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# Child Support Enforcement: Program Basics

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## Summary

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act) to (1) reduce public expenditures for welfare recipients by obtaining ongoing support from noncustodial parents that could reimburse the state and federal governments for part of their expenses (i.e., welfare cost-recovery) and (2) help strengthen families by securing financial support for children from their noncustodial parent on a consistent and continuing basis to enable some families to remain self-sufficient and off public assistance. Over the years, CSE has evolved into a multifaceted program. While welfare cost-recovery still remains an important function of the program, its other aspects include service delivery and promotion of self-sufficiency and parental responsibility. The CSE program has different rules for welfare and non-welfare families.

The CSE program provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.

Child support collection 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. Federal law also provides for international enforcement of child support.

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.

In FY2015, the CSE program collected \$28.6 billion in child support payments and served nearly 14.7 million child support cases. However, the program still collects only 65% of current child support obligations for which it has responsibility and collects payments for only 61% of its caseload.

Two other related programs, the \$10 million per year Access and Visitation Grants Program and the \$75 million per year Responsible Fatherhood Program, also are described in this report.

## Contents

|   |    |
|---|----|
| Background .....  | 1  |
| Program Elements .....                                      | 2  |
| Locating Absent Parents .....                               | 3  |
| Paternity Establishment.....                                | 4  |
| Establishment of Child Support Orders .....                 | 5  |
| Review and Modification of Support Orders .....             | 5  |
| Enforcement .....   | 6  |
| Financing.....  | 7  |
| Collection and Disbursement .....                           | 8  |
| Distribution of Support .....                               | 9  |
| Visitation Grants and Responsible Fatherhood Programs ..... | 9  |
| Access and Visitation Grants.....                           | 9  |
| Responsible Fatherhood Programs.....                        | 10 |

## Tables

|   |   |
|---|---|
| Table 1. Child Support Data—FY2015 (Preliminary)..... | 2 |
|---|---|

## Contacts

|                                  |    |
|----------------------------------|----|
| Author Contact Information ..... | 11 |
|----------------------------------|----|

## Background

The Child Support Enforcement (CSE) program, Part D of Title IV of the Social Security Act, was enacted in January 1975 (P.L. 93-647).<sup>1</sup> The CSE program is administered by the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS), and funded by general revenues. All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands operate CSE programs and are entitled to federal matching funds.<sup>2</sup>

Families receiving Temporary Assistance for Needy Families (TANF) benefits (Title IV-A of the Social Security Act), foster care payments (Title IV-E of the Social Security Act), or Medicaid coverage (Title XIX of the Social Security Act) automatically qualify for CSE services free of charge.<sup>3</sup> Collections on behalf of families receiving cash TANF benefits are used, in part, to reimburse state and federal governments for TANF payments made to the family. Other families must apply for CSE services, and states must charge an application fee that cannot exceed \$25. Child support collected on behalf of non-welfare families goes to the family, usually through the state disbursement unit.

Between FY1978 and FY2015, child support payments collected by CSE agencies increased from \$1 billion in FY1978 to \$28.6 billion in FY2015, and the number of children whose paternity was established or acknowledged increased from 111,000 to 1.485 million. However, the program still collects only 20% of child support obligations for which it has responsibility if arrearage payments are taken into account (otherwise, 65%)<sup>4</sup> and collects payments for only 61% of its caseload. OCSE data indicate that in FY2015, paternity had been established or acknowledged for 96% of the 10.6 million children on the CSE caseload without legally identified fathers.<sup>5</sup> In FY2015, total CSE expenditures amounted to \$5.7 billion. On average, in FY2015 the CSE program collected \$5.26 in child support payments for each \$1 spent on the program. The CSE program is estimated to handle 50%-60% of all child support cases;<sup>6</sup> the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between the parents.

**Table 1**, below, provides FY2015 data on the CSE program, including total collections and expenditures, caseload numbers, and the number of paternities and child support orders established. The balance of this report describes each of the major program elements of the CSE

<sup>1</sup> The CSE statute is found in Sections 451 through 469B of the Social Security Act (42 U.S.C. §651 through §669b). The CSE federal regulations are found in 45 C.F.R. §301 through 310.

<sup>2</sup> States were historically required to provide CSE services to Indian tribes and tribal organizations as part of their CSE caseloads. Although tribes were not specifically included in the CSE statute until the 1996 welfare reform law, several tribes had negotiated agreements (e.g., informal, cooperative, intergovernmental, and joint powers) with some states in a mutual effort to serve Native American children. The 1996 welfare reform law (P.L. 104-193) allowed direct federal funding of approved tribal CSE programs. In general, Native American children living on Indian reservations that have a tribal CSE program are covered by that specific tribal CSE program; Native American children who do not live on Indian reservations are covered by the state's CSE program.

<sup>3</sup> In addition, families who are required by the state Supplemental Nutrition Assistance Program (SNAP) to cooperate with the CSE agency automatically qualify for CSE services free of charge.

<sup>4</sup> In FY2015, \$149.0 billion in child support obligations (\$33.5 billion in current support and \$115.5 billion in past-due support) was owed to families receiving CSE services, but only \$29.4 billion was paid (\$21.8 billion current, \$7.6 billion past-due).

<sup>5</sup> For more information regarding FY2015 data on the CSE program, see [http://www.acf.hhs.gov/sites/default/files/programs/css/fy2015\\_preliminary.pdf](http://www.acf.hhs.gov/sites/default/files/programs/css/fy2015_preliminary.pdf).

<sup>6</sup> Kye Lippold and Elaine Sorensen, *Characteristics of Families Served by the Child Support (IV-D) Program: 2010 Census Survey Results*, Urban Institute, October 2013, p. 3.

program. It also includes a discussion of the related programs: Access and Visitation Grants and the Responsible Fatherhood Program.

**Table I. Child Support Data—FY2015 (Preliminary)**

|  |   |
|--|---|
| Total CSE caseload                       | <i>Total, 14.7 million; TANF, 1.6 million; former-TANF, 6.3 million; never-TANF, 6.9 million</i>  |
| Total CSE collections                    | <i>Total, \$28.559 billion; TANF families, \$0.808 billion; former-TANF, \$8.959 billion; never-TANF, \$11.425 billion (plus \$7.368 billion on behalf of Medicaid-only families)</i> |
| Payments to families                     | <i>Total, \$26.6 billion; TANF, \$151 million; former-TANF, \$8.1 billion; never-TANF, \$11.3 billion (plus \$7.1 billion on behalf of Medicaid-only families)</i>                    |
| Federal share of TANF collections        | <i>\$717 million</i>  |
| State share of TANF collections          | <i>\$574 million</i>  |
| Medical support payments                 | <i>\$511 million</i>  |
| Total CSE expenditures                   | <i>\$5.749 billion; federal share, \$3.474 billion, state share, \$2.275 billion</i>  |
| Incentive payments to states (estimated) | <i>\$481 million</i>  |
| Paternities established and acknowledged | <i>1,484,477</i>  |
| Support orders established               | <i>1,016,267 (includes only new orders; excludes modifications)</i>   |
| Collections made                         | <i>For 9,028,701 total families; TANF families, 522,220; former-TANF families, 3,790,011; never-TANF families, 4,716,470</i>  |

**Source:** Table prepared by the Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

**Note:** Some totals are imprecise because of rounding.

## Program Elements

The CSE program provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.<sup>7</sup>

<sup>7</sup> A noncustodial parent may be ordered to provide health insurance if available through his or her employer, pay for private health insurance premiums, or reimburse the custodial parent for all or a portion of the costs of health insurance obtained by the custodial parent. Federal law requires every child support order to include a provision for health care coverage. The CSE program is required to pursue private health care coverage when such coverage is available through a noncustodial parent's employer at a reasonable cost. P.L. 109-171 required that medical support for a child be provided by either or both parents and that it must be enforced. It authorizes the state CSE agency to enforce medical support against a custodial parent whenever health care coverage is available to the custodial parent at reasonable cost. Moreover, it stipulates that medical support may include health care coverage (including payment of costs of premiums, co-payments, and deductibles) and payment of medical expenses for a child. (For additional information on medical child support, see CRS Report R43020, *Medical Child Support: Background and Current Policy*, by Carmen Solomon-Fears.)

## Locating Absent Parents

If the CSE program cannot locate the noncustodial parent with the information provided by the custodial parent, it must try to locate the noncustodial parent through the State Parent Locator Service. The state uses various information sources such as telephone directories, motor vehicle registries, tax files, and employment and unemployment records. The state also can ask the Federal Parent Locator Service (FPLS)<sup>8</sup> to locate the noncustodial parent. The FPLS can access data from the Social Security Administration, the Internal Revenue Service, the Department of Defense, the U.S. Department of Veteran Affairs, the National Security Agency, the Federal Bureau of Investigation, and State Employment Security Agencies.

To improve the CSE agency's ability to locate absent parents, states are required to have automated registries of child support orders that contain records of each case in which CSE services are being provided and all new or modified child support orders. The state child support case registry includes a record of the child support owed under the order, arrearages, interest or late penalty charges, amounts collected, amounts distributed, the child's date of birth, and any liens imposed; and also includes standardized information on both parents, such as name, Social Security number, date of birth, and case identification number. States also must establish an automated directory of new hires containing information from employers, including federal, state, and local governments and labor organizations, for each newly hired employee, that includes the name, address, and Social Security number of the employee and the employer's name, address, and tax identification number. This information generally is supplied to the state new hires directory within 20 days after the employee is hired. Moreover, federal law required the establishment of a federal case registry of child support orders and a national directory of new hires.<sup>9</sup> The federal directories consist of information from the state directories and federal agencies (located in the FPLS).

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<sup>8</sup> The FPLS is an assembly of systems operated by the Office of Child Support Enforcement (OCSE), to assist states in locating noncustodial parents, putative fathers, and custodial parents for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation. The FPLS assists federal and state agencies in identifying overpayments and fraud, and assists with assessing benefits. Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS was expanded by P.L. 104-193 to include the following:

- The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.
- The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders.
- The Federal Offset Program (FOP): a program that collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.
- The Federal Administrative Offset Program (FAOP): a program that intercepts certain federal payments in order to collect past-due child support.
- The Passport Denial Program (PDP): a program that works with the Secretary of State in denying passports of any person that has been certified as owing a child support debt greater than \$2,500.
- The Multistate Financial Institution Data Match (MSFIDM): a program that allows child support agencies a means of locating financial assets of individuals owing child support.

For additional information on the FPLS, see <http://www.acf.hhs.gov/programs/css/resource/federal-parent-locator-service-information-for-families>.

<sup>9</sup> Within three business days after receipt of new hire information from the employer, the state directory of new hires is required to furnish the information to the national directory of new hires. (For additional information, see CRS Report RS22889, *The National Directory of New Hires*, by Carmen Solomon-Fears.)

Federal law allows all states to link up to an array of databases, and permits the FPLS to be used for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; and enforcing child custody or visitation orders.<sup>10</sup> Federal law requires that a designated state agency, directly or by contract, conduct automated comparisons of the Social Security numbers reported by employers to the state directory of new hires and the Social Security numbers of CSE cases that appear in the records of the state registry of child support orders. Federal law requires the HHS Secretary to conduct similar comparisons of the federal directories.<sup>11</sup> Automation is critical to the operation and success of the CSE program.<sup>12</sup>

## Paternal Establishment

Legally identifying the father is a prerequisite for obtaining a child support order. In divorce cases, the husband is generally deemed to be the father of any children born during the marriage. In nonmarital birth cases, paternity must be established.

Federal law requires states to have procedures that permit the establishment of paternity for all children under the age of 18.<sup>13</sup> Federal law also requires TANF applicants and recipients to cooperate in establishing paternity or obtaining support payments. Moreover, a penalty for noncooperation exists. If it is determined that an individual is not cooperating and the individual does not qualify for any good cause or other exception, then the state must reduce the family's TANF benefit by at least 25% and may eliminate it entirely. In addition, federal law (1) requires that paternity be established for 90% of the CSE cases needing such a determination, (2) requires a simple civil process for establishing paternity, (3) requires an affidavit to be completed by men voluntarily acknowledging paternity and entitles the affidavit to full faith and credit in any state,<sup>14</sup> (4) stipulates that a signed acknowledgment of paternity be considered a legal finding of paternity unless it is rescinded within 60 days, and thereafter may be challenged in court only on the basis of fraud, duress, or material mistake of fact, (5) provides that no judicial or administrative action is needed to ratify an acknowledgment that is not challenged, and (6) requires all parties to submit to genetic testing in contested paternity cases.<sup>15</sup>

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<sup>10</sup> P.L. 104-193 permitted both custodial and certain noncustodial parents to obtain information from the FPLS. P.L. 105-33, however, prohibited FPLS information from being disclosed to noncustodial parents in cases where there is evidence of domestic violence or child abuse, and the local court determines that disclosure may result in harm to the custodial parent or child.

<sup>11</sup> When a match occurs, the state directory of new hires is required to report to the state CSE agency the name, address, and Social Security number of the employee, and the employer's name, address, and identification number. Within two business days, the CSE agency then instructs appropriate employers to withhold child support obligations from the employee's paycheck, unless the employee's income is not subject to income withholding.

<sup>12</sup> P.L. 105-200 imposed financial penalties on states that failed to meet the law's automated data systems requirements. The HHS Secretary is required to reduce the amount the state would otherwise have received in federal CSE funding by the penalty amount for the fiscal year in question. Section 455(a)(4)(B) of the Social Security Act (42 U.S.C. §655(a)(4)(B)) stipulates that the penalty amount percentage is 4% in the case of the first year of noncompliance; 8% in the second year; 16% in the third year; 25% in the fourth year; and 30% in the fifth or any subsequent year.

<sup>13</sup> Section 466(a)(5) of the Social Security Act (42 U.S.C. §666(a)(5)). P.L. 109-171 stipulated that the 90% federal matching rate for laboratory costs associated with paternity establishment would be reduced to 66% beginning October 1, 2006.

<sup>14</sup> Section 466(a)(5)(D) of the Social Security Act (42 U.S.C. §666(a)(5)(D)). stipulates that an unmarried woman cannot put a man's name on a child's birth record/certificate unless the man has voluntarily acknowledged that he is the father of that child or a court or administrative agency has ruled that the man is the father of the child in question.

<sup>15</sup> Federal law requires states to have procedures which create a rebuttable or, at the option of the state, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the (continued...)

## Establishment of Child Support Orders

A child support order legally obligates noncustodial parents to provide financial support for their children and stipulates the amount of the obligation and how it is to be paid. It is usually established at the time of divorce or when an unmarried couple dissolves their relationship or when a welfare case is initiated. 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.

The child support order is established administratively by a state/county CSE agency or through the state courts. P.L. 100-485 required states to use their state-established guidelines in establishing child support orders. Child support guidelines are a set of rules and tables that are used to determine the amount of the child support order. Child support guidelines are designed to: (1) protect the best interests of the children by trying to ensure that the child or children in question continue to benefit from the financial resources of both parents in situations in which the parents go their separate ways and (2) make the calculation of child support fair, objective, consistent, and predictable (which in many instances has the added benefit of reducing conflict and tension between the parents).

States decide child support amounts based on the noncustodial parent's income or based on both parents' income; other factors include the age of child, whether a stepparent is in the home, whether the child is disabled, and the number of siblings.

States currently use one of three basic types of guidelines to determine child support award amounts (i.e., the child support order): (1) "Income shares," which is based on the combined income of both parents (39 states, Guam, and the Virgin Islands); (2) "percentage of income," in which the number of eligible children is used to determine a percentage of the noncustodial parents' income to be paid in child support (8 states); and (3) "Melson-Delaware," which provides a minimum self-support reserve for parents before the cost of rearing the children is prorated between the parents to determine the award amount (3 states).<sup>16</sup>

## Review and Modification of Support Orders

Without periodic modifications, child support obligations can become inadequate or inequitable. Effective review and modification of child support orders is an important step in ensuring that noncustodial parents continue to comply with realistic orders based on actual ability to pay them.<sup>17</sup>

Under current law (pursuant to P.L. 109-171, the Deficit Reduction Act of 2005),<sup>18</sup> states are required to review and, if appropriate, adjust child support orders in cases in which the family is receiving Temporary Assistance for Needy Families (TANF) assistance at least once every three

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(...continued)

actual father of the child (Section 466(a)(5)(G) of the Social Security Act) (42 U.S.C. §666(a)(5)(G)).

<sup>16</sup> The District of Columbia uses a hybrid model that starts as a percentage of income model and is then reduced by a formula based on the custodial parent's income. Information was not available for Puerto Rico. The following web page indicates that the data was updated August 2015 (<http://www.ncsl.org/research/human-services/guideline-models-by-state.aspx>).

<sup>17</sup> See the following web page: [http://www.acf.hhs.gov/sites/default/files/ocse/providing\\_expedited\\_review\\_and\\_modification.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/providing_expedited_review_and_modification.pdf). Also see CRS Report R44077, *Modification of Child Support Orders: Background, Policy, and Concerns*, by Carmen Solomon-Fears.

<sup>18</sup> Section 466(a)(10) of the Social Security Act (42 U.S.C. §666(a)(10)).



years. In the case of a non-TANF family, one of the parents has to request a review within the three-year time frame in order for a review and modification to occur. If a request for review and modification is made outside the three-year cycle, the requesting party must demonstrate that there was a substantial change in circumstances. Child support adjustments/modifications must be in accordance with a state's child support guidelines.

CSE programs usually rely on one of the parents to request a modification of the child support order. It is important for parents facing job loss or other substantial changes in circumstances to seek a modification to their order quickly so that they do not fall behind in their payments and thereby have to contend with child support arrearages (i.e., past-due child support payments).<sup>19</sup>

## Enforcement

The CSE program has a vast array of enforcement methods at its disposal. Child support collection methods used by state CSE agencies include income withholding,<sup>20</sup> 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. Federal law also requires states to enact and implement the Uniform Interstate Family Support Act (UIFSA), and expand full faith and credit procedures.

Federal law also provides for international enforcement of child support.<sup>21</sup> P.L. 113-183 (enacted on September 29, 2014), an omnibus bill that included changes to child welfare and child support programs,<sup>22</sup> contained provisions that are designed to improve child support collections in cases where the custodial parent and child live in one country and the noncustodial parent lives in

<sup>19</sup> If a noncustodial parent cannot pay his or her child support payments because of unemployment, imprisonment, or some other reason, then the noncustodial parent should immediately contact the court in order to have the child support order modified. Pursuant to federal law (§466(a)(9) of the Social Security Act), the court will not be able to retroactively reduce the back payments (i.e., arrearages) that a noncustodial parent owes.

<sup>20</sup> There are three exceptions to the immediate income withholding rule: (1) if one of the parties demonstrates, and the court (or administrative process) finds that there is good cause not to require immediate withholding, (2) if both parties agree in writing to an alternative arrangement, or (3) at the HHS Secretary's discretion, if a state can demonstrate that the rule will not increase the effectiveness or efficiency of the state's CSE program.

<sup>21</sup> The CSE program has reciprocating agreements regarding the enforcement of child support with 15 countries: Australia, Canada, Czech Republic, El Salvador, Finland, Hungary, Ireland, Israel, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, and the United Kingdom of Great Britain and Northern Ireland. Note: Canada is a federal state, composed of 10 provinces and 3 territories, each with its own government and power to make laws. The United States currently has bilateral, federal-level agreements with 9 Canadian provinces and 3 Canadian territories. The 9 provinces are Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Saskatchewan. The 3 territories are Northwest Territories, Nunavut, and Yukon. The United States does not have a bilateral, federal-level agreement with Quebec. (See federal Child Support Enforcement web page—<http://www.acf.hhs.gov/programs/cse/international/>.)

<sup>22</sup> For more information on P.L. 113-183, see CRS Report R43757, *Child Welfare and Child Support: The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183)*, by Emilie Stoltzfus, Adrienne L. Fernandes-Alcantara, and Carmen Solomon-Fears.

another country. It ensured that the United States is compliant with any multilateral child support enforcement treaties and, as part of this, required states to update their Uniform Interstate Family Support Act (UIFSA) law to incorporate verbatim any amendments adopted as of September 30, 2008, by the National Conference of Commissioners on Uniform State Laws. Additionally, P.L. 113-183 facilitated greater access to the Federal Parent Locator Service (FPLS) by foreign countries and tribal governments as part of improving child support collections. The new law (P.L. 113-183) also amended federal law so that the federal income tax refund offset program is available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.<sup>23</sup>

## Financing<sup>24</sup>

The CSE program is funded with both state and federal dollars. There are five funding streams for the CSE program. First, states spend their own money to operate a CSE program; the level of funding allocated by the state and/or localities determines the amount of resources available to CSE agencies.

Second, the federal government reimburses each state 66% of all allowable expenditures on CSE activities.<sup>25</sup> The federal government's funding is "open-ended" in that it pays its percentage of expenditures by matching the amounts spent by state and local governments with no upper limit or ceiling.

Third, states collect child support on behalf of families receiving TANF assistance to reimburse themselves (and the federal government) for the cost of TANF cash payments to the family. (See Distribution of Support section, below).

Fourth, the federal government provides states with an incentive payment to encourage them to operate effective programs.<sup>26</sup> Federal law requires states to reinvest CSE incentive payments back into the CSE program or related activities.<sup>27</sup>

### CSE Funding Elements

- State dollars
- Federal matching funds (i.e., 66% of general state CSE expenditures)
- Retained child support collections from noncustodial parents on behalf of welfare families
- Incentive payments to states
- Fees

<sup>23</sup> For additional information on international enforcement of child support, see CRS Report R43779, *Child Support Enforcement and the Hague Convention on Recovery of International Child Support*, by Carmen Solomon-Fears and Alison M. Smith.

<sup>24</sup> For additional information on the financing of the CSE program, see CRS Report RL33422, *Analysis of Federal-State Financing of the Child Support Enforcement Program*, by Carmen Solomon-Fears.

<sup>25</sup> In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, pursuant to the 1996 welfare reform law (P.L. 104-193), the CSE program provides direct federal funding equal to 100% of approved and allowable CSE expenditures by tribes and tribal organizations during the start-up period, provides 90% federal funding for approved CSE programs operated by tribes or tribal organizations during the first three years of full program operation, and provides 80% federal funding thereafter. As of April 2016, 57 Indian tribes or tribal organizations operated comprehensive tribal CSE programs and 4 Indian tribes or tribal organizations operated start-up tribal CSE programs. For a listing of the tribal programs, see <http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf>. For additional information, see CRS Report R41204, *Child Support Enforcement: Tribal Programs*, by Carmen Solomon-Fears.

<sup>26</sup> The CSE incentive payment—which is based in part on five performance measures related to establishment of paternity and child support orders, collection of current and past-due child support payments, and cost-effectiveness—was statutorily set by P.L. 105-200. In the aggregate, incentive payments to states may not exceed \$458 million for FY2006, \$471 million for FY2007, and \$483 million for FY2008 (to be increased for inflation in years thereafter). Aggregate incentive payments to states are capped at \$564 million for FY2015 and estimated to amount to \$481 million (continued...)

Fifth, application fees and costs recovered from non-welfare families may help finance the CSE program. In the case of a non-welfare family, the custodial parent can hire a private attorney or apply for CSE services. As one might expect, hiring a private attorney is more expensive than applying for services under the federal/state CSE program. The CSE agency must charge an application fee, not to exceed \$25, for families not on welfare. The CSE agency may charge this fee to the applicant or the noncustodial parent, or pay the fee out of state funds. Moreover, a state may at its option recover costs in excess of the application fee. Such recovery may be either from the custodial parent or the noncustodial parent. In addition, P.L. 109-171, effective October 1, 2006, required families who have never been on TANF to pay a \$25 annual user fee when child support enforcement efforts on their behalf are successful (i.e., at least \$500 annually is collected on their behalf).<sup>28</sup> Such fees and costs recovered from non-welfare cases must be subtracted from the state's total administrative costs before calculating the federal reimbursement amount (i.e., the 66% matching rate).

## Collection and Disbursement

All states are required to have a centralized automated state collection and disbursement unit to which child support payments are paid and from which they are distributed.

The main objectives of State Disbursement Units (SDUs) are to facilitate child support enforcement via the income withholding process by providing employers with a single location in each state to send the withheld child support payments and to make the processing of child support payments more efficient and economical.

The State Disbursement Unit must be operated directly by the state CSE agency, by two or more state CSE agencies under a regional cooperative agreement, or by a contractor responsible directly to the state CSE agency. The SDU may be established by linking local disbursement units through an automated information network if the Secretary of HHS agrees that the system will not cost more, take more time to establish, or take more time to operate than a single state system. All states, including those that operate a linked system, must give employers one and only one location for submitting withheld income.

The SDU must be used to collect and disburse support payments, to generate orders and notices of withholding to employers, to keep an accurate identification of payments, to promptly distribute money to custodial parents or other states, and to furnish parents with a record of the current status of child support payments. The SDU must use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical.

Federal law generally requires employers to remit to the state disbursement unit (SDU) income withheld within seven business days after the employee's payday. Further, the SDU is required to

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(...continued)

million. For additional information on CSE incentive payments, see CRS Report RL34203, *Child Support Enforcement Program Incentive Payments: Background and Policy Issues*, by Carmen Solomon-Fears.

<sup>27</sup> P.L. 109-171, effective October 1, 2007, prohibited federal matching of state expenditure of federal CSE incentive payments. However, P.L. 111-5 required HHS to temporarily provide federal matching funds (in FY2009 and FY2010) on CSE incentive payments that states reinvest back into the CSE program. Thus, CSE incentive payments that are received by states and reinvested in the CSE program are no longer eligible for federal reimbursement.

<sup>28</sup> For more information on the CSE annual user fee, see CRS Report RS22753, *Child Support Enforcement: \$25 Annual User Fee*, by Carmen Solomon-Fears.

send child support payments to custodial parents within two business days of receipt of such payments.

## **Distribution of Support**

Distribution rules determine which claim is paid first when a child support collection occurs. The order of payment of the child support collection is important because in many cases arrearages are never fully paid.

While the family receives TANF cash benefits,<sup>29</sup> the states and federal government retain any current support and any assigned arrearages<sup>30</sup> collected up to the cumulative amount of TANF benefits paid to the family. While states may pay their share of collections to the family, they must pay the federal government the federal government's share of child support collections collected on behalf of TANF families. P.L. 109-171 helps states pay for the cost of their CSE pass-through and disregard policies by requiring the federal government to share in the costs (of an amount equal to up to \$100 per month for one child or up to \$200 per month for two or more children) of child support collections passed through and disregarded by states in determining the family's TANF cash benefit. Based on October 2015 data, 23 states, the District of Columbia and Puerto Rico have a CSE pass-through and disregard policy and 27 states, Guam, and the Virgin Islands do not.<sup>31</sup>

States must distribute to former TANF families the following child support collections first before the state and the federal government are reimbursed (the "family-first" policy): (1) all current child support, (2) any child support arrearages that accrue after the family leaves TANF (these arrearages are called never-assigned arrearages), plus (3) any arrearages that accrued before the family began receiving TANF benefits. (Any child support arrearages that accrue during the time the family is on TANF belong to the state and federal government.<sup>32</sup>)

## **Visitation Grants and Responsible Fatherhood Programs**

### **Access and Visitation Grants**

A noncustodial parent's right to visit with his or her children is commonly referred to as visitation or child access (and more recently as voluntary parenting time arrangements). State family or domestic relations law almost universally treats child support and visitation as completely separate issues. Historically, Congress has agreed that visitation and child support should be

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<sup>29</sup> Federal law requires families who receive TANF cash assistance to assign their child support rights to the state in order to receive TANF.

<sup>30</sup> Pursuant to P.L. 109-171 (effective October 1, 2009, or at state option, October 1, 2008), the assignment only covers child support that accrues while the family receives TANF.

<sup>31</sup> National Conference of State Legislatures, *Child Support Pass-Through and Disregard Policies for Public Assistance Recipients*, October 6, 2015 (<http://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx>).

<sup>32</sup> P.L. 109-171 gave states the option of distributing to former TANF families the full amount of child support collected on their behalf (i.e., both current support and all child support arrearages—including arrearages collected through the federal income tax refund offset program). This provision took effect on October 1, 2009, or October 1, 2008, at state option.

legally separate issues, and that only child support should be under the purview of the CSE program. Both federal and state policymakers have maintained that denial of visitation rights should be treated separately, and should not be considered a reason for stopping child support payments. However, in recognition of the negative long-term consequences for children associated with the absence of their father, federal and state policymakers have increasingly promoted efforts that address child support and access and visitation in the same forum.

In order to promote visitation and better relations between custodial and noncustodial parents, the 1996 welfare reform (P.L. 104-193) provided an annual entitlement of \$10 million from the federal CSE budget account for grants to states for access and visitation programs.<sup>33</sup> Eligible activities include but are not limited to mediation, counseling, education, development of parenting plans, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements.

P.L. 113-183 included a Sense of the Congress statement that specified that (1) establishing parenting time arrangements (also known as visitation) when obtaining child support orders is an important goal that should be accompanied by strong family violence safeguards, and (2) states should use existing funding sources to support the establishment of parenting time arrangements, including child support incentives, Access and Visitation Grants, and Healthy Marriage Promotion and Responsible Fatherhood Grants.

## **Responsible Fatherhood Programs**

The federal government has also sought to engage men in the lives of their children through what are known as responsible fatherhood programs.<sup>34</sup> These programs recognize that committed, involved, and responsible fathers are important in the lives of their children. These programs seek to promote the financial and personal responsibility of noncustodial parents for their children and increase the participation of fathers in their children's lives. Some responsible fatherhood programs help noncustodial parents strengthen their parenting skills. Other programs try to discourage young men from becoming fathers until they are married and ready for the responsibility.

P.L. 109-171 provided \$50 million per year for five years (FY2006-FY2010) in competitive grants (under Title IV-A of the Social Security Act) for responsible fatherhood programs to states, territories, Indian tribes and tribal organizations, and public and nonprofit organizations, including religious organizations.

P.L. 111-291 (enacted December 8, 2010) extended funding for the Title IV-A Healthy Marriage and Responsible Fatherhood grants through FY2011. For FY2011, P.L. 111-291 appropriated \$75 million for awarding funds for healthy marriage promotion activities and \$75 million for awarding funds for activities promoting responsible fatherhood. The result is that the Title IV-A Healthy Marriage and Responsible Fatherhood grants, which were funded at \$150 million annually from FY2006 through FY2010, were funded for an additional year (FY2011) on an equal basis. Since then, several appropriation laws have extended funding for the Healthy Marriage and Responsible Fatherhood grant programs (\$150 million annually divided equally

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<sup>33</sup> Even before the 1996 welfare reform law (P.L. 104-193), the Family Support Act of 1988 (P.L. 100-485) authorized a limited number of grants to states for demonstration projects to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

<sup>34</sup> Although programs that seek to help fathers initiate or maintain contact with their children and become emotionally involved in their children's lives are usually referred to as "fatherhood" programs, the programs are generally gender neutral. Their underlying goal is participation of the noncustodial parent in the lives of his or her children.

between the two programs). P.L. 113-76 (enacted January 17, 2014), extended funding for the Healthy Marriage and Responsible Fatherhood grant programs (at their FY2013 funding level) through the end of FY2014. P.L. 113-164 (enacted September 19, 2014), extended funding for the Healthy Marriage and Responsible Fatherhood grant programs (at their FY2014 funding level) through December 11, 2014. P.L. 113-235 (the Consolidated and Further Continuing Appropriations Act, 2015, enacted on December 16, 2014) provided funding for the Healthy Marriage and Responsible Fatherhood grant programs through the remainder of FY2015 (i.e., \$150 million for FY2015 divided equally between the programs).

P.L. 114-53 (the Continuing Appropriations Act, 2016), enacted September 30, 2015, continued program authority and funding (at the \$150 million annual rate, divided equally between the programs) for the Healthy Marriage and Responsible Fatherhood grant programs through December 11, 2015.

P.L. 114-113 (the Consolidated Appropriations Act, 2016, enacted December 18, 2015) continued program authority and funding (at the \$150 million annual rate, divided equally between the programs) for the Healthy Marriage and Responsible Fatherhood grant programs through FY2016. (Responsible fatherhood grants have been funded at \$75 million per year since FY2011.)

Most responsible fatherhood programs include parenting education; training in responsible decisionmaking, conflict resolution, and coping with stress; mediation services for both parents; problem-solving skills; peer support; and job-training opportunities.<sup>35</sup>

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<sup>35</sup> For more information on responsible fatherhood programs, see CRS Report RL31025, *Fatherhood Initiatives: Connecting Fathers to Their Children*, by Carmen Solomon-Fears.