

# **Oklahoma Child Support Services: The History of Child Support Enforcement<sup>1</sup>**

## **Federal**

1935 Congress enacted the Social Security Act<sup>2</sup> in 1935 on the heels of the Great Depression, intending to provide financial Aid to Families with Dependent Children (AFDC or sometimes referred to as “welfare”) where a parent, often the father, was either disabled or deceased. Basically, if a state developed a plan that was approved by the Department of Health and Human Services to provide aid to families meeting certain requirements, the federal government would provide the funds for these needy people. Although the original congressional intent was to assist families where a parent was deceased or disabled, a family in which a parent was absent and not supporting the children also met the criteria for welfare eligibility.

1950 Congress passed the first federal child support enforcement legislation requiring state welfare agencies to notify appropriate law enforcement officials concerning children who receive AFDC due to the abandonment or desertion of a parent.<sup>3</sup> The National Commissioners on Uniform State Laws and the American Bar Association approved the Uniform Reciprocal Enforcement of Support Act (URESA) which was amended in 1952 and 1958 and revised in 1968 as Revised Uniform Reciprocal Enforcement of Support

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<sup>2</sup> 42 U.S.C. §§601 through 669b.

<sup>3</sup> 42 U.S.C. §602(a)(11).0

Act (RURESA).<sup>4</sup> This uniform act provided a legal framework for establishing and enforcing child support orders when the parents resided in different states.

1975 “Absent parents” became so prevalent that by 1974 Congress sought to amend the Social Security Act to add Title IV, Section D, the Family Support Act (FSA) of 1974 (effective in 1975).<sup>5</sup> This Act created “Child Support Enforcement Programs,” and it required any state that received federal welfare funds to create a single agency that would locate absent parents and establish and enforce child support obligations. Congress intended that Child Support Enforcement Programs created by the FSA work to (1) ensure that children are financially supported by both parents and (2) reduce public assistance expenditures. The federal Office of Child Support Enforcement (OCSE) was created as a division within the Administration for Children and Families, Department of Health and Human Services to administer this new program at the federal level.

1981 The Omnibus Budget and Reconciliation Act of 1981<sup>6</sup> amended Title IV-D of the Social Security Act. Among the provisions it authorized the IRS to intercept federal income tax refunds of child support obligors; provided that child support obligations assigned to the state were no longer dischargeable in bankruptcy; and authorized states to withhold a portion of unemployment benefits from child support obligors.

1984 Congress enacted the Child Support Enforcement Amendments of 1984,<sup>7</sup> requiring states to use mandatory wage withholding; expedited processes (either an administrative process or court referee/court master system) to establish and enforce support orders; interception of state income tax refunds for child support debts; liens against real and

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<sup>4</sup> 9A U.L.A. §27.

<sup>5</sup> Pub. L. 93-647.

<sup>6</sup> Pub. L. 97-35.

<sup>7</sup> Pub. L. 98-378, 98 Stat. 1305.

personal property; consumer credit reporting of child support information; and establishment of paternity until age eighteen.

1986 The Omnibus Budget Reconciliation Act of 1986<sup>8</sup> required states to provide that each child support payment is a judgment by operation of law entitled to full faith and credit as a judgment.

1988 The Family Support Act of 1988<sup>9</sup> made additional changes to the welfare program, to include requiring immediate wage withholding for child support orders issued or modified after November 1, 1990, unless there is good cause or written agreement; mandating the use of child support guidelines; requiring periodic review and adjustment of child support orders; setting program standards and time frames for completing actions; and requiring the development of automated child support systems.

1992 The Deadbeat Parents Punishment Act,<sup>10</sup> a federal criminal statute, was passed in 1992 to address nonpayment of child support in interstate child support cases.<sup>11</sup> A 1998 amendment provided that the Act was to be cited as the Deadbeat Parents Punishment Act of 1998. A case may become a federal offense under the Deadbeat Parents Punishment Act if it can be shown that a noncustodial parent willfully failed to pay a past-due support obligation, with respect to a child residing in another state.

1993 The Omnibus Reconciliation Act of 1993<sup>12</sup> set new paternity establishment performance standards for state child support enforcement programs on the basis of a revised paternity establishment percentage; specified additional procedures for use under state laws to improve the effectiveness of child support enforcement, such as a simple civil process for

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<sup>8</sup> Pub. L. 99-509.

<sup>9</sup> Pub. L. 100-485, 102 Stat. 2343.

<sup>10</sup> Pub. L. 105-187, 112 Stat. 618.

<sup>11</sup> Pub. L. 102-521, 106 Stat. 3403, 18 U.S.C. §228.

voluntarily acknowledging paternity; and required insurers to enroll children in health insurance programs without restrictions for children born out of wedlock or for those who do not reside with the insured.

- 1993 The Uniform Interstate Family Support Act (UIFSA)<sup>13</sup> was approved by the American Bar Association in 1993. The Act replaces RURESAs and introduces the concepts of one child support order and continuing exclusive jurisdiction. The Act was amended in 1996 and again in 2001. Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, required all jurisdictions to enact UIFSA.<sup>14</sup>
- 1994 Congress passed the Full Faith and Credit for Child Support Orders Act (FFCCSOA)<sup>15</sup> to address inequities in interstate child support enforcement. Often when child support obligors relocated to other states, new orders were entered or the existing order modified without notice or regard to jurisdiction. FFCCSOA established national standards for states to determine jurisdiction to issue and modify child support orders.
- 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),<sup>16</sup> which is sometimes referred to as “welfare reform.” This amendment substantially increased each state’s child support enforcement responsibilities and powers. The Act not only included child support enforcement legislation to enhance enforcement efforts,<sup>17</sup> it eliminated welfare (AFDC) as it had been known since 1935. PRWORA required states to establish a New Hire Directory, a State Disbursement Unit for collection and distribution of child support payments, and a State Case Registry to

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<sup>12</sup> Pub. L. 103-66.

<sup>13</sup> 9 U.L.A. 255 (Supp. 1996).

<sup>14</sup> 42 U.S.C. §666(f).

<sup>15</sup> Pub. L. 103-383, 108 Stat. 4063, 28 U.S.C. §1738Bb(1994).

<sup>16</sup> Pub. L. 104-193.

collect and report basic case information to a Federal Case Registry. PRWORA replaced AFDC with Temporary Assistance for Needy Families (TANF), restricted the length of time individuals could receive TANF, and also required TANF recipients to return to the work force within a designated period of time. Furthermore, PRWORA established a direct correlation between the amount of federal funds a state receives for its needy families and the state's performance in child support enforcement.

Under PRWORA, all states receive a block grant to fund the TANF programs. To be eligible for a TANF block grant, a state must operate a child support enforcement program meeting federal requirements. Also, states can receive additional incentive funding<sup>18</sup> depending upon their collections and performance levels in five measured areas: paternity establishment, support order establishment, collections on current support, collections on past-due support (arrearages), and cost-effectiveness. Federal law not only requires that a child support enforcement program use the establishment and enforcement procedures discussed in this chapter, it also requires that the program's computer system automate these procedures in order to maintain eligibility for the block grants that fund family assistance programs. Failures in child support enforcement performance may result in reductions to both the TANF grants and the incentive payments.

1998 The Child Support Performance and Incentive Act of 1998<sup>19</sup> provides for incentive payments to states based upon performance in paternity establishment, order establishment, and enforcement. It prescribes alternative penalties for states that do not

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<sup>17</sup> Enforcement includes locate services, paternity establishment, child support order establishment and enforcement, medical support order establishment and enforcement, support collection, and review and modification.

<sup>18</sup> See also the Child Support Performance and Incentive Act of 1998, Pub. L. 105-200.

<sup>19</sup> Pub. L. 105-200.

have certified automated systems, but have an approved corrective compliance plan. It provides for a National Medical Support Notice (NMSN) to be issued to enroll children in health insurance coverage. It amends the Employee Retirement Income Security Act of 1974 (ERISA) to declare the NMSN a qualified medical child support order with which a plan administrator must comply.<sup>20</sup>

2005 The Deficit Reduction Act of 2005 (DRA) contained several key provisions:

- Funding: It prohibits states from using federal funds earned through incentive grants towards their federal match (effective October 1, 2007). Starting October 1, 2006, it decreases the match rates for paternity lab tests from 90% down to 66%.
- Fee: It institutes a mandatory fee of \$25 after the state has collected at least \$500 of support for families who have never received TANF assistance (effective October 1, 2006).
- Assignment: It stipulates that assignment covers only child support accrued during the period that the family receives TANF; provides a state option to discontinue pre-1997 support assignments and hence distribute those amounts collected to the family; and provides a state option to discontinue post-1997 assignments.
- Distribution: It maintains that any collections to present TANF recipients are distributed by paying the federal government the federal share (starting in FY2009 can pass through federal share up to \$100 per month, or \$200 for family with two or more children); retaining or paying to the family the state's share of the amount collected while on assistance; or paying to the family the remaining amount. It adds a provision for a state option to pay all current support collections to former TANF

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<sup>20</sup> 29 U.S.C. § 1167.

families without paying the federal government share, as long as the amount collected does not exceed the current support amount. For arrearages that exceed the current support amount, the state shall:

- first pay family excess amount necessary to satisfy support arrearages;
  - then pay the federal government share;
  - then retain the state share or pay it to the family; and
  - then pay the family the remaining amount.
- Review and Adjustment: The DRA adds provisions requiring states to review and adjust child support orders in TANF cases every three years.
  - Passport Denial: It lowers the amount of past-due child support, from \$5,000 to \$2,500, which triggers the denial, revocation, restriction, and limitation of a noncustodial parent's passport (effective October 1, 2006).
  - Federal Tax Refund Offset: It authorizes the use of a federal income tax refund offset program to collect arrearages on behalf of children who are no longer minors (effective October 1, 2007).
  - Technical: Its federal contribution provisions amend the amount used for technical assistance from 1% of the federal share of support collected to 1% of the federal share or the amount appropriated for FY2002, whichever is greater.
  - Federal Parent Locator Service: It amends funding for the Federal Parent Locator Service (FPLS) from 2% of the federal share of support collected to 2% of the federal share or the amount appropriated for FY2002, whichever is greater, thereby freezing funds for service at FY2002 levels. DRA provisions authorize the Department of Health and Human Services to use the FPLS to compare information of noncustodial

- Interstate: It adds provisions for state reimbursement of federal costs and the ability for a state to assist other states in collecting child support in interstate cases where automated systems cannot use a high-volume automated administrative enforcement service.
- Medical Support: It requires medical support be provided by either or both parents; authorizes state IV-D programs to enforce medical support provisions; and clarifies that medical support can include, but not be limited to, health coverage, premiums, co-pays, and out-of-pocket expenditures to pay medical expenses.

### State

1975 On August 1, 1975, Oklahoma started its IV-D Child Support Program, the Child Support Enforcement Division (CSED), now known as Oklahoma Child Support Services (OCSS), under the Oklahoma Department of Institutions, Social and Rehabilitative Services, now known as the Oklahoma Department of Human Services. The department was implemented by staff in the following units: Child Support Enforcement, Special Services, Assistance Payments, Management Information, Finance and Research and Statistics. Establishment and enforcement for all cases operated out of the state office. Collections from January – March, 1976 were \$141,428 for 998 active public assistance cases and \$21,986 for 130 non public assistance cases.



- 1976 Throughout the late 1970's, the Oklahoma IV-D Child Support Program set up district offices throughout the state through contracts with District Attorneys. The Claremore District Child Support Office was the first District Attorney contract office.
- 1977 Oklahoma enacted laws in Title 56 which enabled the Oklahoma IV-D Child Support Program to operate and outlined their authority and general procedures.
- 1980 On February 1, 1980, the Fairview District Child Support Office opened as the first office operated under the Oklahoma Department of Human Services serving thirteen counties in the western part of the state. Other Oklahoma Department of Human Services offices opened later in the 1980's when the District Attorney contractor gave up the contract: Oklahoma County, Chickasha, and Lawton.
- 1988 Oklahoma enacted the Child Support Guidelines and Schedule of Basic Child Support Obligations following the income shares model. The Oklahoma Child Support Program was given the authority to prepare the Child Support Computation form to be published by the Administrative Office of the Courts.
- 1991 OCSS developed an automated statewide case management computer system known as the Oklahoma Support Information System (OSIS).
- 1992 Oklahoma enacted a law stating that attorneys employed by or contracting with the Department of Human Services for the child support program represent the state and not the interest of any other party. The Oklahoma Department of Human Services Office of Administrative Hearings began operating.
- 1994 Oklahoma enacted an administrative paternity law for paternity and child support orders to be established in the Oklahoma Department of Human Services Office of Administrative Hearings.

- 1995 The Oklahoma County Child Support Office split into the North and South Oklahoma City Child Support Offices and in 1996 the North Office moved to another location - the Kelley Building. Oklahoma enacted a law for an obligor's license (driver's, professional, recreational) to be suspended or revoked for noncompliance with a child support order. Oklahoma enacted the law which authorized any past due payment of child support to be a judgment and lien by operation of law against any real and personal property of the obligor.
- 1996 The South Oklahoma City Child Support Office split into two offices and the Midwest City Child Support Office moved out to office space in the Midwest City DHS County building. Oklahoma entered into a partnership with the Chickasaw Nation which established the Chickasaw Nation Department of Child Support Services to provide child support services to Indian children.
- 1997 Oklahoma enacted the financial institution data match law requiring financial institutions to match the Oklahoma Child Support Program and authorizing a levy to be issued for each matched account.
- 1998 The Tulsa Child Support Office split into the Tulsa East and Tulsa West Child Support Offices and in March, 1999, the Tulsa East Child Support completed their move to their new location. Oklahoma enacted the mandatory wage withholding law requiring the court to order income assignments in all cases, and not just when the obligor is delinquent in paying child support. Oklahoma enacted the annual notice law authorizing a notice to be sent to obligors every twelve months; this notice confirms the amount of current child support and amount of the arrearage if the neither obligor nor the obligee

contest and informs the obligor of the enforcement remedies occurring for non payment of child support.

2000 The Fairview Child Support Office split into the Fairview and Woodward/Guymon Child Support Offices. Oklahoma's Centralized Support Registry began operating for both IV-D and then non IV-D cases and Oklahoma amended the law requiring that employers send income assignment payments to this Registry in all child support cases in Oklahoma paying by income assignment.

Oklahoma amended the Child Support Guidelines and increased the Schedule of Basic Child Support Obligations.

2001 CSED opened the Customer Assistance Response Effort (CARE) Call Center to respond to customer questions over the phone and mail applications and basic information to customers. Complex questions are referred to the district office staff for timely responses.

2005 Oklahoma enacted a law authorizing child support offset of Oklahoma Lottery winnings and a law clarifying time frames and procedures for establishment of paternity and child support in a deprived (child welfare) case, either by the district court or by deferring to the administrative court.

Oklahoma Department of Human Services (OKDHS) established the Oklahoma County Juvenile Court Child Support Office for the purpose of reducing the length of stay of juveniles in foster care. This was the only child support office in the nation dedicated exclusively to locating parents of deprived children, establishing paternity and establishing and enforcing child support orders for deprived children in the juvenile court.

- 2006 Oklahoma adopted the Oklahoma Uniform Parentage Act which clarifies procedures for establishing and challenging paternity establishments, extended the duration of child support from 19 years to 20 years when the child is enrolled and attending high school or an alternative high school education program, and amended the necessary party statute to require notice to OKDHS Child Support Enforcement Division (CSED) whenever CSED is providing services, not just in TANF and Medicaid cases for CSED approval of child support orders. CSED was first in the nation in the federal Paternity Establishment Performance Measure based on the number of paternities established by Acknowledgment of Paternity and court orders compared to the number of out of wedlock births in Oklahoma.
- 2007 Oklahoma enacted a new law mandating a child support match before payment of workers' compensation, personal injury, or wrongful death benefits exceeding \$600.00; it also amended the income withholding law, setting out withholding prioritization for employers when an NCP has insufficient income to pay current support, arrears, and medical costs. Oklahoma entered into a partnership with the Cherokee and Osage Nations to provide child support services to Indian children within these nations' tribal courts' jurisdiction. For the second year, CSED was first in the nation in the federal Paternity Establishment Performance Measure based on the number of paternities established by Acknowledgment of Paternity and court orders compared to the number of out of wedlock births in Oklahoma. CSED was third in the nation in the percentage increase in total distributed collections of 8.98% from \$224 million in federal fiscal year (FFY) 2006 to \$244 million in FFY 2007.

Due to the success of the Oklahoma County Juvenile Court Child Support Office, OKDHS established the Tulsa County Juvenile Court child support process as part of the Tulsa East Child Support Office. This initiative is dedicated exclusively to locating parents of deprived children, establishing paternity and establishing and enforcing child support orders for deprived children in the Tulsa County juvenile court.

2008 CSED opened the Employer Services Center to process all employer issues (new hire reporting, income assignments, and medical insurance enrollments for dependent children) and provide more employer outreach. CSED expanded the state-tribal partnerships to work with the Ponca Tribe and the Modoc, Muscogee Creek, Comanche, and Kaw Nations to provide child support services to Indian children within these nations' tribal courts' jurisdiction. CSED's Customer Assistance Response Effort (CARE) Call Center responds to an average of 43,000 calls per month and representatives resolve 89% of the calls, referring the others to district offices for response. 203,389 calls going through the Interactive Voice Response (IVR) system which provides payment information.

2009 The Child Support Enforcement Division (CSED) changed its name to Oklahoma Child Support Services (OCSS), which better represents the department's mission and the services it provides.

Oklahoma amended the Child Support Guidelines law to be in compliance with federal law, requiring states to have laws establishing meaningful medical support orders for children and have a hierarchy in place for a court to order health care coverage for the child. This amendment also set up a process for a cash medical support order. The amended guidelines law also created definitions and amended the income section

including imputing income, self-employment income and a calculation method when there are Social Security Disability Benefits. Also amended were the computation for allowing credit for other children, parenting time adjustment and deviations. The Child Support Guideline Schedule of Basic Child Support Obligations was not adjusted from its year 2000 dollar amounts.