



# Child Support Enforcement and Driver's License Suspension Policies

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## Summary

The Child Support Enforcement (CSE) program is a federal-state program whose mission is to enhance the well-being of children by helping custodial parents obtain financial support for their children from the noncustodial parent. Child support payments enable parents who do not live with their children to fulfill their financial responsibility to their children by contributing to the payment of childrearing costs. As a condition of receiving federal CSE funds, Congress requires each state to have in effect laws requiring the use of a specified list of collection/enforcement procedures to increase the effectiveness of the state's CSE program. P.L. 104-193 (the 1996 welfare reform law) added to the CSE program's array of collection/enforcement methods by giving states the authority to withhold, suspend, or restrict the driver's license of certain noncustodial parents. Although income withholding is the main and most effective way of collecting child support (67% of collections), 16% of child support collections in FY2009 were obtained through un-named methods (often categorized in data reports as "other" or "other sources"), which included money obtained directly from noncustodial parents who were paying their child support obligation to avoid having their driver's license withheld, suspended, or restricted. The use of these driver's license suspension procedures is not mandated in every case, but they must be available at a state's discretion. Because driver's license suspension procedures follow state law, practices vary across the country. States have a great deal of flexibility in implementing driver's license suspension programs.

In 2008, there were 208 million licensed drivers in the United States (about 87% of the driving-age population). According to survey data, about 5% of the U.S. population who worked took public transportation to their jobs, while 76% commuted to work in a private vehicle and 11% carpooled (the remaining 8% walked, bicycled, rode a motorcycle, or worked at home).

Supporters of driver's license suspension policies re-iterate that a driver's license is a privilege provided by the states. They maintain that noncustodial parents who fail to meet their child support obligations are not deserving of driving privileges. They also say that people who cannot afford to pay their child support obligations because of financial circumstances have the opportunity to have their child support payments reduced through state CSE review and modification procedures and thereby have no legitimate excuse for noncompliance. They contend that states have been very successful in collecting child support payments through this collection/enforcement method.

Critics of driver's license suspension policies contend that having one's driving privilege suspended is counterproductive. They assert that it can lessen a person's ability to keep a job or find work and thus lessen the person's ability to fulfill his or her child support obligation. They note that some noncustodial parents may become resentful of the government and his or her relationship with the custodial parent may become antagonistic, which may have a negative impact on the child's (or children's) well-being. Moreover, they say that some noncustodial parents who feel that they are battling a futile situation may become less engaged with society, their families, and their children and thereby become less concerned about trying to meet their child support obligations.

This report provides basic information on the CSE program, describes the ways in which states have implemented driver's license suspension policies (see the **Appendix** for the state table), provides existing data on the amounts collected through driver's license suspension policies, and discusses some concerns regarding the use of driver's license suspension as a CSE program tool.

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## Introduction

Child support is the cash payment that noncustodial parents are obligated to pay for the financial care of their children. It is usually established when a couple dissolves their relationship (e.g., divorce, separation) or when a custodial parent applies for welfare assistance.<sup>1</sup> The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act; P.L. 93-647) to recover the costs of providing cash welfare assistance to single-parent families with children and to secure financial support for children from their noncustodial parent on a consistent and continuing basis, thereby helping some families to remain self-sufficient and off public assistance. The CSE program has evolved over time from a “welfare cost-recovery” program into a “family-first” program that seeks to enhance the well-being of families by making child support a more reliable source of income. The child support order or obligation is established administratively by a state (through the CSE agency) or through a state’s family court system.

The CSE program provides seven major services on behalf of children: (1) locating absent parents, (2) establishing paternity, (3) establishing child support orders, (4) reviewing and modifying child support orders, (5) collecting child support payments, (6) distributing child support payments, and (7) establishing and enforcing support for children’s medical needs. All 50 states and four jurisdictions (the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands) and some tribal nations operate CSE programs.<sup>2</sup> The CSE program is administered by the federal Office of Child Support Enforcement (OCSE), which is in the Department of Health and Human Services’ (HHS) Administration for Children and Families (ACF).<sup>3</sup> The CSE program provides services to both welfare families (who are automatically enrolled free of charge) and nonwelfare families (who must apply for services and pay an application fee).<sup>4</sup>

Collection/enforcement methods used by state CSE agencies include income withholding; intercept of federal and state income tax refunds; intercept of unemployment compensation; liens against property; reporting child support obligations to credit bureaus; intercept of lottery winnings; sending insurance settlement information to CSE agencies; authority to withhold or suspend driver’s licenses, professional licenses, and recreational and sporting licenses of persons who owe past-due support; and authority to seize assets of debtor parents held by public or private retirement funds and financial institutions. Moreover, federal law authorizes the Secretary of State to deny, revoke, or restrict passports of debtor parents. All jurisdictions also have civil or criminal contempt-of-court procedures and criminal nonsupport laws. In addition, federal criminal penalties may be imposed in certain cases.

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<sup>1</sup> Also, in cases where a child is born outside of marriage, paternity may be acknowledged at the time of the baby’s birth and procedures to establish a child support order may be initiated shortly thereafter.

<sup>2</sup> In FY2009, 36 Indian tribes or tribal organizations operated comprehensive tribal CSE programs and 11 Indian tribes or tribal organizations operated start-up tribal CSE programs. For additional information on tribal CSE programs, see CRS Report R41204, *Child Support Enforcement: Tribal Programs*, by Carmen Solomon-Fears.

<sup>3</sup> For additional information on the CSE program, see CRS Report RS22380, *Child Support Enforcement: Program Basics*, by Carmen Solomon-Fears. Also see CRS Report R41431, *Child Well-Being and Noncustodial Fathers*, by Carmen Solomon-Fears, Gene Falk, and Adrienne L. Fernandes-Alcantara.

<sup>4</sup> In FY2009, 14% of the 15.8 million families on the CSE caseload were Temporary Assistance for Needy Families (TANF; i.e., welfare) families, 44% were families who were formerly on TANF, and 42% were families who had never been on TANF.

Between FY1978 and FY2009, total distributed child support payments collected by CSE agencies increased from \$1 billion in FY1978 to \$26.4 billion in FY2009. Also, in FY2009 the CSE program collected \$4.78 in child support payments from noncustodial parents for every \$1 it spent. However, the program still collects only 62% of child support obligations for which it has responsibility; if arrearage payments (i.e., past-due child support obligations) are taken into account, the percentage drops to 20%.<sup>5</sup>

P.L. 104-193, the 1996 welfare reform law, included over 50 provisions to improve the CSE program. It was P.L. 104-193 that added the requirement that states have procedures to withhold, suspend, or restrict driver's licenses as a sanction for failure to pay child support. Although income withholding is the primary and most effective way of collecting child support payments (67% of collections), 16% of child support collections in FY2009 were obtained through unnamed methods (often categorized in data reports as "other" or "other sources"), which included money obtained directly from noncustodial parents who were paying their child support obligation to avoid having their driver's license withheld, suspended, or restricted.<sup>6</sup> (See **Table 1** in the "Data" section.)

Recent data indicate that about 5% of the United States population who worked took public transportation to their jobs, 76% commuted to work in a private vehicle, and 11% carpoolled.<sup>7</sup> The other 8% walked, bicycled, rode a motorcycle, or worked at home.<sup>8</sup> According to one report:

Access to driving—including a reliable, affordable vehicle and a valid driver's license—is vital to economic security, strong communities, and a healthy economy.... Most communities now depend on private vehicle access to ensure that workers can fill and retain jobs by effectively managing the distance and travel time between work and home, as well as access goods and services not well served by public transit. Workers commuting from center city to suburb often find that mass transit does not go where or when they need to go. Driving offers more flexibility than public transit, especially since bus and subway stops are not located within a reasonable distance of every employer, and many transit providers do not offer service during off-peak hours. Access to driving also saves time lost to long waits and transfers on public transit, allows travel door-to-door, increases safety, offers more protection in bad weather, and permits people to transport heavy or bulky items like groceries.<sup>9</sup>

In 2008, there were 208 million licensed drivers in the U.S. (about 87% of the driving-age population).<sup>10</sup> Moreover, an automobile was the asset most likely to be owned by persons in the

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<sup>5</sup> In FY2009, \$139.8 billion in child support obligations (\$32.2 billion in current support and \$107.6 billion in past-due support) was owed to families receiving CSE services, but only \$27.4 billion was paid (\$19.9 billion current, \$7.5 billion past-due).

<sup>6</sup> According to the Office of Child Support Enforcement (OCSE), the category referred to as "other sources" includes but is not limited to administrative enforcement in interstate cases; payments received directly from the noncustodial parents; collections received through the Internal Revenue Service's full collection process; collections received as a result of the administrative offset process; and collections received through the Financial Institution Data Match. Note: the named CSE collection/enforcement categories consist of income withholding, unemployment intercept offset, federal income tax refund offset, state income tax refund offset, and collections from other states.

<sup>7</sup> U.S. Census Bureau, American Community Survey (ACS), 2005-2009 ACS 5-Year Estimates, Table S0802—Means of Transportation to Work by Selected Characteristics.

<sup>8</sup> Clara Reschovsky, *Journey to Work: 2000*, U.S. Census Bureau, March 2004, p. 3.

<sup>9</sup> Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, p. 4.

<sup>10</sup> U.S. Department of Transportation, Federal Highway Administration, *Our Nation's Highways 2010*, Publication no. (continued...)

United States.<sup>11</sup> The CSE program, which has a long history of coming up with innovative approaches to secure more child support for children living apart from one of their parents, stipulated (pursuant to P.L. 104-193) that states had the authority to withhold, suspend, or restrict the driver's licenses of certain noncustodial parents who fail to meet their child support obligations.

Proponents of CSE driver's license suspension policies generally contend that because vehicles play such an important role in the lives of many noncustodial parents, controlling their use through licensing authority gives CSE agencies a powerful tool in their mission to obtain child support for children. Proponents assert that license suspension is an appropriate tool to motivate noncustodial parents, who can afford to pay child support but resist paying, to come into compliance with their child support obligations. Opponents contend that for some low-income noncustodial parents who cannot meet their child support obligations, suspending their driving privilege only exacerbates their dire financial situation and may result in them losing a job because they cannot legally drive to their place of employment, or it may prevent them from effectively searching for a job.

In support of its mission to collect child support on behalf of children not living with both of their parents, state CSE agencies have broad authority to collect and enforce the payment of child support through a wide array of collection/enforcement methods. While these methods may be useful in compelling financially stable noncustodial parents to fulfill their child support obligations, they may have devastating consequences for low-income noncustodial parents who do not have a stable and dependable source of income. Moreover, if a CSE tool is used inappropriately it may result in higher levels of nonpayment of child support and/or higher child support arrearages and may result in noncustodial parents disconnecting from their children, which in most cases would not be in the best interest of the child.

As part of its oversight duties, Congress periodically examines the effectiveness and efficiency of the CSE program.<sup>12</sup> This report provides basic information on the CSE program, describes the ways in which states have implemented driver's license suspension policies, provides existing data on the amounts collected through driver's license suspension policies, and discusses some concerns regarding the use of driver's license suspension as a child support enforcement tool. **Table A-1** provides a state-by-state description of several components in the specified state's driver's license suspension policy.

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FHWA-PL-10-023, pp. 28-30.

<sup>11</sup> In 2004, 86% of U.S. households had a motor vehicle, 68% of households owned their own home, and 66% had an interest-earning asset in a financial institution. Source: U.S. Census Bureau, Housing and Household Economic Statistics Division, "Asset Ownership Rates for Households, by Selected Characteristics: 2004," table 2, last revised July 07, 2010, <http://www.census.gov/hhes/www/wealth/2004/wlth04-2.html>.

<sup>12</sup> As part of its agenda for the 112<sup>th</sup> Congress, the House Ways and Means Subcommittee on Human Resources plans to review and consider proposals to reauthorize the Temporary Assistance for Needy Families (TANF) program and related welfare reform programs (of which CSE is one); examine barriers to increasing self-sufficiency among low-income families with children; and review the role that related programs such as CSE play in facilitating economic opportunity for low-income families. Source: Oversight Plan of the Way and Means Committee, February 15, 2011.

## Background

Child support payments enable parents who do not live with their children to fulfill their financial responsibility to their children by contributing to the payment of childrearing costs. There is a growing consensus that the CSE program can play a major role in reducing poverty by helping custodial families obtain a reliable source of income from noncustodial parents. According to an analysis of Census Bureau data, about 48% of children living in female-headed families that did not receive child support were poor in 2008. In contrast, 42% of children in such families that received child support were poor, before counting the child support those families received. After counting child support, about 32% of such families were poor; their poverty rate drops by nearly one-quarter after counting income from child support payments.<sup>13</sup> A recent report indicates that among poor households who receive it, child support constitutes about 40% of family income.<sup>14</sup>

States are responsible for administering the CSE program, but the federal government plays a major role in dictating the major design features of state programs, funding state and local programs, monitoring and evaluating state programs, providing technical assistance, and giving direct assistance to states in locating absent parents and obtaining child support payments.

The CSE program is a federal-state matching grant program under which states must spend money in order to receive federal funding. For every dollar a state spends on CSE expenditures, it generally receives 66 cents from the federal government. States also receive CSE incentive payments from the federal government. All 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and some tribal nations are entitled to federal matching funds. To qualify for federal matching funds, each state's CSE plan must be approved by the Office of Child Support Enforcement (OCSE), which is a part of the Department of Health and Human Services (HHS).<sup>15</sup>

As a condition of receiving federal CSE funds, Congress requires each state to have in effect laws requiring the use of a specified list of collection/enforcement procedures to increase the effectiveness of the state's CSE program. Federally mandated CSE collection/enforcement methods include income withholding; intercept of federal and state income tax refunds; intercept of unemployment compensation; liens against property; seizure and sale of property; providing child support debt information to credit bureaus; withholding of driver's licenses, professional licenses, and other licenses; passport denial; seizure of money held by public or private retirement funds or in financial institutions; and attachment of lottery winnings and insurance settlements of debtor parents. Moreover, there are federal criminal penalties (i.e., a fine, jail time, or both) associated with the willful failure to pay a past-due child support obligation to a child who resides in another state and that has remained unpaid for longer than a year or is greater than \$5,000.

In addition to approaches mandated by the federal government through the CSE program, states use a variety of other collection techniques. In fact, states have been at the forefront in

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<sup>13</sup> Estimates prepared by Thomas Gabe, Congressional Research Service (CRS), from U.S. Census Bureau Current Population Survey Annual Social and Economic Supplement (CPS/ASEC), 2009.

<sup>14</sup> Elaine Sorensen, *Child Support Plays an Increasingly Important Role for Poor Custodial Parents*, Urban Institute, December 2010.

<sup>15</sup> For additional information, see CRS Report RS22380, *Child Support Enforcement: Program Basics*, by Carmen Solomon-Fears.

implementing innovative approaches.<sup>16</sup> Even before the 1996 welfare reform law requirement, some states had already passed legislation that provided for the suspension of driver's licenses for certain noncustodial parents who were not in compliance with their child support orders.<sup>17</sup>

States not only have an array of child support collection/enforcement tools at their disposal, but they also have flexibility with regard to which collection/enforcement methods to use. The CSE agency handles each case individually and does whatever it deems best to establish and collect child support in each individual case. Actions taken in enforcement are determined by the state in which the noncustodial parent resides and are applied at the discretion of the state doing the enforcement.

The most effective child support enforcement tool is income withholding, a procedure by which automatic deductions are made from wages or other income. Once initiated, income withholding can keep child support flowing to the family on a regular basis. As shown in **Table 1**, in FY2009 about 67% of child support collections were obtained through income withholding. Another 6% were obtained from the federal income tax refund offset, about 5% from the unemployment intercept offset, about 4% from other states, about 1% from the state income tax refund offset, and 16% from other sources. As mentioned earlier, the "other sources" category includes, among other things, money from noncustodial parents who were under threat of losing their drivers' licenses, professional or occupational licenses, or recreational or sporting licenses.

Many entry-level jobs with career possibilities—such as some jobs in the building and construction trades, automobile mechanics, commercial short- and long-distance drivers, home health nurses, and home health care aides—require a driver's license.<sup>18</sup> Moreover, other jobs located in suburban areas are often unreachable by public transportation or the commute may be too long, arduous, or costly. Thus, for urban residents hoping to take advantage of jobs located in suburban areas, the ability to drive and having a driver's license are necessities. In addition, the demands of child care and other family responsibilities (e.g., doctor visits, after-school sporting activities, etc.) increase the need for independence from public transportation among working parents of all income categories.<sup>19</sup>

Administrators of state CSE programs generally contend that because motor vehicles play such an important role in the lives of many noncustodial parents, controlling their use through licensing authority gives CSE agencies an appropriate and powerful tool in their mission to obtain child support for children. They maintain that license suspension is an appropriate tool to persuade noncustodial parents, who can afford to pay child support but resist paying, to come into compliance with their child support obligations.<sup>20</sup>

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<sup>16</sup> Some states hire private collection agencies to collect child support payments. Some states bring charges of criminal nonsupport or civil or criminal contempt of court against noncustodial parents who fail to pay child support. Other techniques for enforcing payments include regular billings and automated delinquency notices, and suspension of motor vehicle registration.

<sup>17</sup> Arizona enacted legislation making driver's license suspension policy effective in 1990; California, Illinois, and Minnesota had driver's license suspension policies in 1992; and Florida, Maine, Montana, Oregon, and South Dakota had such policies in 1993.

<sup>18</sup> Margy Waller, Jennifer Doleac, and Ilsa Flanagan, *Driver's License Suspension Policies*, Brookings Institution, June 2005.

<sup>19</sup> Nancy L. Fishman, Laurel H. Dumont, and John W. Bartlett, *Getting Back on the Road: A Manual for Addressing Driver's License Suspension in New Jersey*, New Jersey Institute for Social Justice, Second Edition, July 2008.

<sup>20</sup> Nancy Thoennes and Jessica Pearson of the Center for Policy Research (Denver, CO), *Multiple Intervention Grant*: (continued...)



## **Driver's License Suspension Procedures: Highlights of State Practices**

Section 466(a)(16) of the Social Security Act (42 U.S.C. § 666(a)(16)) mandates that states have in effect laws that require the state to have “procedures under which the state has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver’s licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.”<sup>21</sup>

Driver’s licenses can be affected (i.e., withheld, suspended, or restricted) when a noncustodial parent fails to meet his or her child support obligations or fails to comply with subpoenas or warrants related to child support proceedings.<sup>22</sup> As noted earlier, the use of these suspension procedures is not mandated in every case, but they must be available at the state’s discretion. Because driver’s license suspension procedures follow state law, practices vary across the country. States have a great deal of flexibility in implementing license suspension programs. However, in all cases appropriate notice is required to be given to the noncustodial parent before suspension procedures can be enacted.

As succinctly summarized in notes to the Montana statute, the intent behind driver’s license suspension law is that, as a matter of public policy, child support obligations should have the highest priority in a parent’s allocation of income to debt. Unpaid child support should not be considered ordinary debt because parents have not only a legal obligation but also a social and moral obligation to support their children. This means that the financial support of children is more important than other personal matters, rising to the level of a social obligation that a parent owes not only to the child but to the state as well. Thus, state laws do not try to coddle those who fail to make a good faith effort to handle their child support obligations when they are able to do so. Most states view the driver’s license suspension provisions as remedial rather than punitive in nature because they protect the public interest in having parents, not the state, bear financial responsibility for their children.<sup>23</sup>

In general, in states that use an administrative process for driver’s license suspension or restriction, the CSE agency sends noncustodial parents who owe past-due child support an initial warning notice that tells the noncustodial parent that his or her driver’s license and/or motor

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*Driver’s License Suspension as a Tool of Child Support Enforcement*, U.S. Department of Health and Human Services (HHS), Office of Child Support Enforcement, September 2000, <http://www.acf.hhs.gov/programs/cse/pubs/reports/colorado/bk03ar02.html>.

<sup>21</sup> In addition, Section 466(a)(13) of the Social Security Act requires that states have procedures that mandate any applicant for a professional, occupational, or commercial driver’s license record his or her social security number on the application.

<sup>22</sup> In practice, with respect to Section 466(a)(16) of the Social Security Act, most states either suspend or restrict a noncustodial parent’s driving license. Suspension means that the noncustodial parent’s driving privilege is put on hold for a given time period. Also, states can place restrictions on a noncustodial parent’s driver’s license. For example, a restricted license may indicate that the driver can only drive to certain places, such as work or school. The CSE statute does not mention revocation of driver’s licenses. Revocation means that the noncustodial parent’s driving privilege is terminated.

<sup>23</sup> Montana statute case notes, § 40-5-701.

vehicle registration will be suspended or restricted if regular child support obligations are not paid immediately. If the noncustodial parent does not contact the CSE agency within a specified period of time (e.g., 30 days) to make a lump-sum payment or to establish a payment plan, a final notice is sent indicating that the license and/or registration will be suspended forthwith. The appropriate licensing agency then issues its formal notice of suspension. In addition, all CSE driver's license suspension programs provide an opportunity for noncustodial parents who challenge the suspension to have a judicial or administrative review/hearing after the initial notice.

## **Authorizing Entity**

Driver's license suspension programs are operated through an administrative process, a judicial process, or a combination of both processes. An administrative process provides the CSE agency with the direct authority to identify and suspend a noncustodial parent's driver's license. A judicial process limits the authorization to suspend a license to a judge. In states where a combination of both processes are used, it usually starts as an administrative case and then if there is a request for a review hearing or an appeal, it goes through the court system. **Table A-1** presents the current situation. It indicates that 27% of the 54 jurisdictions used an administrative process, 17% used a judicial process, 31% used both administrative and judicial processes, and 24% used an administrative process that allowed the noncustodial parent to request a judicial review (i.e., court hearing) if the noncustodial parent contended that he or she was in compliance with his or her child support order or that there were extenuating circumstances that explained the delinquency.<sup>24</sup>

According to several surveys, use of an administrative process to suspend driver's licenses usually targets more cases, results in more collections, and takes less time.<sup>25</sup> In most states with an administrative process, the role of the court is minimized because although noncustodial parents can request a review hearing, the request must be based on the noncustodial parent's contention that the "facts" associated with the pending suspension are incorrect.<sup>26</sup>

Although there are some drawbacks associated with using the court system in driver's license suspension programs, some commentators contend that noncustodial parents may be more predisposed to take seriously and comply with a notice from a court rather than the local CSE agency.

Court proceedings are usually lengthy because of court backlogs, delays, and continuances. However, in general, states with a judicial process have found that noncustodial parents are more likely to prevent or delay driver's license suspension by making the case that a suspension would be detrimental to their livelihood, that the failure to pay child support is not willful, and that they have made a good faith effort to pay their child support obligation.<sup>27</sup>

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<sup>24</sup> A 1998 HHS survey indicated that about 50% of the states and jurisdictions used an administrative process, about 20% used a judicial process, and 25% used a combination of both processes; U.S. Department of Health and Human Services, Office of Child Support Enforcement, *Updated OCSE Information Exchange Report: State License Restrictions, Suspensions and Revocations*, Dear Colleague Letter DCL-98-35, April 15, 1998.

<sup>25</sup> U.S. Department of Health and Human Services (HHS), Office of the Inspector General, *Review of States' License Suspension Processes*, July 2, 1997.

<sup>26</sup> U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Child Support Enforcement, *Essentials for Attorneys in Child Support Enforcement*, 3<sup>rd</sup> Edition.

<sup>27</sup> U.S. Department of Health and Human Services (HHS), Office of the Inspector General, *Review of States' License* (continued...)

## Sanction Triggers

As mentioned earlier, states have discretion in how they implement their driver's license suspension policies. Thus, there is significant variation in the criteria that triggers the sanction. Generally, in order to be subject to the driver's license suspension policy, a noncustodial parent must be out of compliance with his or her child support order by a specific dollar amount, a specific time period, or a combination of the two. However, some states use the driver's license sanction only if other child support enforcement methods have not worked or if the noncustodial parent is in contempt of court.

The amount of past-due child support that triggers the start of driver's license suspension procedures is a state decision and generally is based on a state-specified number of months of nonpayment of child support obligations. **Table A-1** indicates that driver's license suspension triggers range from owing one month to six months in past-due child support payments.

## Hearing Notice Requirements

With respect to child support, review hearing provisions are based on the premise that a noncustodial parent has a right to know what action is being taken and deserves an opportunity to be heard. Federal law requires that appropriate notice be given to noncustodial parents who are about to be subject to driver's license suspension policies. Many states send the notice of a potential license suspension/restriction to the affected noncustodial parent by certified mail. Most states provide an opportunity to be heard through both administrative review and the opportunity for judicial review. Moreover, most hearings are conducted before a driver's license is actually withheld, suspended, or restricted in order to ensure that the noncustodial parent's driver's license is not erroneously withheld, suspended, or restricted.

Just as driver's license suspension policies vary among the states, so do the hearing notice procedures that are associated with those driver's license suspension policies. Some states provide one notice of intent to suspend a noncustodial parent's driver's license, which usually includes a specific time period during which the noncustodial parent can ask for an administrative or judicial hearing, depending on the state. Other states send out a second notice if the noncustodial parent fails to respond to the terms of the first notice, giving the parent a second chance to resolve the issue before his or her license is adversely affected. Some states direct the state licensing agency to send the final notice indicating when the driver's license suspension will take effect. **Table A-1** shows that the "intent to suspend" notice may provide as few as four days for the noncustodial parent to make child support payment arrangements or request a hearing, or as many as 150 days before a driver's license is suspended because of noncompliance with a child support obligation.<sup>28</sup>

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*Suspension Processes*, July 2, 1997.

<sup>28</sup> Note that a couple of states indicated that after the noncustodial parent and the licensing agency were notified, the suspension of the driver's license would take effect immediately.

## Reinstatement Procedures

There are several ways in which states allow driver's licenses that were suspended because of failure to pay child support to be reinstated. Generally, the child support arrearages (i.e., past-due child support) must be paid in full and monthly child support payments must be paid on-time or the noncustodial parent must pay an amount specified in a legal agreement (e.g., six consecutive payments of the court-ordered amount). Moreover, most states charge the noncustodial parent a fee to reinstate his or her driving privilege; the amount of the fee varies by state. Also, all 50 states and the District of Columbia share information on driver suspensions, revocations, cancellations, denials, and serious traffic violations through the National Driver Registry.<sup>29</sup> Thus, before a driver's license is reinstated, a state will typically check the National Driver Registry to make sure the noncustodial parent does not have a suspended or revoked license in another jurisdiction.

## Data

In FY2009, about \$32 billion<sup>30</sup> was collected from noncustodial parents by CSE agencies. CSE annual program data do not specifically report on the amount of child support obtained due to state driver's license suspension policies. States often include those collection totals with data related to other license suspension policies (e.g., professional and recreational) and more often than not such collections are contained in a category called "other." In FY2009, \$5.1 billion was collected through this "other" sources category. (See **Table 1.**)

The most effective child support enforcement tool is income withholding, a procedure by which automatic deductions are made from wages or other income. Once initiated, income withholding can keep support flowing to the family on a regular basis. As shown in **Table 1**, in FY2009, about 67% of child support collections were obtained through income withholding, 6% by way of the federal income tax refund offset, 5% from the unemployment intercept offset, 4% from other states, about 1% from the state income tax refund offset, and 16% from other sources.

**Table 1. Total Child Support Collections Received by Methods of Collection, FY2009**

Child Support Collection Methods	Percentage	Amount Collected (FY2009)
Income withholding	67.4%	\$21.4 billion
Federal income tax offset	6.2%	\$2.0 billion
Unemployment intercept	5.3%	\$1.7 billion
State income tax offset	0.7%	\$221 million
Other states	4.3%	\$1.4 billion

<sup>29</sup> The National Driver Register (NDR) is a computerized database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations such as driving while impaired by alcohol or drugs. State motor vehicle agencies provide NDR with the names of individuals who have lost their driving privilege or who have been convicted of a serious traffic violation. When a person applies for a driver's license, the state checks to see if the name is on the NDR file.

<sup>30</sup> This figure consists of total distributed CSE collections (\$26.4 billion), total undistributed CSE collections (\$0.6 billion), collections forwarded to persons not in the CSE program (\$3.9 billion), and collections sent to other states (\$1.5 billion).

Child Support Collection Methods	Percentage	Amount Collected (FY2009)
Other countries	0.1%	\$242 million
Other sources	16.0%	\$5.1 billion
<b>Total</b>	<b>100.0%</b>	<b>\$32 billion</b>

**Source:** U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Child Support Enforcement, *FY2009 Preliminary Data Report*, May 2010, Figure 6.

The “other sources” category includes money from noncustodial parents who were under threat of losing their drivers’ licenses, professional or occupational licenses, or recreational or sporting licenses as well as money intercepted through an administrative offset of payments from the federal government,<sup>31</sup> child support collections received through the financial institutions data match program,<sup>32</sup> money received via lottery offsets, and collections received through the passport denial program. As mentioned above, the 16% figure attributed to other sources amounted to \$5.1 billion in FY2009.

Sporadic data from OCSE indicates that roughly \$3.5 billion of the \$5.1 billion amount is from child support collected through banks, credit unions and other financial institutions pursuant to the financial institution data match program; and perhaps about \$1 billion (per year) is from collections obtained due to the driver’s license suspension program.<sup>33</sup> Based on these rough estimates, about 4% of the \$32 billion in child support collections (FY2009 data) might be attributed to states’ driver’s license suspension policies.<sup>34</sup>

## Issues Associated with Driver’s License Suspension

The CSE program has authority to use a vast array of tools/methods to eliminate opportunities for non-compliance with child support orders (through measures such as routine wage withholding)

<sup>31</sup> Under the administrative offset program, the federal government will intercept federal payments to pay past-due child support before a noncustodial parent receives certain payments from the federal government. For example, payments to private vendors who perform federal government work, small business loans, and federal retirement benefits (i.e., Social Security benefits) would be subject to intercept. Some federal payments cannot be intercepted, such as veterans disability benefits, federal student loans, Supplemental Security Income, railroad retirement benefits, and black lung benefits.

<sup>32</sup> The federal Office of Child Support Enforcement (OCSE), working together with state CSE programs, uses several automated nationwide child support enforcement strategies to increase child support collections. One such strategy is the enforcement of the Multistate Financial Institution Data Match (MSFIDM). Its purpose is to locate assets held in financial institutions by noncustodial parents who owe past-due child support. When a match is made, a levy can be imposed against the financial account for the amount of child support owed to the custodial family.

<sup>33</sup> U.S. Department of Health and Human Services (HHS), *HHS Announces New Record Child Support Collections*, January 17, 2001. See also U.S. Department of Health and Human Services (HHS), *FY2006 Administration for Children and Families: Justification for Appropriations Committees*, p. F-14; and U.S. Department of Health and Human Services (HHS), Administration for Children and Families, Office of Child Support Enforcement, *Automated Systems for Child Support Enforcement: A Guide for Enhancing Financial Institution Data Match (FIDM) Automation*, October 2008, p. 98.

<sup>34</sup> For information on license suspension savings (\$35 million) in nine states in 1995, see U.S. Department of Health and Human Services (HHS), Gov. Archive, *Survey Measures Success of State License Revocation Programs*, March 15, 1995, <http://archive.hhs.gov/news/press/1995pres/950315a.html>.

and to create negative consequences for non-compliance. Suspension of a driver's license falls into the latter category.<sup>35</sup>

Although driver's license suspension policies are generally viewed by states as a coercive enforcement tool,<sup>36</sup> most states contend that they are not punitive. State policymakers maintain that the goal is not to punish a noncustodial parent for nonpayment of support by depriving him or her of license privileges. Rather, they say that the hope is that once a noncustodial parent receives notice of the state's intention to withhold, suspend, or restrict the license, he or she will contact the state CSE agency to negotiate payment of the outstanding child support amount. Most states view driver's license suspension policies as a legitimate enforcement tool for noncustodial parents who they classify as having the resources to pay child support but who are recalcitrant in meeting their child support obligations and in some cases straight-out refuse to pay.

Some commentators, however, contend that, in response to the CSE agency's mission to secure child support, some states have resorted to suspending the driver's licenses of low-income noncustodial parents who may want to pay child support but who do not have the resources to pay. These commentators maintain that for many of these noncustodial parents driver's license suspension policies are in fact very punitive.

This section discusses several issues related to the suspension or restriction of driver's licenses of noncustodial parents who owe specified amounts of past-due child support. Namely, (1) Is the purpose of the policy undermined if the noncustodial parent is unable to find a job because they cannot transport themselves to potential job opportunities? (2) Are license restoration procedures easy to understand and accessible? and (3) Does state discretion on when and to whom to apply license suspension policy create inequities and unfairness?

## **Finding and Keeping Employment Without A Driver's License**

CSE agency administrators recognize that suspending a noncustodial parent's driving license may make it difficult for the individual to work, thus impacting earnings and ability to pay child support. To counteract this possibility, states maintain that noncustodial parents generally are given numerous opportunities to prevent the driver's license suspension.

Most observers agree that having one's driving privilege suspended or restricted is more than just an inconvenience. They note that it can lessen a person's ability to keep a job or find work, and thus impede a noncustodial parent's ability to fulfill his or her child support obligation.<sup>37</sup> Data based on information from ten cities found that among employed persons with a car, 7% had no

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<sup>35</sup> Nancy Thoennes and Jessica Pearson of the Center for Policy Research (Denver, CO), *Multiple Intervention Grant: Driver's License Suspension as a Tool of Child Support Enforcement*, U.S. Department of Health and Human Services (HHS), Office of Child Support Enforcement, September 2000, <http://www.acf.hhs.gov/programs/cse/pubs/reports/colorado/bk03ar02.html>.

<sup>36</sup> Other CSE tools that many commentators classify as "coercive" collection enforcement tools include suspension or restriction of professional and occupational licenses, and recreational and sporting licenses; contempt proceedings which may result in jail time; passport denial; intercept of income tax refunds; and reporting of child support obligations to credit reporting agencies.

<sup>37</sup> They also contend that suspension of a driver's license also makes it harder to attend post-secondary classes, keep medical or dental appointments, shop for groceries, or transport children to school or other activities. In addition, commentators point out that without a car, a noncustodial parent may have a harder time visiting his or her children.

license, whereas nearly twice as many unemployed persons with a car had no license (13%). (See Table 2.)

**Table 2. Access to a Car in 10 Cities, by Employment Status**

Employment and Access to an Automobile in 10 Cities	
Employed Persons	Unemployed Persons
License and car: 71%	License and car: 36%
No license, no car: 13%	No license, no car: 35%
Car, no license: 7%	Car, no license: 13%
License, no car: 9%	License, no car: 16%

**Source:** Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, p. 5, <http://www.mobilityagenda.org/accesstodiving>. The 10 cities are Denver, CO; Des Moines, IA; Hartford, CT; Indianapolis, IN; Louisville, KY; Milwaukee, WI; Oakland, CA; Providence, RI; San Antonio, TX; and Seattle, WA.

According to one researcher who has extensively surveyed people in the Milwaukee, WI, area, lack of transportation to jobs is the most serious barrier to employment for city residents of all ages. He states:

Three-fourths of job openings are located in the suburbs and are not easily accessed by public transportation. The spatial mismatch between available jobs and job seekers is most acute in low-income neighborhoods, where job seekers outnumber full-time openings by a gap of seven to one and only a third of unemployed job seekers have a valid driver's license.<sup>38</sup>

He also contends that "Job seekers without a driver's license and without a high school diploma have little hope of full-time employment and too often resort to crime. Ex-prisoners are the least likely to find sustained employment because of persistent legal problems, low education levels, high recidivism rates and driver's license suspension and revocation problems."<sup>39</sup>

Others maintain that

Not having a valid license can disqualify a person from applying for certain jobs, particularly in the health care and construction fields, where often it is a pre-condition for employment. The lack of a license can keep a family stuck in a situation of dependence, disconnection and hopelessness. Oftentimes, the loss of a license is caused more by poverty and the inability to pay fines and fees than it is by a willful disregard of the law. And, as license suspension has increasingly become a common sanction for non-driving and non-safety offenses, more and more families are caught up in this web.<sup>40</sup>

Moreover, a survey of New Jersey drivers found that "Forty-two percent of drivers were not able to keep their jobs when their driver's license was suspended. Of those drivers, 45 percent could

<sup>38</sup> John Pawasarat, "Another View: Driver's license is a vital link to employment," Journal Sentinel Online (Milwaukee, WI), June 17, 2007.

<sup>39</sup> Ibid.

<sup>40</sup> Annie E. Casey Foundation, *Drivers License Recovery Program Helps Families Improve Job Prospects*, <http://www.aecf.org/MajorInitiatives/FamilyEconomicSuccess/FESinAction/Drivers.aspx>.

not find another job. Among those surveyed who were able to find another job, 88 percent experienced a decrease in wages.”<sup>41</sup> Some critics of driver's license suspension policies argue that the negative economic impacts associated with such policies may extend beyond the driver to employers who may have to contend with the costs of hiring new workers, and to communities in terms of higher license-related fees. Some observers claim that there are sometimes unintended consequences associated with license suspension policies. For example, parents or other relatives may be asked to step in to transport the noncustodial parent to and from work, which may cause stress and a reduction of “goodwill” in that the probability of the noncustodial parent to receive help from relatives to meet future child support obligations is lessened. In addition, some public and private agencies and advocates who provide job training and job search assistance to low-income noncustodial parents have also found their work frustrated by the prevalence of license suspension among the individuals they are trying to help.<sup>42</sup>

Supporters of driver's license suspension policies re-iterate that a driver's license is a privilege provided by the states. They maintain that noncustodial parents who fail to meet their child support obligations are not deserving of driving privileges. They also say that people who cannot afford to pay their child support obligations because of financial circumstances have the opportunity to have their child support payments reduced through state CSE review and modification procedures and thereby have no legitimate excuse for noncompliance.

Some commentators also assert that driver's license suspension policies work. They say that states have been very successful in collecting child support payments through this collection/enforcement method.<sup>43</sup> They contend that the ability of noncustodial parents to raise/deliver the amount of money that the court or CSE agency stipulates as necessary to prevent the noncustodial parent's driver's license from being suspended indicates that the noncustodial parent had access to funds that could otherwise have been used to meet their child support obligation.

## **Restoring Suspended Driver's Licenses**

Some observers claim that while driver's license suspension policies may be clear, procedures for getting one's license reinstated are often very complex. The procedures related to having one's driver's license reinstated vary from state to state, and sometimes vary significantly among localities within states. In many cases, successfully navigating a state's license restoration procedures can be confusing, challenging, and costly.<sup>44</sup>

Some states allow noncustodial parents to work out an agreement with the CSE agency in which the agency may accept a partial lump-sum payment along with a modified child support payment

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<sup>41</sup> Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, p. 9.

<sup>42</sup> Nancy L. Fishman, Laurel H. Dumont, and John W. Bartlett, *Getting Back on the Road: A Manual for Addressing Driver's License Suspension in New Jersey*, New Jersey Institute for Social Justice, Second Edition, July 2008.

<sup>43</sup> As mentioned earlier in the “Data” section, neither the OCSE nor the states systematically collect data regarding the amount of child support collections that can be attributed to a state's driver's license suspension policies.

<sup>44</sup> Because driving is so critical to getting to work and taking care of personal and family business/errands, it is widely asserted that some noncustodial parents with suspended licenses take the risk of driving without a license. Such infractions are hard to detect and enforce, but if caught the penalty may be severe, costly, and/or time-consuming to resolve.



plan. The CSE agency then must advise the motor vehicles department to reinstate the noncustodial parent's license once the agreement has been satisfied. In other cases, all child support arrearages must be paid before a license is reinstated. Moreover, in many states fines are also levied on top of the requirement to pay child support arrearages, thereby making it more difficult for noncustodial parents to get their driving privileges restored.<sup>45</sup> In addition, many noncustodial parents have indicated that they cannot afford the increased insurance costs that often result from a driver's license suspension.

There is no standard time limit on driver's license suspensions caused by failure to pay child support. The terms that determine when the driver's license can be reinstated differ among jurisdictions. In some states, a noncustodial parent is considered to have demonstrated good faith if he or she has paid the ordered or agreed upon amount of child support for a specified number of consecutive months after the suspension. As mentioned above, in other states, the amount of past-due child support must be paid in full and the monthly child support obligation must be paid on time for a specified period before the noncustodial parent can apply to have his or her license reinstated.

Driver's license restoration may require multiple steps in different venues (e.g., municipal court and CSE agency). Some noncustodial parents may be confused by the procedures and need legal assistance. Although many low-income noncustodial parents may qualify for legal services assistance based on income, most legal services agencies are not able to serve noncustodial parents (low priority) because of limited budgets and a huge demand for legal help. However, a few legal services agencies offer driver's license clinics to provide information and assistance to self-represented noncustodial parents who are trying to get their driver's licenses reinstated.<sup>46</sup> Based on a survey by a Los Angeles legal services program:

Within three months of attending a clinic, over 50% of clinic participants have their licenses reinstated, obtain a restricted license, or make significant progress towards a restricted or reinstated license. In that same three month period, approximately 25% land better paying jobs as a result of having a valid license, even if only a restricted one.<sup>47</sup>

Some states avoid reinstatement problems by allowing noncustodial parents who are employed to request to have a work-restricted or temporary driver's license rather than have their driver's license suspended.<sup>48</sup> Other states offer amnesty programs for certain noncustodial parents with a child support-related driver's license suspension.<sup>49</sup> For example, the state may reinstate the

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<sup>45</sup> Based on a very limited sample of states, the driver's license reinstatement fee ranges from \$5 to \$71. Information on the amount of the reinstatement fee was not included in **Table A-1** because in most states the fee amount is not indicated in the state's statute regarding the suspension of driver's licenses in cases of noncompliance with child support orders. Instead, it is usually in administrative documents that are under the purview of state departments of motor vehicles.

<sup>46</sup> Legal Services Corporation, *Driver's License Clinic*, Legal Aid Foundation of Los Angeles, Abstract Number: 040029, [http://www.lri.lsc.gov/prose/prose\\_projects\\_detail\\_T152\\_R3.asp](http://www.lri.lsc.gov/prose/prose_projects_detail_T152_R3.asp).

<sup>47</sup> Ibid.

<sup>48</sup> For states that provide this option, a noncustodial parent generally must obtain a letter from his or her employer verifying employment. Next, the noncustodial parent must contact the local CSE office to arrange a meeting to present the proof of employment and request a work-restricted license. Usually, the CSE agency then provides the noncustodial parent with the paperwork to take to the motor vehicle agency to get the restricted license.

<sup>49</sup> Nancy L. Fishman, Laurel H. Dumont, and John W. Bartlett, *Getting Back on the Road: A Manual for Addressing Driver's License Suspension in New Jersey*, New Jersey Institute for Social Justice, Second Edition, July 2008.

noncustodial parent's driver's license if the noncustodial parent pays one month's worth of child support.<sup>50</sup> Further, some states offer hardship licenses under certain circumstances.<sup>51</sup>

According to one report, some legal services attorneys in Baltimore identified the loss of a license as a barrier to economic stability. The attorneys noted that in some cases, courts have agreed with their position by deciding that the driver's license of the noncustodial parent should be reinstated because the noncustodial parent's ability to work was in the child's best interest. In other instances, when representing parents with suspended licenses, some legal services attorneys have had success in getting those licenses reinstated or obtaining work-restricted licenses that allow for travel to and from work during a suspension.<sup>52</sup>

Lawyers at Baltimore's Legal Aid Bureau continue to work to reduce license suspensions and make this issue a priority in the community. Their efforts currently include (1) providing the community with written materials about legal options and requirements for reinstatement and work-restricted licenses; (2) providing legal forms requesting reinstatement that parents not represented by legal services programs can use in an appeal of license suspension; and (3) providing CSE agency staff with information and training related to the legal requirements for license suspension and reinstatement as well as the drawbacks of suspending/revoking the driver's license of noncustodial parents whose earnings and financial circumstances prevent them from meeting their child support obligations.<sup>53</sup>

## **Encouraging Fairness in the Driver's License Suspension Process**

Federal law gives few guidelines other than that states must develop license restriction programs and collect social security numbers on applications for driver's licenses (and other specified types of licenses). The ways in which states have designed and implemented their driver's license suspension programs varies greatly across the nation. Some states use the driver's license suspension tool as a last resort and others use it routinely. Moreover, in most states there is some discretionary decisionmaking by staff of the CSE agency before the driver's license suspension process is initiated.<sup>54</sup>

While federal policymakers have required that states have the authority to suspend the driver's licenses of those who do not pay child support, state policymakers have the authority to determine criteria for such suspensions. Some commentators assert that decisionmakers should consider various factors before suspending the driver's license of a noncustodial parent, including whether the suspension would be a barrier to work, violate the best interests of the child, or cause undue hardship. They recommend that policymakers should offer an exemption from driver's license

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<sup>50</sup> At a recent CSE event in Cleveland (Cuyahoga County), OH, many noncustodial parents took advantage of the county's driver's license amnesty program to reinstate their driving privileges by paying one month's obligation plus an additional \$50 and providing the CSE agency with a valid address, a source of income, and bank account information; Office of Child Support Enforcement, *Child Support Report*, vol. 33, no. 2, February 2011, p. 7.

<sup>51</sup> A hardship license, sometimes referred to as a Cinderella license or a work license, generally allows a person to drive for an identical 12-hour period each day.

<sup>52</sup> Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, p. 11.

<sup>53</sup> *Ibid.*, pp. 11-12.

<sup>54</sup> Sharon Moyer, *Licence Suspension and Denial: Overview of a New Mechanism for Child Support Enforcement*, Canada Department of Justice, 2001. Note that this report examines the U.S. CSE system.

suspension for noncustodial parents who are unemployed or low-wage workers if they are financially unable to pay child support.<sup>55</sup>

Some commentators contend that the lack of accountability by individual CSE workers who choose to apply the driver's license suspension method may result in CSE program inequities. They maintain that noncustodial parents with similar nonpayment histories experience driver's license suspensions or avoid them, depending upon the proclivities of the CSE worker. They argue that this type of subjectivity can reduce public confidence in the child support agency and erode payment behavior over time.

Driver's license suspension policies may have a disparate impact on minorities.<sup>56</sup> According to research conducted by the University of Wisconsin-Milwaukee's Employment & Training Institute, minorities in the city of Milwaukee, WI, are most likely to have driver's license problems related to fine collections. "Only 47% of African Americans and 43% of Latinos have a driver's license compared to 85% of whites. For adults ages 18 to 24 who should be entering the work force, the situation is even worse: Only 26% of African Americans and 34% of Latinos have licenses compared to 71% of whites."<sup>57</sup>

A Government Accountability Office report, requested out of concern that low-income individuals and their families may be disproportionately impacted by policies that suspend driver's licenses based on non-driving offenses, found that although it may be true that some drivers may face driver's license suspension because of their limited ability to meet financial obligations, states usually try to ease the financial impact of suspensions on low-income individuals through (1) payment assistance programs, which include payment plans, payment alternatives, and fine reductions; (2) license reinstatement support, which includes guidance, case management, and legal services that can help drivers navigate the sometimes complicated relicensing process and suspension exemptions; and (3) suspension exemptions, which can take the form of permitting restricted licenses, which allow individuals to drive to specific places.<sup>58</sup>

When the driver's license suspension/restoration process is viewed as unfair it may have unintended consequences. In some cases, the noncustodial parent may become resentful of the government, and his or her relationship with the custodial parent may become antagonistic, which may have a negative impact on the child's (or children's) well-being.<sup>59</sup> Also, some noncustodial

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<sup>55</sup> Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, p. 15.

<sup>56</sup> In 2003 alone, the Milwaukee municipal court issued 68,191 license suspensions to city residents for not paying civil forfeitures; 81% of these suspensions were issued to African Americans, 9% to Latinos, and 9% to whites. As a result, only one-third of young men in poorer neighborhoods have a valid driver's license; John Pawasarat, "Another View: Driver's license is a vital link to employment," Journal Sentinel Online (Milwaukee, WI), June 17, 2007, <http://www.jsonline.com/news/opinion/29374904.html>.

<sup>57</sup> John Pawasarat, "Another View: Driver's license is a vital link to employment," Journal Sentinel Online (Milwaukee, WI), June 17, 2007, <http://www.jsonline.com/news/opinion/29374904.html>.

<sup>58</sup> U. S. Government Accountability Office (GAO), *License Suspensions for Nondriving Offenses: Practices in Four States That May Ease the Financial Impact on Low-Income Individuals*, GAO-10-217, February 2010, pp. 3-4. See also U.S. General Accounting Office (now the U. S. Government Accountability Office (GAO)), *Child Support Enforcement: Most States Collect Drivers' SSNs and Use Them to Enforce Child Support*, GAO-02-239, February 2002, pp. 19-24.

<sup>59</sup> National Women's Law Center and the Center on Fathers, Families, and Public Policy, *Reaching Common Ground, Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers and Children*, 2002.

parents who feel that they are battling a futile situation may become less engaged with society, their families and their children, and thereby become less concerned about even trying to meet their child support obligations; this may result in their becoming part of an underground workforce in which they continue to drive with a suspended license.<sup>60</sup> Although the federal government does not have the authority to suspend driver's licenses, federal law does promote the suspension of driver's licenses of persons who owe child support arrearages. Some commentators recommend that states be mandated to only use driver's license suspension policies on noncustodial parents whose incomes are above a certain income threshold.

## Concluding Remarks

The history of the CSE program has been marked by the evolution of a variety of enforcement remedies. Child support workers and policymakers have long concluded that there is no single intervention that works for all noncustodial parents who owe past-due child support. Driver's license suspension is an enforcement mechanism designed to encourage noncustodial parents to pay their child support or risk restriction or suspension of their driver's license. The driver's license suspension tool works best with people who have a valid driver's license and presumably would be disadvantaged without it. States that consistently use this enforcement tool have found that the risk of losing a driver's license is an effective means of bringing some noncustodial parents who are delinquent in paying child support into compliance.<sup>61</sup> Although we do not have child support collections data that corroborate their assertion, many states maintain that driver's license suspension is an effective, efficient, and inexpensive enforcement tool.

In contrast, some commentators maintain that attempts to collect child support by threatening the suspension of the noncustodial parent's driver's license in some cases not only lessens the noncustodial parent's ability to pay child support but also may result in severing the emotional ties that these noncustodial parents had previously had with their children.<sup>62</sup> They say that pithy mottos like "Parents who don't pay their child support can run, but they can't drive,"<sup>63</sup> minimize the quagmire of not being able to meet their financial obligations that many low-income noncustodial parents face. They contend that in some instances, driver's license suspension policies are akin to punishing people for being poor.

Some observers contend that the broader issue of avoidance or management of child support arrearages is a huge problem for many noncustodial parents. They maintain that pursuing arrears may not be a cost-effective use of CSE resources. They argue that some arrearages should be forgiven and that the focus of CSE agencies should be preventing future arrearages.

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<sup>60</sup> National Conference of State Legislatures, *Connecting Low-Income Families and Fathers: A Guide to Practical Policies, How the Child Support System Affects Low-Income Fathers*, 2000. See also Ken Zimmerman and Nancy Fishman, *Roadblock on the Way to Work: Driver's License Suspension in New Jersey*, New Jersey Institute for Social Justice, October 2001.

<sup>61</sup> U.S. Department of Health and Human Services (HHS), Office of Child Support Enforcement, *Updated OCSE Information Exchange Report: State License Restrictions, Suspensions and Revocations*, Dear Colleague Letter DCL-98-35, April 15, 1998.

<sup>62</sup> James L. Peterson and C. Winqvist Nord, *The Regular Receipt of Child Support: A Multi-step Process*, Child Trends, December 1987.

<sup>63</sup> U.S. Department of Health and Human Services (HHS), Office of Child Support Enforcement, "You Can Run But You Can't Ride: License Suspension in Massachusetts," *Child Support Report*, vol. 30, no. 7, July 2008.

As mentioned earlier, CSE agencies collected and distributed \$26.4 billion in child support from noncustodial parents in FY2009. Nonetheless, in FY2009, the CSE program collected only 62% of child support obligations for which it had responsibility (if arrearage payments are taken into account, only 20%) and collected payments for only 57% of its caseload.

According to some observers, in order for the CSE program to improve its effectiveness, states must find a balance between securing child support for children living with custodial parents and not undermining a noncustodial parent's ability to find and/or keep a job. They contend that although the intent of driver's license suspension policies may have been admirable, the practical impact in many cases has been counterproductive and sometimes punitive for noncustodial parents.

Driver's licenses are part of a substantial investment—most states require attendance at driving schools, which costs about \$300 for a three-week session (time and money), and payment of fees for the driver's tests and license. For many, the next step is to purchase a vehicle. Obtaining an automobile is a huge investment for most people and more often than not a sacrifice for lower-income individuals. The costs associated with buying an automobile (credit issues, cost of vehicle, title and registration fees, insurance costs, upkeep/car maintenance costs, and costs for fuel/gas) can be very expensive. Thus, many who are opposed to driver's license suspension policies related to nonpayment of child support contend that license suspension began as a means to sanction or punish "bad" or unsafe drivers. They remark that a driver's license should not be viewed as a "good citizen trophy."<sup>64</sup> They assert that driver's licenses should only be suspended or restricted based on how unsafely one drives an automobile. They view suspension of licenses for non-driving related offenses as too intrusive and unwarranted.<sup>65</sup> Others claim that driver's license suspension policies in effect "criminalize" some noncustodial parents who argue that they have to get to work and so take the chance of driving without a license.

In support of its mission to collect child support on behalf of children not living with both of their parents, state CSE agencies have broad authority to collect and enforce the payment of child support through a numerous array of varied collection/enforcement methods. While these methods may be useful in preventing financially stable noncustodial parents from avoiding their child support obligations, they may have devastating consequences for low-income noncustodial parents who do not have a stable and dependable source of income. The challenge for policymakers and program administrators with regard to driver's license suspension policies is to find the balance between the obligation to the child and financial ability of the noncustodial parent to pay.

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<sup>64</sup> Sreya Sarkar, *Driver's License or Good Citizen's Card*, December 2, 2008. See also Center on Fathers, Families, and Public Policy (CFFPP), *Negotiating the Child Support System: Recommendation from a Discussion of Policy and Practice*, Colloquium Series 1998-1999.

<sup>65</sup> Sandra Gustitus, Melody Simmons, and Margy Waller, *Access to Driving and License Suspension Policies for the Twenty-First Century Economy*, The Mobility Agenda, June 2008, <http://www.mobilityagenda.org/accesstodrivng>.

## Appendix. A Synopsis of State Driver's License Suspension Policies

Although driver's license suspension policies vary by state, the following general procedures are usually followed. The authorizing entity (i.e., the administrative agency (CSE agency) or the court) issues a notice of intent to withhold, restrict use of, or suspend a driver's license. The notice is served upon the noncustodial parent personally or by certified mail or as otherwise provided by state statute. The notice must stipulate that the driver's license held by the noncustodial parent may be suspended usually 30-90 days after service unless, within that time, the noncustodial parent obligor does one of the following: (1) pays the entire child support debt stated in the notice; (2) enters into a payment plan approved by the department or its agent; (3) complies with subpoenas or warrants relating to paternity or child support proceedings; or (4) requests a hearing within 15-30 days of receipt of the notice in order to appear and show cause why withholding, restricted use, or suspension of the license is not appropriate. If the noncustodial parent fails to request a hearing within the specified time period, the administrative agency or court will contact the motor vehicle agency to implement the suspension of the noncustodial parent's driver's license. The motor vehicle agency usually sends a final notice to the noncustodial parent informing them that the suspension will take place on a specified date or time period if he or she fails to comply with the provisions mentioned in the original notice.

The extent to which states have automated their driver's license suspension process varies across the nation. In most states, the driver's license suspension process has been incorporated into the state's computerized CSE system. But, whether a form letter of noncompliance is automatically sent when a noncustodial parent's child support payment history indicates that he or she has not paid child support for a specified time period or whether a caseworker decides to use the driver's license suspension enforcement tool is based on the individual state's program. In many states, this enforcement tool is used only after other collection attempts have not succeeded. In these cases, after a caseworker decides to use the driver's license enforcement tool, a form letter (notice of noncompliance with child support order) is sent to the last known mailing address of the noncustodial parent, and in some states, the first notice letter is simultaneously sent to the department of motor vehicles. As mentioned above, it is usually the motor vehicle agency that sends the final notice announcing license suspension to the noncustodial parent.

Driver's license suspension and revocation information is shared with all 50 states, the District of Columbia and the territories of Guam, Puerto Rico, and the Virgin Islands. None of these jurisdictions may issue a driver's license to a noncustodial parent if there is an active suspension or revocation with respect to that parent in another state.

As with other components of driver's license suspension practices, reinstatement of driver's licenses that have been suspended vary among the states with regard to how long the suspension lasts (usually until child support payments are no longer delinquent or the terms of the agreement between the noncustodial parent and the court or CSE agency have been fulfilled) and the fee imposed to reinstate the license.<sup>66</sup>

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<sup>66</sup> Based on a very limited sample of states, the driver's license reinstatement fee ranges from \$5 to \$71. Information on the amount of the reinstatement fee was not included in **Table A-1** because in most states the fee amount is not indicated in the state's statute regarding the suspension of driver's licenses in cases of noncompliance with child (continued...)

**Table A-1** presents information on state driver's license suspension policies in cases where the noncustodial parent is not in compliance with his or her child support order. The first column of the table shows the 54 jurisdictions and the relevant statute.<sup>67</sup> The second column indicates which authorizing entity has jurisdiction over driver's license suspension policy in CSE cases—that is, an administrative entity (the CSE agency), the judicial branch (the courts), or both. The third column displays information on what event or events result in a sanction (driver's license suspension). Generally, in order to be subject to the driver's license suspension policy, a noncustodial parent must be out of compliance with his or her child support order by a specific dollar amount, a specific time period, or a combination of the two. The last column indicates how the notice of noncompliance is served (delivered) to the noncustodial parent and how long the noncustodial parent has to come into compliance before his or her driver's license is suspended.

**Table A-1** indicates that 27% of the 54 jurisdictions used an administrative process, 17% used a judicial process, 31% used both administrative and judicial processes, and 24% used an administrative process that allowed the noncustodial parent to request a judicial review (i.e., court hearing) if the noncustodial parent contended that he or she was in compliance with his or her child support order or that their were extenuating circumstances for the delinquency. **Table A-1** also indicates that driver's license suspension triggers range from owing one month to six months in past-due child support payments, in about a third of the jurisdictions driver's license suspension procedures were started if the noncustodial parent had a child support debt equal to or greater than 3 months of child support. In addition, **Table A-1** shows that after notice has been served on the noncustodial parent, the suspension of his or her driver's license can take effect immediately or may take effect after several months, thereby giving the noncustodial parent some time to meet his or her obligations.

**Table A-1. State CSE Driver's License Suspension Policies**

State & Statute	Authorizing Entity	Sanction Triggers/Levers	Notice and Review Hearing Requirements
Alabama § 30-3-171	Administrative; Administrative hearing with judicial review (for appeal)	Child support debt is equal to or greater than 6 months of child support.	Notice served in-person or by certified mail. Suspension effective 60 days after notice. Review hearing must be requested within 15 days of notice.
Alaska § 25.27.246	Administrative; Administrative hearing with judicial review (for appeal)	Child support debt is greater than 4 months of child support.	Notice served in-person or by mail. Notice that the noncustodial parent is about to be put on a noncompliance list must be served 60 days before his or her name is listed. Suspension effective 150 days after notice is served to the listed person. Review hearing must be requested within 30 days of notice.

(...continued)

support orders. Instead, it is usually in administrative documents that are under the purview of state departments of motor vehicles.

<sup>67</sup> The statute citations are provided to give the reader a starting point for finding the relevant provisions of law; in most cases, the statute cited is just one of the many statutes regarding driver's license suspension and noncustodial parents who are not in compliance with their child support order. For a more detailed listing of state statutes regarding driver's licenses and child support, see [http://www.justice.gc.ca/eng/pi/fcy-fea/lib-bib/rep-rap/2001/2001\\_1/annexa.html](http://www.justice.gc.ca/eng/pi/fcy-fea/lib-bib/rep-rap/2001/2001_1/annexa.html).

<b>State &amp; Statute</b>	<b>Authorizing Entity</b>	<b>Sanction Triggers/Levers</b>	<b>Notice and Review Hearing Requirements</b>
Arizona § 25-517	Administrative; Administrative hearing (court hearing if noncompliance determined "willful")	Child support debt is equal to or greater than 6 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 15 days of notice.
Arkansas § 9-14-239	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 60 days after notice. Review hearing must be requested within 30 days of notice.
California § 17520	Administrative; Administrative hearing with judicial review	Child support debt is greater than 1 month of child support.	Notice served in-person or by mail. CSE agency compiles monthly certified noncompliance lists that are sent to the motor vehicle agency. Suspension effective 150 days after motor vehicle agency receives notice. (A temporary license is issued during the 150-day period.) Review hearing must be requested in a <i>timely</i> manner.
Colorado § 26-13-123	Administrative	Child support debt is greater than 1 month of child support.	Notice served by mail. CSE agency compiles monthly certified noncompliance lists that are sent to the motor vehicle agency. Suspension effective 30 days after notice is served. Review hearing must be requested within 30 days of notice.
Connecticut § 46b-220	Judicial	Child support debt is greater than 3 months of child support.	Notice served by mail. Suspension effective 45 days after failure to comply with original 30-day notice.
Delaware § 13-2216	Administrative	Child support debt is at least \$1,000 and at least 30 days past due.	Notice served by mail. Suspension effective 4 days after notice. Review hearing must be requested within 20 days of notice.
District of Columbia § 46-225.01	Administrative; Administrative hearing with judicial review (for appeal)	Child support debt is equal to or greater than 2 months of child support.	Notice served by mail. Suspension effective 30 days after failure to comply with original 30-day notice. Noncustodial parent is entitled to an administrative review hearing.
Florida § 23-61-13016	Judicial	Child support payment is at least 15 days late.	Notice served by mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.
Georgia § 19-11-9.3	Administrative; Administrative hearing with judicial review	Child support debt is greater than 2 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 20 days of notice.
Guam § 5-34202	Administrative; Administrative hearing with judicial review	Child support debt is greater than 3 months of child support.	Notice served in-person or by certified mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.



State & Statute	Authorizing Entity	Sanction Triggers/Levers	Notice and Review Hearing Requirements
Hawaii § 31-576D-13	Administrative; Administrative hearing with judicial review	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Idaho § 7-1402	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support or \$2,000, whichever is less.	Notice served in-person or by mail. Suspension effective 28 days after notice. Review hearing must be requested within 21 days of notice.
Illinois § 625-5/7-702	Judicial	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 60 days after notice. Review hearing must be requested within 45 days of notice.
Indiana § 31-25-4-32	Administrative and Judicial	Child support debt is equal to at least \$2,000 or 3 months,	Notice served by mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.
Iowa § 6-252J.2	Administrative; Administrative with judicial review	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 20 days of notice.
Kansas § 39-7,155	Administrative	Child support debt is equal to or greater than \$500.	Notice served by certified mail. Suspension effective 30 days after notice. Review hearing must be requested in a <i>timely</i> manner.
Kentucky § 16-186.570	Administrative	Child support debt is equal to or greater than 6 months of child support.	Notice served by mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.
Louisiana § 9:315.30	Administrative and Judicial	Child support debt is greater than 3 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 20 days of notice.
Maine § 19- 2361	Administrative and Judicial	Child support debt is equal to or greater than \$500 and at least 60 days past due.	Notice by mail to appear before the CSE agency on a specified date. Suspension effective immediately after a finding of noncompliance has been transmitted to the motor vehicle agency.
Maryland § 10-119	Administrative	Child support debt is equal to or greater than 2 months of child support.	Notice served by mail. Suspension effective after CSE agency notifies the motor vehicle agency. Review hearing must be requested within a <i>reasonable</i> amount of time.
Massachusetts § 119A-16	Administrative; Administrative with judicial review	Child support debt is greater than 1 month of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Michigan § 552.628	Administrative; Administrative with judicial review	Child support debt is greater than 2 months of child support.	Notice served by mail. Suspension effective 21 days after notice. Review hearing must be requested within 21 days of notice.

<b>State &amp; Statute</b>	<b>Authorizing Entity</b>	<b>Sanction Triggers/Levers</b>	<b>Notice and Review Hearing Requirements</b>
Minnesota § 518A.65	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 90 days after notice. Review hearing must be requested within 30 days of notice.
Mississippi § 93-11-155	Administrative; Administrative with judicial review	Child support debt is equal to or greater than 1 month of child support.	Notice served by mail. Suspension effective 90 days after notice. Review hearing must be requested within 30 days of notice.
Missouri § 30-454.1000	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support or \$2,500, whichever is less.	Notice served in-person or by certified mail. Suspension effective 60 days after notice. Review hearing must be requested within 60 days of notice.
Montana § 40-5-701	Administrative; Administrative with judicial review	Child support debt is equal to or greater than 6 months of child support.	Notice served in-person or by certified mail. Suspension effective 60 days after notice. Review hearing must be requested within 60 days of notice.
Nebraska § 43-3314	Administrative and Judicial	Child support debt is greater than 3 months of child support.	Notice served by certified mail. Suspension effective 40 days after notice. Review hearing must be requested within 30 days of notice.
Nevada § 38-425.510	Administrative and Judicial	Child support debt is greater than \$1,000 and at least 60 days past due.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
New Hampshire § 12-161-B:11	Administrative	Child support debt is equal to or greater than 2 months of child support.	Notice served by mail. Suspension effective 21 days after notice. Review hearing must be requested within 21 days of notice.
New Jersey § 2A:17-56.41	Judicial	Child support debt is equal to or greater than 6 months of child support.	Notice served by certified mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
New Mexico § 40-5A-6.	Administrative	Child support debt is equal to or greater than 1 month of child support.	Notice served by mail. Suspension effective 21 days after notice. Review hearing must be requested within 21 days of notice.
New York § 13- 244-b.	Judicial	Child support debt is equal to or greater than 4 months of child support.	Notice served by mail. Suspension may be effective immediately (discretion of the court). Suspension prohibited for persons with very low income (i.e., below self-support reserve after subtracting child support obligation).
North Carolina § 50-13.12	Judicial	Child support debt is equal to or greater than 1 month of child support.	Notice served by mail. Suspension effective if noncustodial parent considered "willfully delinquent." Noncustodial parents can file a request ascertaining compliance any time.

<b>State &amp; Statute</b>	<b>Authorizing Entity</b>	<b>Sanction Triggers/Levers</b>	<b>Notice and Review Hearing Requirements</b>
North Dakota § 14-08.1-07	Judicial	Child support debt is greater than 3 months of child support.	Notice served by mail. Suspension effective as specified in the court order. No time limit on review hearing.
Ohio § 31-3123.47	Administrative and Judicial	Child support debt is equal to or greater than 1 month of child support.	Notice served by mail. Suspension effective as specified in the CSE agency or the court. No time limit on review hearing.
Oklahoma § 43-139.1	Judicial	Child support debt is greater than 3 months of child support.	Notice served by certified mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Oregon § 2-25.750	Administrative	Child support debt is equal to 3 months of child support or \$2,500, whichever is greater.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Pennsylvania § 23-4355	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Puerto Rico § 8-528a	Administrative	Child support debt is greater than \$5,000.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 10 days of notice.
Rhode Island § 15-11.1-2	Administrative and Judicial	Child support debt is greater than 3 months of child support.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
South Carolina § 63-17-1020	Administrative	Child support debt is greater than \$500.	Notice served by mail. Suspension effective 45 days after notice. Review hearing must be requested within 45 days of notice.
South Dakota § 25-7A-56	Administrative	Child support debt is equal to or greater than \$1,000.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 15 days of notice.
Tennessee § 36-5-701	Administrative	Child support debt is equal to or greater than \$500 and at least 90 days past due.	Notice served by certified mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.
Texas § 5-232.003	Administrative and Judicial	Child support debt is equal to or greater than 3 months of child support.	Notice served by mail. Suspension effective 21 days after notice. Review hearing must be requested within 20 days of notice.
Utah § 62A-11-603	Administrative	Noncustodial parent has not made a payment on current support in 2 months.	Notice served in-person or by certified mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.

<b>State &amp; Statute</b>	<b>Authorizing Entity</b>	<b>Sanction Triggers/Levers</b>	<b>Notice and Review Hearing Requirements</b>
Vermont § 15-798	Administrative and Judicial	Not in compliance with child support obligation.	Notice served by mail. Suspension effective 21 days after notice. Review hearing must be requested within 21 days of notice.
Virgin Islands § 16-373	Administrative	Child support debt is equal to or greater than \$2,500.	Notice served by mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Virginia § 46.2-320	Administrative and Judicial	Child support debt is equal to or greater than \$5,000 or at least 3 months past due.	Notice served by certified mail. Suspension effective 30 days after notice. Review hearing must be requested within 10 days of notice.
Washington § 74.20A.320	Administrative	Not in compliance with child support obligation.	Notice served in person or by certified mail. Suspension effective 20 days after notice. Review hearing must be requested within 20 days of notice.
West Virginia § 48-15-202	Administrative and Judicial	Child support debt is equal to or greater than 6 months of child support.	Notice served by regular or certified mail. Suspension effective 30 days after notice. Review hearing must be requested within 30 days of notice.
Wisconsin § 767.73	Judicial	Child support payment is at least 3 months past due.	Notice served by mail. Suspension effective 90 days after notice. Review hearing must be requested within 90 days of notice.
Wyoming § 20-6-111	Administrative and Judicial	Child support debt is greater than \$5,000 and at least 3 months past due.	Notice served by mail. Suspension effective 60 days after notice. Review hearing must be requested within 60 days of notice.

**Source:** Table prepared by the Congressional Research Service based on information from state statutes.

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