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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 that seeks to promote economic stability for children whose parents live apart. The program collects \$5.06 for every \$1 in public funds invested. In FY 2019, \$32 billion was collected in 13.6 million cases for 14.3 million children.²

Pursuant to federal law, an obligor's income must be considered in applying state guidelines to set a support order.³ 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.⁴ The state must also have procedures in place to review the order and make an adjustment to the obligation, upon request by either parent, if there has been a "substantial change in circumstances."⁵

States conduct reviews in a variety of ways. Working with one or both parents, a state may:

- Review and, if appropriate, adjust the order according to the state's support guidelines if the amount of child support under the order differs from the amount that would be awarded according to the guidelines;
- Apply a cost-of-living adjustment to the order according to a formula developed by the state; or
- Use automated methods (including automated comparisons with wage or state income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment.

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.⁶ 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.⁷





Working with Incarcerated Obligor

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 promulgated new rules regarding the review and adjustment of support orders for incarcerated parents. 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.⁸

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.⁹ Even before the rule changes in 2016, many states had 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.

¹ Created by Title IV-D of the Social Security Act

² https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2019_preliminary_data_report.pdf

³ 45 C.F.R. § 302.56(c)(1).

⁴ 42 U.S.C. § 666(a)(10)(A) and 45 C.F.R. 303.8(b)(1).

⁵ 42 U.S.C. § 666(a)(10)(B) and 45 C.F.R. 303.8(b)(6).

⁶ [Establishing Realistic Child Support Orders: Engaging Noncustodial Parents](#), Office of Child Support Enforcement, Child Support Fact-Sheet Series, No. 1, June 2012.

⁷ The federal Office of Child Support Enforcement's comprehensive guide, [Changing a Child Support Order](#), is a thorough resource for aiding parents and those who work with them, to help them understand the review and adjustment of support orders.

⁸ 45 C.F.R. 303.8(b)2).

⁹ 45 C.F.R. 303.4(b).

