

# Child Support Enforcement in Oregon

*If you are confused about the laws regarding child support, you are not alone. Many people have questions about child support establishment, modification, and enforcement. This flyer explains the role of the State of Oregon in helping you to get child support.*

## Who are the Obligor and Obligee?

In the child support process, the **obligor** is the person who must pay child support. The **obligee** is the person to whom the child support must be paid. The obligee is usually the parent with whom the child lives.

## How Do I Establish, Modify, and Enforce Child Support?

A court may issue a child support order as part of a divorce, custody, or paternity case, or even when married parents are just living apart. The court may also issue a child support order if a child is in State care or Oregon Youth Authority (OYA) custody. In cases other than divorce or custody, the establishment and enforcement of child support will be handled by either the Division of Child Support (DCS) of the Department of Justice, or the County District Attorney (DA) through an administrative or court process. Which agency handles the child support services and whether the process is through court or administrative depends on the circumstances in the individual case.

DCS must help you get child support if one of the following applies:

- 1) Your family or child receives TANF, medical assistance, state or foster care, or your child is in OYA custody.

OR

- 2) Your child received such assistance in the past and arrearages are still owing to the state.

The DA must help you with child support when:

- 1) None of the previous situations apply to you, and
- 2) You request it, and
- 3) You let the Department of Justice handle the payments.

Neither DCS nor the DA represent the obligee or obligor. They represent only the interests of the state.

## What Services Does the Child Support Agency Provide?

DCS and the DA have the obligation to:

- Establish paternity;
- Establish child support according to the state child support guidelines (based upon parents' incomes);
- Establish past support according to the state child support guidelines (only from the date you apply for child support enforcement services or are referred for those services because you get TANF, or medical assistance).

- Modify child support, if:
  - 1) There has been a substantial change in circumstances since the last child support order (including a change in physical custody of the child), or
  - 2) Three years have passed since the last child support order was entered or formally reviewed. This is called a “periodic review.” The obligor or obligee must request a modification or periodic review for this process to begin.
- Enforce child support through income withholding, taking tax refunds, reporting to credit bureaus, placing liens on property, suspension of occupational, driver and recreational licenses, and pursuing contempt and criminal non-support charges.
- Enforce spousal support (alimony) if there is also a child support order being enforced and the child lives with the obligee. Otherwise, enforcement must be done through a private attorney or you can represent yourself.
- Suspend or modify child support to \$0 if the *obligor* receives public assistance, and reestablish child support or begin collecting child support when the obligor’s public assistance grant ends.
- Establish and enforce health care coverage and medical support orders by seeking an order requiring either party to provide medical insurance for the children. Cash medical support can also be ordered as a part of the child support obligation for the

costs of medical expenses or medical insurance provided by the state or the obligee.

- Locate a parent to establish or enforce a support order.

## Does the State Have an Interest in My Child Support?

A family receiving TANF must automatically turn over to the state the right to all child support arrearages (back child support) which are owed at that point, and all current support. Out of the child support that the state collects, it can keep an amount equal to the amount of TANF that it pays your family.

## How Much of the Child Support Collected Will I Receive?

If you are currently receiving TANF and the child support doesn’t make you ineligible for those benefits, the state will keep the child support received by DCS each month, except that you will receive \$50 for each child, up to a maximum of \$200 per month. The amount you receive can’t be more than the current support due that month.

On arrearages, DCS can keep an amount equal to the total amount of assistance that has been paid to the obligee’s family. This includes assistance paid for children the obligor is not legally responsible to support. Once the assistance has been repaid, all arrearage amounts must go to the obligee.

When the family goes off of TANF, all current support received by DCS will be mailed to the obligee within a few days. If more than the monthly support amount is received, then the excess amount is considered an arrearage payment. If the arrearage accrued when the family was

off of TANF, the arrearage payment will go to the family first. If the arrearage accrued while the family was on TANF, the payment will repay any assistance that the family received until the state has been paid all of the arrears, or the total amount of the TANF grant, whichever is less. OAR 137-055-6021

After the family goes off TANF, the family can opt to have DCS stop enforcing the child support owed to the family. The child support order will remain in effect. DCS will still try to collect the arrearages owed to the state. If the family never received TANF, then all current support and arrears go to the family.

### **What is Wage Withholding?**

In all child support cases handled by the state, wage withholding from the obligor's wages is required even when no child support arrearage exists. For all other support orders, wage withholding will be initiated if: an arrearage exists equal to one month of support and the child support payment is more than 30 days late; or the obligor requests it; or the obligee requests it and a court, DCS or the DA finds good reasons for the withholding. OAR 135-055-4100, ORS 25.378

### **How Much Money Can the Child Support Agency Withhold from Wages?**

The amount withheld will be the current support. If back child support (an arrearage) is owed, the state child support agency will withhold 120% of the amount of the current support plus an employer fee of no more than \$5. ORS 25.414, OAR 137-055-6024

If the obligor owes support to several families, up to 50% can be withheld from the obligor's wages. In some cases, a court can increase the withholding amount to 65% of the obligor's net earnings. Once the arrearage is paid in full, only the monthly support order plus an employer fee may be withheld.

If no current support is owed and only arrearages are being collected, the state child support agency will withhold:

- 1) the last ordered monthly support, or
- 2) the monthly amount used to calculate the arrears; or
- 3) an amount calculated using the child support guidelines.

If no current support is owed and arrearages are owed to the state, but not to the obligee, DCS may withhold less, but DCS will usually not lower the total arrearage amount owed to the state.

The obligor must be left with disposable income of at least 160 times federal minimum wage if only arrears are owed.

If withholding is from Unemployment Compensation of Workers Compensation and withholding is for current support, the amount withheld will be the lesser of 25% of the benefits paid of the current support order. If withholding is for arrears only, the amount withheld will be the lesser of 15% of the benefit or the amount of the last monthly support order.

## Can I Stop Wage Withholding by the Child Support Agency?

For all support orders on the state system, wage withholding may be stopped only if:

- 1) All arrearages are paid, both the obligee and the obligor consent to electronic payment withdrawal from the obligor's bank account. ORS 25.396, OAR 137-055-4120, OAR 137-055-4080  
OR
- 2) The court or administrative agency determines that wage withholding is not in the best interests of the child (good cause exists). If any child support is owed to the state, then DCS must also agree to an alternative payment method. OAR 137-055-4080

## Will the State Take the Obligor's Tax Refunds?

DCS automatically sends to both the IRS and the Oregon Department of Revenue a list of all of its cases in which there are arrearages. An IRS tax refund will be taken if at least \$150 is owed to the state and the child support is at least 45 days behind, or at least \$500 is owed to the obligee. The Oregon Department of Revenue will take state tax refunds to collect arrearages if at least \$25 is owed. OAR 137-055-4320, OAR 137-055-4340

## Will the State Take Away the Obligor's Driver's, Recreational or Occupational License?

If the obligor owes \$2,500 or has an arrearage at least three months old, the state can suspend the obligor's occupational or professional license,

certificate, permit or registration required by state law. The obligor's driver and recreational licenses can also be suspended. To avoid the suspension, the obligor must make payment arrangements, and keep to them. ORS 25.750-25.785, OAR 137-055-4420

## Are There Other Ways for the State to Enforce Child Support?

Yes. The child support agency may report the obligor's debt to the credit bureau. OAR 137-055-4560

The agency may initiate an action to hold the obligor in contempt of court for failing to pay support, or it may have criminal charges filed against the obligor for criminal nonsupport. The child support agency may ask the IRS to provide collection services. It is also possible to garnish bank accounts and place liens on personal property and real estate owned by the obligor. OAR 137-055-4440

The child support agency must do income withholding, if it is available, but may choose which other methods of enforcement to use in each case. The only requirement is that the agency must attempt to take some enforcement action on each case.

## Where Can I Get More Information About My Case?

If you need information on your case, you should call the DA or DCS, depending on which agency is enforcing support for you. If you want information about payments or you need forms, call the Child Support Program in Salem at 1-800-850-0228 or (503) 373-7300. Or, use the DCS website at [www.oregonchildsupport.gov](http://www.oregonchildsupport.gov). You can also obtain case information online.

## What If I Have a Complaint?

If you have complaints about the way DCS or the DA is handling your case (for example, if your worker refuses to return your call, refuses to pursue an out-of-state or self-employed obligor, or refuses to act on information that you have provided) and the worker cannot help you, you may go up the chain of command. Begin by calling the DCS or DA worker's supervisor, then the branch manager or county DA. **You can also file a grievance.**

## How Do I File a Grievance?

Contact your local DCS or DA office or call 1-800-850-0228 to get a grievance form. You can also get the form from the DCS website at [www.oregonchildsupport.gov](http://www.oregonchildsupport.gov). Once you file your grievance, the child support agency has 90 days to resolve your complaint. The office against whom the grievance has been filed will investigate the grievance. They will either take corrective action or notify you why they didn't. A report will be sent to the Child Support Program Constituent Desk. The Child Support Program cannot discriminate against you because you filed one. OAR 137-055-1600

## Can I Get Child Support from an Obligor Who Receives Public Assistance?

The law presumes that a parent whose only income comes from TANF or SSI benefits is unable to pay support. DCS or the DA will be notified by DHS of those persons who are receiving such benefits and must then take steps to suspend or modify any child support orders to \$0.

Once the obligor stops receiving public assistance, child support will be billed

again if it was suspended. If it was modified, the obligee or obligor may ask the DA or DCS to reestablish a support order. ORS 25.245

The obligor can also get a credit for any child support owed and not paid while the obligor was on TANF or SSI.

## What Are My Rights As an Obligee?

You have the right to be notified of and participate in all support and paternity establishment, modification and enforcement proceedings. This means that you may request a hearing if you disagree with DCS or the DA. You may attend all hearings and have the right to be represented by an attorney at those hearings.

## Will DCS Charge Me Anything for Enforcement of My Support Order?

The CSP will start to collect a \$25 fee from some obligees. The fee will be charged each year that CSP has sent to the family at least \$500 in a federal fiscal year (between October 1 through September 30 of that year). The fee will be collected only in cases in which the obligee, the child, or a child attending school has never received "cash assistance" or (TANF).

**If you have further questions about child support enforcement, call the Child Support Helpline at 1-800-383-1222.**

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