 months or more.

New York City's Office of Child Support Enforcement has implemented the *Modified DSS Order* program, which allows non-custodial parents who have experienced a drop of income below the subsistence level to request modifications in TANF cases at the program's customer walk-in counter. The program also allows the parent an expedited stipulation process for a new order.

Ohio's Stark County used a federal grant to hire two case managers whose dedicated role is to contact and inform recently unemployed non-custodial parents of their right to a review and adjustment of their order. The case managers also help guide the parents through the modification process.

Streamlining the Review and Adjustment Process

Alaska Child Support Services implemented *ELMO*, an electronic automated system that draws income information and links it to Alaska's automated child support system. If the information received meets eligibility criterion, and will result in a 15% difference in the ordered amount, ELMO refers the case for manual review. ELMO reviews an average of 3800 cases a month.

Puerto Rico's ASUME (Administración Para el Sustento de Menores) created the *Rapid Response Task Force*. The task force proactively contacts employers who are in the process of laying off workers, and provides onsite services (including reviews and adjustments) for workers facing pending layoffs.

Iowa provides an automated review and adjustment process reducing the wait time from 30 to 15 days.

Sources:

Realistic Child Support Orders for Incarcerated Parents, Office of Child Support Enforcement, Child Support Fact Sheet Series, Number 4, June 2012





State Child Support Agencies with Programs to Ensure Office of Child Support Enforcement Orders Reflect Current Earnings, Office of Child Support Enforcement, February 24, 2012.

Providing Expedited Review and Modification Assistance, Office of Child Support Enforcement, Child Support Fact Sheet Series, Number 2, June 2012

