



# CSS AND YOU: WORKING TOGETHER FOR THE BENEFIT OF YOUR CLIENT'S CHILDREN

Prepared by OKDHS Child Support Services

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Both DHS Child Support Services (CSS) and private counsel have much to offer the families of Oklahoma. Because children are at the heart of our work, CSS welcomes the opportunity to work with family law practitioners at all stages of a child support case. We are at our best when we see our roles as complementary.

## **I. Introduction to DHS Child Support Services (CSS)**

At CSS, our Mission Statement guides our work: “To promote healthy families, we establish, monitor and enforce reliable support while encouraging self-sufficiency and strengthening relationships.” By that we mean that we want children who are not afforded the opportunity to grow up having both of their parents with them in the same household to still be able to reap the benefits of regular and dependable support. To succeed in our mission, we welcome the help of the private bar. CSS’s three primary program responsibilities (establishing paternity, obtaining child support orders, and enforcing those orders) augment the work of the private bar for their clients. CSS staff works very hard every day to ensure that these priorities are carried out and we value our partnership with private attorneys so that together we can provide better services for the family law customers that we all share.

How can we all be working on the same cases with the same parties? To be clear, we have different roles. CSS does not represent the custodial parent, the noncustodial parent, or the children. By statute, CSS attorneys represent only the State of Oklahoma.

56 O.S. § 237.3 provides in pertinent part:

B. Department attorneys represent the state and not the interests of any other party. Providing services under Title IV-D of the Federal Social Security Act does not create an attorney-client relationship with any other party.

Our interest is in seeing to it that our complex child support laws are followed and that whenever possible, cases have an outcome where obligations are fairly and equitably established so that support is reliably paid and regularly received in order that children receive the benefits. In some cases, the State’s position may align with that of the child support obligee, in others with the obligor. However, regardless of whether our positions agree, CSS seeks outcomes that will result in the healthiest family relationships for the children who find themselves in these domestic relations situations through no fault of their own. There is plenty of room for both CSS and private counsel to work together and complement each other in our respective roles.

## **II. Partnership between CSS and the Private Bar**

Families needing child support services have benefited from the partnership between CSS and the private bar. As such, CSS welcomes private legal representation for either party.

When custodial parents retain private legal representation for child support enforcement, they do not have to close their case with us. CSS can keep its case open so that the parties may reap the benefits of the tools and remedies that are only available to CSS under state and federal law. As we remain a party in the case, we only require that the CSS office is informed regarding court hearings and court orders that affect the child support case.

### ***A. Remedies Only Available to CSS***

To help handle the volume of work, both the federal and state government have continued to develop automated tools and other enforcement remedies that are only available to CSS.

#### **1. Tax Offset**

One of the most effective tools used by CSS is automatic referral for an offset of state or federal income tax refunds. In both public assistance and non-public assistance cases, obligors who owe past due child support are subject to having their tax refunds intercepted by CSS and applied to their past due child support. Since 2007, federal tax refunds have been eligible for intercept even if current support is no longer due. The money is paid through the Central Support Registry and if no hearing is requested, the money is released to the obligee in about six months.

#### **2. Income Assignments**

Income assignments are mandatory in CSS cases; it's not necessary to get a court order. Income assignments are issued automatically whenever a match is made with Oklahoma's New Hire registry. The support registry keeps an independent record of payments, which is available to both sides for use in litigation.

#### **3. Passport Suspension**

CSS also refers delinquent obligors for the suspension or nonrenewal of passports. CSS automatically refers obligors who owe \$2,500.00 or more in past due child support. For an obligor who needs to travel outside of the U.S. for work or pleasure, this can be a very effective collection tool. CSS can request immediate withdrawal of an obligor from the list in cases of mistaken identity or life or death situations. Otherwise, the delinquent obligor must either pay the entire amount due or pay down to the threshold amount, agree to pay the remaining balance within thirty-six months, and provide

information that will allow CSS to put an income assignment into place. OAC 340-25-5-214.

#### **4. Bank Account Levy**

CSS can seek the collection of past due child support through the Oklahoma Financial Institution Data Match Program (FIDM). 56 O.S. §§ 240.22 through 240.22G. Under the provisions of these statutes, if CSS receives information that a delinquent obligor has money in a bank account, CSS can send a notice of levy to the bank where the account is located. The levy remains in effect for 21 days unless released by CSS prior to that time. The bank is instructed to send either all the money in the account, or up to the amount claimed as past due child support. The obligor has fifteen days to request a review of the levy. If the obligor is not satisfied with the result of the review by CSS, the obligor has the right to request a hearing on the issue. At this time, CSS does not refer obligors for FIDM levies if the obligors have 1) paid 92% of all ordered support for the past six months and 2) only have a checking account. Obligor who are not in at least 92% compliance with the order for support or obligors who have savings, money market, or other types of accounts are almost always subject to a levy. If an attorney represents an obligor who has a levy on his or her account, the attorney should contact the State's Attorney in the assigned local office to discuss the matter, particularly in extenuating circumstances.

#### **5. Other Enforcement Remedies**

CSS can refer cases for offset of federal employee benefits or other federal payments, including payments to government contractors, retirement benefits, expense reimbursement payments, and other miscellaneous payments. CSS can also make referrals to credit bureaus, assert liens against property, and intercept lottery winnings.

This is not, by any means, an exhaustive list of remedies available to collect past due child support. It represents only the most common remedies used in cases that are open with CSS.

#### ***B. Issues That Can Only Be Pursued By Private Counsel***

CSS offices routinely docket in district court the paternity and support orders that have been established in administrative court. These cases then become not only available for enforcement of the child support order through district court proceedings, but also are open for private counsel to file pleadings and pursue any ancillary issues, such as visitation and custody disputes, in the same district court case.

Due to restrictions on the use of federal funds, CSS does not litigate custody and visitation issues.<sup>1</sup> However, research is now starting to show that parental involvement and interaction with the children by both parents has a positive effect both on their emotional well-being as well as on the payment of regular and reliable child support. This is one area where it is hoped that community and private bar resources will complement the services customers receive with CSS. More information on access and visitation issues is listed in the resources section of this paper.

### **III. When Parties are Represented by Private Counsel**

#### ***A. Ethics and Confidential Information***

Child support case information is protected by state and federal confidentiality laws. See 42 U.S.C. §§ 653, 654, 654A, and 663; 56 O.S. § 183; and OAC 340;25-5-67. As to contact with our “shared” customers, please send us a copy of your entry of appearance so that our staff does not inadvertently allow direct contact with your client without your permission. CSS staff will then know to contact you about the child support case litigation unless you permit otherwise or tell us that representation has ceased.

#### ***B. OKDHS as a Necessary Party***

If a family has ever received public assistance money (AFDC or TANF), is receiving state health care coverage (Medicaid or SoonerCare) for a child or an OKDHS child care subsidy, or has an open case with us, CSS is a necessary party for the determination of any debt due to the State of Oklahoma and for the adjudication of paternity, child support, and medical insurance coverage for the minor child(ren) (43 O.S. § 112).

In situations where CSS is a necessary party, you need to notify us of any relevant court action, as any orders concerning paternity, child support, medical support, or the debt due to the State of Oklahoma will need to be approved and signed by CSS to be valid (43 O.S. § 112). When formal notice must be served, in addition to serving OKDHS's service agent, the OKDHS Director, you should send notice to the State's Attorney handling the case in the local Child Support Office. Our CARE Customer Service Center or our Internet site provides contact information for our offices. If the State's Attorney is not notified of your court action, CSS may ask the court to vacate or modify your order if it does not include provisions required by state and federal law.

In sum, these questions can help determine whether OKDHS is a necessary party:

- Has your client or the other parent ever received TANF or AFDC (cash assistance)?
- Are the children covered by SoonerCare/ Medicaid?

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<sup>1</sup>CSS can refer parents to entities that provide parenting classes and services, including mediation. CSS includes parents' agreements on the number of overnights each parent has with the child in the child support guidelines computation.

- Are the parents receiving a child care subsidy?
- Has either parent opened a case with CSS?

If you are unsure whether CSS is a necessary party, pick up the phone and give your local office a call. If CSS is not shown to be a necessary party, we may be able to file a disclaimer with the court and you can then safely move on with your action without our involvement.

## **IV. Required Elements of Child Support Orders**

If CSS is a necessary party, then the following information is required in your child support order.

### ***A. What the Order Must Contain***

Oklahoma law requires that child support orders include the following nine provisions:

1. Child Support Obligation and attached to the order a Child Support Computation form (43 O.S. §§ 118 and 120).
2. Immediate Income Assignment provision
  - a) Required in all Title IV-D child support cases (43 O.S. § 115)
  - b) Required in non Title IV-D child support cases, unless the court makes a finding of good cause not to have an immediate income assignment, or the order includes a written alternative arrangement for payment of child support (43 O.S. § 115).
3. Medical Support provision for a parent either to provide medical insurance for minor child or pay a cash medical amount (43 O.S. § 118F).
4. Medical Expenses provision for each parent to pay a proportionate share, including but not limited to dental, orthodontic, optometric, psychological expenses (43 O.S. § 118F)
5. Uninsured medical costs provision to be paid by each parent directly to the person advancing payment of such expense or to the provider of the service (43 O.S. § 118F)
6. Child Care expense provision for each parent to pay a proportionate share if reasonably necessary to enable either or both parents to be employed, seek employment, or attend school or training (43 O.S. § 118G)
7. That support paid by income assignment is to be paid through the Oklahoma Centralized Support Registry (OCSR) or alternatively, that all support payments are to be paid through the OCSR. (43 O.S. § 413)
8. Address of Record for the custodial person and the noncustodial parent (43 O.S. § 112A).
9. Child support and/or spousal support judgment with a monthly judgment payment provision if an arrearage accrued from a temporary order, a paternity order or other prior order.

## ***B. Summary of Support Order Form***

If the family has never received any public assistance or is not receiving Medicaid, a child care subsidy or CSS child support services, then a Summary of Support Order (SOSO) needs to be completed pursuant to Title 43 OS §§ 118D and 120.

The Summary of Support Order form is published by the Administrative Office of the Courts on the Oklahoma State Courts Network Forms Page (43 O.S. § 120). This form is important to make sure that there is proper handling of the child support and spousal support payments from income assignments that must be paid through the Oklahoma Centralized Support Registry (OCSR). Additionally, the court may order that all support payments be paid through the OCSR (43 O.S. § 413). Pursuant to 43 O.S. § 118D and § 120, the SOSO must be submitted to the judge with all paternity and child support orders and no such order shall be signed by the judge without presentation of the SOSO.

SOSOs are not filed in the court file. Instead, after the child support order is signed by the judge, mail it to the OKDHS CSS Central Case Registry at P.O. Box 528805, Oklahoma City, OK 73152-8805.

By doing this, you ensure that the CSS Central Case Registry has the child support order information to record in the OKDHS computer system so the child support payments sent to the OCSR can be attributed to the correct child support case and distributed to the custodial person pursuant to 43 O.S. § 413. Social Security Numbers (SSNs) must be provided in order for the child support payment to be identified with the correct case (42 U.S.C. § 666(a)(13), 43 O.S. §§ 112, 118, 10 O.S. § 70). CSS only uses the SSNs for child support enforcement purposes as defined in Title IV-D of the Social Security Act.

One benefit to this system is to allow CSS to become your accounting agency. When support payments are received through the OCSR, there is no dispute as to the amount paid by the noncustodial parent in a subsequent enforcement, modification or other proceeding. Once a payment is received, it is identified and distributed to the custodial person within two business days. A copy of the Record of Payments can be found online or by calling CARE.

## **V. Resources**

CSS wants to work with members of the private bar and our attorneys are available to discuss ongoing cases or matters and for informal discussion about child support law and policy. To that end, CSS:

- encourages customers to contact private legal counsel;
- welcomes the participation of private attorneys in any case;
- does not close its case just because a party retains private counsel; and
- pursues its enforcement remedies while your representation is ongoing.



The best way to contact a State's Attorney is to call your local office. Contact information can be found either on the annual child support resources cd or online.

### ***A. CARE Customer Service Center/Internet Child Support Payment Inquiry System***

You may contact our CARE Customer Service Center at the following phone numbers for local Child Support Office contact information.

Statewide Toll Free Number: 1-800-522-2922 or 1-877-608-4724

OKC Metro: 522-2272

Tulsa metro: 295-3500

TTY: 1-866-264-4787/ OKC Metro TTY: 522-3792

Also, 24 hours per day, seven days per week, your client may access payment information through the CARE Interactive KIDS Line or the CSS Internet Case Information Log-In site at: <http://www.okdhs.org>. To access our Internet Child Support Payment Inquiry System your client will need to log in on the OKDHS Secure Customer Information Sign In. Customers may find information on our Internet site on how to obtain the 9-digit OKDHS Customer ID and a 6-digit Personal Identification Number (PIN).

### ***B. Online Resources for Private Counsel***

Many of the topics covered in this paper are discussed in more detail online on CSS's Attorneys and Judges web page:

<http://www.okdhs.org/programsandservices/ocss/buspart/docs/attorneyjudges.htm>

This page provides additional legal background and CSS forms and publications. It also has links to partners in the child support community.

### ***C. Access and Visitation Resources***

Through federal funding, CSS oversees contracts with community organizations that assist with access and visitation issues. To see our current partners, please visit the CSS Parents Resource web page:

<http://www.okdhs.org/programsandservices/ocss/docs/pginfohome.htm>

### ***D. Continuing Legal Education***

CSS also offers free child support CLE either independently or in partnership with the District Attorneys' Council and Legal Aid Services of Oklahoma, Inc. For more information on CLE, please visit the CSS Attorneys and Judges page or contact us using the information below. Our attorneys are experts in our field and are happy to

assist in your area with presentations to local bar associations. If you are interested in having a Child Support Services attorney present in your area, please email [OCSS.Legal.Outreach@okdhs.org](mailto:OCSS.Legal.Outreach@okdhs.org).

We are here to help and we know that our work is better with your involvement. If you have any questions or suggestions, please contact the CSS Office of Impact Advocacy and Legal Outreach at (918) 439-2405 or [OCSS.Legal.Outreach@okdhs.org](mailto:OCSS.Legal.Outreach@okdhs.org).