

INTRODUCTION:

The purpose of this pamphlet is to help you, as the non-custodial parent, understand what enforcement actions the Division of Child Support Services (DCSS) or its agents can take against you. DCSS can enforce support orders for unpaid support in many ways. The federal government may also enforce unpaid support.

This pamphlet (1) provides answers to some typical questions that non-custodial parents ask, (2) describes the actions that DCSS can take, and (3) describes the actions that the federal government can take.

QUESTIONS AND ANSWERS:

What is unpaid support?

Unpaid support is any amount of money that you have been ordered to pay for child support, spousal maintenance, and medical bills, *and* that you have not paid. Unpaid support may also be known as “arrear” or “past support.” A court may order “past support” in a paternity case (*where the court determines the identity of the father*). DCSS will also collect the interest that accrues on all unpaid support.

Why do I owe unpaid support?

There are several ways in which you may have unpaid support. Here is a list of possible reasons:

1. From the time that the court orders you to pay support, if you do not pay the complete amount that was ordered, the remaining amounts are unpaid support.
2. If it was necessary to establish paternity in your case, the court may enter a judgment for support for up to three years prior to the time of the court order, in addition to a monthly support amount. When these amounts are not paid, you will have unpaid support.
3. The court may have ordered you to reimburse the custodial parent for some medical expenses for the child.

If the court ordered you to pay some of those expenses and you have not paid them, those amounts are unpaid support.

4. Interest accrues on all unpaid support at ten percent per year on Arizona court orders. This means that if you do not pay your full monthly support, interest accrues on what you did not pay. A judgment for past support, spousal maintenance, and medical expenses also accrue interest (*but interest does not accrue on interest*).

5. Arizona law provides for a monthly handling fee for support payments and other administrative costs. If you do not pay the monthly fee with your support payment, your account will show a balance.

6. If your employer issues paychecks on a weekly or bi-weekly basis, you may also have unpaid support. The court order is for a monthly support amount. When employers pay on a weekly or bi-weekly basis they may divide the annual amount of support by the number of paychecks issued in the year. This results in your monthly support amount being underpaid ten months of the year and overpaid in two months. During the ten months of underpayment, your case will have unpaid support and accumulate interest.

How will I know when DCSS is taking action against me?

If DCSS begins to take any action against you, the agency must notify you. The notice will specify the type of action that DCSS intends to take and the amount of support (*with or without interest*) that you may owe. It is very important for you to inform DCSS of your address and phone number so that you will receive these notices.

Is there any way to contest an action that DCSS proposes to take against me?

Yes, the notice that DCSS sends will inform you of the intended action against you. The notice will contain instructions for requesting an administrative review. These instructions include the timeframe for you to request the review, what documentation you will need to prove your claim and where to mail your request. For example, if you think that you do not owe unpaid support.

However, if DCSS refers your case to court for contempt for non-payment, you will be served with court papers informing you when you must appear in court. You will not be able to request an administrative review with DCSS for contempt action.

STATE ENFORCEMENT ACTIONS:

Arizona law allows DCSS to take many enforcement remedies, but the law requires DCSS to notify you before taking any of the following enforcement actions. The notices will include instructions on how to request an administrative review, a review of your case for the action being taken. An exception is when DCSS issues an Administrative Income Withholding Order. You will receive notice after the order has been issued to your employer.

1. Administrative Income Withholding Order

In 1998, Arizona adopted a law pursuant to the federal welfare reform act (*Personal Responsibility and Work Opportunity Reconciliation Act, known as “PRWORA”*). PRWORA allows DCSS to issue an income withholding order to collect support from your earnings without prior notice to you. This order is called an “administrative income withholding order” or “order of assignment.” DCSS may issue an order of assignment to withhold the amount of current support that the court has ordered you to pay and it may add an amount for any unpaid support that you owe, a payment on arrears.

The law provides a formula for determining the correct amount of payment on unpaid support:

If your unpaid support is equal to at least two months’ worth of support but not more than six months’ worth of support, an additional 25% of the current support order may be withheld from your earnings.

If your unpaid support is equal to more than six months’ worth of support but less than a year’s worth of support, an additional 33% of the current support order may be withheld from your earnings.

If your current child support obligation has ended and unpaid support is owed, the income withholding order will be issued for the amount of the last accruing support obligation as a payment towards the unpaid support.

When a withholding order is served on your employer, your employer must provide you with a notice of withholding within ten days. The notice will inform you of the option to request an administrative review. After the review by DCSS, the withholding may be stopped or modified if appropriate.

The State of Arizona only allows DCSS to withhold a maximum of 50% of your disposable income regardless of the amount of your support order. However, you are still responsible for any unpaid monthly amount.

2. State Income Tax Refund Offset

Arizona law allows DCSS to take (*offset*) a tax refund that the state owes you. DCSS refers a taxpayer who owes past-due support of at least \$50 to the Department of Revenue. DCSS may offset the refund up to the total amount of past-due support that you owe including interest. DCSS may keep an income tax refund for unpaid support and other debts that are owed to the state including processing fees.

3. Liens on Property

If you owe two months or more in unpaid support, a lien may be automatically placed on your property, including houses, cars, boats, etc. When your property has a lien on it, the title to that property is affected until you pay the unpaid support. DCSS may file the lien by sending a notice to the appropriate state or county. Potential buyers, title companies, and lenders may be made aware of an existing lien on your property. The lien applies to property that you own at the time the lien is recorded and to all property that you acquire later.

4. Asset Seizure

DCSS may seize (*take*) your bank accounts or other property in order to collect unpaid support if you owe twelve months or more of unpaid support or if the court has issued a support judgment.

A. Bank Accounts

DCSS may take money that you have in a financial institution (including banks, credit unions, federal and state savings and loan associations, trust companies, mutual funds and other similar institutions).

B. Other Property

DCSS may seize and sell other property that you own in order to collect unpaid support.

5. Unemployment Insurance Withholding

DCSS may withhold money from your unemployment benefits to meet your monthly obligations.

6. Reporting Arrears to Credit Reporting Agencies

DCSS reports all support cases to credit reporting agencies. When you have unpaid support on your credit report, it may be more difficult to receive loans, acquire credit cards, and make large purchases. The credit report will reflect the amount of support you owe and your payments.

7. License Suspension

If you owe six months or more in unpaid support, DCSS may request the court to suspend or revoke your driver’s license or occupational license (such as a contractor’s license) without going to court. DCSS may request the court to suspend your driver’s license or recreational license (such as a hunting license).

You may request an administrative review prior to DCSS referring your case court

8. Referral to Court for Other Enforcement

DCSS may also refer your case to the court for other enforcement remedies. These remedies may include garnishment of your property or contempt of a court order.

FEDERAL INTERSTATE ENFORCEMENT ACTIONS:

1. Enforcement and Registration of Other States’ Orders

In accordance with Uniform Interstate Family Support Act (UIFSA), DCSS generally may enforce other states’ support orders and income withholding orders in the same manner as outlined above for Arizona orders.

DCSS may also register other states’ orders with the court and request that the court enforce them.

2. Interstate Income Withholding

UIFSA also permits any person to send another state’s income withholding order to the employer of a person who owes support even if that employer is in another state.

FEDERAL ENFORCEMENT ACTIONS:

1. Federal Income tax Refund Offset

Federal law allows DCSS to ask the U.S. Department of the Treasury to take (or “offset”) an income tax refund that the IRS owes you. If your child’s custodial parent is receiving public assistance and you have unpaid support of at least \$150 or the custodial parent is not receiving public assistance and you owe unpaid support of at least \$500. DCSS may offset your refund up to the amount of unpaid support that you owe.

2. Federal Administrative Offset

If you owe at least \$150 in past-due support, DCSS may request the federal government to withhold and send to DCSS certain payments that the federal government owes you. This is called a federal administrative offset. Some of the federal benefits or payments subject to the offset are listed below:

- A. Retirement Benefits may be deducted from your Federal retirement benefits.
- B. Vendor Payments may be offset if you have provided a service or performed work for the federal government.
- C. If you work for the federal government, your salary may be offset.

D. Miscellaneous payments may be offset, such as expense and travel reimbursement payments. Some benefits, such as Social Security payments, Railroad Retirement payments and Veteran’s Affairs benefits are excluded from the federal offset program.

3. Passport Denial or Revocation

DCSS may report any unpaid support that is equal to or greater than \$2,500 to the U.S. Secretary of State, who may then either refuse to issue a passport to you or may revoke your current passport in order to prevent you from leaving the country. When you pay your unpaid support, the federal government will issue a new passport to you or lift any restrictions that it placed on your old passport.

Equal Opportunity Employer/Program • Under Titles VI and VII of the Civil Rights Act of 1964 (Title VI & VII), and the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008; the Department prohibits discrimination in admissions, programs, services, activities, or employment based on race, color, religion, sex, national origin, age, disability, genetics and retaliation. The Department must make a reasonable accommodation to allow a person with a disability to take part in a program, service or activity. For example, this means if necessary, the Department must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the Department will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. To request this document in alternative format or for further information about this policy, • Free language assistance for DES services is available upon request. • Disponible en español en línea o en la oficina local.

**Department of Economic Security
Division of Child Support Services**

**A NONCUSTODIAL
PARENT’S GUIDE TO
TITLE IV-D
ENFORCEMENT
ACTIONS**

<http://www.azdes.gov/dcsc>

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