



## WYOMING LEGISLATIVE SERVICE OFFICE

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### *Research Memo*

18 RM 002

**Date:** June 22, 2018

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**Re:** Child Support Enforcement

#### QUESTION

1. What are the penalties in Wyoming for failing to pay child support?
2. What are the federally mandated child support enforcement mechanisms?
3. What are some optional state mandated child support enforcement mechanisms?

#### ANSWER

1. **The Department of Family Services (DFS) provided a summary of Wyoming Child Support Program laws, but noted that the program is also federally regulated. In Wyoming, child support enforcement is under Title 20 in the Wyoming Statutes. Below is a summary of statutory citations related to child support enforcement methods in Wyoming as provided by DFS.**
  - **W.S. 20-6-101**- this chapter contains most of the enforcement statutes for the Child Support Program. The enforcement statutes are primarily required by federal regulations.
  - **W.S. 20-6-106** – enumerates all the power and duties of the Child Support Program. The statute includes both court enforcement remedies, such as contempt, as well as administrative remedies. The statute also outlines that the DFS can contract with vendors to provide child support services.
  - **W.S. 20-6-106(m)(iii)** – allows DFS to collect arrears owed by an obligor through the federal program. This program allows tax returns to be seized from obligors when more than \$500 is owed to a custodial parent or more than \$150 is owed to the State of Wyoming.
  - **W.S. 20-6-106(m)(xi)** – allows the Child Support Program to seize assets from bank accounts, worker’s compensation, unemployment, insurance settlements, lottery winnings, as well as putting liens on real property.
  - **W.S. 20-6-106(w)** – allows the Child Support Program to report to any consumer reporting agency information regarding the amount of overdue support owed by an obligor. The Fair Credit Reporting Act defines what are appropriate consumer reporting agencies.
  - **W.S. 20-6-111** – provides the Child Support Program the authority to both judicially and administratively suspend driver’s licenses of obligors. The statute requires arrears of at least \$2,500 and no full monthly child support payment for at least 90 days prior to being able to proceed with an administrative suspension act.

- **W.S. 20-6-112** – allows the Child Support Program to request suspension of professional, occupational and recreational licenses if an obligor fails to pay court-ordered child support.
- **W.S. 20-6-201** – begins the Wyoming Income Withholding Act which outlines the process for child support to be paid through income withholding. The statute outlines the process for the Child Support Program, the employer and the obligor.
- **W.S. 20-6-204** – requires a court to enter an income withholding order upon entry or modification of any child support order that does not already have income withholding ordered. The statute also allows the program to issue an administrative income withholding order if a Wyoming court has issued a child support order and an income withholding order was not previously entered.

The District Court has the authority to jail an obligor under civil contempt for repeated failure to comply with a court order. The purpose of this is to encourage compliance with court orders, in contrast to criminal contempt which has a punitive purpose. An important aspect of incarceration due to civil contempt is the ability of the obligor to purge the contempt by compliance with the court order, which then results in release from incarceration. In order to incarcerate an obligor for civil contempt, the judge must ascertain that the obligor has the ability to pay but failed to do so.

Willful failure to pay child support is a crime under W.S. 20-3-101, which states that a person obligated to provide support for a child under the age of 18 may be guilty of a misdemeanor if they have failed to pay a court-ordered support obligation within 60 days of the date payment was due. However, DFS notes this statute is rarely used in Wyoming.

**2. According to the National Conference of State Legislatures (NCSL), federally mandated mechanisms to enforce child support payments include the following:**

- **Income withholding-** Immediate income withholding requires that the wages of the obligated parent be subject to income withholding “regardless of whether support payments by such parent are in arrears” with two exceptions:
  - When one of the parties demonstrates, or the court or administrative process finds, that there is good cause not to require immediate income withholding, or
  - When a written agreement between the parties provides for an alternative arrangement.
- **Credit bureau reporting-** Federal law mandates that periodic reporting of the names of noncustodial parents and child support information be made to consumer reporting agencies.
- **Financial Institution Data Match (FIDM)-** State child support programs must enter into agreements with financial institutions to conduct data matches to identify accounts of delinquent child support obligors.
- **Posting security, bond or guarantee-** States require the obligor to post security, bond or some other guarantee to secure payment of the overdue support if the following criteria also exist:
  - The obligor has a poor payment history; and
  - The obligor has assets which exceed the amount of the support arrears and the arrears cannot be reached by any other means.

Federally administered mechanisms for enforcing child support include the following:

- **Income Tax Refund Interception-** The Federal Tax Refund Offset Program collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.
- **Passport Denial-** Noncustodial parents certified by a state as having arrearages exceeding \$2,500 are submitted by the Federal Office of Child Support Enforcement (OCSE) and to the Department of State, which denies them U.S. passports upon application or the use of a passport service.
- **Administrative Offset-** States may conduct a seizure of a tax refund or other Federal payment to satisfy a child support debt.
- **Insurance Match-** The OCSE has partnered with the insurance industry to conduct the Federal Insurance Program that assists states in the collection of child support through matching insurance claimants (and beneficiaries) to child support obligors.
- **Multi-State Financial Data Match-** State agencies must also participate in matching at the federal level with thousands of multi-state financial institutions and process tens of thousands of matches resulting in collections through account seizures.

**3. According to NCSL, the following are some optional state mechanisms for collecting child support:**

- **Liens, Garnishments and Levies-** The state child support agency may place a lien for unpaid child support on property, including houses and vehicles.
- **Attachment, Seizure of Assets and Benefits-** States may seek to attach any assets owned by the non-custodial parent and held by another person, institution, or entity.
- **Lottery Offset-** States may intercept funds from lottery winnings to pay child support.
- **License Suspension-** States may ask a licensing authority to not renew a professional or recreational license.
- **State Tax Refund Offset-** States may intercept a non-custodial parent's state income tax refund.
- **US Attorney Referral for Criminal Prosecution-** The willful failure to pay a past due support obligation with respect to a child residing in another state is a federal offense.
- **Publication of Delinquent Obligors-** States may establish programs for the publication, in newspapers with general circulation throughout the state or online, of listings of child support obligors who are delinquent in their support payments.
- **Car Boots-** Some states use a wheel boot on vehicles of individuals who do not appear in court or pay child support.
- **Electronic Monitoring-** States may use electronic transmitter bracelets on child support obligors to encourage compliance with child support orders.

If you need anything further, please contact LSO Research at 777-7881.