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**CHILD SUPPORT**

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**CHILD SUPPORT PROGRAM OVERVIEW**

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**CHILD SUPPORT PROGRAM PURPOSE**

**0700.05**

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REV:07/1994

Authority for states to administer a Child Support Enforcement Program is vested in part D of title IV of the Social Security Act. Because of its enactment under this part, the program is commonly referred to as the IV-D program. Section 451 of the Social Security Act identifies the purpose of the IV-D program as follows:

For the purpose of enforcing the support obligations owed by absent parents to their children and the spouse (or former spouse) with whom such children are living, locating absent parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested...

Thus, the goal of the IV-D program is to insure that parents assume their rightful obligation to support their children.

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**FEDERAL LEGISLATION**

**0700.10**

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REV:07/1994

In 1975, having concluded that preliminary Federal child support efforts did not go far enough in reducing welfare caseloads and attending costs, Congress added Part D to Title IV of the Social Security Act, thereby creating the Child Support Enforcement Program. The passage of this landmark legislation (P.L. 93-647) significantly increased Federal intervention in state child support activities by:

- o Requiring that all states establish a separate organizational unit to operate a IV-D program;
- o Directing states to operate their programs in accordance with a state plan covering both welfare recipients and those others who apply directly for child support services;
- o Creating a Federal Parent Locator Service, with access to Federal agency files;
- o Establishing procedures for distribution of child support collections received on behalf of AFDC recipients;

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- o Providing for incentive payments to states for collections made on AFDC cases;
- o Sharing heavily in the administrative costs of states' programs through a Federal matching rate of 75 percent;
- o Permitting garnishment of Federal employee's wages for purposes of collecting of child support; and
- o Adding specific requirements to AFDC eligibility mandating: (1) every applicant to assign rights to support to the state; (2) the custodial parent's cooperation in establishing paternity and securing support; and (3) the absent parent's social security number be furnished to the state.

**0700.10.05**

**Omnibus Reconciliation Act of 1981**

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REV:07/1994

Since its inception, the scope and authority of the Child Support Enforcement, or IV-D, Program has been expanded and strengthened by Congress numerous times. Most noteworthy are amendments enacted in 1981, 1984, and again in 1988. Key provisions are summarized below.

The Omnibus Reconciliation Act of 1981 (P.L. 97-35), among other things, created the Federal income tax offset program for collection of delinquent AFDC child support obligations, permitted states to collect ordered spousal support for AFDC families, barred child support obligation due the state from being discharged in bankruptcy proceedings, and mandated that states withhold a portion of any unemployment benefits from absent parents delinquent in their support payments.

**0700.10.10**

**Child Support Enforcement Amendments 1984**

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REV:07/1994

The landmark Child Support Enforcement Amendments of 1984 (P.L. 98-378) contained the most sweeping reform of the program since 1975. Of note:

- o The law established mandatory enforcement remedies including: income withholding, state income tax

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interceptions, and use of liens against both real and personal property;

- o The provisions of the law encouraged the reporting of information relating to support delinquencies to consumer credit agencies;
- o The use of administrative or quasi-judicial officers was required for establishing and enforcing support orders through expedited process;
- o State law must permit the bringing of a paternity action any time prior to a child's eighteenth birthday;
- o The program's funding structure was dramatically altered to reduce Federal matching dollars and, for the first time, to pay incentives for non-AFDC collections. Incentive payments were also modified in accordance with a sliding scale to encourage high performance, cost-effective program administration;
- o The law mandated improved interstate enforcement activities, where both states involved in an interstate situation were allowed to take credit for the collection;
- o The development of state guidelines was mandated for the consideration of courts and administrative agencies in deriving and setting support awards;
- o Decisive steps were taken to insure equal service provision to welfare and non-AFDC families, alike;
- o Collection services were also expanded to include ordered spousal support in families where child support was already being enforced, and to children receiving foster care maintenance payments under Title IV-E of the Social Security Act. Moreover, states were required to seek medical support as part of the support order; and
- o States were also required to actively publicize their IV-D program services.

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**0700.10.15**

**Family Support Act of 1988**

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REV:07/1994

With a major emphasis on self-sufficiency, the Family Support Act of 1988 (P.L. 100-485) once again considerably strengthened many provisions of existing law. Highlights include:

- o Wage withholding became mandatory for all new and modified IV-D orders, with few exceptions, irrespective of arrearages. Moreover, immediate wage withholding provisions also apply to all support cases in a state, beginning January 1994;
- o The advisory nature of guidelines was replaced by a requirement that they be uniformly applied as a rebuttable presumption in setting awards. Also, guidelines must now be reviewed at least once every four years to insure their appropriateness;
- o Effective October 1990, existing IV-D orders must be reviewed in accordance with the state's guidelines every three years;
- o Major requirements were placed on the states to improve paternity case processing. For the first time, performance standards were defined for paternity establishments. Genetic testing also became a requirement for all parties in a contested paternity action. Finally, states were encouraged to implement a simple civil process for establishing paternity when acknowledged by a father, and a civil procedure for contested matters; and
- o In order to make the IV-D program more responsive to individuals and other states and jurisdictions, Congress required the Secretary of HHS to implement standards for prompt state response in establishing or enforcing support; including location, paternity activities, and distribution of collections.

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**PROGRAM ADMINISTRATION**

**0700.15**

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REV:07/1994

The Child Support Enforcement program is administered by the Federal government and the State of Rhode Island.

**Federal Oversight**

**0700.15.05**

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REV:07/1994

Federal stewardship of the IV-D program is vested in the Office of Child Support Enforcement (OCSE), an agency of the Family Support Administration (FSA) which serves as one of six major operating components within the U.S. Department of Health and Human Services (HHS). In supervising the administration of the program by the states, the OCSE has the following responsibilities:

- o Development and issuance of program regulations and policy;
- o Operation and maintenance of the Federal Parent Locator Service (FPLS), an automated system with linkages to most Federal databases including: the Internal Revenue Service, Social Security Administration, Selective Service System, Department of Defense, Veterans Administration, National Personnel Records Center, and the Labor Department's INTERNET system. The FPLS is used to assist states in locating absent parents;
- o Issuance of publications, information and other materials (including an annual report to Congress) concerning matters of importance to the child support community, as well as to the public at-large;
- o Authorization of research and demonstration projects to test new approaches and otherwise improve the efficiency and/or effectiveness of child support enforcement program operations;
- o Provision of training to state and local IV-D personnel;
- o Oversight, technical assistance and program evaluation of state and local programs;
- o Certification authority for state requests to use the IRS collection of overdue support mechanism, and the Federal

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courts in interstate matters; and

- o Approval of state claims for Federal Financial Participation and automated systems development.

**0700.15.10**

**State Administration**

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REV:02/1997

In Rhode Island, the child support enforcement program is managed by the Division of Taxation - Child Support Enforcement. The revenue collection functions of the Department of Human Services (DHS) were transferred to the Department of Administration, Division of Taxation pursuant to Article 12, Chapter 100 of the 1996 R.I. Public Laws. Any reference to the Department of Human Services, the Rhode Island Child Support Services (RICSS) agency, and Bureau of Family Support in reference to child support services in this and other DHS manuals shall be construed to refer to the Department of Administration, Division of Taxation - Child Support Enforcement except as may be required by context.

The following child support enforcement services are provided:

- o Intake for both public assistance and non-public assistance cases;
- o Location of the absent parent;
- o Establishment of paternity;
- o Establishment of an order for support;
- o Enforcement of the order;
- o Review and modification of the order; and
- o Collection and disbursement.

**0700.20**

**CONFIDENTIALITY**

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REV:07/1994

The RICSS Agent will have access to information regarding both the custodial parents and absent parents. This information must be held and used according to the policy outlined in this Section.

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**Confidentiality Regarding Custodial Parents**

**0700.20.05**

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REV:07/1995

As provided for in the Social Security Act and under State statute, the use or disclosure of information concerning applicants or recipients of support enforcement services is limited to purposes directly connected with:

- o The administration of the plans or programs approved under parts A, B, D, E or F of Title IV or under Titles I, X, XIV, XVI, XIX, or XX of the Social Security Act;
- o Any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the child support plan or program; and
- o The administration of any other Federal or federally assisted program that provides assistance, in cash or in-kind, or services, directly to individuals on the basis of need.
- o Reporting to the Department of Children, Youth and Families (DCYF) and/or an agency or official specifically authorized by law to receive such information, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances that indicate that the child's health or welfare is threatened thereby.

These safeguards also prohibit disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name or address any such applicant or recipient.

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**Confidentiality of Federal Parent Locator**

**0700.20.10**

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REV:07/1994

Any information obtained through the Federal Parent Locator Service shall be treated as confidential and shall be safeguarded as outlined in Section 0700.20.05.

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**0700.20.15                      Confidentiality of Paternity Establishment**

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REV:07/1994

In proceedings to establish paternity, RICSS must exercise discretion. All matters relating to paternity establishment should proceed in the strictest of confidence after a prudent assessment of all case information available.

The RICSS Agent may discuss a paternity case only with the custodial parent or the putative father. If a call is received from a third party (someone other than the mother or putative father) the Agent is limited to discussing only the general policy and procedures regarding paternity establishment.

**0700.20.20                      Confidentiality Regarding Absent Parents**

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REV:07/1994

Through the many databases accessed by both the State Parent Locator Service (SPLS) and the Federal Parent Locator Service (FPLS), RICSS employees have available a considerable amount of personal information on absent parents. This information must only be accessed for those absent parents whose child(ren)/families are participating in the IV-D program by virtue of either an assignment or application. In no instance, may information gained by RICSS agency be disclosed for purposes other than the administration of the IV-D program, e.g., for location, establishing paternity and support, or enforcement of an existing order.

The Social Security Act is explicit in restricting the disclosure of information to only authorized individuals defined as:

- o Any agent or attorney of any state having an approved IV-D plan, who has the duty or authority under the plan to seek to recover any amounts owed as child and spousal support;
- o The court, or an agent of the court, which has authority to issue an order against an absent parent for the support and maintenance of a child; and
- o The resident parent, legal guardian, attorney, or agent of a non-AFDC child without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.



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**TYPES OF CHILD SUPPORT CASES**

**SECTION 0702**

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**FIP CHILD SUPPORT CASES**

**0702.05**

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REV:07/1999

Title IV, Part A of the Social Security Act provides funding to states to pay cash assistance benefits to needy families with children. This program, known as Temporary Assistance to Needy Families, is commonly referred to as TANF. Rhode Island's TANF program is called the Family Independence Program, or FIP. For every child for whom FIP (Title IV-A) benefits are paid because of a parent's absence from the home, the State must establish a child support case and pursue collection of support, unless a claim of good cause for non-cooperation is substantiated (see Section 0704.25). These cases include those in which the parents were never married, or were married but are now separated or divorced, and cases where the child(ren) is/are living with a non-parent caretaker relative who is receiving FIP in the child's behalf.

Both Federal and Rhode Island laws require the custodial FIP parent to assign to the State any rights to support from any other person in behalf of the custodial parent or in behalf of any other member of the FIP family unit. In Rhode Island, this assignment of support operates by virtue of State law, and also by virtue of a signed FIP application which includes assignment of rights provisions, whenever FIP public assistance benefits are furnished. See Section 0704.15 of this Manual for additional references to the assignment of rights.

As a condition of eligibility for assistance under Federal Title IV-A of the Act, a member of the family must assign to the State any rights a family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance paid to the family which accrue (or have accrued) before the family leaves the program.

This Federal law further provides that:

1. For an assignment effective prior to October 1, 1998, the applicant assigns to the State all rights to support which have previously accrued and which will accrue prior to the family leaving FIP assistance.
2. For an assignment effective on or after October 1, 1998, the applicant assigns to the State all rights to support which

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will accrue while the family is receiving assistance, and the applicant temporarily assigns to the State all rights to support which accrued prior to the family receiving assistance, until the family leaves assistance, up to the amount of unreimbursed assistance.

3. The cumulative amount of assigned arrearages in former assistance cases may not exceed the cumulative amount of unreimbursed assistance paid to the family under all assignments.
4. A State may not require, as a condition of providing assistance to any family, that a member of the family assign to the State any rights to support which will accrue after the date the family leaves the FIP Program.

The distribution of child support collected by the State is further clarified In Section 0728.35.

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**0702.10** **NA CHILD SUPPORT CASES**

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REV:01/2002

The Division of Taxation - Child Support Enforcement provides child support enforcement services to individuals who are not receiving FIP, Medical Assistance (MA), or IV-E Foster Care. These services may be continued upon the termination of a FIP case or provided upon the request of a custodial parent.

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**0702.10.05** **NA Cases Without Prior AFDC/FIP**

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REV:01/2002

Title IV, Part D of the Social Security Act provides funding to states to operate a child support enforcement program. Section 454 of the Act provides that the State must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving FIP who files an application for the services with the IV-D agency. These cases are frequently referred to as Non-public assistance or NA and represent families from the general public who choose to access the IV-D agency for services in lieu of retaining private counsel. In Rhode Island, these NA families are charged a twenty-dollar (\$20.00) application fee. Other states may charge an application fee, as well, but in no case may the fee exceed twenty-five dollars

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Federal and State law does not require the custodial non-FIP parent to assign to the State any rights to support from any other person on behalf of the custodial parent.

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**NA Cases With Prior AFDC/FIP**

**0702.10.10**

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REV:01/2002

When an FIP or Medical Assistance Only (MAO) case is closed, child support enforcement services are continued unless the custodial parent requests, in writing, that they be terminated. These cases differ from NA cases without prior AFDC/FIP in two (2) ways:

- o Services are provided automatically without an application fee; and
- o Arrears accrued subsequent to the time a FIP case is closed and owed to the custodial parent cannot be collected until after arrears owed to the State under the assignment have been collected unless otherwise ordered by the court.

When a family ceases receiving assistance under the state's IV-A plan, the assignment of support rights terminates except with respect to the amount of any unpaid support obligation that has accrued under such assignment.

Priority first shall be given to collection of current support and shall be paid to the family. Second, any arrearage due the state for the period of time the family was receiving assistance shall be paid, and third, any arrearages accruing subsequent to the time a FIP case is closed shall be paid.

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**FOSTER CARE CHILD SUPPORT CASES**

**0702.15**

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REV:01/2002

Title IV, Part E of the Social Security Act provides funding to states to operate foster care and transitional independent living programs for children who would otherwise qualify for FIP benefits. In addition, when children are removed from their home and placed in foster care the Act requires that all steps be taken to secure an assignment to the state of any rights to

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support on behalf of each child receiving foster care maintenance payments under IV-E. As with FIP, the assignment of rights to support in a IV-E foster care case is automatic by operation of state law in Rhode Island. The IV-E foster care program in Rhode Island is administered by the Department of Children, Youth and Families (DCYF). The Division of Taxation - Child Support Enforcement is responsible, therefore, for the establishment and enforcement of support orders from either or both parents of IV-E foster care children.

**0702.20**

**MEDICAL ASSISTANCE CHILD SUPPORT CASES**

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REV:01/2002

Title XIX of the Social Security Act provides funding to states to operate medical assistance programs for indigent families with children and other specified individuals. This program is commonly referred to as Medical Assistance. In addition, the Act requires that all steps be taken to secure an assignment to the state of any rights to medical support on behalf of each child receiving Medical Assistance services and payments under Title XIX. As with FIP and IV-E foster care, the assignment of rights to support in a Medical Assistance case is automatic by operation of state law in Rhode Island. Division of Taxation - Child Support Enforcement is responsible, therefore, for the establishment and enforcement of orders for medical coverage from absent parents of Medical Assistance children.

In FIP cases, children are automatically eligible for Medical Assistance. In non-public assistance (NA) cases, children may be eligible based on the income level of the family. However, if medical coverage is available to the dependent child(ren) through the absent parent, then the medical provider is expected to pay for necessary services first or reimburse the Medical Assistance agency for services rendered. Thus, the Division of Taxation - Child Support Enforcement must:

- o Determine whether the absent parent has a health insurance policy or plan that covers the child(ren) on the assignment;
- o Obtain sufficient information about the health insurance policy or plan to permit the filing of a claim with the insurer;
- o File a claim with the insurer or transmit the necessary

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information to either the Medical Assistance agency or the appropriate State agency or fiscal agent for the filing of the claim or require the absent parent to file a claim;

- o Advise the FIP recipient whenever possible to utilize the absent parent's medical coverage;
- o Secure health insurance coverage through court; and
- o Take direct action against the absent parent to recover amounts necessary to reimburse medical assistance payments when the absent parent does not have health insurance.

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**INTERSTATE CHILD SUPPORT CASES**

**0702.25**

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REV:07/1994

The cases described in this section may also occur in interstate case situations. In general, an interstate case is one in which one of the parties resides in Rhode Island and the other resides out of State; or another State has a legal interest in the establishment and enforcement of support. Additionally, there are two categories of interstate cases:

- o Responding -- where the absent parent resides, is employed or has resources in Rhode Island and the child(ren) live out of state; or
- o Initiating -- where the child(ren) reside in Rhode Island and the absent parent resides, is employed or has resources in another state.



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**CSE/FIP CASE PROCESSING**

**SECTION 0704**

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**FIP AGENCY RESPONSIBILITIES**

**0704.05**

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REV:01/2002

Child support enforcement is a cooperative effort between the FIP agency and the Division of Taxation - Child Support Enforcement. The FIP agency provides the Division of Taxation - Child Support Enforcement with the initial referral and updates information regarding the custodial parent, loco parentis, child(ren), and absent parent. The FIP agency also will act upon information from the Division of Taxation - Child Support Enforcement which affects the custodial parent's FIP eligibility. Upon receiving the initial referral, the Division of Taxation - Child Support Enforcement will conduct investigations and pursue child support collections for reimbursement of public assistance. The Division of Taxation - Child Support Enforcement will send updates to the FIP agency regarding the custodial parent, child(ren) and absent parent as applicable.

The FIP Eligibility Technician is responsible for:

- o Interviewing applicants for public assistance;
- o Determining initial and continued eligibility for assistance;
- o Explaining the assignment of support rights;
- o Assisting the applicant in completing the DHS-2 accurately. This will provide the Division of Taxation - Child Support Enforcement with information regarding the absent parent;
- o Explaining to applicants that they will be required to cooperate with Division of Taxation - Child Support Enforcement in the child support effort if the application for assistance is approved;
- o Explaining good cause for non-cooperation to applicants and, when a claim for good cause is made, making the final determination as to whether good cause for non-cooperation exists;
- o Notifying the Division of Taxation - Child Support Enforcement of any changes or new information which may affect the child support enforcement case; and

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- o Enforcing eligibility requirements, upon receiving notices from Division of Taxation - Child Support Enforcement of a recipient's failure to cooperate.

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**0704.10 CSE AGENCY RESPONSIBILITIES**

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REV:01/2002

Within five (5) working days of receiving a referral from the FIP agency, the FIP recipient is provided with an explanation regarding:

- o Child support services;
- o His/her rights and responsibilities; and
- o The State's fees, cost recovery, and distribution policies.

Within twenty (20) calendar days of receiving a referral from the FIP agency, the Division of Taxation - Child Support Enforcement establishes a child support case by a system interface with the FIP agency. Within that time the Division of Taxation - Child Support Enforcement will, based on an assessment of the case to determine necessary action, solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, when appropriate. Also, when there is inadequate location information with which to proceed, request additional information or pursue further location attempts where appropriate.

The Division of Taxation - Child Support Enforcement will:

- o Locate absent parents;
- o Establish paternity;
- o Establish orders for support and medical support;
- o Enforce orders; and
- o Continue IV-D services when a family ceases to receive assistance.



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**RICSS/AFDC CASE PROCESSING**

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**ASSIGNMENT OF SUPPORT RIGHTS**

**0704.15**

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REV:12/2002

An applicant for or recipient of cash assistance for and on behalf of herself or himself and for and on behalf of a child(ren) or children, shall be deemed, without the necessity of signing any document other than the DHS-2 Statement of Need, to have made an assignment to the Department of Human Services pursuant to Rhode Island General Laws, Section 40-6-9 against any parent failing to or obligated to provide for the support and maintenance of any minor child(ren) for the period of time that assistance is being paid by the Department.

Additionally, the Department of Administration, Division of Taxation - Child Support Enforcement is authorized to perform the act of instituting suit to establish paternity and/or to collect support for said child(ren) who receives or received assistance from DHS.

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**MONEY COVERED BY THE ASSIGNMENT**

**0704.20**

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REV:01/2002

Any money or payment received by an FIP custodial parent for the support of a child receiving assistance is covered by the assignment. This includes: collections of past-due support ordered by a court to be paid by an absent parent on behalf of children covered by the assignment, any maintenance (alimony, spousal support) ordered to be paid to an FIP recipient when ordered in conjunction with child support for children covered by the assignment, unreimbursed assistance (the total amount of public assistance paid to a family less any support paid and retained by the State), any voluntary cash contributions made to an FIP recipient for his/her support or the support of the children covered by the assignment and paid by the absent parent of the children, or by anyone on behalf of the absent parent.

Assigned monies also include any benefits, such as Social Security, Veterans' Benefits, and allotments or pensions, payable to the absent parent but specifically ordered by the court to be directed to the children on the assignment or to the FIP recipient on behalf of such children. Veteran's Benefits, military allotments, or pensions payable to an absent parent which (s)he agrees to redirect to the State to satisfy a support obligation for children covered by the assignment are also considered assigned monies. Often these benefits are forwarded

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**CSE/FIP CASE PROCESSING**

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directly to the custodial parent who must forward them to the Division of Taxation - Child Support Enforcement.

**0704.20.05**

**Unassigned Money**

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REV:01/2002

Not all income available to an FIP household will be covered by the assignment (i.e. unassigned). Such money may or may not be budgeted when determining the FIP grant. This includes the following: court-ordered or voluntary contributions for children not included on the assignment (e.g. children receiving Supplemental Security Income (SSI)), or child support paid in the form of goods or services, if ordered in the dissolution).

Unassigned money also includes maintenance for an FIP recipient when the court order is silent on child support or specifically states that there will be no child support for a cash or Medical Assistance eligible child.

Social Security Survivor's Benefits, Veterans' Benefits, and military allotments for children on the assignment when there is no existing court order are not to be assigned. These benefits will be budgeted when determining FIP eligibility and the Division of Taxation - Child Support Enforcement will attempt to establish an order for the amount of the benefit as current support.

If a marriage is viable (i.e., expected to be ongoing) and the absent parent is out of the home in a medical institution obtaining treatment or in training through Vocational Rehabilitation or Job Corps, any benefits paid to his/her child(ren) in the FIP payee's home are not considered child support. These benefits cannot be assigned unless an existing court order specifies they are to be paid as child support.

Gifts and/or cash contributions made directly to a child are not considered child support and cannot be considered as current support or payment towards an arrearage.

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**CUSTODIAL PARENT RESPONSIBILITIES**

**0704.25**

REV:01/2002

As a condition of eligibility for FIP, a recipient is required to assist/cooperate (unless good cause for refusing to cooperate is determined) with the Division of Taxation - Child Support Enforcement in:

- o Identifying and locating the absent parent;
- o Establishing paternity for children born out of wedlock;
- o Establishing orders for support and medical support;
- o Enforcing court orders and obtaining any other payments or property due the applicant, recipient or child; and
- o Identifying and providing information to assist the State in pursuing any third party, who may be liable to pay for care and services available under the State's plan for Medical Assistance, or assent to the lack of information under penalty of perjury.

Cooperation includes actions that are relevant to or necessary for the achievement of the objectives specified above. They include:

- o Appearing at an office of the Division of Taxation - Child Support Enforcement as necessary;
- o Appearing as a witness at judicial or other hearings;
- o Providing information, or attesting to the lack of information under penalty of perjury;
- o Paying, to the Division of Taxation - Child Support Enforcement, any support payment received directly from an absent parent after an assignment has been made (direct payments); and
- o Submitting to blood tests.

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**0704.25.05 Non-Cooperation**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will send a Client's Non-Cooperation letter from FORMS to notify the FIP Eligibility Technician (ET) when a custodial parent is not cooperating. The ET will determine whether non-cooperation is without good cause, and if so, the FIP agency will act by denying assistance to the caretaker relative without regard to other eligibility factors. In these cases, assistance may be provided to the eligible child(ren) without regards to the needs of the caretaker relative. The Division of Taxation - Child Support Enforcement agent will continue with the child support enforcement effort to the fullest extent possible without the cooperation of the custodial parent.

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**0704.25.10 Good Cause**

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REV:01/2002

An applicant or recipient of FIP may claim good cause for refusing to cooperate with the Division of Taxation - Child Support Enforcement. In claiming good cause, the applicant or recipient states that by cooperating with the Division of Taxation - Child Support Enforcement in the child support enforcement effort s/he would not be acting in the best interest of the child. That is, cooperation with the Division of Taxation - Child Support Enforcement would result in physical or emotional harm to the child or the applicant or recipient which would prevent him/her from being able to adequately care for the child.

Every applicant or recipient is given an opportunity to claim good cause for refusing to cooperate. An AP-35 is read by the applicant or recipient, explained by the Eligibility Technician and signed and dated, in duplicate, by each. The applicant or recipient retains a copy. The second copy is filed in the FIP case record. Good cause applies only to cooperation. The eligibility requirement regarding the assignment of support rights is not affected by a good cause determination.

If good cause is claimed, the applicant or recipient is advised that (s)he must state the basis of the claim and present corroborative evidence within twenty (20) days of the claim; or, (s)he must provide sufficient information to enable the investigation of the circumstance; or, provide sworn statements from individuals to support the claim as specified on the AP-35.

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**CHILD SUPPORT**

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**CSE/FIP CASE PROCESSING**

**SECTION 0704**

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The determination as to whether good cause does or does not exist should be made within thirty (30) days of the good cause claim unless the record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard. The final determination will come to the Division of Taxation - Child Support Enforcement agent via the APPD CASE panel.

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**COMMUNICATIONS WITH FIP STAFF**

**0704.30**

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REV:01/2002

The FIP Eligibility Technician and the Division of Taxation - Child Support Enforcement agent will notify each other of information pertaining to the FIP custodial parent, the absent parent, and their child support case. Information will be exchanged via the INRHODES MAIL function. Upon receiving a message from the FIP Eligibility Technician, the Division of Taxation - Child Support Enforcement agent will record the information as a message on (CONT)ACT.

The Division of Taxation - Child Support Enforcement agent will notify the FIP Eligibility Technician when:

- o The custodial parent fails to cooperate with the Division of Taxation - Child Support Enforcement;
- o The custodial parent is found to be living at an address which is different from the address at which (s)he receives assistance;
- o Paternity is established; and
- o The absent parent is found to be living with the applicant/recipient.



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**RHODE ISLAND DEPARTMENT OF HUMAN SERVICES MANUAL**

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**CHILD SUPPORT**

**CSE/NA CASE PROCESSING**

**SECTION 0706**

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**SERVICES PROVIDED**

**0706.05**

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REV:01/2002

The Division of Taxation - Child Support Enforcement provides the same child support enforcement services to families not receiving public assistance as it does to families receiving public assistance. Non-assistance (NA) cases are established automatically when a public assistance case is closed or upon receiving an application from a custodial parent who has requested services. Services will also be provided to putative fathers who request assistance in establishing paternity.

The Division of Taxation - Child Support Enforcement must provide applications for IV-D services to individuals on the same day a request is made in person or within five (5) working days of a written or phone request. Services are free for custodial parents whose AFDC/FIP cases were closed after October, 1985. For all others, including custodial parents whose AFDC cases were closed before October, 1985, the application fee is twenty dollars (\$20).

Applications are considered filed on the day the necessary forms (along with the application fee) are received by Division of Taxation - Child Support Enforcement. A case file must be opened within twenty (20) calendar days of the date the application was filed. This is done by establishing a case record (according to office procedures) and, based on an assessment of the case, deciding what action should be taken. Actions may include:

- o Obtaining necessary and relevant information from the custodial parent and other relevant sources;
- o Initiating verification of information, if appropriate;
- o Requesting additional location information, or referring the case for further location attempts if location information is inadequate;
- o Scheduling an applicant interview if needed.

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CHILD SUPPORT

SECTION 0706

CSE/NA CASE PROCESSING

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0706.10

NA APPLICATION PROCEDURES

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REV:01/2002

Custodial parents may request an NA application by calling or writing the Division of Taxation - Child Support Enforcement office. The date a request is received by either mail or phone should be recorded in a log book along with the name and address of the applicant. The application should be mailed out the same day the request is received.

When the application is returned to Division of Taxation - Child Support Enforcement it will be first reviewed by a clerk or secretary who will:

- o Record the date the application was received;
- o Determine whether the case is establishment, enforcement or interstate;
- o Forward the application to the appropriate unit supervisor.

The unit supervisor will:

- o Record the application in a non-welfare log. This log should note the date the application was received (all non-welfare applications should be time-stamped), the name of the agent to whom the application is being referred and the date of the referral.

The Division of Taxation - Child Support Enforcement agent will (within twenty calendar days of the date Division of Taxation - Child Support Enforcement received the application):

- o Establish a case record following office procedures;
- o Determine what actions must be taken;
- o Schedule an appointment with the applicant if needed.



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**CHILD SUPPORT**

**CSE/NA CASE PROCESSING**

**SECTION 0706**

**NA Application Interview**

**0706.10.05**

REV:01/2002

Whenever an agent interviews a new applicant for non-assistance (NA) services the agent will:

- o Provide the custodial parent with information regarding child support services, his/her rights and responsibilities, and the State's fees, cost recovery and distribution policies;
- o Discuss the types of services available and help the applicant in deciding the service needed: bookkeeping only, location only, or full service;
- o Provide assistance in completing the application if needed;
- o Obtain and clarify any information needed;
- o Advise the custodial parent that it is his/her responsibility to provide any legal documentation required such as a birth certificate or divorce decree;
- o Explain to applicants the range of services available to them and their right to reject any action they do not want taken.
- o Obtain the custodial parent's signature on any forms necessary to initiate action.
- o Enter the case information into the INRHODES system, if it has not already been done.

**CUSTODIAL PARENT RESPONSIBILITIES**

**0706.15**

REV:01/2002

The non-assistance (NA) custodial parent must cooperate with the Division of Taxation - Child Support Enforcement in the child support enforcement effort. Cooperation means helping in:

- o Locating the absent parent;
- o Establishing paternity and orders for support and;

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**CHILD SUPPORT**

**SECTION 0706**

**RICSS/NON-AFDC CASE PROCESSING**

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- o Collecting the support.

Actions include:

- o Keeping the Division of Taxation - Child Support Enforcement informed of his/her current address;
- o Appearing at an office of Division of Taxation - Child Support Enforcement when required;
- o Appearing as a witness at judicial or other hearings;
- o Providing information; and
- o Attesting to the lack of information, under penalty of perjury.

**0706.20**

**NA TO PUBLIC ASSISTANCE CASES**

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REV:01/2002

If an existing IV-D non-assistance (NA) custodial parent begins receiving FIP, the IV-A/IV-D interface will automatically switch the CASE TYPE from N (non-assistance) to A (FIP) upon initial approval of IV-A benefits. The case will appear on the agent's DAIL with a message regarding the case status change.

**0706.25**

**PUBLIC ASSISTANCE TO NA**

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REV:01/2002

When a custodial parent's FIP case is closed, the Division of Taxation - Child Support Enforcement continues IV-D services by opening a non-assistance (NA) case. INRHODES automatically opens the NA case by changing the case status type to N. A message will appear on the agent's DAIL advising of the change in case status. INRHODES will automatically send the custodial parent a letter informing her/him that child support services will continue unless a request is made in writing that these services are no longer wanted.

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**CHILD SUPPORT**

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**RICSS/FOSTER CARE CASE PROCESSING**

**SECTION 0708**

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**FOSTER CARE AGENCY RESPONSIBILITIES**

**0708.05**

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REV:07/1994

Where appropriate the Foster Care agency will take all steps including cooperative efforts to secure an assignment to the State of any rights to child support and medical support on behalf of each child receiving foster care maintenance payments.

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**CSE AGENCY RESPONSIBILITIES**

**0708.10**

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REV:01/2002

The RICSS agency will provide the same child support services for children receiving IV-D Foster Care benefits as in any other child support enforcement case.

Within 5 working days of receiving a referral from the DCYF, the custodial parent is provided with an explanation regarding:

- o Child support services;
- o His/her rights and responsibilities; and
- o The State's fees, cost recovery, and distribution policies.

Within 20 calendar days of receiving a referral from the DCYF, the RICSS agency establishes a child support case. Within that time, the RICSS agency will, based on an assessment of the case, determine necessary action, solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information when appropriate. Also, when there is inadequate location information with which to proceed, request additional information or pursue further location attempts where appropriate.

The RICSS agency will:

- o Locate absent parents;
- o Establish paternity;
- o Establish orders for support and medical support;
- o Enforce orders; and

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**CHILD SUPPORT**

**SECTION 0708**

**CSE/FOSTER CARE CASE PROCESSING**

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- o Continue IV-D services when a family ceases to receive assistance.

**0708.15**

**ASSIGNMENT AND REFERRAL**

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REV:07/1994

The assignment of support rights secured on behalf of a child receiving foster care maintenance payments shall constitute an obligation owed to the State by the individuals responsible for providing support. This obligation is collectible under all applicable State and local processes. The amount of the obligation will be either the amount specified in a court order which covers the assigned support rights, or if there is no court order, an amount determined by the State in accordance with a formula established by the State.

**0708.20**

**MONEY COVERED BY THE ASSIGNMENT**

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REV:01/2002

Any money or payment received by a custodial parent for the support of a child receiving assistance is covered by the assignment. This includes: current and past-due support ordered by a court to be paid by an absent parent on behalf of children covered by the assignment, any maintenance (alimony, spousal support) ordered to be paid to a recipient when ordered in conjunction with child support for children covered by the assignment, unreimbursed assistance (the total amount of public assistance paid to a family less any support paid and retained by the State), any voluntary cash contributions made to a recipient for his/her support or the support of the children covered by the assignment and paid by the absent parent of the children, or by anyone on behalf of the absent parent.

Assigned monies also include any benefits, such as Social Security, Veterans' Benefits, and allotments or pensions, payable to the absent parent but specifically ordered by the court to be directed to the children on the assignment or to the recipient on behalf of such children. Veteran's Benefits, military allotments, or pensions payable to an absent parent which (s)he agrees to redirect to the State to satisfy a support obligation for children covered by the assignment are also considered assigned monies. Often these benefits are forwarded directly to the custodial parent who must forward them to the Division of Taxation - Child Support Enforcement.

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CHILD SUPPORT

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RICSS/FOSTER CARE CASE PROCESSING

SECTION 0708

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COMMUNICATIONS WITH FOSTER CARE STAFF

0708.25

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REV:01/2002

The Division of Taxation - Child Support Enforcement and Foster Care agency will exchange information via the INRHODES MAIL function. Upon receiving a message from the Foster Care worker, the Division of Taxation - Child Support Enforcement agent will record the message on (CONT)ACT.



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**CHILD SUPPORT**

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**RICSS/MAO CASE PROCESSING**

**SECTION 0710**

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**MEDICAL ASSISTANCE AGENCY RESPONSIBILITIES**

**0710.05**

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REV:07/1994

The Medical Assistance agency is responsible for forwarding the referral to the RICSS agency.

Also, it must notify the RICSS agency when an absent parent changes or drops insurance and when a custodial parent stops receiving Medical Assistance.

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**CSE AGENCY RESPONSIBILITIES**

**0710.10**

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REV:01/2002

The Division of Taxation - Child Support Enforcement is responsible for providing the same services as it does for any other type of child support case, including: locating absent parents, establishing paternity and orders for support and medical support, and enforcing such orders.

Within five (5) working days of receiving a referral from the Medical Assistance agency, the custodial parent is provided with an explanation regarding:

- o Child support services;
- o His/her rights and responsibilities; and
- o The State's fees, cost recovery, and distribution policies.

Within twenty (20) calendar days of receiving a referral from the Medical Assistance agency, the Division of Taxation - Child Support Enforcement establishes a child support case. Within that time the Division of Taxation - Child Support Enforcement will, based on an assessment of the case, determine necessary action, solicit necessary and relevant information from the custodial parent and other relevant sources, and initiate verification of information when appropriate. Also, when there is inadequate location information with which to proceed, the Division of Taxation - Child Support Enforcement will request additional information or pursue further location attempts where appropriate.

The Division of Taxation - Child Support Enforcement will:

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**CHILD SUPPORT**

**SECTION 0710**

**CSE/MAO CASE PROCESSING**

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- o Locate absent parents;
- o Establish paternity;
- o Establish orders for support and medical support;
- o Enforce orders; and
- o Continue IV-D services when a family ceases to receive assistance.

The Division of Taxation - Child Support Enforcement must provide the Medical Assistance agency with copies of court orders which include orders for medical support.

**0710.15**

**ASSIGNMENT AND REFERRAL**

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REV:07/1994

Each applicant for or recipient of Medical Assistance or any individual receiving Medical Assistance for and on behalf of any other person for whom (s)he may be legally responsible will assign his/her rights to any medical support or any other medical care without the necessity of signing any document. This assignment includes any and all rights and interests that (s)he may have to payment for any medical support and to payment for any medical care from any third party.

**0710.20**

**CUSTODIAL PARENT RESPONSIBILITIES**

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REV:07/1994

As a condition of eligibility for Medical Assistance, a recipient is required to cooperate (unless good cause for refusing to cooperate is determined) with the State in: identifying and locating the absent parent, establishing paternity for children born out of wedlock, establishing support and medical support obligations, enforcing such orders, and identifying and providing information to assist the State in pursuing any third party who may be liable to pay for care and services available under the State plan for Medical Assistance, or attest to the lack of information under the penalty of perjury.



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**CHILD SUPPORT**

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**RICSS/MAO CASE PROCESSING**

**SECTION 0710**

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**COMMUNICATIONS WITH MA STAFF**

**0710.25**

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REV:01/2002

The Division of Taxation - Child Support Enforcement and Medical Assistance agency will exchange information via the INRHODES MAIL function. Upon receiving a message from the Medical Assistance worker, the Division of Taxation - Child Support Enforcement agent will record the message on (CONT)ACT.



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**CHILD SUPPORT**

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**COOPERATIVE AGREEMENTS**

**SECTION 0712**

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**COOPERATIVE AGREEMENT DEFINED**

**0712.05**

REV:01/2002

The Division of Taxation - Child Support Enforcement enters into cooperative agreements with the Rhode Island Family Courts, the Department of Children, Youth and Families (DCYF), and the Department of Labor and Training (DLT). These are written agreements which specifically outline each party's responsibilities and the financial arrangements agreed upon.

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**CSE AGENCY/FAMILY COURT RELATIONSHIP**

**0712.10**

REV:01/2002

The Rhode Island Division of Taxation - Child Support Enforcement and the Rhode Island Family Court, to effect a cooperative arrangement for establishing paternity and securing support pursuant to Federal regulations, have entered into a cooperative agreement. This agreement outlines the responsibilities of each office. It may be revised or terminated according to the terms set forth in the agreement.

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**DHS Responsibilities**

**0712.10.05**

REV:01/2002

If an existing IV-D non-assistance (NA) custodial parent begins receiving FIP, the IV-A/IV-D interface will automatically switch the CASE TYPE from N (non-assistance) to A (FIP) upon initial approval of IV-A benefits. The case will appear on the agent's DAIL with a message regarding the case status change.

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**Family Court Responsibilities**

**0712.10.10**

REV:01/2002

In summary the Family Court agrees to:

- o Receive and hear civil complaints to establish paternity and related motions. Jury and non-jury paternity trials shall be made available to the litigants in accordance with State statute. The Family Court will work cooperatively with the Division of Taxation - Child Support Enforcement to complete discovery, blood testing, and trial within one (1) year of service of the complaint upon the putative father;

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**CHILD SUPPORT**

**SECTION 0712**

**COOPERATIVE AGREEMENTS**

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- o Receive voluntary acknowledgements of paternity after informal hearing in accordance with State statute;
- o Receive and hear in-state and interstate (URESAs) complaints and motions filed by Division of Taxation - Child Support Enforcement to secure or enforce support (including medical support);
- o Establish or modify support orders using the child support formula and guidelines adopted by administrative order of the Family Court, pursuant to the authority granted by R.I.G.L. 15-5-16.2. Maintain, review, and/or amend said formula and guidelines in accordance with the provisions of 42 U.S.C. 667 and 45 CFR 302.56;
- o Docket complaints and motions to secure or enforce support for hearing, on a date certain, within six (6) weeks from the week that they are filed with the Family Court by the Division of Taxation - Child Support Enforcement;
- o Docket Division of Taxation - Child Support Enforcement applications requesting income withholding (in contested administrative income withholding cases) for hearing within fourteen (14) days of the filing of such applications by the Division of Taxation - Child Support Enforcement;
- o Establish and maintain an "Appeals Calendar" for the timely judicial review of administrative decisions concerning set-off of income tax refunds, and any decision or order of a Family Court Master;
- o Safeguard information relating to applicants or recipients of support enforcement services, in accordance with Federal requirements;
- o Upon reasonable notice, allow the Division of Taxation - Child Support Enforcement access to all records and periodic on-site observation of the performance of functions being carried out relative to the agreement;
- o Order all IV-D obligors to make support payments directly to the Family Court; and

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**CHILD SUPPORT**

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- o Collect, identify, and post, via input to an automated child support enforcement system, all IV-D support payments within one (1) business day of their receipt. Such receipts should reflect both the appropriate period(s) of collection, and the appropriate posting date(s).

**COOPERATIVE AGREEMENT WITH DCYF**

**0712.15**

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REV:01/2002

In Foster Care cases, under cooperative agreement the DCYF, Division of Taxation - Child Support Enforcement, and Family Court mutually agree to carry out the responsibilities set forth below.

**DCYF Responsibilities**

**0712.15.05**

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REV:01/2002

The DCYF will:

- o Draw up complaint forms for children in placement, in accordance with stated Departmental policy and procedures;
- o Supply the Division of Taxation - Child Support Enforcement with the following information regarding one or both parents: date of birth, social security number, current or last known residential address, and name and address of employer and approximate salary;
- o Supply, at a minimum, the residential address of one parent for the delivery of a subpoena when the above listed information is not available;
- o Have all complaints signed by an authorized representative of the Department, whose signature shall be notarized;
- o Forward all complete complaints to a Division of Taxation - Child Support Enforcement supervisor;
- o Be responsible for all information on complaint forms, and take responsibility for legal action other than

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**CHILD SUPPORT**

**SECTION 0712**

**COOPERATIVE AGREEMENTS**

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which may result from the filing of a support petition;

- o Make appropriate staff available for court appearances, as necessary, and provide the assistance of DCYF legal counsel, upon Division of Taxation - Child Support Enforcement's request, on issues relating to the legal basis of DCYF programs, activities and claims;
- o Furnish annual documentation (on or about July 15th each year) to the Family Court and the Division of Taxation - Child Support Enforcement on guidelines for minimum placement cost.

**0712.15.10**

**CSE AGENCY RESPONSIBILITIES**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will:

- o Accept and review complaint forms forwarded by the DCYF;
- o Cite the reason a complaint form is returned, if it is incomplete or cannot be processed;
- o Prepare all other needed legal forms to process the case through the court;
- o Insure that the case is properly served and parties are notified to appear in court;
- o Notify DCYF of scheduled court cases, not later than two (2) weeks prior to the court date;
- o Use its attorneys to present the case in court and secure support orders;
- o Prepare a decree subsequent to each court hearing, and forward a copy to DCYF within ten (10) working days after the hearing;
- o Monitor support orders for timeliness of payments;
- o Provide individual payment profiles to DCYF on request; and
- o Remit to the General Treasury those funds collected on

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**CHILD SUPPORT**

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behalf of DCYF, after having first deducted the reasonable costs and expenses incurred in the processing of each case.

**Family Court Responsibilities**

**0712.15.15**

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REV:01/2002

The Family Court agrees to:

- o Accept Division of Taxation - Child Support Enforcement referrals on behalf of DCYF;
- o Assign docket numbers;
- o Assign dates of court hearings;
- o Hear the case;
- o In accordance with the requirement of the State Plan for Title IV-D and state statute cited above, order responsible parents to pay support. The Court shall not necessarily be held to minimum payment guidelines noted above, and may make support orders for a greater or lesser amount based on testimony.

**COOPERATIVE AGREEMENT WITH DLT**

**0712.20**

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REV:01/2002

The Rhode Island Department of Labor and Training (DLT) and the Department of Administration, Division of Taxation - Child Support Enforcement have entered a cooperative agreement.

The DLT agrees to:

- o Compare the file of child support obligors, provided by Division of Taxation - Child Support Enforcement in behalf of DHS, with the appropriate DLT files to identify those absent parents who are DLT claimants, and notify the Division of Taxation - Child Support Enforcement of any absent parents so identified; and
- o Withhold a specified amount from an absent parent's weekly benefit amount, as requested by the Division of

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Taxation - Child Support Enforcement.

The Division of Taxation - Child Support Enforcement agrees to:

- o Authorize the Family Court to receive child support money withheld by DLT;
- o Provide a file of absent parent's names for matching with appropriate DLT files, to identify claimants;
- o Certify to DLT, by means of Family Court form DR-29, any identified absent parent who has either an outstanding court order with arrears, or an agreement with the Division of Taxation - Child Support Enforcement to withhold a specific amount;
- o Accept all amounts withheld and remitted to the Family Court, for the appropriate distributions; and
- o Notify the DLT, in writing, of any changes in the amounts to be withheld, or of information regarding claimants.



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**CHILD SUPPORT**

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**CASE MANAGEMENT**

**SECTION 0714**

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**CASE INITIATION**

**0714.05**

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REV:01/2002

The Division of Taxation - Child Support Enforcement, within twenty (20) calendar days of receiving a referral or of the filing of a non-assistance (NA) application, opens cases by establishing a case record. FIP IV-D cases are automatically established upon approval of the FIP case and are processed through the IV-A/IV-D interface. The initial IV-A case data on the absent parent, child(ren), and client is used to create the IV-D case record without any data entry requirement by the Division of Taxation - Child Support Enforcement agent.

**Initiating FIP Cases**

**0714.05.05**

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REV:01/2002

FIP IV-D cases are automatically created in the APPD function. The agent is notified of new cases from IV-A through the agent's Daily Report Initial Review (DAIL INIT). Cases are referred to either Establishment or the Interstate Unit depending on the absent parent's address as entered by the FIP Eligibility Technician (ET). The agent will review the case by accessing APPD in C (Correction) mode.

There are situations when the interface cannot create an APPD record. If the interface encounters a conflict with an absent parent's name or SSN, the case will not appear in DAIL INIT. These cases appear on a hard copy report produced nightly. Designated agents who receive the exception reports will resolve the conflict using the Case Resolution (CSRS) function. The agents will:

- o Look at the Person Search (PRSN) function on both name and SSN, to find out whether the absent parent is on other IV-D cases or known under a system-generated temporary (pseudo) SSN; and
- o Upon resolution, an APPD case record is created and the case appears on the appropriate agent's DAIL INIT. All FIP cases appearing on the DAIL INIT will have a CASE ACTION CODE of IR (Initial Review).

Case reopenings will appear either on the establishment agent's DAIL, or the Enforcement agent's DAIL, depending on the status of the case when it was last open.

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**CHILD SUPPORT**

**SECTION 0714                      CASE MANAGEMENT**

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To review a case the agent will:

- o Review CCAS function to determine if it is a Loco Parentis case (more than one absent parent), or if the client has made more than one paternity allegation for the same child;
- o Review APPD data in C mode:

The ABSP Page 1 shows whether the absent parent's address information is complete but needs verification, or if location is needed.

The ABSP Page 2 shows:

If the custodial parent and the absent parent were ever married. If there is an indication that there is a domestic case filed with the Family Court (divorce date), contact the court to obtain the docket number.

If the custodial parent cooperated with the IV-A Eligibility Technician in providing information, and whether good cause is a consideration in the case.

The CHLD panel shows the paternity status of the child, as assessed by Eligibility Technician.

When the PATERNITY STATUS field is PI (paternity is an issue), the agent will:

Compare the code in the RELATIONSHIP OF: AP CLIENT field and the child's date of birth (DOB) to find out whether there is a presumption of paternity (Refer to Section 0718);

Query PRSN using the child's name to see if more than one allegation was made for the child.

When paternity is not an issue, the agent will update the PATERNITY STATUS field with PNI (Paternity is not an issue);

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CHILD SUPPORT

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SECTION 0714

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- o Review the INSU panel to find out whether any medical insurance information was collected by the IV-A Eligibility Technician during the application interview;
- o Contact the custodial parent when information is inconsistent, or unclear;
- o Enter a case narrative using the (CONT)ACT function to record any information or action not automatically recorded by CASE (TRAC)KING; and
- o Remove the CASE ACTION code IR from the APPD CASE panel, to remove the case from the DAIL INIT to DAIL.

**Initiating NA, MAO, Foster Care Cases**

**0714.05.10**

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REV:01/2002

In non-assistance (NA) and DCYF cases, information does not come over through the IV-A/IV-D interface. New cases (case never before entered) are established by the Division of Taxation - Child Support Enforcement agent when information obtained from an application or referral is input via the APPD function. Therefore, the agent will be completing the IR (Initial Review) simultaneously as the case is established.

Before entering the application data into INRHODES the agent will:

- o Review the application information provided by the custodial parent; and
- o Look at the PRSN function on all members of the case, to find out whether they are on other IV-D cases and if any additional information is known. Absent parents should be searched by name, then SSN, if necessary.

The agent will then:

- o Input data into INRHODES using the APPD function in E (Entry) mode;
- o Make a narrative on (CONT)ACT recording any information or action not automatically recorded on CASE

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(TRAC)KING; and

- o Enter a NEXT CSE REVIEW date on the APPD CASE panel, showing when the case should be worked again.

When the custodial parent provides a copy of an existing support order, the agent will call the Family Court and request that the docket number be entered in the computerized card file system (CORT). The court order data will be entered by the Division of Taxation - Child Support Enforcement Data Entry Specialist using the ORDR function.

**0714.05.15**

**Follow Up to Initial Review**

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REV:01/2002

Based on an assessment of the case to determine necessary action, the Division of Taxation - Child Support Enforcement will:

- o Solicit necessary and relevant information from the custodial parent, and other relevant sources, and initiate verification of additional information, if appropriate;

In FIP, Medical Assistance Only, and DCYF cases, if a birth certificate is necessary, the agent will add the case name to the list of cases for which certificates are needed. All of the agents' lists will be combined once a week according to FIP office and forwarded to the appropriate offices so that the needed birth certificates can be gathered and sent to RICSS.

In non-assistance (NA) cases, it is the custodial parent's responsibility to provide the certificate;

- o If there is inadequate location information to proceed with the case, the Division of Taxation - Child Support Enforcement will initiate requests for additional information or attempt further location. See Section 0716; and
- o Ensure that the case record contains all information and documents about the case, as well as all relevant facts, dates, actions taken, contacts made, and results achieved.

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**Determining the Next Action**

**0714.05.20**

REV:01/2002

After completing the Initial Review, the Division of Taxation - Child Support Enforcement agent will decide what action to take next. This will depend primarily on whether the absent parent has been located; that is, whether there is an address at which the absent parent can be served. The agent will proceed by either:

- o Verifying the absent parent's address and/or employer, if information was obtained during the application; or
- o Initiating location activities when information was not provided. See Section 0716.

When the absent parent's Rhode Island address or employer is verified, the agent will:

- o Proceed to paternity establishment (Section 0718) when paternity is an issue;
- o Proceed to Support Order Establishment (Section 0720) when paternity is not an issue, and:

The absent parent has never been ordered to pay support, or

The custodial parent and child(ren) are receiving FIP for the first time, and the absent parent has already been ordered to pay support, and there needs to be an order established payable to the State of Rhode Island;

- o Proceed to Child Support Enforcement Remedies (Section 0724) when there is an order for support and:

The case is non-assistance (NA), or

The case is FIP and it is being reopened;

- o Proceed to Modification of Child Support Orders when appropriate (See Section 0726).

When the absent parent is located in another state, the case may be transferred to the Interstate Unit using the COPY command.

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See Section 0716.

**0714.10**

**INITIAL VERIFICATION OF ARREARS**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will have the custodial parent complete an affidavit of arrears( when appropriate) in cases where an order has been entered. The affidavit of arrears provides the custodial parent with a place to attest to the amount of support that was received directly from the absent parent. The affidavit is printed from the FORM function and includes a place for the Division of Taxation - Child Support Enforcement agent to calculate arrearages.

Arrearage amounts are set by the Family Court when the case is taken to court for an establishment or enforcement action. Amounts are entered in INRHODES by the Family Court bookkeeping department.

**0714.15**

**FIP TO NA OPENINGS**

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REV:01/2002

When IV-A closes a FIP case, the information comes over on the IV-A/IV-D interface and the system automatically converts the IV-D message to the agent's DAIL that the FIP case has been closed. INRHODES will also automatically send the custodial parent a letter informing her/him that child support services will continue unless a request is made in writing that these services are no longer wanted. The agent will review the case to determine whether any action needs to be taken.

**0714.20**

**ADDING A CHILD TO A CASE**

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REV:01/2002

When a child is added to an FIP case, the agent will receive a message on her/his DAIL. The agent will:

- o Look at the INRHODES APPD CHLD panel to find out if paternity has been established;
- o Determine whether the child is included in any court order established for the case;

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- o Record information/data on the appropriate panels including any contact with the custodial parent or absent parent on (CONT)ACT; and
  
- o Go on with the next action.

In all other cases the agent will add the child to the case by inputting the appropriate data.

**EMANCIPATION**

**0714.25**

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REV:01/2002

Pursuant to Rhode Island law, a child is emancipated upon his or her eighteenth (18th) birthday. The court may, if in its discretion it deems it necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday. However, an absent parent is obligated to continue paying current child support until s/he has obtained a modification terminating that obligation. Therefore, the Division of Taxation - Child Support Enforcement agent will continue to enforce an order until such time as notification is received, from the Family Court, that the order has been terminated.

**CASE ASSESSMENT AND PRIORITIZATION**

**0714.30**

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REV:01/2002

The Division of Taxation - Child Support Enforcement has implemented a case assessment and prioritization system to manage its caseload. This system includes all cases and ensures that no service required to be provided under the State plan has been systematically excluded. Accordingly, the Division of Taxation - Child Support Enforcement notifies all custodial parents that the information they provide may affect the relative priority given their case.

In the overnight batching process INRHODES reviews the day's transactions and prioritizes the listing of cases according to established case management rules. Cases will be listed on an agent's DAIL according to the priority assigned by INRHODES. Therefore, cases where the absent parent's home address or place

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of employment have been recently verified will appear before a case where location is needed. The sequence number of the case (ESTB.01 or ENFP.45 etc.) is relative to the total number of cases in the agent's caseload and its workability factor.

A case's priority can be changed by:

- o INRHODES when an action is taken on the case;
- o The agent, by updating either the CASE ACTION or AP ACTION code on the APPD CASE panel. Using the CASE ACTION code of CR (Case Review) will automatically bring the case to the top of the list.

**0714.35**

**CASE CLOSURES**

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REV:01/2002

The Division of Taxation - Child Support Enforcement shall establish a system for closing cases. In order to be eligible for closure, a case must meet at least one of the closing criteria described. Additionally, in certain case situations the Division of Taxation - Child Support Enforcement will notify the custodial parent, in writing, sixty (60) calendar days prior to the closing of the State's intent to close the case. A case will not be closed if:

- o The custodial parent supplies information in response to the notice which could lead to the establishment of paternity, an order for support, or enforcement of an order; or
- o Contact is reestablished with a custodial parent whose whereabouts were unknown.

A custodial parent may request, at a later date, that her/his case be reopened if there is a change in circumstances which could lead to the establishment or enforcement of an order.

The Division of Taxation - Child Support Enforcement will retain closed case records for a minimum of three (3) years.



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**Closing Criteria Requiring 60 Day Notice**

**0714.35.05**

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REV:01/2002

A sixty (60) day closing notice will be sent to the custodial parent when a case is closed for one of the following reasons:

- o The child for whose benefit the support order was obtained reaches the age of majority, the child support order is still in effect, but there is no arrearage due and owing the non-assistance (NA) client, or arrearage due the State;
- o The absent parent or putative father is deceased and no further action, including a levy against the estate, can be taken. The agent shall obtain a certified copy of the death certificate and file a Motion to Dismiss;
- o The child(ren), for whose sole benefit the order was established, is/are deceased, and there is no arrearage due the State;
- o The child(ren), for whose sole benefit the order was established, has/have been adopted, and there is no arrearage due the State;
- o The DCYF, for whose benefit the order was established, no longer has care, custody and control of the minor child(ren), and there is no arrearage due DCYF.
- o Paternity cannot be established because:

The child is at least twenty-two (22) years old;  
or

A genetic test or a court or administrative process has excluded the putative father. The Division of Taxation - Child Support Enforcement Technical Staff Assistant shall file a Motion to Dismiss based upon the exclusion; or

The Division of Taxation - Child Support Enforcement has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending;

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- o The absent parent's location is unknown, and regular attempts have been made using multiple sources to locate the absent parent over a three (3) year period, all of which have been unsuccessful;
- o The absent parent cannot pay support for the duration of the child's minority because (s)he has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified permanent and total disability with no evidence of support potential. The Division of Taxation - Child Support Enforcement must also determine that no income or assets are available to the absent parent which could be levied or attached for support;
- o In an NA case:

The Division of Taxation - Child Support Enforcement is unable to contact the custodial parent within a thirty (30) calendar day period despite attempts by both phone and at least one registered letter, or

The custodial parent fails to cooperate and an action by the custodial parent is essential for the next step in providing services.

**0714.35.10**

**Closings Without Prior Notice**

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REV:07/1994

A 60-day closing notice does not have to be sent, if a case is closed for one of the following reasons:

- o The case was opened as a non-AFDC location only; or
- o The non-AFDC custodial parent requests closure of a case and there is no assignment to the State of arrears which accrued under a support order and no reimbursement; or
- o There has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk or harm to the child or caretaker relative;

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- o The mother of the child(ren), for whose sole benefit the order was established, is deceased, and there is no indication a change of payee is appropriate, and there is no arrearage due the State.



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**LOCATION STANDARDS**

**0716.05**

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REV:01/2002

An absent parent will be considered "located" when information regarding his/her physical whereabouts, or place(s) of employment, or other sources of income or assets have been verified, and the information is sufficient to allow the Division of Taxation - Child Support Enforcement to take the next appropriate action.

Within no more than seventy-five (75) calendar days of determining that location is necessary, the Division of Taxation - Child Support Enforcement will access all appropriate location sources, including transmitting appropriate cases to the Federal Parent Locator Service (FPLS) and ensuring that location information is sufficient to take the next appropriate action in a case.

Appropriate location sources include but are not limited to:

- o Credit Bureau;
- o The Federal Parent Locator Service (FPLS);
- o Interstate location networks;
- o Relatives and friends of the absent parent;
- o Current or past employers;
- o The local telephone company;
- o The U.S. Postal Service;
- o Unions and fraternal organizations;
- o Police, parole, and probation records, if appropriate;
- o State agencies and departments as authorized by State law, including those departments which maintain records of:
  - Public assistance;
  - Wages, employment, and unemployment insurance;

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Income taxation;

Driver's licenses, vehicle registration; and

Criminal records.

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**0716.05.05** **Continued Location Efforts**

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REV:01/2002

In cases where previous attempts to locate the absent parent have failed, but for which adequate identifying and other information exists, the Division of Taxation - Child Support Enforcement will:

- o Exhaust all appropriate location resources within seventy-five (75) days of receiving new information;
- o Submit to the FPLS, at least annually, cases in which location is needed and for which an absent parent's social security number is known or every effort has been made to obtain it;
- o Document all location efforts including telephone contacts with the custodial parent and the absent parent on the InRhodes (CONT)ACT panel;
- o Record current, verified information on the APPD function; and
- o Repeat location attempts in cases in which previous attempts to locate absent parents or sources of income and/or assets have failed, but adequate identifying and other information exists to meet requirements for submittal for location, either quarterly or immediately upon receipt of new information which may aid in location, whichever occurs sooner.

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**0716.10** **ABSENT PARENT SOCIAL SECURITY NUMBERS**

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REV:01/2002

The absent parent's social security number is the single most important piece of information needed for location. With it the Division of Taxation - Child Support Enforcement agent can query various location resources, and also be assured that the absent

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parent will be included in tape matches used for location, establishment, and enforcement.

When an absent parent's social security number is unknown, a pseudo number will be recorded on the APPD ABSP panel. Pseudo numbers all begin with "666". When the agent obtains the absent parent's correct number, (s)he will enter it on the ABSP panel.

The system automatically attempts to verify social security numbers for absent parents with social security numbers and dates of birth recorded on the APPD ABSP panel. This verification is done via the NUMIDENT interface with the Social Security Administration. On the APPD ABSP panel the SSA VERIFICATION field indicates whether an absent parent's social security number has been verified by the SSA. When a number is verified the system will enter an \* (asterisk). When the number cannot be verified, the system will enter a D (Discrepancy) and a message on the agent's DAIL.

The agent will attempt to resolve discrepancies and resubmit cases for verification. To do so the agent will:

- o Update the correct data fields: absent parent's name, date of birth, or social security number;
- o Remove the D from the SSA VERIFICATION field.

The system will automatically resubmit the number on the next NUMIDENT match.

**VERIFICATION**

**0716.15**

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REV:07/1994

When initiating establishment or enforcement actions, the agent will verify any location information that has not been verified within the last 3 months. The agent will attempt verification over the telephone before sending for written verification. In instances where verification must be done in writing, the agent will send a specific location form or compose a free form location letter via the INRHODES FORMS function.

When sending an INRHODES Letter for Location the agent will:

- o Select the INRHODES FORMS function;

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- o Select the CHILD SUPPORT AGENT FORMS packet;
- o Select the Location packet; and
- o Select the appropriate letter(s).

The system will select absent parent identifying information off the case APPD ABSP panels and print it on the letters. Letters will be printed and forwarded to the agent by the Unit Clerk. The agent will sign the letter and:

- o Mail it by regular mail;
- o Record on the APPD LOCA panel:

The NEXT REVIEW DATE, which is the date by which a response should be received;

If a free form location letter was sent, enter the date the form was sent. This date will be recorded automatically for standard INRHODES location forms.

One week before the NEXT REVIEW DATE, the case name will appear on the agent's DAIL Location Monitoring.

**0716.15.05**

**Updating Location Information**

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REV:01/2002

Once information is verified, the agent will update the appropriate APPD panels by entering:

- o Any verified information;
- o If the information is either the absent parent's address or employer:

A 'V' for verified in the VERIFICATION field of the applicable APPD panel;

The correct SRC (Source) code indicating how the information was verified.

Note: When information is updated for absent parents with more than one Division of Taxation - Child



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Support Enforcement case, all of  
the absent parent's cases will be  
updated simultaneously.

When entering a 'V' code for an address or employer, the system will enter the date the information was input as the VERIFICATION DATE.

When an agent verifies that address or employment information is incorrect, and new information cannot be verified, s/he updates the VERIFICATION field(s) by entering a B (Bad).

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**Transferring Cases to the Interstate Unit**

**0716.15.10**

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REV:07/1994

When an agent verifies that an absent parent has moved out of state, or when the agent cannot verify this fact but still believes that the absent parent is in another state, (s)he will:

- o Update the appropriate APPD panel with any verified information;
- o Make a entry on the (CONT)ACT function if necessary;
- o Print a copy of the panel which indicates that the absent parent is out of state and circle the out of state information; and
- o Forward the printed panel to the Interstate Unit for the next appropriate action.

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**ACCESS TO INFORMATION**

**0716.20**

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REV:01/2002

The Division of Taxation - Child Support Enforcement is authorized by Rhode Island General Law 15-22-1 to have access to and to request information from various individuals and entities only for the purpose of and to the extent necessary for the administration of the child support enforcement program.

The Division of Taxation - Child Support Enforcement agent decides which individuals or entities to query to assist in the location of the obligor based on information available in the case.

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These requests for information can be made by any method, including but not limited to:

- o Paper;
- o Facsimile (Fax);
- o Telephone; or
- o Magnetic tape or other electronic means.

Unless otherwise limited by federal statute, individuals or entities from whom the Division of Taxation - Child Support Enforcement agent may secure such information include, but are not limited to:

- o State or municipal agencies;
- o Utility companies (including telephone);
- o Tax assessor's offices;
- o Housing authorities;
- o Employers;
- o Professional or trade associations;
- o Labor unions;
- o Professional or trade licensing boards;
- o Bank and other financial institutions;
- o Credit bureaus or agencies; or
- o Any other individual or entity which the Division of Taxation - Child Support Enforcement has reason to believe may have information that relates to or may assist in the location of the obligor.

Requested information that must be provided includes, but is not limited to, the obligor's:

- o State income tax returns (including address, filing

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status, and number of dependents reported on any return filed by the obligor and any other information which shall be determined and approved by the Tax Administrator and such federal tax data as permitted by federal law);

Unless otherwise limited by statute, the Division of Taxation - Child Support Enforcement shall be entitled to:

- o All criminal offender record information of the obligor which is necessary to locate the obligor or establish the obligor's ability to pay including, but not limited to, National Criminal Information Center (NCIC) records and Bureau of Criminal Identification (BCI) records maintained by the Department of the Attorney General; and
- o Quarterly contribution reports of the Department of Labor and Training;

Unless otherwise limited by federal statute, requested information that must be provided includes, but is not limited to, the obligor's:

- o Title to property;
- o Credit status; or
- o Professional affiliation.

Holders maintaining personal data are authorized to disclose to the Division of Taxation - Child Support Enforcement all personal data requested and such disclosure shall not violate provisions of RIGL 38-2-2. No entity or individual who complies with such requests for information shall be liable in any civil or criminal proceeding brought by an obligor or an obligee on account of such compliance.

Failure by any individual or entity to provide information, without reasonable cause, within twenty (20) days of the receipt of the request from the Division of Taxation - Child Support Enforcement, is punishable by a one hundred dollar (\$100) fine for each failure. This fine may be assessed either by the Rhode Island Family Court or the Division of Taxation - Child Support Enforcement.

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Any employee of the Division of Taxation - Child Support Enforcement that uses or discloses such information in any manner other than specified in RIGL 15-22-1 shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than six (6) months or both.

**0716.20.05**

**Credit Bureau Inquiries**

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REV:01/2002

The Division of Taxation - Child Support Enforcement submits a monthly tape to the credit bureau for locating absent parents. The credit bureau may provide information regarding the absent parent residence and/or employment. The system automatically submits absent parent names with known social security numbers who are in location status; verification code on the APPD/ABSP panel is either B (Bad), or C (complete but not verified) or blank.

Agents may also make individual requests for information manually through the FORM function at any time.

**0716.20.10**

**INRHODES Person Search Function**

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REV:01/2002

The INRHODES PERSON SEARCH function can be used to determine whether an absent parent is receiving assistance, living in an assistance household, or is an absent parent in another Division of Taxation - Child Support Enforcement case. This information can be accessed by using either the absent parent's social security number or name.

**0716.20.15**

**Division of Motor Vehicles**

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REV:07/1994

The Division of Motor Vehicles can provide an absent parent's social security number, last reported address, and vehicle registration information. This information can be obtained either by using the absent parent's social security number, or name and approximate date of birth.

Address information obtained from the DMV driver's license records

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is that which is provided by the absent parent, and may not be current. Therefore, the agent will verify the information with a second source, such as a letter for location (Post Office), before taking the next action.

**Department of Labor and Training**

**0716.20.20**

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REV:01/2002

The Division of Taxation - Child Support Enforcement and the Department of Labor and Training (DLT) conduct a tape exchange once a month to match absent parents' social security numbers with DLT employment and wage information. Once the Division of Taxation - Child Support Enforcement submits an absent parent's social security number on the tape, the Division of Taxation - Child Support Enforcement agent may look at the DLT files via the INRHODES WAGE function.

Information obtained from the DLT is that which is reported to the Division of Taxation by employers throughout the State. Employers must report wage information quarterly. Consequently, the information obtained may not reflect current employment status. Information obtained through this tape exchange should, therefore, be verified through a second source such as a phone call or a letter to the employer.

To use information from the WAGE function, the Division of Taxation - Child Support Enforcement agent will:

- o Select the WAGE function;
- o Key in the absent parent's social security number.

To obtain current information regarding an absent parent who may be receiving Unemployment Compensation Benefits or Temporary Disability Insurance, a location letter may be sent to DLT.

As in any successful location activity, verified information is to be entered in the appropriate APPD panel.

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**0716.20.22** **Requests for Information from Employers**

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REV:02/1997

The Division of Taxation - Child Support Enforcement agent may request from any employer or any other source of income that s/he has reason to believe employs an obligor, or otherwise provides the obligor with regular periodic income, to provide information concerning the dates and amounts of income paid, the last known address, social security number, and available health care benefits. The Division of Taxation - Child Support Enforcement shall not inquire of an employer or other source of income concerning the same obligor more than once every three (3) months.

Employers or other sources of income to the obligor must respond to these requests truthfully and in writing. No employer or other source of income who complies with such requests shall be liable in any civil action or proceeding brought by the obligor on account of such compliance. Failure to comply with such a request, without good cause, within twenty (20) days of receipt of the request shall be punishable by a fine of one hundred dollars (\$100) per day for each day of violation. The fines will be imposed by the Rhode Island Family Court.

**0716.20.25** **U.S. Postal Service**

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REV:07/1994

The agent will send a Letter for Location (Post Office) via the INRHODES FORMS function to verify an absent parent's current or forwarding address.

**0716.20.30** **Police or Criminal Records**

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REV:07/1994

The agent will send a Letter for Location (Police), to determine whether an absent parent is known to a local Rhode Island police precinct. To obtain information from the Adult Correctional Institution (ACI), the Bureau of Criminal Investigation (BCI), or Rhode Island Probation and Parole, the agent will send a free form location letter.

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**Division of Vital Records**

**0716.20.35**

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REV:07/1994

The agent will send a Letter for Location (R.I. Div. of Vital Records) to obtain information regarding an absent parent's birth, marriage, or death.

**U.S. Armed Forces**

**0716.20.40**

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REV:07/1994

Locating members of the armed forces can be difficult and is usually impossible without a member's social security number. The Agent will try to verify information over the telephone before requesting written verification. When written verification is required the Agent will send a Letter for Location (Armed Forces #1 or #2) via the INRHODES FORMS function. The letters are written for specific branches of the service and should be sent when it is known which branch the absent parent is serving.

**Federal Parent Locator Service**

**0716.20.45**

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REV:07/1994

The Federal Parent Locator Service is provided by the Office of Child Support Enforcement (OCSE) for the purpose of locating absent parents. The Federal Parent Locator Service provides information from the:

- o Social Security Administration (SSA);
- o Internal Revenue Service (IRS);
- o Veteran's Administration (VA);
- o Department of Defense (DOD);
- o National Personnel Records Center (NPRC);
- o Selective Service System (SSS).

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**0716.20.45.05**

**Restrictions**

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REV:01/2002

Only the central State Parent Locator Service (SPLS) office, or other designated Division of Taxation - Child Support Enforcement office, can accept requests to query the Federal Parent Locator Service. Requests may be received only from:

- o State or local agencies seeking to collect child and spousal support obligations under the State plan, or medical support obligations if an agreement is in effect;
- o A court that has authority to issue an order against an absent parent for the support and maintenance of a child, or any agency of such court;
- o The resident parent, legal guardian, attorney, or agency of a child who is not receiving aid;
- o Authorized persons as defined in Parental Kidnaping, if an agreement is in effect to use the FPLS in connection with parental kidnaping or child custody cases.

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**0716.20.45.10**

**Requirements**

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REV:01/2002

All requests from the FPLS will include:

- o The absent parent's name;
- o The absent parent's social security number, if known (before submitting a request without a social security number, make every reasonable effort to obtain it);
- o Information regarding whether the absent parent is, or has been, a member of the armed services (if known);
- o Information regarding whether the absent parent is, or has ever, received any Federal compensation or benefits; and
- o Any other information prescribed by OCSE.

All requests to the Federal Parent Locator Service must be



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accompanied by a statement signed by the Director which states that:

- o The request is being made solely to locate an individual for the purpose of establishing paternity, child support and medical support orders, and enforcing those orders, or parental kidnaping;
- o Any information obtained through Federal Parent Locator Service shall be treated as confidential as outlined in Section 0700.

**Submitting Requests**

**0716.20.45.15**

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REV:07/1994

INRHODES will automatically submit FPLS requests every six months on cases for which the absent parent's social security number is known and location has not been verified (APPD ABSP panel, VERIFICATION fields). To determine whether a case has been submitted to the FPLS the agent will review the APPD LOCA panel. This will show the date the last query was submitted.

An agent may submit an FPLS request on an individual case before the end of six months by entering today's date in the REVIEW DATE field for FPLS on the APPD LOCA panel.

**State Parent Locator Service**

**0716.20.50**

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REV:01/2002

The Division of Taxation - Child Support Enforcement Interstate Unit acts as Rhode Island's State Parent Locator Service. The Interstate Unit will:

- o Submit location requests to other states' Parent Location Services; and
- o Provide location services for other states.

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**0716.20.55 Directories**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will make use of various directories such as the Verizon telephone directory.

**0716.20.60 Friends and Relatives**

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REV:07/1994

Friends and relatives of the absent parent may be contacted, however, the agent must be sure and not disclose information regarding the specifics of the child support case.

**0716.20.65 Division of Taxation**

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REV:07/1994

The RICSS agency conducts a tape match with the Division of Taxation to intercept State tax refunds which will provide an absent parent's most recent filing address.

**0716.20.70 Project 419**

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REV:01/2002

IRS Project 419, more commonly referred to as Group II, provides information from the absent parent's most recent Federal tax return:

- o Gross income and interest earned;
- o Name and address of last reported employer;
- o Names of dependents;
- o Last reported residential address.

The Division of Taxation - Child Support Enforcement agent will request Group II information when:

- o All appropriate resources have been queried;
- o All leads have been exhausted;

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- o The absent parent's social security number is known.

The agent will:

- o Manually complete a Department of the Treasury, Internal Revenue Service, Request for Federal Tax Return Information for Use of Child Support Enforcement (Form 6878);
- o Make a copy;
- o Forward the original and copy to the Supervisor of the Division of Taxation - Child Support Enforcement;
- o Enter a message on the INRHODES (CONT)ACT panel indicating that a Group II was filed.

The Supervisor of the Division of Taxation - Child Support Enforcement will keep the copy of the Form 6878, and forward the original to the appropriate IRS office. Responses will be returned to the Supervisor of the Division of Taxation - Child Support Enforcement, who will advise the agent of any information and destroy both the copy of the request and the IRS's response.

Upon receiving information, the agent will verify it from a second source, such as a Letter for Location (Employer), before proceeding any further on the case.

**Parental Kidnaping**

**0716.20.75**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will accept requests from agents or attorneys of the United States for FPLS location services in connection with a parental kidnaping or child custody case.



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**LEGAL BASIS**

**0718.05**

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REV:01/2002

The father of a child which is, or may be, born out of lawful wedlock is liable to the same extent as a father of a child born of a marriage for the reasonable expense of the mother's pregnancy and confinement, the education, necessary support and maintenance, medical and funeral expenses of the child, and reasonable counsel fees for the prosecution of paternity proceedings. A child born out of lawful wedlock also includes a child born to a married woman by a man other than her lawful husband.

Pursuant to 42 U.S.C., Section 654, a state plan for child and spousal support must provide that such state will undertake to establish the paternity of a child with respect to whom an assignment is effective, unless the state determines it is against the best interests of the child to do so. The Division of Taxation - Child Support Enforcement may bring such an action based on the automatic assignment or application for IV-D services. Any agreement of settlement with the putative father is binding only when approved by the court.

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**PATERNITY TIME FRAMES**

**0718.10**

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REV:01/2002

For all cases referred, or when a non-assistance (NA) application is filed and for which paternity has not yet been established, the Division of Taxation - Child Support Enforcement must proceed expeditiously to locate the alleged father when necessary, to file for paternity establishment, and obtain a support order or to dismiss all actions against the alleged father.

The processing of these cases must be done within the applicable time frames established by federal regulations. Generally, these time frames begin with either the referral of the case to Division of Taxation - Child Support Enforcement or upon the location of the alleged father.

Because paternity action must commence or the putative father excluded within these time frames, it is imperative that Division of Taxation - Child Support Enforcement vigorously pursue obtaining voluntary acknowledgments of paternity whenever possible. Voluntary acknowledgments often lead to quickly established support orders thereby increasing the chances of

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successfully meeting federal completion time frames.

**0718.15**

**PATERNITY PROCESSING**

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REV:01/2002

Before proceeding with paternity case processing, the Division of Taxation - Child Support Enforcement agent will review the case to determine:

- o The kind of allegation made by the custodial parent: single, multi-allegation, change, or unknown putative father;
- o Whether the necessary documentation is present, such as a birth certificate, marriage license, and/or divorce decree;
- o Whether the case is a special situation which needs to be referred directly to the Division of Taxation - Child Support Enforcement Legal Unit after location:
  - Loco Parentis;
  - Multi-allegation;
  - Presumed legal father with paternity allegation of a third party;
- o Whether location is needed.

**0718.15.05**

**Paternity Allegations**

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REV:01/2002

When a mother applies for FIP or Medical Assistance for a child born out of wedlock, she completes a Statement of Need (DHS-2). A mother applying for non-assistance (NA) services for a child born out of wedlock completes a NA Child Support Application. These documents require her to name (allege) the father of the child for whom she is requesting benefits or services. The Division of Taxation - Child Support Enforcement Child Support agent will investigate the custodial parent's allegation, and obtain the most accurate information with which to proceed. In investigating the allegation, the agent may find:

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- o A single allegation of paternity, whereby the applicant or recipient alleges the possibility of only one man as being the child's father;
- o A multi-allegation of paternity, whereby the applicant or recipient alleges that she had sexual intercourse with more than one man around the time of conception. A multi-allegation may involve a combination of putative fathers and/or a presumed father;
- o A change in allegation, whereby the applicant or recipient alleges that a child's natural father is someone other than the man who was named previously;
- o An unknown putative father, whereby the applicant or recipient cannot make an allegation because (s)he does not know the identity of the father.

In cases where the custodial parent alleges that she had sexual intercourse with more than one man around the time of conception, the agent will establish cases for all the putative fathers, or a presumed father.

**Presumptions of Legal Paternity**

**0718.15.10**

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REV:01/2002

During the Initial Review, the agent will evaluate the information provided through the interface with IV-A, or information obtained from the mother, or a previously established case record. S/he will determine whether paternity needs to be established, and/or whether there is a presumed father. In cases where a multi-allegation or change in allegation includes a presumed father and a putative father, the agent work the case against the presumed father first before pursuing paternity against a putative father. A man is presumed to be a child's legal father if:

- o He and the child's natural mother are, or have been, married to each other and the child is born during the marriage, or within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
- o Before the child's birth, he and the child's natural

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mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is, or could be, declared invalid, and

If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, or divorce, or

If the attempted marriage is invalid without a court order, and the child is born within three hundred (300) days after the termination of cohabitation;

- o After the child's birth, he and the child's natural mother have married, or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage could be declared invalid, and

He has acknowledged his paternity of the child in writing and filed with the clerk of the Family Court, or

With his consent, he is named as the child's father on the child's birth certificate, or,

He is obligated to support the child under a written voluntary promise, or by court order;

- o He acknowledges his paternity of the child in a writing filed with the clerk of the Family Court, who shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the clerk of the Family Court. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father, or after the presumption has been rebutted;
- o A presumption under this section may be rebutted in an



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appropriate action only by clear and convincing evidence. If two (2) or more presumptions arise which conflict with each other, the presumption for which there is more convincing evidence will prevail.

**Presumption Determined**

**0718.15.10.05**

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REV:01/2002

When the agent determines that there is a presumed legal father, (s)he will:

- o Request a copy of the child's birth certificate, if not already provided:

To request a birth certificate in an assistance case, the Division of Taxation - Child Support Enforcement agent will keep a list of birth certificates that are needed. Once a week the list will be given to the Secretary, who will combine all the agents' lists, break them down by FIP office, and forward the lists to the appropriate IV-A office.

In NA cases, the agent will request that the custodial parent provide the certificate;

- o Enter the correct paternity status code on the APPD CHLD panel;
- o Make an entry on the INRHODES (CONT)ACT function;
- o Proceed to the Support Order Establishment Section (Section 0720).

**Verifying Location**

**0718.15.15**

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REV:01/2002

To initiate paternity establishment, the agent will obtain a verified Rhode Island address at which the putative father can be served.

When the absent parent's verified address is out of state, the agent will forward the case to the Division of Taxation - Child Support Enforcement Interstate Unit (see Section 0716).

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**0718.15.20**

**Putative Father Receiving Benefits**

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REV:01/2002

The agent may discover that the putative father is receiving SSI, GPA, or FIP. The receipt of any of the foregoing will not prevent the agent from pursuing paternity establishment.

**0718.20**

**COMPLAINT FOR PATERNITY**

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REV:01/2002

Once the agent has reviewed the case and decided that paternity will be pursued, (s)he will refer the case to the Division of Taxation - Child Support Enforcement Legal Unit for the approval of the decision. Upon receiving that approval, the agent will proceed by obtaining the custodial parent's formal allegation of paternity. The applicant/recipient will sign a Complaint for Paternity, included in the Paternity Initial Referral packet, which is the custodial parent's sworn allegation of paternity. In NA cases, the agent will obtain the custodial parent's signature during the initial interview. In FIP and Medical Assistance Only (MAO) cases, the agent will have it served on the custodial parent by the Constable.

The agent can print a Paternity Initial Referral packet, which includes the Complaint for Paternity and the Summons. When this is done, the system will automatically select the correct Complaint for Paternity and schedule a court date. Another option is that the agent can print the Complaint for Paternity alone. When this is done, the system will ask the agent a series of questions to determine which Complaint for Paternity to print depending upon whether:

- o The child for whom paternity is sought is under four (4) years of age;
- o The child for whom paternity is sought is four (4) years or older;
- o The child for whom paternity is sought is under four (4) years of age, and the mother is a minor;
- o The case is FIP or NA.

Once the custodial parent is served, the agent will print the Paternity Initial Referral (deleting the Complaint for Paternity)

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to have the putative father served. Whether the agent elects to print the entire Paternity Initial Referral packet or just the Complaint for Paternity, the system will:

- o Assign the case to a Constable for service;
- o Record the action on the CASE (TRAC)KING function.

**Serving the Complaint for Paternity**

**0718.20.05**

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REV:01/2002

The clerical pool will receive the Complaint for Paternity, and:

- o Review it for accuracy;
- o Give it to the Constable for service.

The Constable will obtain and notarize the custodial parent's signature on the Complaint for Paternity, and return it to the clerical pool. Upon receiving the signed, notarized form, a clerical person will:

- o Record the action on the DAIL CONS panel; and
- o Return the form to the Division of Taxation - Child Support Enforcement agent.

The Division of Taxation - Child Support Enforcement agent will refer the case to the Division of Taxation - Child Support Enforcement Legal Unit to obtain the Attorney's signature on the Complaint for Paternity.

**INITIAL NOTIFICATION TO PUTATIVE FATHER**

**0718.25**

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REV:01/2002

The putative father first learns of an allegation of paternity when the Constable serves him with a copy of the Complaint for Paternity and the Summons, which are included in the Paternity Initial Referral. In this way, he is informed of the allegation and the manner in which to respond. The putative father is given twenty (20) calendar days from the date of successful service to respond, in writing, to the Family Court and the Division of Taxation - Child Support Enforcement.

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**0718.25.05**

**Serving the Putative Father**

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REV:07/1994

The agent will forward the signed Complaint for Paternity to the clerical pool, which will:

- o Combine it with the rest of the Paternity Initial Referral packet;
- o Prepare a Constable Return Form;
- o Give the packet to the Constable for service.

The Constable has 3 weeks to serve the putative father. At the end of the 3 weeks, the packet must be returned regardless of whether the putative father was successfully served.

The Administrative Secretary will record the results of service on the DAIL CONS panel and return the packet to the agent. If the putative father could not be served, the agent will initiate location efforts. If service was successful, the agent will monitor the case for 20 calendar days for a response from the putative father.

**0718.30**

**PUTATIVE FATHER'S RESPONSE**

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REV:07/1994

At the end of the 20 day period, the agent will review the case to determine how the putative father responded to the Paternity Initial Referral. The putative father may respond by:

- o Admitting paternity;
- o Denying paternity; or
- o Failing to respond.

**0718.30.05**

**Putative Father Admits Paternity**

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REV:01/2002

The absent parent's social security number is the single most important piece of information needed for location. With it the Division of Taxation - Child Support Enforcement agent can query various location resources, and also be assured that the absent

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parent will be included in tape matches used for location, establishment, and enforcement.

When an absent parent's social security number is unknown, a pseudo number will be recorded on the APPD ABSP panel. Pseudo numbers all begin with "666". When the agent obtains the absent parent's correct number, (s)he will enter it on the ABSP panel.

The system automatically attempts to verify social security numbers for absent parents with social security numbers and dates of birth recorded on the APPD ABSP panel. This verification is done via the NUMIDENT interface with the Social Security Administration. On the APPD ABSP panel the SSA VERIFICATION field indicates whether an absent parent's social security number has been verified by the SSA. When a number is verified the system will enter an \* (asterisk). When the number cannot be verified, the system will enter a D (Discrepancy) and a message on the agent's DAIL.

The agent will attempt to resolve discrepancies and resubmit cases for verification. To do so the agent will:

- o Update the correct data fields: absent parent's name, date of birth, or social security number;
- o Remove the D from the SSA VERIFICATION field.

The system will automatically resubmit the number on the next NUMIDENT match.

**Post Hearing Activities**

**0718.30.05.05**

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REV:01/2002

After the hearing, the Division of Taxation - Child Support Enforcement agent will:

- o Enter medical information on the APPD INSU panel;
- o Forward the Medical Form to the Medical Assistance agency;
- o Refer the file to a clerk at court to type the order. Hard copies of the order will be given to:

The custodial parent;

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The putative father or his attorney;

The original will go to the Family Court;

- o File a copy in the Division of Taxation - Child Support Enforcement case record and return it to Master Files;
- o Send a Mail Message to the IV-A Eligibility Technician, advising that paternity was established;
- o Process the Court Ordered Income Withholding. (See Section 0722).

The entry of court order data will move the case from the establishment agent's DAIL to the appropriate enforcement agent's DAIL.

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**0718.30.10 Putative Father Denies Paternity**

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REV:01/2002

When the putative father responds to the Complaint for Paternity by denying paternity, the Division of Taxation - Child Support Enforcement agent will:

- o Update the APPD CHLD panel by entering DEN (Denial) in the PATERNITY STATUS field;
- o Record the information on the (CONT)ACT panel;
- o Enter a CASE ACTION CODE of PR (Paternity Referral) on the APPD CASE panel;
- o Forward the case record to the Division of Taxation - Child Support Enforcement Legal Unit.

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**0718.30.10.05 Blood Tests**

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REV:07/1995

In a proceeding under RIGL 15-8-11, before trial, the court, upon application made by or on behalf of any party to said action, or on its own motion, shall order that the mother, child, alleged father, and any other party to the action submit to blood or tissue typing tests. These tests may include, but are not limited to, tests of

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red cell antigens, red cell isoenzyme, human leukocyte antigens, serum proteins, and other genetic testing, to determine whether the alleged father is likely to be, or is not, the father of the child. If at the trial, in a proceeding under RIGL 15-8-11, it is shown that a party refused to submit to court ordered blood or tissue typing tests, such refusal shall be considered by the jury, or the court without a jury, along with all other evidence presented on the issue of paternity. A blood or tissue typing test shall be made by a person the court determines is qualified as an examiner of blood or tissue types.

The court shall fix or approve the compensation of any expert at a reasonable amount, and may direct the compensation to be paid by the state, or by any other party to the case, or by both, in the proportions and at the times the court prescribes, and that, after payment by a party, all or part or none of such payment shall be taxed as costs in the action. Before conducting blood or tissue typing tests, the court may order any part of or all of the compensation paid in advance.

The result of a blood or tissue typing test, and if a determination of exclusion of paternity cannot be made, a calculation of the probability of paternity made by a person the court determines is qualified as an examiner of blood or tissue types based on the result of a blood or tissue typing test, shall be admissible in evidence in the trial of the case.

A written report of the test results, including a calculation of the probability of paternity or a determination of exclusion of paternity, prepared by the duly qualified expert conducting the test, or by a duly qualified expert under whose supervision or direction the test and analysis have been performed, certified by an affidavit duly subscribed and sworn to by him or her before a notary public, may be introduced into evidence without the need for foundation testimony or other proof of authenticity or accuracy and without the necessity of calling the expert as a witness, unless an objection challenging the test procedures or results has been filed within ten (10) days before any hearing at which such results may be introduced into evidence and a cash bond posted with registry of the family court in amount sufficient to cover the costs of the duly qualified expert to appear and testify.

If the results of the blood tests duly admitted into evidence establish a ninety-seven percent (97%) or greater probability of inclusion that a party is the biological father of the child, then

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such threshold probability shall constitute a prima facie case of establishment of paternity and the burden of proof shall shift to the party to rebut such proof by clear and convincing evidence.

**0718.30.10.10                      Motion for Blood Test**

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REV:01/2002

When a putative father denies paternity, the case will be distributed to the Division of Taxation - Child Support Enforcement Technical Staff Assistant by alpha, putative father name. The Technical Staff Assistant will:

- o Determine whether the putative father has an attorney. If so, all documents will be mailed to the attorney and not to the putative father;
- o File a Motion for Blood Test, which will be served on the putative father or mailed to the attorney.

At the hearing, provided the putative father is not represented by an attorney, the Division of Taxation - Child Support Enforcement attorney will:

- o Explain blood testing and the paternity process to the putative father;
- o Obtain the putative father's entry of appearance by obtaining his signature and address on the Stipulation.

If the putative father fails to appear at the hearing, the Division of Taxation - Child Support Enforcement Attorney will ask the court to grant the Motion for Blood Test. When the order is granted, it is entered on the ORDR PATT panel and information regarding blood test fees is entered on the GENERAL panel.

The case file is forwarded to a clerk at court who will:

- o File the original order with the Family Court;
- o Hand deliver a copy to the putative father or his attorney, and the mother. If the putative father is not present, a copy of the order will be mailed to the putative father;
- o Send a copy of the order to the Central Registry of the



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initiating state when appropriate;

- o Place a copy in the case record and return the file to the Division of Taxation - Child Support Enforcement Legal Unit.

**Scheduling Blood Test**

**0718.30.10.15**

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REV:07/1994

The Technical Staff Assistant will:

- o Schedule the blood tests;
- o Print a Letter to AP Re: Blood Test Appointment, via FORMS;
- o Send the Letter to AP Re: Blood Test Appointment to the putative father or his attorney;
- o Print a Letter to Client Re: Blood Test Appointment (Mother & Child), via FORMS, and send it along with a copy of the Order for Blood Test to the custodial parent.

If the putative father reschedules the blood test appointment, the Technical Staff Assistant will send another Letter to AP Re: Blood Test Appointment, writing a note on the letter advising him that if he does not keep the appointment, a Motion for Default will be filed.

The custodial parent also may request to reschedule the blood test. If, after the appointment has been rescheduled several times, and the custodial parent fails to keep the appointment, the Technical Staff Assistant will notify the IV-A Eligibility Technician, via the MAIL function, if appropriate.

**Request for Admissions**

**0718.30.10.20**

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REV:01/2002

Blood test results are returned to the Division of Taxation - Child Support Enforcement Legal Unit. When the test shows a high probability of paternity, the Division of Taxation - Child Support Enforcement Technical Staff Assistant will:

- o Schedule an appointment with the custodial parent to

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obtain her signature on the Affidavit, photograph and give her a copy of the blood test results;

- o Send to the putative father (by certified mail), or his attorney (by regular mail):

A Request for Admissions;

A copy of the Affidavit; and

A copy of the blood test results.

The absent parent has ten (10) days to respond in writing to the Request for Admissions. If the absent parent objects to the Request for Admissions, a Motion to Compel Answers is filed, setting the matter for hearing. The court then orders the putative father to respond to the request by either admitting or denying paternity.

If the putative father admits or fails to respond within ten (10) days, the Request for Admissions is deemed true and accurate and a Motion for Summary Judgement (contested) is filed. If the putative fathers denies a specific Request for Admissions and admits the remainder, the Technical Staff Assistant will file an amended version of the Motion for Summary Judgement.

A Motion for Bond is filed in conjunction with the Motion for Summary Judgement. The purpose of the Motion for Bond is to ensure that if the court does not grant the State's Motion for Summary Judgement, support payments will be held in escrow until an order is entered.

The absent parent's presence is required at the hearing on the Motion for Summary Judgement, even if he is being represented by an attorney:

- o If the absent parent appears and does not object to the Motion for Summary Judgement, he is adjudicated to be the father of the minor child, his name is added to the child's birth certificate, and a support order is entered. The escrow payments, if previously ordered, are released and an order for medical coverage is obtained;
- o If the absent parent fails to appear, and is not being represented by an attorney:

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The court will grant the Motion for Summary Judgement, finding the putative father to be the father of the minor child;

PSJ (Paternity Summary Judgement) will be entered on the ORDR PATT panel;

The case is then referred back to the Division of Taxation - Child Support Enforcement agent to file a Motion for Support.

- o If the putative father appears and objects to the Motion for Summary Judgement, the court may:

Grant the Motion for Summary Judgement and order the aforementioned relief;

Deny the Motion for Summary Judgement and order DNA blood testing, a second HLA test, and/or grant the State's Motion for Bond;

Deny the State's Motion for Summary Judgement and order the discovery process to continue in preparation for trial.

**Discovery**

**0718.30.10.20.05**

REV:07/1994

Discovery is the tool used for information gathering in preparation for a paternity trial. The rules of discovery are found in Rules of Domestic Procedure. Among the discovery documents utilized in a contested paternity case are the following:

- o Depositions. Any party may, upon order of the court, take the testimony of any person including a party, upon oral examination or written interrogatories, for the purpose of discovery or for use as evidence in the action or for both purposes. Limitations and the scope of the examination are governed by Rules 26 - 32.
- o Interrogatories. Interrogatories, or written questions, may be served upon an adverse party without permission of the court, if sent after 20 days of service of the defendant. The answers must be made fully in writing

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under oath, and be signed by the person making said answers, within 40 days after service. The scope and limitation of the interrogatories are governed by Rule 33.

- o Request for Production of Documents. Any party may serve on the other party a request in writing to produce, and permit the party making the request to inspect and copy documents or tangible things which are in the possession, custody, or control of the party upon whom the request is served, or permit entry upon land or other property in the possession or control of the party upon whom the request is made. The procedures, scope and limitation of the Request for Production are contained in Rule 34.
- o Request for Admissions. A party may serve upon any other party a written request for the admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact set forth in the request. Each of the matters of which an admission is requested shall be deemed admitted unless, within 10 days after service, the party either:

Denies, specifically, the matters requested; or

Sets forth in detail the reasons why he cannot truthfully admit or deny those matters; or

Objects and requests a hearing on said objection.

Rule 36 sets forth the effect of admissions as well as the procedure;

- o Motion to Compel Answers on Request for Sanctions. If the adverse party refuses to answer discovery, the party must file a Motion to Compel said answers and request a hearing. Rule 37 sets forth the procedures and consequences for failure to respond.

These techniques are used by both the custodial parent's and putative father's attorneys. Sanctions are ordered for the prevailing party when the opposing party fails to respond.

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**Blood Test Reveals Putative Father Excluded**

**0718.30.10.25**

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REV:01/2002

When the blood test excludes the putative father, the Technical Staff Assistant will review the case to make sure that the custodial parent was given the opportunity to identify the putative father during blood testing.

When the custodial parent did not identify the putative father, the Technical Staff Assistant will contact her to come in and identify him from the lab photo.

When the custodial parent cannot identify the putative father during blood testing or during a subsequent appointment with the Technical Staff Assistant, the Technical Staff Assistant will:

- o File a Motion to Dismiss; and, at the same time
- o Contact the custodial parent by sending her:
  - A Letter to Client Re: Blood Test Exclusion;
  - A copy of the Motion to Dismiss;
  - A copy of the blood test results;
- o Send the putative father, or his attorney, a copy of the Motion to Dismiss.

After the hearing, the case is forwarded to the clerical pool to type the order. A clerical person will:

- o Update the case by entering PDS for (Paternity dismissed) on the ORDR PATT (COURT ORDERS) panel;
- o Hand deliver a copy of the order to the putative father and mother;
- o File the original with the court;
- o Retain a copy for the Division of Taxation - Child Support Enforcement case file;
- o Refer the case record to the Division of Taxation - Child Support Enforcement agent, to obtain a new allegation of paternity for filing a Complaint for

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Paternity.

**0718.30.15 Putative Father Fails to Respond**

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REV:07/1994

When a putative father fails to respond to the Paternity Complaint, the agent will print a Paternity: Default packet and the Motion for Support packet. The WPU will:

- o Review the packets for accuracy;
- o Forward the Paternity: Default packet to the Legal Unit for signature.

When the Paternity: Default packet is returned, the WPU will forward the packets to the Family Court to be stamped. When the packets are returned, the WPU will request Constable service. The WPU will:

- o Prepare a Constable Return Form;
- o Give the packets to the Constable for service.

The Constable has 3 weeks to serve the putative father. At the end of the 3 weeks, the packet must be returned regardless of whether the putative father was successfully served.

The RICSS agent will file a Motion for Default, and have the putative father served with a Subpoena and the Motion for Default to appear in court.

**0718.30.20 Putative Father Cannot be Served**

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REV:07/1994

When the putative father cannot be served, the packet is returned to the WPU. The clerk will:

- o Record the results of service on the DAIL CONS panel;
- o Return the packet to the agent.

The agent will review the Constable Return Form, which provides a description of the efforts made to serve the putative father. The agent will initiate location efforts (See Section 0716).

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**ESTABLISH PATERNITY WITHOUT COOPERATION**

**0718.35**

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REV:01/2002

The agency may proceed with attempts to establish paternity when the applicant or recipient fails to cooperate without good cause. Whether paternity can be established depends on the Division of Taxation - Child Support Enforcement being able to obtain sufficient information regarding the putative father without the cooperation of the mother, and whether the putative father admits paternity.

The agency may also proceed with attempts to establish paternity in situations where it is determined that good cause exists for the applicant or recipient refusing to cooperate with Division of Taxation - Child Support Enforcement. In these cases, the agency must make a determination that this activity can proceed without risk of harm to the child or caretaker relative if the enforcement activity does not involve their participation. This determination must be in writing, will contain the agency's findings and basis for determination, and will be entered into the FIP case record. If the IV-A agency excuses non-cooperation, but determines that the IV-D agency may proceed to establish paternity, it will notify the applicant or recipient to enable such individual to withdraw his or her application for assistance or have the FIP case closed. Prior to making this determination, Division of Taxation - Child Support Enforcement will be afforded an opportunity to review and comment on the findings and basis for the proposed determination.

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**SPECIAL PATERNITY ISSUES**

**0718.40**

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REV:07/1994

Not all paternity cases will involve the child's mother as the custodial parent. There will be cases where the child is living with a relative (Loco Parentis cases) or with the putative father. In these cases paternity can still be established, however, procedures will differ from the cases previously discussed.

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**0718.40.05                      Loco Parentis Cases**

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REV:07/1994

In Loco Parentis cases, the applicant or recipient will make an assignment regarding both the putative father and the child's mother. However, (s)he cannot make the formal allegation of paternity. The Complaint of Paternity can only be signed by a child's mother. Therefore, the agent will attempt to locate and contact the child's mother before pursuing paternity against the putative father. The procedures followed will depend on the information obtained, and how cooperative the child's mother and the putative father are.

**0718.40.10                      Putative Father Seeks Establishment**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will establish paternity upon the request of a putative father. A putative father does not have to have custody of the child nor receive assistance for such services to be provided.

**0718.40.10.05                  Custodial Father Seeks Establishment**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will seek to establish paternity when a putative father is the custodial parent and applies for FIP, MA, or NA services. The case shall be referred to the Division of Taxation - Child Support Enforcement legal unit by the IV-A Eligibility Technician. An appointment shall be scheduled for the putative father with the Division of Taxation - Child Support Enforcement Technical Staff Assistant. The Technical Staff Assistant will immediately:

- o Determine if there is an existing case, i.e., if the mother was previously on AFDC/FIP and named the custodial parent as the putative father;
- o Determine if there is a docket number and/or if there is an existing case;
- o Interview the putative father and natural mother, if she is present, and obtain pertinent data to complete the Petition for Voluntary Acknowledgment. Obtain data relative to the mother's location, if appropriate;



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- o Request the appropriate Petition for Voluntary Acknowledgment through INRHODES FORMS. If no previous docket number exists, obtain a Family Court docket number and a hearing date;
- o Obtain the putative father's signature on the petition. If the natural mother is present, obtain her signature as well;
- o Notify the FIP eligibility technician of the completed action via electronic mail. The FIP eligibility technician assigned to the case may be determined by entering the man's social security number in the IV-A CASE-D function of INRHODES. Give a copy of the completed and executed Petition for Voluntary Acknowledgment to the putative father and also forward a copy to the eligibility technician in the appropriate public assistance office. This will enable the putative custodial father to obtain FIP immediately;
- o File the Petition for Voluntary Acknowledgment with the court. An expedited process will be utilized to obtain a hearing date and service of summons;
- o If both parties signed the petition, notify them, in writing, of the court date;
- o If only the putative father signed the petition, the Technical Staff Assistant shall serve the natural mother and presumed father, if appropriate, with a Summons to Appear in court.

At the hearing:

- o The putative father will acknowledge paternity on the record. If the natural mother is present and does not object, the court will adjudicate him to be the father of the child and order that his name be added to the birth certificate. An order will be prepared and mailed or hand delivered at court to both parties. The Division of Vital Records will be ordered to add the father's name to the child's birth certificate. The court may order the Division of Vital Records to change the child's surname to that of the father as well;

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- o If at the hearing, the natural mother and presumed father fail to appear after being duly served, the court will enter an order adjudicating the petitioner the father of the child. This order shall be sent by regular mail to the natural mother and presumed father, if appropriate;
- o If on the hearing date, the Division of Taxation - Child Support Enforcement Attorney indicates that after due and diligent efforts, service could not be perfected either on the natural mother or presumed father, the court shall order alternative service of notice, i.e., notice by publication, if applicable. A continuance date will be requested affording sufficient time for notice of the acknowledgment to be given to the natural mother. On the continuance date, the Division of Taxation - Child Support Enforcement Attorney will present to the court what efforts have been made to serve the respondent, and present copies of the notice by publication. The petitioner will acknowledge paternity on the record. The court will then adjudicate the petitioner the father of the child and order that the birth certificate be amended accordingly. A copy of the order will be mailed to the natural mother;
- o At the hearing on the Petition for Voluntary Acknowledgment, if the natural mother objects, blood testing may be ordered. The case may then proceed as previously outlined in a contested posture.

Note: If the natural mother and presumed father object, the voluntary proceedings shall be terminated;

- o Subsequent to the hearing, the Division of Taxation - Child Support Enforcement Technical Staff Assistant shall send a copy of the order to the IV-A eligibility technician, and update INRHODES accordingly;
- o If the petitioner fails to appear, the proceedings will be terminated and notice will be given to the IV-A eligibility technician of petitioner's failure to cooperate.

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**Non-Custodial Father Seeks Establishment**

**0718.40.10.10**

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REV:01/2002

When a non-custodial putative father requests paternity establishment, the Division of Taxation - Child Support Enforcement Technical Staff Assistant will follow the same procedure as outlined under Custodial Putative Father Seeks Establishment. However, if the natural mother is receiving FIP or seeks support as a NA client, the non-custodial client will be asked to enter his appearance pro se, and an order for support and medical coverage will be entered.

The Division of Taxation - Child Support Enforcement Technical Staff Assistant shall update the INRHODES system with pertinent data and mail a copy of the order to the IV-A Eligibility Technician.

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**Voluntary Acknowledgment Court Practice**

**0718.40.10.15**

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REV:07/1995

In any action commenced before the R.I. Family Court, the father may acknowledge his paternity of the child with the clerk of the Family Court. Each acknowledgment must be signed by the person filing it, and it must contain:

- o The name, social security number, date of birth and address of the person filing the acknowledgment;
- o The name and last-known address of the mother of the child;
- o The date of birth of the child, or, if the child is unborn, the month and year in which the child is expected to be born; and
- o The name and address of the presumed father, if any.

The judge shall hold an informal hearing on the acknowledgment and shall enter an order establishing the paternity of the child and an order of support for the child, provided there are no objections from the natural mother or presumed father filed with the family court prior to the date of the informal hearing, and provided further that a copy of the acknowledgment and a notice of the informal hearing are duly served upon the mother and any presumed father according to the R.I. Rules of Procedure for Domestic

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Relations.

The voluntary acknowledgment of paternity shall be recognized by the R.I. Family Court as a basis for establishing a child support order for the child without requiring any further proceedings to establish paternity.

**0718.40.10.20**                      **Voluntary Acknowledgment - Hospital Program**

REV:07/1995

Under R.I.G.L. 40-6-21.1, all public and private birthing hospitals in this State are required to participate in a hospital based paternity acknowledgment program. The title "birthing hospital" means a hospital that has a licensed obstetric care unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital. A birthing center is a facility outside a hospital that provides maternity services. This hospital based program must provide to both the mother and the alleged father, if he is present in the hospital:

- o Written materials about paternity establishment, including written descriptions of the rights and responsibilities of acknowledging paternity;
- o Forms needed to voluntarily acknowledge paternity;
- o The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment.

This hospital based program must also ensure that due process safeguards are met. The birthing hospital will be responsible for forwarding completed acknowledgements or copies to the R.I. Department of Health, Division of Vital Records. These voluntary acknowledgements must be signed by both parents and the signatures notarized or witnessed.

Voluntary acknowledgments made through a hospital based paternity acknowledgment program are a basis for seeking a support order without requiring any further proceedings to establish paternity.

The requirement for participation in the programs by hospitals is

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in addition to the birth registration requirements under title 23, chapter 3 of the General Laws.

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**LIMITATION ON RECOVERY FROM THE FATHER**

**0718.45**

REV:07/1994

The father's liabilities for past education, and necessary support and maintenance, are limited to a period of six (6) years next preceding the commencement of an action hereunder.

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**LIMITATIONS OF RECOVERY FROM FATHER'S ESTATE**

**0718.50**

REV:07/1994

The obligation of the estate of the father for liabilities under the Rhode Island General Laws (RIGL) Sections 15-8-1 to 15-8-26, are limited to those amounts accrued prior to his death. However, in order to hold the estate of the father liable under RIGL 15-8-1 and 15-8-26, an action hereunder must have been commenced during the lifetime of the father.

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**STATUTE OF LIMITATIONS**

**0718.55**

REV:07/1994

An action to determine the existence of the father and child relationship as to a child who has no presumed father under the Rhode Island General Laws, Section 15-8-3, may not be brought later than four (4) years after the birth of the child, or later than four (4) years after May 4, 1979, which ever is later. However, an action brought by or on behalf of a child whose paternity has not been determined is not barred until four (4) years after the child reaches the age of majority.

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**JURISDICTION AND REMEDIES**

**0718.60**

REV:07/1994

The Family Court has jurisdiction of an action commenced under Rhode Island General Laws (RIGL) Sections 15-8-1 to 15-8-26, and all remedies for the enforcement of orders for the expense of pregnancy and confinement of the mother, and for education, necessary support and maintenance, or funeral expenses for legitimate children shall apply. The court has continuing

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jurisdiction to modify or revoke an order and to increase or decrease amounts fixed by order for future education and necessary support and maintenance. All remedies under the Uniform Reciprocal Enforcement of Support Act, and amendments thereto, are available for enforcement of duties of support and maintenance under RIGL158-1 to 15-8-26.

A person who has had sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to any action brought under RIGL Title 15, Chapter 8 with respect to a child who may have been conceived by that act of intercourse. Jurisdiction shall be acquired by service made in accordance with RIGL 9-5-33, as amended.

**0718.62**

**JURISDICTION OF R.I. COURTS**

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REV:07/1994

Every foreign corporation, every individual not a resident of this state or his executor or administrator, and every partnership or association, composed of any person or persons, not such residents, that shall have the necessary minimum contacts with the state of Rhode Island, shall be subject to the jurisdiction of the state of Rhode Island, and the courts of this state shall hold such foreign corporations and such nonresident individuals or their executors or administrators, and such partnerships or associations amenable to suit in Rhode Island in every case not contrary to the provisions of the constitution or laws of the United States.

Service of process may be made on any such foreign corporation, nonresident individual or his executor or administrator, and such partnership or association within or without the state in the manner provided by any applicable procedural rule or in the manner prescribed by order of the court in which such action is brought.

Nothing herein shall limit or affect the right to serve process upon such nonresident individual or his executor or administrator, or such partnership or association, or a foreign corporation within this state or without this state in any manner now or hereafter permitted by law.

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**CLEAR AND CONVINCING EVIDENCE**

**0718.64**

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REV:07/1995

In any action to establish paternity under Chapter 8 of Title 15 of the Rhode Island General Laws (RIGL), other than an action brought pursuant to RIGL Sections 15-8-2 or 15-8-3, the standard that must be met by the plaintiff shall be that of clear and convincing evidence.

If the results of the blood tests duly admitted into evidence establish a ninety-seven percent (97%) or greater probability of inclusion that a party is the biological father of the child, then such threshold probability shall constitute a prima facie case of establishment of paternity and the burden of proof shall shift to the party to rebut such proof by clear and convincing evidence.

**TRIAL BY COURT**

**0718.66**

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REV:07/1994

A trial shall be heard by the court, unless trial by jury is claimed by either party within 10 days after the filing of an answer, in which event said trial shall be by jury.

**VENUE**

**0718.68**

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REV:07/1994

The action may be brought in the county in which the child or the alleged father resides or is found, or if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

**TIME OF TRIAL**

**0718.70**

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REV:07/1994

If a paternity action is initiated before a child's birth, the trial must not, without the consent of the putative father, be held until after the birth or miscarriage.

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**0718.72**

**EVIDENCE RELATING TO PATERNITY**

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REV:07/1994

Evidence used in a paternity hearing may include:

- o Evidence of sexual intercourse between the mother and putative father at any possible time of conception. The standard that must be met by the plaintiff must be that of clear and convincing evidence;
- o An expert's opinion concerning the statistical probability of the putative father's paternity based upon the duration of the mother's pregnancy;
- o Medical or anthropological evidence relating to the putative father's paternity of the child based on tests performed by experts;
- o All other evidence relevant to the issue of paternity of the child.

**0718.74**

**CIVIL ACTION**

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REV:07/1994

A paternity action is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order him to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that this, his testimony or evidence, might tend to incriminate him, the court may grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offenses shown in whole or in part by testimony or evidence that he is required to produce, except for perjury committed in his testimony. The refusal of a witness, who has been granted immunity, to obey an order to testify or produce evidence is a civil contempt of court.

Testimony of a physician concerning the medical circumstances of the pregnancy and birth is not privileged. Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of



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conception of the child is inadmissible, unless offered by the mother.

Testimony offered by a putative father with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother, at or about the probable time of conception of the child, is admissible as evidence only if he has undergone and made available to the court blood tests, the results of which do not exclude the possibility of his paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

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**HEARINGS AND RECORDS-CONFIDENTIALITY**

**0718.76**

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REV:07/1994

Notwithstanding any other law concerning public hearings and records, any hearing or trial shall be held in closed court without admittance of any person other than those necessary to the action of the proceeding. All papers and records, other than the final judgement pertaining to the action or proceeding, whether part of the permanent record of the court or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

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**JUDGEMENTS**

**0718.78**

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REV:07/1994

The judgement or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

If the judgement or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued in accordance with Rhode Island General Laws, Section 15-8-23.

The judgement or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, or any other matter in the best interest of the child. The judgement or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

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Support judgements or orders may be for periodic payments which may vary in amount. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including:

- o The needs of the child;
- o The standard of living and circumstances of the parents;
- o The relative financial means of the parents;
- o The earning ability of the parents;
- o The need and capacity of the child for education, including higher education;
- o The age of the child;
- o The financial resources and the earning ability of the child;
- o The responsibility of the parents for the support of others; and
- o The value of services contributed by the custodial parent.

**0718.78.05**

**Default Judgements**

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REV:01/2002

An absent parent's delay or failure to respond to court action initiated by Division of Taxation - Child Support Enforcement may not, in certain circumstances, delay the paternity establishment process. Under R.I.G.L. 15-8-18.1 and the R. I. Rules of Procedure for Domestic Relations, R.I. Family Court shall enter the defendant's default and a judgment by default in a paternity action under R.I.G.L., chapter 15-8 upon the following conditions:

- o Failure to respond to the paternity complaint within twenty (20) days upon proof presented that the defendant has been duly served with the complaint;

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- o Failure to appear at a scheduled hearing or trial after being duly notified of said hearing or trial, upon proof presented that the defendant has been duly served with notice of the scheduled hearing or trial;
  
- o Failure to appear or refusal to attend blood testing upon proof presented that the defendant has been duly notified of the date, time and place of the testing;

The court may set aside an entry of default and, if judgment by default has been entered, may likewise set it aside in accordance with the Rules of Procedure for Domestic Relations.

**JUDGEMENTS-ENFORCEMENT**

**0718.80**

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REV:07/1994

If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under the Rhode Island General Laws Title 15 Chapter 8, or under prior law, the obligation of the father may be enforcement in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by other persons, including a private agency, to the extent he has furnished or is furnishing these expenses.

Willful failure to obey the judgement or order of the court is a civil contempt of the court. All remedies for the enforcement of judgements apply.

**BOND TO SECURE PAYMENT OF JUDGEMENT**

**0718.82**

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REV:07/1994

The court at any time may require the alleged or adjudicated father to give bond or other security for the payment of any judgement which exists, or may exist in the future.

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**0718.84**

**FALSE DECLARATION OF IDENTITY**

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REV:07/1994

The making of a false complaint as to the identity of the father, or the aiding or abetting therein, shall be punishable as for perjury.

**0718.86**

**APPEALS**

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REV:07/1994

An appeal in all cases may be taken by the defendant, the mother or her personal representative, or the public welfare official from any final order or judgement of the Family Court, upon an action commenced, directly to the Supreme Court within 30 days after the entry of said order of judgement. No appeal, however, shall operate as a stay of execution unless the defendant shall give security for the payment of any judgement and security to pay the costs of such appeal.

**0718.88**

**COSTS**

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REV:07/1994

If the court makes an order declaring paternity and for the support, maintenance, and education of the child, court costs including the costs of legal services of the attorney representing the petitioner, expert witness fees, and all other costs shall be taxed against the defendant.

**0718.90**

**ACTION TO DECLARE MOTHER AND CHILD RELATION**

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REV:07/1994

Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provision of the Rhode Island General Laws Title 15 Chapter 8 applicable to the father and child relationship shall apply.

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**ASSIGNMENT OF SUPPORT RIGHTS**

**0720.05**

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REV:12/2002

An applicant for or recipient of public assistance under Rhode Island General Law, Title 40, Chapter 6, Public Assistance (RIGL 40-6-9) or under Title XIX of the Federal Social Security Act (42 U.S.C. 1396 et seq.), for and on behalf of himself or herself and for and on behalf of a child or children, shall be deemed, without the necessity of signing any document, to have made an assignment of rights as described in Section 0704.15.

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**PAYMENT OF SUPPORT TO CUSTODIAL AGENCY**

**0720.10**

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REV:07/1994

Whenever the Department of Children, Youth and Families shall pay for the support and maintenance of any child pursuant to the Rhode Island General Laws, Sections 42-72-13 and 42-72-14, or whenever such other department, agency, society, institution or person having the charge, care or custody of such child shall pay for the support and maintenance of such child, the parents of such child are hereby declared to be severally liable for the support and maintenance of said child, and shall be severally liable for the reimbursement to the Department of Children, Youth and Families, or such other department, agency, society, institution or person having the charge, care, or custody of such child, for the support and maintenance of such child.

In fixing the amount of support which the parents shall be ordered to pay, the court shall take into account the following factors:

- o All earnings, income and resources of the parent including real and personal property;
- o The earnings potential of the parent;
- o The reasonable necessities of the parent;
- o The needs of the child for whom support is sought;
- o The reasonable expenditures of the custodial agency for the support and maintenance of the child;
- o The existence and needs of other dependents of the parent;

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- o Any other factors which bear upon the needs of the child, and the ability of the parent to provide financial support for those needs.

**0720.15**

**NAME CHILDREN RECEIVING PUBLIC ASSISTANCE**

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REV:07/1994

The party commencing an action seeking a divorce from the bond of marriage or divorce from bed and board or an order pursuant to the Rhode Island General Laws, Section 15-5-19, shall at the time the proceeding is begun append to the petition a statement containing the names of all children of the marriage and their ages and stating whether any such children are at that time recipients of or applicants for public assistance.

**0720.20**

**DOA, TAXATION - CSE AS LEGAL REPRESENTATIVE**

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REV:12/2002

In any proceeding under Title 15 Chapter 9 of the General Laws of Rhode Island, the Department of Administration, Division of Taxation - Child Support Enforcement shall represent the Department of Children, Youth and Families and the Department of Human Services, and shall remit to the General Treasurer the net collections, after deducting all reasonable costs and expenses of any action or proceeding under Chapter 9.

**0720.25**

**SEVERABILITY**

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REV:07/1994

If any provision of Rhode Island General Law, Title 15, Chapter 9 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without the invalid provision or application, and to this end the provisions of Chapter 15-9 are severable.

If any provision of Rhode island General Law Title 15, Chapter 13 or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

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CHILD SUPPORT

0720.30

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REV:02/1997

In a proceeding for divorce, divorce from bed and board, a miscellaneous petition without the filing of divorce proceedings, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount based upon a formula and guidelines adopted by an administrative order of the Family Court.

In a proceeding to establish paternity or support, the court may, after opportunity for hearing, in its discretion, issue a temporary order for child support payable to the registry of the court and to be held pending entry of judgment. In the event of a final adjudication requiring no payment or payments in an amount less than those payments which have been made, the defendant shall be entitled to a full refund of all or a portion of the amounts so paid.

If, after calculating support based upon court established formula, the court, in its discretion, finds such order would be inequitable to the child or either parent, the court shall make such findings of fact and may order either or both parents owing a duty of support to pay an amount reasonable or necessary for the child's support after considering all relevant factors including, but not limited to:

- o The financial resources of the child;
- o The financial resources of the custodial parent;
- o The standard of living the child would have enjoyed, had the marriage not been dissolved;
- o The physical and emotional condition of the child and his educational needs; and
- o The financial resources and needs of the non-custodial parent.

The court may, if in its discretion it deems necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday.

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The court may, if in its discretion it deems it necessary or advisable, appoint an attorney or a guardian ad litem to represent the interest of a minor or dependent child with respect to his support, custody, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents. After a decree for support has been entered, the court may, from time to time upon the petition of either party, review and alter its decree relative to the amount of such support and the payment thereof, and may make any decree relative thereto which it might have made in the original suit. Said decree may be made retroactive in the court's discretion to the date that the court finds that a substantial change in circumstances has occurred, provided, however, that the court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances, upon which findings of fact the court has decided to make the decree retroactive.

In a proceeding to enforce a child support order, or a spousal support order for a custodial parent having custody of a minor child, the court or its master may assign to the obligee such tangible personal property of the obligor as will be sufficient to satisfy the child or spousal support arrearage owed. The court or its master, after hearing, shall establish the amount of the child or spousal support arrearage and the nature and value of the tangible personal property. To effect such assignment, the court or its master may order the obligor to execute and deliver such documents of title as may be necessary to complete the transfer of title to such property, and may order the obligor to deliver possession of such property to the obligee. Whenever the obligor fails to comply with the order assigning such property, the order of assignment shall be regarded as a judgement vesting title to such property in the obligor as fully and completely as if the obligor had executed and delivered such documents of title.

**0720.35**

**RECONSIDERATION OF SUPPORT ORDERS**

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REV:07/1994

Every order heretofore or hereafter entered by the Family Court providing for support of a child who at the time of entry of the order was not a recipient of or applicant for public assistance shall, in the event the child becomes the recipient of public assistance, be reconsidered de novo upon the petition of a parent or guardian of the child or the Department of Human Services.



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Upon the filing of such petition, the court shall hold a hearing for the purpose of determining the amount of support to which the child is entitled from the appropriate parent. In fixing the amount of support the court shall take into account the factors set forth in Rhode Island General Law 15-13-2.

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**SET SUPPORT FOR PUBLIC ASSISTANCE CHILDREN**

**0720.40**

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REV:07/1994

If the statement appended to the petition indicates that any child of the marriage is a recipient of or applicant for public assistance, a hearing shall be held as promptly as possible to determine the amount of support to which each such child is entitled from the appropriate parent. The Department of Human Services shall be given notice of the hearing and shall appear thereat for the purpose of assisting the court in fixing the amount of support. In the absence of the consent of the parties and agreement of the Department of Human Services, the court shall not enter an order providing support without conducting a hearing. In fixing the amount of support which the parent shall be ordered to pay, the court shall take into account the following factors:

- o All earnings, income and resources of the parent including real and personal property;
- o The earnings potential of the parent;
- o The reasonable necessities of the parent;
- o The needs of the child for whom support is sought;
- o The existence and needs of other dependents of the parent;
- o Any other factors which bear upon the needs of the child and the ability of the parent to provide financial support of those needs.

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**0720.45**

**ESTABLISHMENT STANDARDS**

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REV:01/2002

For all child support cases where an order for support has not been established the Division of Taxation - Child Support Enforcement will, within ninety (90) calendar days of locating an absent parent or of establishing paternity:

- o Establish an order for support; or
- o Complete service of process necessary to commence proceedings to establish an order; or
- o Document unsuccessful attempts to serve process; and
- o Review the support obligation periodically, or whenever information is received which may affect the amount of the support obligation.

If a court or administrative authority dismisses a petition for a support order without prejudice, the Division of Taxation - Child Support Enforcement will, at the time of dismissal, examine the reasons for the dismissal and determine when it would be appropriate to seek an order in the future, and seek an order at that time.

**0720.50**

**CHILD SUPPORT GUIDELINES**

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REV:07/1994

The amount of the child support obligation is determined by using the child support guidelines formula adopted by the State. The guidelines are used to determine the required monthly support obligation and the amount of any support arrearage.

The child support guidelines formula takes into account all earnings, income and resources of the absent parent, including real and personal property, the earnings potential of the absent parent, reasonable necessities of the absent parent, the ability of the absent parent to borrow, the needs of the child(ren) for whom support is sought, the amount of assistance which would be paid to the child under the full standard of need of the State's IV-A plan, the existence of other dependents, and other reasonable criteria which the State may choose to incorporate. At a minimum, the formula must ensure that the child for whom support is sought benefits from the income and resources of the absent parent on an

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equitable basis in comparison with any other minor children of the absent parent.

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**MEDICAL SUPPORT**

**0720.55**

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REV:01/2002

Any new or modified order for child support issued by the RI Family Court shall contain a provision requiring either or both parents owing a duty of support to the child to obtain or maintain health insurance coverage for the child when such coverage is available through their employment at no cost or at a reasonable cost. If health insurance is not currently available at a reasonable cost, either or both of the parents will be ordered to enroll the child(ren) covered by the order when it does become available at a reasonable cost.

Health insurance includes fee for service, health maintenance organization, preferred provider organization and other types of coverage under which medical services could be provided to the dependent child(ren) of either or both parents.

Applicants for IV-D services will be provided with the same establishment and enforcement techniques that are available to cases with assigned support rights. The Division of Taxation - Child Support Enforcement will inform any IV-D applicant of the availability of medical support enforcement services. The Division of Taxation - Child Support Enforcement must also provide to any Medical Assistance Only (MAO) recipient the same range of services provided to FIP cases unless the MAO recipient informs the Division of Taxation - Child Support Enforcement in writing that she/he does not wish any services beyond those the Division of Taxation - Child Support Enforcement is required to provide for medical support. The Division of Taxation - Child Support Enforcement must provide these services to MAO recipients who have assigned their rights to medical support without an application or a fee.

Any information the Division of Taxation - Child Support Enforcement obtains about health insurance coverage will be provided to the custodial parent. In cases where the child(ren) are receiving Medical Assistance, any information about health insurance coverage will also be provided to the Medical Assistance agency. This would include the policy name and number, and the child(ren)'s name(s) and social security

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number(s).

**0720.60**

**ESTABLISHING THE ORDER**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will pursue a support order either by first serving the Complaint for Support, or filing a Motion for Support. The Division of Taxation - Child Support Enforcement agent will:

- o Request a Complaint for Support when there is no domestic relations case found in the Domestic Alpha Index, or there is no reciprocal case pending and involving the same parties (Rhode Island Divorce Filings);

- o Request a Motion for Support when:

There is an existing domestic support order and the custodial parent goes on FIP;

When there is an existing domestic case pending and no support order has been entered; and

When there is an existing reciprocal case pending and the custodial parent reopens his/her AFDC/FIP case.

**0720.60.05**

**Complaint for Support**

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REV:01/2002

When it has been determined that a support complaint is needed, the support agent will generate the appropriate packet through the FORMS function of the INRHODES system. In selecting this packet, the agent will usually ask for a hearing date and personal service by constable.

When the packet is printed, the action is automatically recorded on CASE (TRAC)KING function. The clerical pool will receive the packet and:

- o Review the forms;
- o Take the packet to the Division of Taxation - Child

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Support Enforcement Legal Unit for signature;

- o Take the packet to Family Court to obtain the Family Court seal;
- o Record the request on the DAIL CONS panel;
- o Give the packet to the Constable for service.

The constable has three weeks in which to obtain successful service. At the end of that time, s/he will return the packet to the Administrative Secretary regardless of whether successful service was obtained. The secretary will record the service results on the DAIL CONS panel.

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**The Absent Parent is Successfully Served**

**0720.60.10**

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REV:01/2002

When successful service is obtained, the clerical pool will:

- o Send the original packet to the Family Court;
- o File a copy of the packet in the Division of Taxation - Child Support Enforcement case record;
- o Prepare the case for the hearing by completing and placing in the Division of Taxation - Child Support Enforcement case record:
  - Draft order (1)
  - Attorney Worksheet (1)
  - Medical Form (1)
  - Guideline Worksheet (2)
  - CSS-1 (Domestic cases only) (1);
- o Two (2) days before the hearing, the clerical pool will send the case to the Family Court for the Division of Taxation - Child Support Enforcement Attorney.

Note: in counties other than Providence, Clerk will send the packet to the Family Court regardless of whether the absent parent was successfully served.

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**0720.60.15**

**Absent Parent Cannot be Served**

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REV:07/1994

When the absent parent cannot be served, the Administrative Secretary will return the packet to the agent. The agent will:

- o Review the Constable Return Form to see what attempts were made at service;
- o Attempt to verify another address;
- o When a new address is verified:
  - Update the appropriate APPD panel(s);
  - Repeat the process beginning with printing the Complaint for Support packet;
- o When a new address cannot be verified enter a B (Bad) in the VERIFICATION field on the appropriate APPD panel (ABSP or EMPL).

**0720.60.20**

**Motion for Support**

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REV:01/2002

When it has been determined that a support motion is needed, the support agent will generate the appropriate packet through the FORMS function of the INRHODES system. In most cases the agent will ask the system to provide a hearing date and assign a constable for personal service.

When the packet is printed, the action is automatically recorded on CASE (TRAC)KING function. The clerical pool will receive the packet and:

- o Review the forms;
- o Take the packet to the Division of Taxation - Child Support Enforcement Legal Unit for signature;
- o Take the packet to Family Court to obtain the Family Court seal;
- o Record the request on the DAIL CONS panel;

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- o Give the packet to the Constable for service.

The Constable has three weeks in which to obtain successful service. At the end of that time, (s)he will return the packet to the Administrative Secretary regardless of whether successful service was obtained. The secretary will record the service results on the DAIL CONS panel.

**ESTABLISHMENT HEARING**

**0720.65**

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REV:01/2002

The Division of Taxation - Child Support Enforcement attorney will represent the custodial parent in a non-welfare case and the State in a public assistance case. The attorney will:

- o Complete the:
  - Guideline Worksheet
  - Draft Order
  - Medical Form
  - Attorney Worksheet (if there are any special instructions to any Unit);
- o Forward the case record to the clerical pool for the entry of the order.

The clerical person will:

- o Type the order;
- o Obtain the attorney's signature;
- o Enter the order on the INRHODES ORDR panel
- o Send or hand-deliver copies of the order to the Family Court, the absent parent and the custodial parent when applicable;
- o File a copy in the Division of Taxation - Child Support Enforcement case record and return it to Master Files.

Once the order has been entered the case will automatically move from the Establishment agent's DAIL to an Enforcement agent's DAIL.

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0720.70

COURT ORDERED INCOME WITHHOLDING

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REV:07/1994

Effective November 1, 1990, immediate withholding is required for all IV-D cases with new or modified orders on the effective date of the order unless one of the parties demonstrates, and the court or other administrative process finds good cause not to require the withholding, or a written agreement is reached between both parties which provides for an alternative arrangement.

The federal regulations provide that a finding of good cause by the court must be based on, at a minimum:

- i) A written determination and explanation of why implementing immediate withholding would not be in the best interests of the child;
- ii) Proof of timely payment of previously ordered support in cases involving the modification of support orders;
- iii) Agreement by the absent parent to keep the IV-D agency apprised of his or her current employer and information on any employment related health insurance coverage to which the absent parent has access. Once a finding of good cause is made, the state may not take steps to implement withholding unless the court changes its determination of good cause.



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CHILD SUPPORT ENFORCEMENT STANDARDS

0722.05

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REV:02/1997

The Division of Taxation - Child Support Enforcement will monitor all IV-D cases for compliance with any support obligation. For child support orders and medical support orders, the Division of Taxation - Child Support Enforcement will identify, on the date the absent parent fails to make payments in an amount equal to the support payable for one-twelfth of the annual support obligation, or on an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation. The Division of Taxation - Child Support Enforcement will take all appropriate enforcement actions to enforce the order. These include, but are not limited to:

- o Administrative Income Withholding;
- o Contempt proceedings;
- o Federal and State income tax refund intercepts;
- o IRS Full Collection;
- o Credit Bureau Reporting;
- o Referral to the R.I. Attorney General's Office (see felony penalties below);
- o Notification to an obligor's new employer that an order requiring wage withholding to collect support is in effect; and
- o Use of lien, levy, and foreclosure of lien actions.

For those obligors who are more than ninety (90) days in arrears,

- o Revocation, suspension or the prevention of the reissuance or renewal of the obligor's license to operate a motor vehicle or register a motor vehicle, certification, registration, permit, approval, or other similar document to engage in a profession, occupation, business, or industry.

For obligors whose arrears are in excess of five hundred dollars (\$500),

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- o Setoff of certain lottery winnings and proceeds of insurance settlements to pay support arrears; and
- o Prevention of the issuance, reissuance, or renewal of the obligor's license to operate a motor vehicle and/or the registration or renewal of registration of the obligor's motor vehicle.

The Division of Taxation - Child Support Enforcement may also take steps to recover from the absent parent any amounts s/he may have received from a third party payor for the cost of health services paid to the absent parent for the costs of these services but which the absent parent did not use to reimburse either the other parent or guardian of the child or the provider of the services.

In addition to the enforcement actions described above, the Division of Taxation - Child Support Enforcement may refer delinquent child support payers to the R.I. Attorney General's office for prosecution when it is determined that circumstances are appropriate.

In any case involving non-support of a child pending before Rhode Island Family Court or any other tribunal or agency of competent jurisdiction, any person committing perjury or false swearing shall be guilty of a felony and shall be imprisoned for a term not to exceed twenty (20) years. (See Section 0722.15.)

**0722.05.05 Initiating Enforcement Standards**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent decides which enforcement actions to initiate based upon the information known about the absent parent, and the criteria required for the various enforcement remedies. In non-assistance cases, the custodial parent may express a preference for one remedy or another. When this happens, the agent will honor the request to the extent possible.

When a case meets criteria for more than one enforcement remedy, the agent will initiate all of them at the same time. For example an agent may file a Motion to Adjudge in Contempt and to Modify, and certify the case for tax intercepts at the same time.

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INITIATED WAGE WITHHOLDING

0722.08

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REV:07/2004

In cases where immediate wage withholding would not apply because the support order was issued before and not modified after November 1, 1990, and in cases where a good cause finding has been made by the court or a written agreement entered between the parties, the wages of the noncustodial parent shall become subject to wage withholding on the date the noncustodial parent becomes fourteen (14) days delinquent in making support payments. Wage withholding may also be initiated without regard to any amount of arrears if the noncustodial parent requests it.

If the custodial parent requests it, the Division of Taxation - Child Support Enforcement may initiate wage withholding without regard to whether any arrears exists. The Division of Taxation - Child Support Enforcement approval of the request will be based on any one of the following factors:

- o The noncustodial parent is not meeting the terms of a written agreement and the court removes its findings of good cause; or
- o The noncustodial parent is habitually late in making his or her child support payments, but there is no arrearage; or
- o The noncustodial parent is habitually late in making his child support payments and as a result the custodial parent has not received a pass through payment; or
- o The noncustodial parent changes jobs and the new employer is located; or
- o There is an outstanding child support order and the noncustodial parent obtains a job; or
- o The interstate agency is requesting wage withholding.

Also, a noncustodial parent's wages, salary or other income may be garnished when:

- o S/he is required by court or administrative order to provide for the coverage of the cost of health services and has received payment from a third party for such

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services but has not used the payments to reimburse the other parent or guardian of the child or the provider of the services. (NOTE: Claims for current and past-due support shall take priority over these claims.)

**Advance Notice**

The Division of Taxation - Child Support Enforcement will have an advance notice of proposed income withholding served on the noncustodial parent. The advance notice includes the following information:

- o The amount to be withheld;
- o That the withholding will apply to any current or subsequent employers;
- o The reasons and procedure for contesting the action;
- o The procedure to be followed if the noncustodial parent does not respond to the notice.

It is not necessary to serve an noncustodial parent with an advance notice of proposed income withholding when a prior withholding order has been ordered by the court.

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**0722.10 INITIATED ADMINISTRATIVE INCOME WITHHOLDING**

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REV:01/2002

Pursuant to federal regulations, the State must ensure that in the case of each absent parent to whom a support order is or has been issued or modified in the state, and is being enforced under the State Plan, so much of his or her wages must be withheld to comply with the order. In addition to the amount to be withheld to pay the current month's obligations, the amount to be withheld must include an amount to be applied toward liquidation of overdue support.

Another basis for wage or income withholding is the failure of the absent parent to use payments from a third party payer for health services costs to reimburse the other parent, or guardian of the child or the provider of the services, or the Department of Human Services, provided the absent parent was under court or administrative order to provide such coverage. (See Section 0722.08)

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The state must take steps to implement the withholding and to send the advance notice required on the earliest of:

- (1) The date on which the parent fails to make payments in full, within fourteen (14) days of the due date;
- (2) The date the absent parent requests that withholding begin;
- (3) The date on which the custodial parent requests that withholding begin in accordance with the standards and procedures the State may establish. (A custodial parent could request withholding if an absent parent is not meeting the terms of the written agreement for an alternative arrangement.)
- (4) The date on which the Division of Taxation - Child Support Enforcement becomes aware that third party payments to an absent parent for the costs of health services were not used for reimbursement to either the other parent, or guardian of the child or the provider of the services or the Department of Human Services.

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**Remedies Additional**

**0722.10.05**

REV:07/1994

The income withholding remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforcement support orders issued in this state or in another jurisdiction. Relief under Rhode Island General Law, Title 15, Chapter 16 shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

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**Income Withholding Agency**

**0722.10.10**

REV:07/1994

The Rhode Island Department of Human Services is hereby designated as the state income withholding agency and shall have all powers, duties and responsibilities to establish and administer income withholding in accordance with Rhode Island General Law, Title 15,

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Chapter 16, and is further authorized and directed to promulgate rules and regulations it deems necessary to implement the provisions and purposes of Chapter 16, provided, however, that any rule or regulation affecting the duties and responsibilities of the Family Court shall be made with the concurrence of the chief judge of the Family Court.

**0722.10.15** **Withholding as an Enforcement Remedy**

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REV:09/1995

The income withholding remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforcing a support order or a medical child support order issued in this state or in another jurisdiction. Relief under Rhode Island General Laws, Title 15, Chapter 16 shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

**0722.10.20** **Withholding by Another Jurisdiction**

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REV:07/1994

On behalf of any client for whom the department is already providing services, or on application of a resident of this state who is an obligee or obligor of a support order issued by this state, or of an agency to whom the obligee has assigned support rights, the department shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against such income. The department shall compile and transmit promptly to the agency of the other jurisdiction all documentation required to enter a support order for this purpose. The department also shall transmit immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order.

**0722.10.25** **Severability of Provisions**

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REV:07/1994

If any provision of the Rhode Island General Laws, Title 15, Chapter 16 or the application thereof, shall for any reason be judged invalid, such a judgement shall not affect, impair, or invalidate the remainder of the law, but shall be confined in its

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effect to the provision or application directly involved in the controversy giving rise to the judgement.

**Withholding Amounts**

**0722.10.30**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will ensure that in each court ordered case an amount must be withheld from the absent parent's wages as is necessary to comply with the order. Payments must include the current support payment and a payment that is equal to ten percent (10%) of the current support amount as payment on any past-due support.

Upon petition by an absent parent, the court in its discretion, may reduce the amount required to be withheld in liquidation of support arrearage to a nominal or token amount, if the court finds that such additional withholding would work an undue hardship on the absent parent.

In the event there are two (2) or more income withholding orders against the same income of an obligor, the department will allocate and distribute the amount remitted by the withholding agent between or among the separate income withholding orders giving priority to current support obligations as follows:

- 1) Each obligee shall be allocated an amount in the proportion that each obligee's current support order under income withholding bears relative to the total of all amounts for current support under income withholding orders for that obligor;
- 2) Any remaining withheld income shall be allocated to each obligee in an amount proportional to which each obligee's arrearage order under income withholding bears relative to the total of all amounts ordered to be paid on arrearages under income withholding orders.

Regardless of the amount of the order or orders, and amounts payable on arrears, the total amount withheld under income withholding provisions cannot exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). The Act limits the withholding to fifty percent (50%) of disposable income if the earner is supporting another dependent and sixty percent (60%) for an earner with no dependents. The percentages increase to fifty-five percent (55%)

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and sixty-five percent (65%) if the amount in arrears has been delinquent for twelve (12) or more weeks.

**0722.10.35**                      **Advance Notice**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will have an Advance Notice of Proposed Income Withholding served on the absent parent. The advance notice, which will be sent to the absent parent within fifteen (15) calendar days of the dates designated in Section 0722.10, includes the following information:

- o The amount of overdue support or medical child support;
- o The amount to be withheld;
- o That the withholding will apply to any current or subsequent employers;
- o The reasons and procedure for contesting the action;
- o The deadline for contesting the action;
- o The procedures followed if the action is contested;
- o The procedures followed if the absent parent does not respond to the notice.

It is not necessary to serve an absent parent with an Advance Notice of Proposed Income Withholding when an immediate income withholding order was entered after October 1, 1990. In these situations the agent may simply prepare a new DR-29 (see Section 0722.10.50, Employment Changes).

**0722.10.35.05**                      **Serving the Advance Notice**

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REV:07/1994

The agent will print the Advance Notice of Proposed Income Withholding via the INRHODES FORMS function. This advance notice packet will usually be delivered to the absent parent by personal service although it may also be sent by certified mail. In either case, it may be delivered to the absent parent's residence or place of employment.



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The absent parent may contest the income withholding by filing or mailing a written statement within ten (10) days of the receipt of the advance notice. This written statement shall specify the mistake or mistakes of fact claimed. See section 0722.10.55 for description of mistakes of facts.

**Employer Notice**

**0722.10.40**

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REV:01/2002

Within fifteen (15) calendar days following the deadline specified in the Advance Notice of Proposed Income Withholding, and for which a hearing has not been requested, the Division of Taxation - Child Support Enforcement agent will send notice to the absent parent's employer. This notice is the Administrative Order to Withhold Income and it may be generated from the FORM function of the INRHODES system.

The notice to the employer includes:

- o The amount to be withheld;
- o Information regarding the Consumer Credit Protection Act (15 U.S.C. 1673(b)) (See Section 0722.10.30).

The notice instructs the employer to begin withholding no later than the first pay period that occurs after fourteen (14) days following the date the notice was sent, and that the payment must be sent within ten (10) days of the date the absent parent is paid unless payments are directed to another individual or entity. The notices explain that:

- o A two dollar (\$2) fee for administrative costs may be deducted from the absent parent's remaining income for each payment sent;
- o The withholding has priority over any other legal process;
- o Withholding amounts from multiple absent parents' wages may be combined and sent as a single payment, as long as the payments are to be sent to the same entity and that each single payment is attributable to the correct absent parent;

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- o The income withholding is binding until further notice;
- o The employer is subject to fines for discharging, refusing to employ, or taking disciplinary action against anyone subject to a child support withholding;
- o The employer is liable for the total of any support money which should have been withheld if the employer fails to withhold as instructed;
- o The employer must notify the Division of Taxation - Child Support Enforcement when an absent parent terminates his/her employment, and provide the Division of Taxation - Child Support Enforcement with the absent parent's new address and/or employer if known.

**0722.10.40.05**

**Sending the Employer Notice**

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REV:01/2002

If an obligor (person owing a duty of support) fails to timely file his or her statement contesting income withholding, or the obligor's statement fails to specify a mistake of fact defense against the withholding, such income withholding shall become effective without the necessity for a hearing before a Master of the family court, and Division of Taxation - Child Support Enforcement shall issue an income withholding order to the withholding agent with notice of such order to the obligor.

In addition to the amount to be withheld to comply with such order for current support, the order to withhold must include an amount equal to ten percent (10%) of the current support order, which such amount shall be applied to the liquidation of support arrearages, provided that such additional withholding to satisfy arrearages when added to the amounts withheld to pay current support and to provide for the withholding agent's fee may not exceed the limit permitted under Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673 (b)).

The Division of Taxation - Child Support Enforcement shall maintain a central registry of all income withholding orders so issued, and it shall enter such orders on the INRHODES system. The withholding orders to the withholding agent will be sent by certified mail although they may be delivered by personal service as well.

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In cases of initiated withholding, if the absent parent fails to contact the State to contest withholding within the period specified in the advance notice (ten (10) calendar days), the notice to the withholding agent must be sent within fifteen (15) calendar days of the end of the date of the contact period if the employer's address is known on that date, or, if the address is unknown on that date, within fifteen (15) calendar days of locating the employer's address.

In cases of immediate withholding the notice to the withholding agent must be sent within fifteen (15) calendar days of the date the order was entered if the employers address is known on that date or, if the address is unknown on that date, within fifteen (15) calendar days of locating the employers address.

**Employer Fails to Submit Payment**

**0722.10.45**

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REV:07/1994

When an employer fails to submit payments as requested, the agent will call the employer to find out why the payment was not sent in. If an employer fails to withhold the payment for a valid reason, the agent may initiate a contempt action. However, no agent will initiate contempt action against a withholding agent without express legal approval.

**Employment Changes**

**0722.10.50**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will monitor payments and act upon new information when received. When an agent discovers that withholding payments have ended because the absent parent is no longer employed, steps should be taken to find if there is a new employer. These include:

- o Contacting the former employer to see if there is any information about a new employer;
- o Contacting Department of Labor and Training to see if the absent parent has applied for unemployment or temporary disability benefits;
- o Contacting the custodial parent to see if s/he has any information about the absent parent's current

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employment.

**0722.10.50.05**

**Processing the Employment Change**

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REV:02/1997

When new employment has been verified, the Division of Taxation - Child Support Enforcement will send notice to the new employer informing of the existing support order and the requirement that the new employer withhold the court-ordered amount for support and remit such amount to the Registry of the Rhode Island Family Court. This notice may either be sent by certified mail, return receipt requested, or by personal service.

After receiving verification that the employer has received the notice, the agent will enter the appropriate fields on the INRHODES system in the APPD function, EMPL panel. This will not only provide information about the employer, but will also ensure that a monthly bill will not be sent to the absent parent. Instead, the employer will receive the monthly transmittal form which is to accompany the payments which are sent to Family Court.

Within ten (10) days of the termination of the obligor parent employee, the employer shall notify the Division of Taxation - Child Support Enforcement of the termination of the employee and the date of the termination.

**0722.10.55**

**Contesting the Income Withholding**

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REV:01/2002

An absent parent may contest the proposed withholding but only on the basis of a mistake of fact. Mistakes of fact are limited to:

- o An error in the amount of current support;
- o Mistaken identity;
- o An error in the amount of income to be withheld in payment of current support;
- o The amount to be withheld exceeds the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)) (See Section

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0722.10.30).

An absent parent may contest an income withholding by filing or mailing a written statement to the Division of Taxation - Child Support Enforcement within ten (10) days of receiving the advance notice. The absent parent's request must specify the mistake(s) of fact claimed.

**Absent Parent Protest Is Received**

**0722.10.55.05**

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REV:01/2002

Upon receipt of the obligor's statement contesting income withholding, the Division of Taxation - Child Support Enforcement shall promptly file an application for income withholding with the Clerk of the Family Court. Such application shall be by motion and shall contain such information as shall be required by Family Court. Upon filing of the application, the clerk shall assign the motion for hearing before a Master of the Family Court within fourteen (14) days of such filing.

Usually, the obligor will receive the motion through personal service. This motion can be generated off the INRHODES system via the FORM function under CONTESTED INCOME WITHHOLDING.

The Division of Taxation - Child Support Enforcement shall file, and the clerk shall enter, an income withholding order: (a) in accordance with the decision of the Master after hearing on the motion, or (b) upon proof of service and the failure of the obligor to appear and defend on the date assigned for hearing.

**Termination of an Income Withholding**

**0722.10.60**

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REV:01/2002

An income withholding order will remain in full force and effect until modified or revoked by the Family Court. Such order may be modified or revoked by the court upon application and for good cause shown, provided that the payment of overdue support may not be the sole reason for terminating or not implementing an income withholding. When appropriate, the Division of Taxation - Child Support Enforcement will promptly request Family Court to terminate a withholding order and refund to the obligor any amount which may have been improperly withheld.

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**0722.15**

**CONTEMPT PROCESSING**

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REV:01/2002

In a contempt action, the absent parent is brought to court to show why the court order has not been obeyed. A contempt action is all inclusive, and in the hearing the court may:

- o Find the absent parent in willful contempt and sentence him/her to prison until all or a part of the arrearage is paid;
- o Set an arrearage amount and enter an arrears order;
- o Order an income withholding;
- o Place a lien against the absent parent's personal or real property;
- o Require the absent parent to post a security or bond;
- o Order any other action necessary to enforce the order.

In initiating any contempt action, Division of Taxation - Child Support Enforcement agents are to follow office procedures for this type of enforcement action. (These procedures include documenting an address at which to serve the absent parent.) Contempt is an appropriate enforcement action when:

- o There is an arrears of at least one-twelfth of the annual support obligation. In non-assistance (NA) cases, the custodial parent must submit a notarized arrears affidavit or an affidavit of direct payment. Agents must reconcile the system's arrears with those on the custodial parent's affidavit; or
- o There is verification that the absent parent is not obeying the terms of a medical support order.

Any time a contempt action is found to be appropriate, the agent should review the case file to determine whether the absent parent may have real or personal property against which a lien may be placed. If there is, this information should be made known to the Division of Taxation - Child Support Enforcement legal staff before the court hearing.

In cases where the court has previously entered an arrears order,

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agents must take care not to initiate contempt action if the obligor is complying with the terms of an arrears order.

FELONY PENALTIES

- \* Every person who is obligated to pay child support pursuant to an order or decree established by or registered with RI Family Court pursuant to Chapter 11 of Title 15 of RIGL, who has incurred arrearage of past due child support in the amount of thirty thousand dollars (\$30,000), and who shall willfully thereafter, having the means to do so, fail to pay one or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make such subsequent payments and upon conviction be punished by imprisonment for a period not to exceed five (5) years; or
- \* Who have willfully for a period of three (3) years, failed to pay any installments of child support in an amount previously set by the court, according to the terms previously set by the court, and who shall thereafter, having the means to do so, fail to pay one or more installments of child support in an amount previously set by the court, according to the terms previously set by the court, shall be guilty of a felony for each instance of failure to make such subsequent payments and upon conviction be punished by imprisonment for a period not to exceed five (5) years.

In any pursuit of a felony conviction, the Division of Taxation - Child Support Enforcement will develop case prosecution in conjunction with the Department of the Attorney General.

**Requesting a Contempt Action**

**0722.15.05**

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REV:01/2002

To initiate a contempt action, the agent will review INRHODES to:

- o Query APPD ABSP panel to ensure that the absent parent's address status (ADDR STATUS) is recorded as verified (V);
- o Query APPD CLNT panel to ensure that the custodial parent's address status (ADDR STATUS) is recorded as

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verified (V);

- o Query ORDR SUPP panel to ensure that an order for support has been put up.

The agent will print the appropriate contempt packet from INRHODES, FORM function. The clerical pool will pick up the packet and:

- o Review the forms for accuracy;
- o Take the packet to the Division of Taxation - Child Support Enforcement Legal Unit for signature;
- o Give the packet to the Constable for service.

The Constable has three (3) weeks in which to obtain successful service. At the end of that time, s)he will return the packet to the Administrative Secretary regardless of whether successful service was obtained. The secretary will record the service results on the CONSTABLE DAIL panel.

When the absent parent is successfully served, the clerical pool will:

- o File the packet in the case record; and
- o Place the case record in the court tickler file by court date;
- o Prepare the case for court two (2) days before the hearing by:

Inserting the Court Form and copies of appropriate panels; and

Taking the case record to court.

When the absent parent cannot be served, the Administrative Secretary will return the case, with the service return form, to the Division of Taxation - Child Support Enforcement agent for location.



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**Effecting Court Ordered Income Withholding**

**0722.15.10**

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REV:01/2002

When the court orders an income withholding in a contempt hearing, the absent parent is given advance notice by way of the pleading or otherwise. After the hearing, the absent parent and Division of Taxation - Child Support Enforcement Technical Staff Assistant will meet to complete the DR-29. Once the DR-29 is completed, the Technical Staff Assistant will:

- o Obtain the Judge's/Master's signature;
- o Give a copy of the DR-29 to the absent parent;
- o Leave the original DR-29 with the Family Court;
- o Forward a copy to the clerical pool.

The clerical pool will:

- o Send the DR-29 to the employer by certified mail.

Upon receiving verification that the employer has received the order to withhold, (i.e., the "green card" is returned by the post office), the agents will then enter verification of the service on the APPD/EMPL panel. Also, tracking entries should be made to show the date the DR-29 was sent and the date it was received by the employer. The return receipt should then be stapled to the inside case file cover.

**Employer Fails to Submit Payment**

**0722.15.10.05**

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REV:07/1994

If the employer fails to submit a payment, the agent will call the employer to find out why the payment was not sent. If the employer failed to withhold and/or send in the payment without a valid reason, the agent will contact the legal unit to decide what the next course of action should be. In no event will an agent initiate contempt action against an employer without first obtaining legal approval.

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**0722.15.10.10**

**Employment Changes**

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REV:01/2002

After the Division of Taxation - Child Support Enforcement learns that an absent parent is no longer employed at her/his last place of employment, the case shall be reviewed to determine whether a change in income withholding should be made. The agent will:

- o Review Department of Labor and Training (DLT) records to determine whether the absent parent has filed for, or is collecting either Unemployment (UCB) benefits or Temporary Disability (TDI);
- o Review Workers' Compensation Board data;
- o Contact the absent parent's last employer to try to determine the new place of employment.

After locating an absent parent's new place of employment or determining that the obligor is collecting either UCB or TDI, the Division of Taxation - Child Support Enforcement will notify the new employer or DLT as described in procedures set forth in Section 0722.10.50.05.

The obligor parent is responsible for promptly notifying a new employer of his/her child support and/or medical support order(s). The obligor must also promptly notify the Division of Taxation - Child Support Enforcement of his/her change in employment so that the Division of Taxation - Child Support Enforcement can transfer the assignment, garnishment, or order for child support and/or health insurance to the subsequent employer.

Pursuant to RIGL 15-20-3, failure of an obligor parent to make either of these notifications shall be a misdemeanor and shall be punishable by imprisonment for a term not exceeding one (1) year, or by a fine of not more than one thousand dollars (\$1000), or both.

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**Termination of an Income Withholding**

**0722.15.10.15**

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REV:01/2002

An income withholding order will remain in full force and effect until modified or revoked by the Family Court. Such order may be modified or revoked by the court upon application and for good cause shown, provided that the payment of overdue support may not be the sole reason for terminating or not implementing an income withholding. The Division of Taxation - Child Support Enforcement will promptly terminate a withholding and promptly refund any money erroneously collected from the absent parent.

**Administrative Liens**

**0722.15.15**

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REV:02/1997

Pursuant to RIGL 15-21-2, any child support order which is enforceable by the Division of Taxation - Child Support Enforcement in accordance with Title IV-D of the Social Security Act and which is unpaid in whole or in part shall, as of the date on which it was due, be a lien in favor of the obligee or assignee in an amount sufficient to satisfy unpaid child support whether the order is for ongoing support or is an arrears order.

**Notice of Intent to Lien**

**0722.15.15.05**

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REV:02/1997

If the property subject to the lien is real property or personal property, the title to which is maintained as a public record, the agency may record a copy of the notice of intent to lien with the office of the recorder of deeds, the registry of motor vehicles, or other place where the title to the property is recorded. Any person taking title to such property subsequent to such recording does so subject to the interest of the agency as it may be determined. Said notice of intent shall be recorded no more than ten (10) days prior to the mailing of the notice of intent to the obligor.

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**0722.15.15.10**

**Notice of Intent to Lien to Obligor**

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REV:02/1997

The Division of Taxation - Child Support Enforcement shall send a written notice of intent to lien to the obligor if his address is known to the Division of Taxation - Child Support Enforcement. This notice, sent by first class mail, will specify:

- o The amount unpaid as of the date of the notice or other specific date;
- o The obligor's right to request a hearing by filing a written request with the Division of Taxation - Child Support Enforcement within thirty (30) days of the date of the notice. If a hearing is requested in a timely manner, all lien enforcement action will cease until a hearing decision is rendered.
- o Identification of the property, real or personal, which is subject to the lien.

If the property subject to the lien is a matter of public record, the Division of Taxation - Child Support Enforcement may record a copy of the notice of intent to lien in the appropriate public record. This notice of intent to lien must be recorded no more than ten (10) days prior to the mailing of the notice to the obligor.

**0722.15.15.15**

**Notice of Intent to Lien to Non-Obligor**

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REV:02/1997

If a lien is to be placed on property jointly held with a non-obligor, the non-obligor must be sent notice of the Division of Taxation - Child Support Enforcement's intent to lien. This notice will also inform the non-obligor of the right to an administrative hearing with the Division of Taxation - Child Support Enforcement to contest the scope of the property interests of the lien and/or the right to a judicial review in the RI Family Court.

Service of this notice may be made by first class mail or as specified in the Rhode Island Rules of Procedure for Domestic Relations for Family Court.

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Perfecting of Administrative Liens

0722.15.15.20

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REV:02/1997

Real Property

To perfect (record) the lien, a notice of intent to lien is sent to the recorder of deeds for the city or town where the property is located. This notice of intent to lien must be sent no more than ten (10) days prior to the notice of intent to lien that is sent to the obligor.

If the obligor against whom the notice of intent to lien was filed:

- \* Fails to request a hearing within the allotted time allowed; or
- \* Fails to appear for a requested hearing; or
- \* Neglects or refuses to pay the sum due after the expiration of thirty (30) days after a hearing is conducted in which it has been determined that arrears exist;

the notice of intent as filed shall be deemed and operate as a lien which is perfected by the Division of Taxation - Child Support Enforcement by the filing of a notice of lien. The notice of lien shall specify the property to be attached and the amount of arrearage due and shall be filed with the office of the recorder of deeds of the city or town where the notice of intent was originally filed.

The lien shall have priority over all subsequent liens or other encumbrances, subject to the provisions of RIGL 6A-9-312 and with the exception of any lien for taxes. A child support lien shall encumber after-acquired personal property or proceeds.

The lien shall expire upon either the termination of a current child support obligation and the payment in full of unpaid child support or release of lien by the Division of Taxation - Child Support Enforcement.

A full or partial release of the lien shall be filed within ten (10) days of the obligor's compliance with the demands of the lien. This shall be done without fee to the Division of Taxation - Child Support Enforcement.

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Personal Property

To perfect a lien on personal property, a notice of intent to lien is sent to the Secretary of State's office, the Registrar of Motor Vehicles, or any other office or agency within the State responsible for the filing or recording of liens. There will be no fee charged to the Division of Taxation - Child Support Enforcement for either the filing or the release of such liens. This notice of intent to lien must be sent no more than ten (10) days prior to the notice of intent to lien that is sent to the obligor.

If the obligor against whom the intent to lien was filed:

- \* Fails to request a hearing within the allotted time allowed; or
- \* Fails to appear for a requested hearing; or
- \* Neglects or refuses to pay the sum due after the expiration of thirty (30) days after a hearing is conducted in which it has been determined that arrears exist;

the notice of intent as filed shall be deemed and operate as a lien which is perfected by the Division of Taxation - Child Support Enforcement by the filing of a notice of lien. The notice of lien shall specify the property to be attached and the amount of arrearage due and shall be filed in the office or agency where the notice of intent was originally filed.

The lien shall have priority over all subsequent liens or other encumbrances, subject to the provisions of RIGL 6A-9-312 and with the exception of any lien for taxes. A child support lien shall encumber after-acquired personal property or proceeds.

The lien shall expire upon either the termination of a current child support obligation and the payment in full of unpaid child support or release of lien by the Division of Taxation - Child Support Enforcement.

A full or partial release of the lien shall be filed within ten (10) days of the obligor's compliance with the demands of the lien. This shall be done without fee to the Division of Taxation - Child Support Enforcement.

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Levy of Personal Property

0722.15.17

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REV:02/1997

When an administrative lien has been perfected (recorded), the Division of Taxation - Child Support Enforcement may collect unpaid child support by placing a levy on the property against which a lien has been placed. This means that the Division of Taxation - Child Support Enforcement may seize and sell any property that is subject to levy in order to satisfy unpaid child support.

A levy placed on a life insurance or endowment contract is a demand for payment toward the total amount of the lien. Such organization shall pay any available proceeds from the insurance or endowment contract to the Division of Taxation - Child Support Enforcement within ninety (90) days after service of notice of the levy.

Whenever any property upon which levy has been made is not sufficient to satisfy the claim for which levy is made, the Division of Taxation - Child Support Enforcement may thereafter, as often as necessary, proceed to levy, with notice, upon any other personal property of the obligor liable to levy, until the amount due from him, together with expenses, is fully paid. However, any support obligation shall be fully satisfied prior to payments for expenses.

Upon demand, a person who fails or refuses to surrender personal property subject to levy shall be liable in his own person and estate to the state in a sum equal to the value of the property not surrendered but not exceeding the amount of the lien, along with costs and interest, at the rate authorized for civil judgements, from the date of the levy. In addition, any person required to surrender property which has been levied who fails or refuses to do so without reasonable cause shall be liable for a penalty equal to twenty-five percent (25%) of the amount recoverable. This interest or penalty shall not be credited against the child support liability but will instead be paid into the general fund. Any non-obligor party aggrieved by a decision of the Division of Taxation - Child Support Enforcement, may, within ten (10) days of the receipt of the notice of demand, request an administrative hearing with the Division of Taxation - Child Support Enforcement.

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**0722.15.18**

**Lien Foreclosure - Real Property**

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REV:02/1997

If the obligor shall default in the payment of any child support obligation, or if the Division of Taxation - Child Support Enforcement has perfected a lien on real property as outlined in Section 0722.15.15.20, then the Division of Taxation - Child Support Enforcement may sell the real property of any defaulting obligor at public auction after proper notification has been made. Proper notification consists of the following:

- o Written notice by certified mail, return receipt requested, to the obligor's last known address. This must be sent at least twenty (20) days prior to the publication of any public notice.
- o Public notice published at least once a week for three (3) consecutive weeks in a newspaper published daily in the city or town where the property is located. If there is no public, daily newspaper published in the city or town where the property is located, the public notice will be published according to the mandates of Rhode Island General Law 15-21-7.
- o Written notice by certified mail, return receipt requested, to any person or entity having an interest of record in the real property. This must be sent no later than thirty (30) days prior to the date originally scheduled for the sale of the property.
- o Written notice to other such parties as are designated in Rhode Island General Law 15-21-7 and in accordance with the notification requirements specified therein.

Any foreclosure sale held as outlined above, and the title conveyed to any purchaser or purchasers pursuant to such sale, shall be subject to any lien or encumbrance entitled to a priority over the lien of the Division of Taxation - Child Support Enforcement as outlined in Section 0722.15.15.20.



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**Court-Ordered Liens**

**0722.15.19**

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REV:02/1997

When R.I. Family Court orders a lien placed on real or personal property, a certified copy of any judgement or order containing specific language relative to a restraining order or lien on real estate may be recorded with the recorder of deeds in the city or town where the property is located.

The certificate of the obligee, or his or her attorney duly signed and notarized, or a certified copy of a judgement or order of the Family Court which contains a provision that all arrearages have been paid in full shall, when recorded, be a discharge in full of said lien.

If any child support provided in a judgement or order has been directed to be paid to the clerk of the court, or to any other office designated by the court, pursuant to any other provision of law, and such directive is set forth in the copy of the docketed judgement or order, or in the docket or certified copy of an amended or supplemental order, such certificate shall not affect the lien unless also approved in writing by such clerk or other designated officer.

A lien under this section shall not be dischargeable in bankruptcy.

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**Filing of Court-Ordered Lien**

**0722.15.19.05**

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REV:02/1997

The Division of Taxation - Child Support Enforcement agent will be notified when the court has ordered a lien placed against an absent parent's property via LIEN DAIL. Agents should check LIEN DAIL at least once a day. It is essential that these court-ordered liens be recorded as soon as possible. When a lien shows up on the worker's daily report, the following steps should be taken:

- o Contact the city or town hall where the property is located to obtain the lot and plat number.
- o Record this information in the appropriate fields in the Lien on Real Estate panel of the ORDR function.
- o Obtain a certified copy of the order placing the lien.

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- o Submit a Request Payment Memo to the Business Office for a check to cover the required fee.
  
- o When the check is received from the Business Office, attach it to the certified copy of the order. From INRHODES, generate the cover letter to the city or town hall and send it along with the order and the check by registered mail.
  
- o When proof of receipt of the registered letter is received from the post office, the date the letter was signed for should be recorded in the appropriate field of the LIEN ON REAL ESTATE panel of the ORDR function.

**0722.15.20**

**Medical Enforcement**

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REV:02/1997

The Division of Taxation - Child Support Enforcement may take steps to enforce an order for medical coverage via a motion to adjudge in contempt for failure to maintain medical coverage. The agent will follow the same procedures as outlined under contempt processing, and will print the Contempt packet from the INRHODES FORM function.

The Division of Taxation - Child Support Enforcement may also take steps to recover from the absent parent any amounts s/he may have received from a third party payor for the cost of health services paid to the absent parent for the costs of these services but which the absent parent did not use to reimburse either the other parent or guardian of the child or the provider of the services.

Whenever the Division of Taxation - Child Support Enforcement on its own information or on account of a claim by an obligee, determines that an obligor parent has failed to comply with a judgement or order for health insurance coverage issued pursuant to RIGL 15-5-16.2, and such insurance is available to the obligor through his employer, the Division of Taxation - Child Support Enforcement shall send to the obligor's employer notice of the judgment or order. The judgement or order shall operate to enroll the minor child(ren) as fully and completely in a health insurance plan as if the obligor had executed a document authorizing the enrollment. Upon receipt of the notice of judgement or the order from the Division of Taxation - Child

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Support Enforcement, the employer or provider of health care insurance shall, subject to the provisions of its contract and consistent with the provisions of the support order, enroll the child(ren) whether or not the employee has signed an enrollment application. If the employer's benefit plan provides options as to health care coverage, the employer shall choose the least expensive option available to the employee.

**Posting Security, Bond, or Guarantee**

**0722.15.25**

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REV:01/2002

The Division of Taxation - Child Support Enforcement uses procedures which require absent parents to post security, bond, or give some other guarantee to secure payment of overdue support. The Division of Taxation - Child Support Enforcement will provide advance notice to the absent parent regarding:

- o The delinquency of the support payment;
- o The requirement of posting security, bond or guarantee;
- o His/her rights and methods available for contesting the impending action.

The Division of Taxation - Child Support Enforcement will develop guidelines which are generally available to the public to determine whether the case is inappropriate for application of this procedure.

**Secure Payment of Overdue Support**

**0722.15.25.05**

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REV:09/1995

In a proceeding to enforce past due support, as defined herein, the court or its master, after hearing and a finding of overdue support, may require an obligor parent to give security, post a bond, or give some other guarantee to secure payment of overdue support; the security, bond, or guarantee to be in such amount, for such term and upon such conditions as the court or master shall deem necessary or advisable. The court may order that the security, bond, or other guarantee be deposited into the registry of the Family Court. The obligor parent shall be served with the notice of any proceeding under this section and the notice shall state the procedures to contest the action.

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For purposes of this section, "past due support" means the amount of court or administratively ordered child support or maintenance, medical child support or a spousal support for a custodial parent having custody of a minor child, which is overdue or otherwise in arrears, regardless of whether there is an outstanding judgment for that amount, and whether the order for the support, medical child support or maintenance has been established by a court or by an administrative process authorized under the laws of any State for:

- o Support and maintenance of a minor child, which is owed to or on behalf of the child; or
- o Support and maintenance of the obligor parent's spouse or former spouse with whom the child is living;
- o Medical Child Support

**0722.20**

**FEDERAL AND STATE TAX REFUND OFFSETS**

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REV:01/2002

Federal and State income tax refunds which are due absent parents may be intercepted, and the refunded amount applied (in AFDC/FIP cases) to court ordered past-due child support or maintenance (spousal support) obligations, owed for a child or a parent with whom the child is living. In non-assistance (NA) cases, the intercepted amount is applied to court ordered past-due child support only. Any Federal or State tax refund which is intercepted must be used to satisfy past-due amounts, and may not be used to satisfy current obligations.

The Division of Taxation - Child Support Enforcement policies and procedures are the same for both Federal tax refund intercepts and State tax refund intercepts with the exception that State tax refund intercepts must first be applied to current support before being applied to past-due amounts. Also, for State tax refund intercepts, the Department of Administration, Division of Taxation - Child Support Enforcement submits the certification file(s) to the RI Division of Taxation.

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**Child Support-Income Tax Refund Offset**

**0722.20.05**

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REV:09/1995

The Department of Human Services is authorized and directed to promulgate rules and regulations to implement the Federal and State programs for offset and collection of past-due child support and medical child support from income tax refunds, as authorized by 6305 (b) and 6402(c) of the Internal Revenue Code and implementing regulations, and as authorized by the Rhode Island General Laws, Title 44, Chapter 30.1. Such rules and regulations shall provide the child support obligor with an opportunity for an administrative hearing to contest the offset.

**Purpose of Chapter 30.1**

**0722.20.10**

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REV:07/1994

The purpose of Rhode Island General Law, Title 44, Chapter 30.1 is to establish a policy that the claimant agencies (Department of Human Services, Rhode Island Child Support Services Agency, or the Rhode Island Higher Education Assistance Authority (RIHEAA) or RIHEAA acting as agent for student loan guarantee agencies in other states) and the Division of Taxation shall cooperate in identifying debtors who owe money to the State, through its various claimant agencies, and who qualify for a refund from the Division of Taxation. It is also the intent of this chapter that procedures be established for setting off against such refund the sum of any debt owed to the state. Furthermore, it is the legislative intent that this chapter be liberally construed as to effectuate these purposes, as far as legally and practically possible.

**Collections of Debts by Setoff**

**0722.20.15**

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REV:07/1994

Within such a time frame established by the Division of Taxation, the claimant agency shall supply the information necessary relative to each debtor owing the State money, and further, shall certify the amount of debt or debts owed to the State by each debtor. Upon receiving notice from the claimant agency that a named debtor owes past-due support, or has obligations owed, the Division of Taxation shall determine whether any amount, as a refund of taxes paid, is payable to such debtor (regardless of whether such debtor filed an income tax return as a married or unmarried individual). If the Division of Taxation determines that any such refund is payable, the Division of Taxation shall set off the past-due support or the

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obligation owed against the debtor's refund and shall reduce the debtor's refund by the amount so determined. The Division of Taxation shall transfer the amount of past-due support or obligation owed setoff against the debtor's refund to the claimant agency or in the case of out-of-state agencies, to RIHEAA as its agent. The pendency of judicial proceedings to contest the setoff shall not stay nor delay the setoff and transfer of refunds to the claimant agency. If the amount of the debtor's refund exceeds the amount of the past-due support or obligation owed, the Division of Taxation shall refund the excess amount to the debtor. If in any instance the same debtor has both past due support and obligations owed and when the Division of Taxation has received notice from both claimant agencies involved, the claim by the Rhode Island Child Support Services Agency shall receive priority.

**0722.20.20**

**Setoff and Notification of Debtor**

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REV:07/1994

The Division of Taxation shall prescribe the time or times at which the claimant agency must submit notices of past-due support, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The Division of Taxation shall, from time to time, determine the minimum amount of claim to which the setoff procedure may be applied.

Prior to submitting information relating to a debtor for purposes of setoff of the debtor's income tax refund, the claimant agency shall provide written notice to each such debtor. The notice shall set forth the name of the debtor, the amount of past-due support or other obligation owed, the intention to setoff the amount owed or other obligation owed, the intention to setoff the amount owed against the refund, the debtor's right to an administrative hearing to contest the setoff upon written request made within thirty (30) days of the mailing of the notice to the debtor, the debtor's right to judicial review of the administrative hearing decision, the general nature of the potential defenses available to the debtor, and, in general terms, the rights of non-obligated spouses with respect to income tax refunds in the event a joint return is filed.

At the time of the transfer of funds to the claimant agency as provided in Rhode Island General Law, Title 44, Chapter 30, Section 1.4 (RIGL 44-30-1.4), the Division of Taxation shall notify the debtor whose refund is sought to be setoff that the transfer has been made. Such notice shall set forth the name of the debtor, the

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amount of past-due support being claimed, the transfer of funds to the claimant agency, and the amount of the refund in excess of the amount claimed, if any. In the case of a joint refund, the notice shall also state the name of a taxpayer-spouse named in the return, if any, against whom no past-due support or obligation owed is claimed, the opportunity to request that the refund be divided between the spouses by filing an amended income tax return in conformance with RIGL 44-30-11, showing each spouse's share of the tax and the contribution to the overpayment of tax resulting in the refund.

Upon receipt of funds transferred from the Division of Taxation, the claimant agency shall deposit and hold such funds in an escrow account until final determination of setoff. Upon final determination of the amount of the claim to be setoff by default for failure to apply for a hearing, or by decision of the hearing officer pursuant to RIGL 44-30.1-5, the claimant agency shall remove the amount of the claim payment from the escrow account, and shall credit such amount to the debtor's obligation. The pendency of judicial proceedings pursuant to RIGL 42-35-15 to review the administrative decision shall not stay nor delay the setoff, transfer, and disbursement of the tax refund in question.

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**Confidentiality Exemption-Nondisclosure**

**0722.20.25**

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REV:07/1994

The Division of Taxation may provide to the claimant agency the information necessary to accomplish and effectuate the intent of Rhode Island General Law, Title 44, Chapter 30. The information obtained by the claimant agency from the Division of Taxation in accordance with the provision of this article shall retain its confidentiality and shall only be used by the claimant agency in pursuit of its past-due support or obligation owed collection duties and practices, and any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as specifically authorized by law, shall be subject to the same penalties specified by RIGL 44-30-95(c)

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**0722.20.30 Severability of Provisions**

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REV:07/1994

If any provision of Rhode Island General Law, Title 44, Chapter 30.1, or the application thereof, shall for any reason be judged invalid, such a judgement shall not affect, impair or invalidate the remainder of the law, but shall be confined in its effect to the provision or application directly involved in the controversy giving rise to the judgement.

**0722.20.35 Criteria for Submittal**

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REV:01/2002

Federal and State income tax refunds which are due absent parents may be intercepted, and the refunded amount applied (in AFDC/FIP cases) to court ordered past-due child support or maintenance (spousal support) obligations, owed for a child or a parent with whom the child is living. In non-assistance (NA) cases, the intercepted amount is applied to court ordered past-due child support only. Any Federal or State tax refund which is intercepted must be used to satisfy past-due amounts, and may not be used to satisfy current obligations.

The Division of Taxation - Child Support Enforcement policies and procedures are the same for both Federal tax refund intercepts and State tax refund intercepts with the exception that State tax refund intercepts must first be applied to current support before being applied to past-due amounts. Also, for State tax refund intercepts, the Department of Administration, Division of Taxation - Child Support Enforcement submits the certification file(s) to the RI Division of Taxation.

**0722.20.35.05 AFDC/FIP and Foster Care Cases**

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REV:01/2002

AFDC/FIP and Foster Care cases must meet the following requirements to be eligible for offset:

- o The support obligation will have been established under a court or administrative order and will have been assigned;
- o The amount of past-due support will not be less than one hundred fifty dollars (\$150.00);



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- o The amount owed will have been delinquent for three (3) months or longer;
- o The delinquency is for support and maintenance of a child, or of a child and the parent with whom the child is living;
- o The Division of Taxation - Child Support Enforcement has verified the accuracy of the arrears, has a copy of the order and any modifications and has a copy of the payment record or an affidavit signed by the custodial parent attesting to the amount of support owed;
- o The Division of Taxation - Child Support Enforcement has verified the accuracy of the absent parent's name and social security number;
- o In interstate cases, the request may only be made by the Division of Taxation - Child Support Enforcement when it is the initiating state.

**Non-Assistance (NA) and MAO Cases**

**0722.20.35.10**

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REV:01/2002

Non-assistance (NA) and Medical Assistance only cases will meet the following requirements to be eligible for offset:

- o The support obligation will have been established under a court or administrative order, and will not have been assigned;
- o The amount of past-due support will not be less than five hundred dollars (\$500.00);
- o At the State's option, amounts certified in NA cases may be limited to past-due support which accrued since the Division of Taxation - Child Support Enforcement began to enforce the support order;
- o The support must be owed to or on behalf of a minor child. Past-due support due adult handicapped children may be collected through tax offset if there is a support order in effect for the child and the child, while a minor, was determined to be disabled under

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Title II or Title XVI;

- o Spousal support may be submitted if it is included with an order for child support;
- o The Division of Taxation - Child Support Enforcement has verified the accuracy of the arrears, has a copy of the order and any modifications, and has a copy of the payment record or an affidavit signed by the custodial parent attesting to the amount of support owed;
- o The Division of Taxation - Child Support Enforcement has checked its records to see if there are assigned arrears;
- o The Division of Taxation - Child Support Enforcement has verified the accuracy of the absent parent's name and social security number;
- o The Division of Taxation - Child Support Enforcement will have the custodial parent's last known address.

The Division of Taxation - Child Support Enforcement may certify an interstate case only if Rhode Island is the initiating state.

**0722.20.40**

**Notification of OCSE**

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REV:01/2002

The Division of Taxation - Child Support Enforcement is required to submit a notification of liability for past-due support on magnetic tape to the Federal OCSE by the submittal date specified by OCSE. The notification will contain the absent parent's name and social security number, the amount of past-due support being certified, the State and local code, and whether the past-due support is owed to a non-assistance (NA) custodial parent. The notice may contain the IV-D case identification number and the FIPS code of the IV-D agency where the case originated.

The Deputy Director of OCSE will review requests to determine whether they meet requirements, and submit those that do meet the requirements to the Secretary of the Treasury and notify the Division of Taxation - Child Support Enforcement. The deputy will attempt to correct requests that do not meet requirements in consultation with the Division of Taxation - Child Support Enforcement. However, those that cannot be corrected will be

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returned to the Division of Taxation - Child Support Enforcement with a written explanation regarding why they could not be corrected.

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**June Test Tape**

**0722.20.40.05**

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REV:01/2002

In June of each year the Division of Taxation - Child Support Enforcement will send a test tape to the OCSE which includes cases that meet the minimum certification requirements. The OCSE will forward the list to the IRS which will match the tape against its list of taxpayers. The IRS will return two lists via the OCSE. One list will show those cases matched against the IRS files. The second list reports the "unaccountables" or those names for which the IRS could not provide a match because of conflicting information. The Supervisor of the Division of Taxation - Child Support Enforcement will research the list of unaccountables and try to correct the discrepancy prior to September when the Pre-Offset Notices are sent.

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**Pre-Offset Notices**

**0722.20.45**

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REV:01/2002

On or about the second weekend of every month, the Department of Administration, Division of Taxation, Child Support Enforcement will send a one-time offset notice to any obligor at the time it is determined that s/he meets the certification requirements for Federal and State tax refund offsets. The system will send the Pre-Offset Notice automatically unless the IRS OFFSET and STX OFFSET flags have been set to Y (Yes) on the APPD CASE panel.

The Pre-Offset Notice is sent to the absent parent at the address recorded on the APPD ABSP panel. It advises him/her of the State's intent to intercept, and includes the following information:

- o The amount certified, which represents the arrearage amount taken from the case (LEDG)ER panel as of 8/31. The system will enter this amount as the CERT AMT (Certification Amount) on the (COMM)ON CASE panel;
- o The date by which the obligor may submit payment to avoid being included for offset;

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- o The obligor's right to contest the proposed action;
- o Procedures and time frames for contacting the Division of Taxation - Child Support Enforcement to contest the action;
- o The obligor's right to an administrative hearing by the submitting state or the state where the order was entered (if different);
- o The local address and phone number to contact if (s)he desires to contest the action or ask questions;
- o The fact that the absent parent's arrearage amount may be submitted to the credit bureau.

When a Pre-Offset Notice is returned as undeliverable, it will be logged in and retained. However, this will not prevent the absent parent's name from being included for offset.

Also, the Division of Taxation - Child Support Enforcement will:

- o Send notices to non-FIP custodial parents with AFDC/FIP, Medical Assistance only, or Foster Care arrears advising him/her that amounts collected through Federal tax refund offset will be applied first to satisfy any past-due support which has been assigned to the State;
- o Send notices to any other State involved in enforcing the order; and
- o Notify OCSE, within the time frames established by OCSE, of any case deletions or significant decreases in the amount of past-due support submitted.

**0722.20.50**

**Absent Parent Responds to Pre-Offset Notice**

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REV:07/1994

The absent parent may respond to the Pre-Offset Notice by:

- o Asserting that the money is not owed;
- o Asserting that the wrong amount was certified;

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- o Paying off the arrearage;
- o Requesting a hearing on the proposed interception.

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**Absent Parent Satisfies or Reduces Arrearage** **0722.20.50.05**

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REV:07/1994

The Pre-Offset Notice advises the absent parent that (s)he can avoid being intercepted by submitting a payment which satisfies or reduces the arrearage balance to below the amount needed for certification. The Agent must advise the absent parent that the payment will be applied first to any unpaid current support and then to the amount certified for intercept. Once distribution takes place the adjusted balance will appear in the CERT BAL (Certification Balance) field on the (COMM)ON CASE panel. The system will look to this field to determine the final certification amount or whether the case will be included in the final certification tape.

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**Absent Parent Contests the Proposed Offset** **0722.20.50.10**

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REV:01/2002

All written hearing requests from absent parents will be distributed to the appropriate agent. The agent will review the case to determine whether the case was correctly certified. A case can be deleted for just cause, such as non-AFDC/FIP and all children are over the age of eighteen (18), or the order was ended with no arrears owed.

- o When it is decided that a case should be deleted, the agent will:
  - Set the IRS OFFSET and/or STX OFFSET flag(s) on the APPD CASE panel to Y (Yes, suspend certification);
  - Send the absent parent a Notice to Absent Parent Advising of Intercept Removal;
- o If an absent parent requests a hearing after the expiration of the period for contesting the proposed action, he/she must complete the Late Request for Administrative Hearing form that may be generated off the INRHODES system;

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- o When it is decided that a hearing should proceed, an Administrative Hearing will be scheduled. The system will be flagged to stay offset until the hearing decision is rendered and recorded.

**0722.20.55**

**Administrative Hearing Scheduled**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will schedule Administrative Hearings via the APPD LEGL panel. (A list of available Hearing Officers ID's, and available dates and times will be provided by the Division of Taxation - Child Support Enforcement Legal Unit.) Once the hearing is scheduled, the agent will:

- o Print the Notice of Administrative Hearing;
- o Send the original to the absent parent; or
- o His/her attorney;
- o Send a copy of the Notice of Administrative Hearing letter to the custodial parent, when the case is active non-assistance (NA);
- o Enter a message on (CONT)ACT if the letter is sent to the absent parent's attorney, or the custodial parent.

Once the hearing date and time are recorded on APPD LEGL, a message will appear on the Hearing Officer's DAIL. The agent will be reminded of the hearing via his/her DAIL. The Division of Taxation - Child Support Enforcement agent will:

- o Prepare for the hearing by completing an arrearage calculation going back to the original date of the order, or the last date that the arrearage was set;
- o Attend the hearing as the representative of the Division of Taxation - Child Support Enforcement.

Any reschedulings will be handled by the Division of Taxation - Child Support Enforcement Hearing Officer. S/he will record the new date and time on the APPD LEGL panel. A message that the hearing was rescheduled will appear on the appropriate agent's

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DAIL. To learn the new time and date, the agent will query the APPD LEGL panel.

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**The Administrative Hearing**

**0722.20.55.05**

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REV:07/1994

The Hearing Officer conducts the hearing by first swearing in all parties. The RICSS agent will be asked to present:

- o The order, including the date it was entered and any modifications;
- o The amount the absent parent should have paid;
- o The system print out showing the absent parent's payments;, and
- o The arrears calculation.

The absent parent or his/her attorney will be allowed to present counter evidence.

The Hearing Officer has 30 calendar days to render a decision. (S)he will notify all parties by sending the appropriate letter by regular mail:

- o Tax Intercept Letter Re: Hearing Decision to Amend;
- o Tax Intercept Letter Re: Hearing Decision to Delete;
- o Tax Intercept Letter Re: Hearing Decision to Retain.

When the hearing decision letter is printed, a message will be recorded on CASE (TRAC)KING. A hard copy of the hearing decision will be filed in the case record.

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**Hearing Decision Results in Adjustment**

**0722.20.55.10**

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REV:01/2002

When the decision is to:

- o Amend (once the Pre-Offset Letter has been sent the certification amount can only be reduced) the certification amount, the Division of Taxation - Child

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Support Enforcement agent will send a copy of the decision to the Division of Taxation - Child Support Enforcement Business Office requesting that the CERT BAL be adjusted accordingly;

- o Delete the case, the agent will set the IRS OFFSET and/or STX OFFSET flag(s) on the APPD CASE panel to Y (Yes, suspend certification).

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**0722.20.60 Monthly Certification File**

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REV:01/2002

On or about the second weekend of every month, the Department of Administration, Division of Taxation - Child Support Enforcement will submit a certification file to the OCSE through the CONNECT: DIRECT file transfer system which will forward the information to the U.S. Department of the Treasury, Financial Management Services. This file will include the names, social security numbers and CERT BAL's (Certification balances) of all obligors who met the criteria for certification that month and will update the CERT BAL of those obligors who were previously certified.

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**0722.20.65 Notification to the Division of Taxation**

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REV:01/2002

The Division of Taxation - Child Support Enforcement will send a letter, as appropriate, to the Deputy Administrator of the Division of Taxation certifying to him/her that the Division of Taxation - Child Support Enforcement has complied with State and Federal laws and regulations regarding pre-offset procedures and notification to obligors.

A letter will also be sent to the Rhode Island Office of Library and Information Services (OLIS) apprising them of the location of certification tapes in the OLIS library.

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**0722.20.70 Complaints Regarding Joint Returns**

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REV:01/2002

When the Division of Taxation - Child Support Enforcement agent receives a complaint regarding joint returns prior to offset, (s)he will inform the absent parent that the IRS and Division of Taxation will notify his/her spouse at the time of offset



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regarding the steps to take to secure the spouse's proper share of the refund. Complaints regarding joint returns received at or after offset will be handled by referring the spouse to the IRS or the Division of Taxation.

**Post Intercept Notices**

**0722.20.75**

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REV:07/1994

When the absent parent's refund is intercepted, the IRS and/or the Division of Taxation will notify him/her that the offset has been made. In joint returns, the IRS and/or Division of Taxation will notify any individual who filed jointly with the absent parent of the steps to take in order to secure his/her proper share of the refund.

**Distribution**

**0722.20.80**

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REV:01/2002

Collections received by the Division of Taxation - Child Support Enforcement as a result of refund offsets are applied only to the amount of past-due support which was specified in the advance notice. The collections are distributed as outlined in Section 0728.35.

If the amount collected through offset exceeds the amount(s) in the COMM CERT BAL field(s), the excess amount will be treated as outlined in Section 0728.35.

When an offset is being made to satisfy NA past-due support and the amount collected is the result of a joint return, the state may delay distribution until notified that the unobligated spouse's proper share of the refund has been paid, or for a period not to exceed six (6) months from notification of offset, whichever is earlier.

**Fees**

**0722.20.85**

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REV:01/2002

A refund offset fee to reimburse the IRS for the full cost of the offset procedure is deducted from the offset amount and credited to the IRS appropriations which bore all or part of the costs involved in making the collection. However, the full amount of offset will be credited against the absent parent's payment

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record. The fee which the Secretary of the Treasury may impose with respect to non-assistance (NA) cases submitted cannot exceed twenty-five dollars (\$25) per submittal.

Each state involved in a referral of past-due support for offset will comply with instruction issued by OCSE.

**0722.25**

**UNEMPLOYMENT COMPENSATION INTERCEPTS**

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REV:07/1994

Unemployment compensation benefits received by an absent parent are considered income and are subject to the same income withholding laws, policies and procedures as any other income (s)he may receive (See Sections 0722.10 and 0722.15).

**0722.25.05**

**Legal Basis**

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REV:01/2002

The Division of Taxation - Child Support Enforcement, in cooperative agreement with the State Employment Security Agency (SESA), will:

- o Determine periodically from information provided by the Department of Labor and Training (DLT) whether individuals applying for or receiving unemployment compensation owe support obligations for child(ren) who are, or have been, receiving IV-D services;
- o Enforce unmet support obligations by arranging for the withholding of unemployment compensation based on a voluntary agreement with the individual who owes the support, or in appropriate cases which meet income withholding criteria. If a voluntary agreement is obtained, the Division of Taxation - Child Support Enforcement will provide the DLT with a copy of the voluntary agreement;
- o Establish and use written criteria for selecting cases to pursue collections via the income withholding process;
- o Provide a receipt, at least annually, to an individual who requests a receipt for the support paid via the

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withholding of unemployment compensation, if receipts are not provided through other means;

- o Maintain direct contact with the DLT by:

Processing cases through the DLT in Rhode Island, or through IV-D agencies in other states;

Receiving all amounts withheld by the DLT in Rhode Island, and forwarding any amounts withheld on behalf of IV-D agencies in other states to those agencies.

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**Verifying Unemployment Benefits**

**0722.25.10**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will determine whether an absent parent is receiving unemployment benefits by querying the INRHODES WAGE function using the absent parent's social security number (See Section 0716) and/or sending a Letter for Location - (DLT).

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**CREDIT BUREAU REPORTING**

**0722.30**

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REV:01/2002

The Division of Taxation - Child Support Enforcement makes information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies. An absent parent will be given advance notice before his/her name is submitted. The advance notice advises the absent parent of:

- o The proposed release of the information to the consumer report agency;
- o The procedures for contesting the accuracy of the information.

The Division of Taxation - Child Support Enforcement will comply with all of the procedural due process requirements of State law before releasing the information.

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**0722.30.05**                      **Credit Bureau Defined**

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REV:07/1994

A credit bureau is an entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information for the purpose of furnishing consumer reports to third parties. A primary source of information in a consumer report is the consumer's financial application which contains allegedly verifiable residential, employment, financial and asset data. Other sources of information include business establishments, financial institutions, and public records.

**0722.30.10**                      **Credit Rating**

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REV:01/2002

Credit bureaus are hereby required to take into consideration a non-custodial parent's child support obligations and his delinquencies in this regard, and these delinquencies shall be verified by either the court or by the Division of Taxation - Child Support Enforcement.

**0722.30.15**                      **Report an Absent Parent Name**

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REV:07/1994

Each month INRHODES sends advance notices to absent parents:

- o With a SSN and verified address recorded on ABSP;
- o Who are under a court order for support;
- o Who have not been notified previously.

Absent parents who have more than one court ordered case will receive an advance notice for each case.

A monthly tape is submitted to the credit bureau with the names of absent parents who received an advance notice and did not contest the action. The tape provides the credit bureau with:

- o The absent parent's name, SSN, and address;
- o The amount of periodic support due each month;

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- o The balance due; and
- o The date and amount of the last payment.

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**IRS FULL COLLECTION**

**0722.35**

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REV:01/2002

The Division of Taxation - Child Support Enforcement may choose that a case be certified to the Secretary of the Treasury for collection under Section 6305 of the Internal Revenue Code of 1954. Under this procedure, after an absent parent is billed by the IRS (and a sixty (60) day waiting period has elapsed), notification of the delinquency is sent to a district IRS office and the account is referred to a revenue officer. The officer will attempt to contact the absent parent personally to verify his/her financial condition and to arrange a payment agreement. If the officer is unable to obtain an installment agreement, a notification of intent to levy may be issued. The IRS has the power to enforce collection against any income or assets of the absent parent, except certain exempt property. Only the State may request IRS Full Collection services on behalf of AFDC/FIP and non-assistance (NA) applicants and recipients.

The Division of Taxation - Child Support Enforcement may decide to initiate this type of action on a case by case basis and not as a general policy. Before any case is referred, it must be discussed with the unit supervisor and any decision reviewed by a senior supervisor.

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**Criteria**

**0722.35.05**

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REV:01/2002

To refer a case for IRS Full Collection, it will meet the following criteria:

- o A court or administrative order for support is in effect;
- o The absent parent owes at least a seven hundred fifty dollar (\$750) arrearage;
- o At least six (6) months will have elapsed since the last request for IRS Full Collection was made;

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- o The IV-D agency, the custodial parent, or the custodial parent's representative will have made reasonable efforts to collect the support through the State's own collection mechanisms.

The Division of Taxation - Child Support Enforcement does not have to repeat/duplicate efforts made by the custodial parent or custodial parent's representative if it is determined that they are comparable to the State's collection mechanisms.

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**0722.35.10 Information Required for IRS Full Collection**

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REV:01/2002

Division of Taxation - Child Support Enforcement agents will submit requests to their unit supervisors containing the following information:

- o The absent parent's name, social security number, and address;
- o The absent parent's place of employment, including the source of this information and the date it was last verified;
- o A copy of the court order(s);
- o A statement of whether the amount is in lieu of, or in addition to, amounts previously referred to the IRS for collection;
- o A statement that the agency, custodial parent or custodial parent's representative has made reasonable efforts to collect the amount owed using the State's own collection mechanisms, or mechanisms that are comparable;
- o A description of the actions taken, why they failed, and why further State action would be unproductive;
- o The dates of any previous requests for referral of the case for IRS Full Collection;
- o A statement that the agency has reason to believe that the debtor has assets that the Secretary of the Treasury might levy to collect the support;

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- o A statement of the nature and location of the assets, if known.

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**Processing the Request**

**0722.35.15**

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REV:01/2002

Unit supervisors will:

- o Log in each request;
- o Have each request reviewed by a senior supervisor;
- o Obtain the signature of the Division of Taxation - Child Support Enforcement Administrator;
- o Forward the request to the Area 1 OCSE office.

OCSE will review each request to determine whether it meets the requirements outlined above. If a request meets all requirements, OCSE will forward the request to the Secretary. If a request does not meet all requirements, OCSE will attempt to correct the request in consultation with the Division of Taxation - Child Support Enforcement. If the request cannot be corrected through consultation, OCSE will return it to the Division of Taxation - Child Support Enforcement.

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**Updating Information**

**0722.35.20**

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REV:01/2002

Once a case has been referred, the Division of Taxation - Child Support Enforcement will immediately notify the regional OCSE representative of changes:

- o In the amount due;
- o In the type or location of the assets;
- o In the address of the debtor.

OCSE will send the updated information to the Secretary or the IRS.

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**0722.40**

**PETITION FOR REGISTRATION**

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REV:01/2002

When the custodial parent and absent parent both reside in the State of Rhode Island, and there is a foreign court order (an order entered in a jurisdiction outside R.I.) for which arrears are owed, the Division of Taxation - Child Support Enforcement agent will register the foreign court order with the Family Court. This is the only way to ensure that any pre-existing arrears are recognized by the court. Once the order is registered, it can be enforced the same as any other Rhode Island order. To register the order the agent will:

- o Prepare a Petition for Registration;
- o Prepare three (3) copies of the Statement of Fact; and
- o Obtain three (3) certified copies of the order.
- o Obtain three (3) certified copies of an arrearage affidavit, if the arrears are to be recovered; and
- o Obtain three (3) copies of the Order of Confirmation, which includes the weekly order and arrearage amount.

The agent will forward the case, with the appropriate documentation, to the Division of Taxation - Child Support Enforcement Legal Unit for review and signature of the Order of Confirmation.

After being returned to the unit, it will then be transmitted to Family Court by the unit secretary.

Family Court will then:

- o Forward a certified letter to the absent parent advising him/her that the order has been registered, and s/he has twenty (20) days from date of receipt of the certified letter to request the State to vacate the petition for registration.

If, after twenty (20) days the absent parent fails to petition to vacate the registration, the order is "confirmed". The Judge/Master signs the Order of Confirmation, and copies are sent to the absent parent and the Division of Taxation - Child Support Enforcement.



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SPOUSAL SUPPORT ISSUES

0722.45

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REV:01/2002

For IV-D purposes:

- o "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse, or former spouse, who is living with a child or children for whom the individual also owes support;
- o "Overdue support" means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or the absent parent's spouse (or former spouse) with whom the child is living, but only if a support obligation has been established with respect to the spouse and the support obligation established with respect to the child is being enforced under the State's IV-D plan;
- o "Past-due support" means the amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living, which has not been paid. For purposes of referral for Federal income tax refund offset of support due an individual who has applied for non-AFDC services "past-due support" includes support owed to or on behalf of a minor child and may include spousal support if such support is included in the child support order.

The Division of Taxation - Child Support Enforcement may not establish orders for spousal support, only enforce such orders. Orders for spousal support may be enforced when the obligor is under a child support order enforced under the State IV-D plan, and the minor child for whom support is sought is living with the individual who is owed spousal support.

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**0722.50**

**LICENSE SUSPENSION**

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REV:02/1997

The Division of Taxation - Child Support Enforcement is authorized to take steps leading to the certification of an obligor for noncompliance with an order of support to an appropriate board, state agency, or department. Such board, state agency, or department shall take the following actions against an obligor:

- o Revoke a license to operate a motor vehicle;
- o Refuse to renew or reissue a motor vehicle registration or license to operate a motor vehicle;
- o Revoke the license, certification, registration, permit, approval, or other similar document authorizing the obligor to engage in a profession, occupation, business, or industry;
- o Refuse to renew or reissue the license, certification, registration, permit, approval, or other similar document authorizing the obligor to engage in a profession, occupation, business, or industry.

These actions may be requested only when the following conditions are met:

- o An obligor is more than ninety (90) days in arrears in making payments in full for current support; or
- o An obligor is more than ninety (90) days in arrears in making periodic payments on a support arrearage pursuant to a written agreement with the Division of Taxation - Child Support Enforcement or pursuant to a court ordered arrears order; or
- o An obligor has failed to obtain or maintain health insurance for his/her child(ren) pursuant to a court order; and
- o The Division of Taxation - Child Support Enforcement has fully complied with the procedural and notification provisions of Sections 0722.50.05 and 0722.50.05.05.

Upon receipt of the certification of noncompliance with a support

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order from the Division of Taxation - Child Support Enforcement, the licensing agency or board will revoke the obligor's license and refuse to issue or reissue a license until the obligor provides a release from the Division of Taxation - Child Support Enforcement that states the obligor is in compliance with the order for support.

The Division of Taxation - Child Support Enforcement will provide obligors with written confirmation of compliance with a support order and a release from the noncompliance penalty of license suspension/revocation within five (5) business days after the obligor has been found to be in compliance with the support order.

**Notice of Intent to Certify**

**0722.50.05**

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REV:02/1997

The Division of Taxation - Child Support Enforcement may serve notice of intent to certify upon a support obligor who is not in compliance as defined in Section 0722.50. The notice informs the obligor of the agency's intent to submit the obligor's name to any appropriate board, state agency, or department as a licensee who is not in compliance with a court order of support. Service of the hearing notice must be made by first class mail or by service as specified in the Rules of Procedure for Domestic Relations. The notice must contain:

- o The address and telephone number of the Division of Taxation - Child Support Enforcement;
- o A statement of the need for the obligor to obtain a release from that office that states that the obligor is in compliance with his or her support order; and
- o A copy or facsimile of the obligor's court order for support.

The notice must inform the obligor that:

- o The obligor may request a Family Court hearing to contest the issue of compliance (see Section 0722.50.05.05);
- o A request for hearing must be made in writing and must be received by the Division of Taxation - Child Support

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Enforcement within twenty (20) days of service;

- o If the obligor requests a hearing within twenty (20) days of service, the Division of Taxation - Child Support Enforcement shall stay action to certify the obligor to any board for noncompliance with a court order of support pending a decision after hearing;
- o If the obligor does not request a hearing within twenty (20) days of service and is not in compliance with a court order of support, the Division of Taxation - Child Support Enforcement shall certify the obligor to the appropriate board, state agency, or department for noncompliance with an order for support;
- o If the Division of Taxation - Child Support Enforcement certifies the obligor to a board for noncompliance with a court order of support, the board, state agency, or department shall revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the Division of Taxation - Child Support Enforcement that states that the obligor is in compliance with her/his support order. A revocation by an agency or a refusal by an agency to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination;
- o If the obligor files a motion to modify support with the Family Court, and duly serves the Division of Taxation - Child Support Enforcement with notice of the motion to modify, the Division of Taxation - Child Support Enforcement shall stay action to certify the obligor to any board for noncompliance with a court order of support; and
- o The obligor may restore compliance and thereby stay the Division of Taxation - Child Support Enforcement from certification of noncompliance with a court order of support by taking any one of the following actions:
  - \* Paying current support;
  - \* Paying all past-due support, or if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the

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court, by making periodic payments in accordance with a written agreement with the Division of Taxation - Child Support Enforcement which agreement shall then be filed with the Family Court; and

- \* Meeting the obligor's health insurance obligation.

**Family Court Compliance Hearing**

**0722.50.05.05**

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REV:02/1997

An obligor may request a hearing before a master of the RI Family Court upon receipt of service of the notice of intent to certify the obligor for noncompliance (See Section 0722.50.05). The request for hearing must be made in writing and received by the Division of Taxation - Child Support Enforcement within twenty (20) days of the date of service.

The Division of Taxation - Child Support Enforcement in conjunction with Family Court shall notify the obligor in writing of the date, time, and place of the hearing. Service of the hearing notice must be made by first class mail or by service as specified in the Rules of Procedure for Domestic Relations.

The issues that may be determined at hearing are limited to:

- \* Whether the obligor is required to pay child support under a court or administrative order; and
- \* Whether the obligor is in compliance with a court order of support.

Nothing herein shall prohibit the obligor from filing other appropriate motions for relief, including but not limited to a motion to modify a support order, with the Family Court.

**Certification of Noncompliance**

**0722.50.05.10**

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REV:02/1997

The Division of Taxation - Child Support Enforcement may certify in writing to any appropriate board that a child support obligor is not in compliance with a court order of support if:

- o If the obligor does not timely request a hearing upon

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service of the notice of intent to certify and is not in compliance with a court order of support twenty-one (21) days after service of the notice; or

- o RI Family Court issues a decision or order after hearing that the obligor is not in compliance with a court order of support, and the obligor has not appealed the decision within any applicable appeal period provided by law for appeals of a decision or order of a master of the Family Court; or
- o After a decision or order of the RI Family Court has been appealed, a decision or order from the RI Supreme Court which determines or affirms that the obligor is not in compliance with a court order for support,

The Division of Taxation - Child Support Enforcement's certification shall include a copy of the decision or order of the court, where applicable. The Division of Taxation - Child Support Enforcement shall send by regular mail a copy of any certification of noncompliance filed with a board to the obligor at the obligor's most recent address.

Upon receipt of the certification of noncompliance from the Division of Taxation - Child Support Enforcement, a board shall revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a release from the Division of Taxation - Child Support Enforcement which states that the obligor is in compliance with his or her support order. When such an obligor subsequently complies with the order of support, the Division of Taxation - Child Support Enforcement shall within five (5) business days after compliance provide the obligor with written confirmation and a release that the obligor is in compliance with the order. A revocation by a board or a refusal by a board to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a final determination.

A board shall notify an obligor certified by the Division of Taxation - Child Support Enforcement without undue delay that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the Division of Taxation - Child Support Enforcement as a support obligor who is not in compliance with a court order of support.

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Within five (5) business days of receiving written confirmation that an obligor is in compliance with the court order of support, the board shall reinstate, reissue, renew, or otherwise extend the obligor's license or certificate of authority.

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**Reporting Requirements of Licensing Boards**

**0722.50.10**

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REV:02/1997

On or before November 1, 1995 and during each renewal period thereafter, all boards subject to RIGL 15-11.1-2 must provide the Division of Taxation - Child Support Enforcement with specified information about applicants for licensure and all current licensees who are residents of this state. The information to be provided must include all the following information to the extent that such information is maintained by the board:

- o Name;
- o Address of record;
- o Federal employer identification number or social security number;
- o Type of license;
- o Effective date of license or renewal;
- o Expiration date of license; and
- o Active or inactive status.

The Division of Taxation - Child Support Enforcement requires this information in order to implement the requirements of RIGL 15-11.1 known as the R.I. Full Enforcement of Support Obligations Act.

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INTERCEPTION OF INSURANCE PAYMENTS

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REV:02/1997

Every domestic insurer or insurance company authorized to issue policies of liability insurance and any worker's compensation insurer, shall, within thirty (30) days prior of making any payment equal to or in excess of ten thousand dollars (\$10,000) to any claimant who is a resident of this state, for personal injury or workers' compensation benefits under a contract of insurance, review information provided by the Division of Taxation - Child Support Enforcement pursuant to RIGL 27-56-4 indicating whether or not the claimant owes past-due child support.

The Division of Taxation - Child Support Enforcement shall periodically furnish these insurers and insurance companies with a report of names of individuals with last known addresses who as of the date of the report, have an unpaid child support arrearage in excess of five hundred dollars (\$500).

If the insurer determines from the information provided by the Division of Taxation - Child Support Enforcement pursuant to RIGL 27-56-4 that the claimant or payee owes past-due child support, the insurer shall, except to the extent that payments are subject to liens or interests (i.e., health care providers, attorney fees, holders of security interests, or the assignment of rights under RIGL 40-6-9), withhold from payment the amount of past-due child support and pay such amount to RI Family Court which shall credit the obligor's child support obligation account for the amount so paid. The insurer shall pay the balance to the claimant or other person entitled thereto, provided, however, that the insurer/insurance company shall provide written notice by first class mail to the claimant and his attorney if any and to the Division of Taxation - Child Support Enforcement of the payment to RI Family Court. RI Family Court shall deposit the payment in escrow in the Registry of the Family Court for a period of forty-five (45) days or, if an application for judicial review has been filed, until the further order of the court, and the date and amount thereof.

Any claimant aggrieved by any action taken under these procedures may within thirty (30) days of the date of the notice to the claimant seek judicial review in the RI Family Court which may, at its discretion, issue a temporary order prohibiting the disbursement of funds pending final adjudication.



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The Division of Taxation - Child Support Enforcement shall send notice to the obligor that the agency has intercepted an insurance settlement at the time it credits the obligor's account.

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**OFFSET OF STATE LOTTERY PRIZES**

**0722.70**

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REV:02/1997

Any person entitled to receive a cash prize or winning ticket in excess of six hundred dollars (\$600) from the Rhode Island Lottery Commission and who has been identified by the Division of Taxation - Child Support Enforcement as having an unpaid child support arrearage shall have an amount set off against the amount due to such person after federal and state tax withholding an amount up to the balance of such child support arrearage(s). The lottery commission shall make the payment directly to the RI Family Court which will deposit the amount set off in escrow into the Registry of the Family Court for a period of forty-five (45) days, or if an application for review relating to the setoff has been filed, until final disposition of such application until further order of the court. The lottery shall pay to such person the remaining balance of the prize or winning ticket amount, if any, after the amount set off above by child support.

The Division of Taxation - Child Support Enforcement will periodically each year provide the Rhode Island State Lottery Commission a report of those individuals, together with other identifying information, who have a child support arrearage in excess of \$500 as of the date of the report as shown on the Division of Taxation - Child Support Enforcement computer system.

Any claimant aggrieved by any action taken under these procedures may within thirty (30) days of the date of the withholding of the payment by the lottery director seek judicial review in the RI Family Court which may, at its discretion, issue a temporary order prohibiting the disbursement of funds pending final adjudication.

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MOTOR VEHICLE LICENSE/REGISTRATION ACTION

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REV:02/1997

The Division of Taxation - Child Support Enforcement will periodically each year provide the Rhode Island Division of Motor Vehicles a report of those individuals, together with other identifying information, who have a child support arrearage in excess of \$500 as of the date of the report as shown on the Division of Taxation - Child Support Enforcement computer system. This listing to the Division of Motor Vehicles will be periodically updated to so that individuals whose arrearage falls below the prescribed level for reporting may be removed from the list by the Division of Motor Vehicles.

No individual whose name appears on this list shall be permitted to:

- \* Register or renew a registration of any motor vehicle, and/or
- \* Obtain an original license or renewal of a license to operate a motor vehicle

until all such child support arrearage have been paid in full or a satisfactory arrangement for payment has been made with the RI Family Court and such payment or arrangement to pay has been certified to the Division of Motor Vehicles by the Division of Taxation - Child Support Enforcement.

The identifying information provided to the Division of Motor Vehicles shall NOT include individuals' social security numbers.

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**INTERSTATE CHILD SUPPORT CASES**

**SECTION 0724**

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**INTERSTATE DEFINED**

**0724.05**

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REV:07/1994

An interstate child support case is, in general, one in which the absent parent and custodial parent do not live in the same state. There are two broad categories of interstate cases for RICSS:

- o Out of State cases where the custodial parent resides in Rhode Island and the absent parent resides outside Rhode Island, and;
- o Foreign Court cases, where the custodial parent resides outside Rhode Island and the absent parent resides in Rhode Island;

In the first category, (Out of State Cases), Rhode Island is the initiating state. An initiating state is one in which a proceeding, pursuant to a reciprocal enforcement of support law, is commenced and in which the IV-D custodial parent resides or once resided.

In the second category, (Foreign Court Cases), Rhode Island is the responding state. A responding state is one in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced, and where the absent parent resides or has assets.

Both these types of cases are commonly referred to as URESA cases. URESA stands for Uniform Reciprocal Enforcement of Support Act. This is the federal legislation establishing the mechanisms for establishing and enforcing child support when each of the parents do not live in the same state.

**AUTHORITY**

**0724.10**

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REV:07/1994

The RICSS agency has the authority to initiate and respond to interstate requests under Rhode Island General Law, Title 15, Chapter 11, Sections 1 through 42, known as Reciprocal Enforcement of Support. Under the Reciprocal Enforcement of Support laws, the duties of support are those imposed under the laws of any state where the absent parent was present for the period during which support is sought. The absent parent is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

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**INTERSTATE CHILD SUPPORT CASES**

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In public assistance cases, Rhode Island has the same right to initiate a proceeding as an individual AFDC caretaker relative for the purpose of securing reimbursement for support furnished and of obtaining continuing support. All duties of support are enforceable by a proceeding, including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the absent parent.

**0724.15**

**THE RICSS INTERSTATE UNIT**

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REV:07/1994

The RICSS Interstate Unit acts as the State's Central Registry. The unit will manage Rhode Island's interstate case load; both initiating activities and responding to requests from other states.

The central registry duties include receiving, distributing and responding to inquiries on all interstate IV-D cases, including URESA petitions and requests for wage withholding.

Within 10 working days of receiving an interstate IV-D case from an initiating State, the central registry must:

- o Ensure that the documentation submitted with the case has been reviewed to determine completeness;
- o Forward the case for necessary action to the appropriate agent;
- o Acknowledge receipt of the case and ensure that any missing documentation has been requested from the initiating State.

If the documentation received with a case is inadequate and cannot be remedied without the assistance of the initiating State, the central registry shall forward the case to an agent for any action that can be taken pending necessary action by the initiating State. The central registry shall keep a log of these pending cases so that when the needed documentation is received it may be distributed to the appropriate agent.

The central registry must respond to inquiries from other States

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within 5 working days of receipt of the request for a case status.

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**RHODE ISLAND AS THE INITIATING STATE**

**0724.20**

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REV:07/1994

RICSS, on behalf of the Department Human Services (DHS), will initiate child support enforcement activities on interstate matters the same as if all parties resided within the State.

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**AFDC Interstate Cases**

**0724.20.05**

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REV:07/1994

Newly opened AFDC cases will be assigned to the Interstate Unit through the IV-A/IV-D interface when the eligibility technician enters an out of state address for the absent parent. These cases are assigned a CASE STATUS TYPE of AUI (AFDC URESA INITIATING) on the APPD/CASE panel.

If the Interstate Unit should receive an AFDC case transferred from an instate unit, (before an instate agent transfers an AFDC case to the Interstate Unit, there should be verification that the absent parent no longer resides in Rhode Island), the agent should examine the case to determine whether a new case should be created for interstate support activity. If the existing case does not have a docket number assigned to it nor anything "financial", (payments, obligation balance etc.), it will not be necessary to create a new case for the interstate activity. The existing suffix should be used for the interstate case. The case status type in CASE panel should be changed from "A" blank to "AUI".

If the transferred case does show evidence of instate support activity having been initiated such as the assigning of a docket number and/or the existence of any financial information, the interstate agent must create a new case for the interstate activity by;

- o Entering the APPD function in E (entry mode);
- o Entering a Y (Yes) acknowledging that there is already an AFDC case and that the case should be "coped";
- o Entering the abbreviation of the state where the absent parent is now residing.

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The system will bring over information from the original case, assign it a new suffix number, and a case status type of AUI on the APPD CASE panel.

**0724.20.10 Non-AFDC, MAO, and FC Interstate Cases**

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REV:07/1994

Non-AFDC, Medical Assistance Only, and Foster Care cases will come to the Interstate Unit via the referral or application process, or transfers from another RICSS unit. The Interstate agent will enter new cases and transfer in cases through APPD E (Entry) mode. These cases cannot be copied, therefore the agent will do the data entry to establish the case. The agent will enter a CASE STATUS TYPE of NUI (Non-AFDC URESA INITIATING) on the APPD CASE panel. The system will enter the appropriate case suffix.

**0724.20.15 Petition or Complaint for Support**

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REV:07/1994

The petition or complaint shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons from whom support is sought, and all other pertinent information. The obligee may include in, or attach to, the petition or complaint, information which may help in locating or identifying the obligor including:

- o A photograph of the obligor;
- o A description of any distinguishing marks on his/her person;
- o Other names and aliases by which he/she has been or is known;
- o The name of his/her employer;
- o His/her fingerprints;
- o His/her social security number.

The petition or complaint may be filed in the appropriate court in any state in which the obligee resides. The Family Court shall not decline or refuse to accept and forward the petition or complaint

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on the ground that it should be filed with some other court of this, or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties, or where another court has already issued a support order in some other proceeding and has retained jurisdiction over its enforcement.

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**Petition or Complaint for a Minor**

**0724.20.25**

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REV:07/1994

A petition or complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor, without appointment as guardian ad litem (a guardian appointed by the court for the specific purpose of bringing and maintaining child support action).

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**Duty of Initiating Court**

**0724.20.30**

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REV:07/1994

If the Family Court finds that the petition or complaint sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause three copies of the petition or complaint and its certificate and three copies of Rhode Island General Law, Title 15, Chapter 11 (the Rhode Island URESA law) to be sent to the responding court or its designee. Certification shall be in accordance with the requirement of the initiating state. If the name and address of the responding court is unknown, and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

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**0724.20.35**                      **Costs and Fees**

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REV:07/1994

The Family Court shall not require payment of either a filing fee or other costs from the obligee, but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee, but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor, or by the DHS. These costs or fees do not have priority over amounts due to the obligee.

**0724.20.40**                      **Jurisdiction by Arrest**

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REV:07/1994

If the Family Court believes that the obligor may flee it may, as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process.

**0724.20.45**                      **RICSS Responsibilities**

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REV:07/1994

As the initiating state agency, the RICSS will:

- o Attempt to establish paternity using the State's long arm statute, whenever appropriate;
- o Refer a case, within 20 calendar days of finding an absent parent in another state, to the responding State's Interstate central registry for action, including:
  - URESAs petitions;
  - Requests for location;
  - Document verification;
  - Administrative reviews in Federal income tax refund offset cases;
  - Income withholding;



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State income tax refund offset in IV-D cases;

- o Provide the responding state with sufficient, accurate information to act on the case by submitting with each case any necessary documentation with the Child Support Enforcement Transmittal package.
- o Provide the responding state with any additional information requested. When information cannot be provided immediately, the interstate agent will notify the responding state that it will be provided within thirty calendar days of the request. The agent will submit an updated form or a computer-generated replica in the same format and containing the same information, and any necessary additional documentation;
- o Notify the responding state within 10 working days of receiving new information, by submitting an updated form and any related documentation;
- o Contact the responding state IV-D agency for a status update when there has been no contact for 90 calendar days.

**Initiating Location Requests**

**0724.20.50**

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REV:07/1994

The RICSS agent will exhaust all location resources available locally before requesting assistance from an out of state Central Registry. To request location services from another state, the Interstate agent will:

- o Print a Locate Data Sheet from FORMS;
- o Send it to the out of state Central Registry;
- o Enter the NEXT CSE REVIEW date of 90 calendar days on the APPD CASE panel.

At the end of the 90 days, the agent will contact the responding state for an update if a response has not already been received.

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**0724.20.55                                      Initiating Paternity Establishment**

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REV:07/1994

In cases where a putative father lives out of state, the RICSS agency will attempt to establish paternity the same as if the absent parent lives in Rhode Island.

**0724.20.55.05                                      Long Arm Cases**

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REV:07/1994

In interstate paternity cases, when a child is conceived in Rhode Island, the RICSS agency should attempt use of its long arm statute before initiating a URESA for paternity.

A long arm statute is one that allows a state to gain jurisdiction over an individual residing in another state because of an act committed within its own boundaries. In paternity establishment, it allows Rhode Island to "reach" into another state to bring an alleged father back into Rhode Island when the custodial parent claims that conception occurred in Rhode Island. The RICSS agent will refer the case to the RICSS Legal Unit if any problems arise.

In welfare cases, when paternity is an issue, the case must be referred to the legal unit so that a paternity affidavit may be prepared. If conception took place outside Rhode Island, a URESA petition asking for paternity to be established and a support order entered should be sent to the responding State.

**0724.20.55.10                                      URESA Paternity**

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REV:07/1994

When long arm cannot be used, the RICSS agent will pursue paternity establishment via the regular URESA process. The agent will transfer the case to the RICSS Legal Unit by:

- o     Entering AR (Attorney Review) in the CASE ACTION CODE field of the APPD CASE panel;
- o     Sending the RICSS case record to the Legal Unit.

The RICSS Technical Staff Assistant will contact the custodial parent to schedule an appointment for her to complete and sign the Paternity Affidavit. The Technical Staff Assistant will:

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- o Assist the custodial parent in completing the Paternity Affidavit;
- o Enter CR (Case Review) in the CASE ACTION CODE field on the APPD CASE panel;
- o Return the RICSS case record with the Paternity Affidavit to the Interstate Unit.

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**Docket Number Processing**

**0724.20.55.10.05**

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REV:07/1994

Once the case is returned, the RICSS agent will enter DAIL Function and select DOCKET NUMBER PROCESSING to obtain a docket number. The system will show whether there are other docket numbers for this putative father and custodial parent combination.

- o If there are no existing docket numbers for this putative father/custodial parent combination, enter NEW in the command panel. This will generate a new docket number and "connect" it to the case number.
- o When there is an existing docket number and it is not appropriate to create another case, the agent will ask the Junior Systems Analyst to put that number on "hold". Then, obtaining a new docket number for the existing suffix, the agent will use that case for the URESA filing.
- o If there has already been a docket number assigned for this putative father/custodial parent combination involving the State the URESA will be filed to, that same docket number must be used.

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**Preparing the Packet**

**0724.20.55.10.10**

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REV:07/1994

After the docket number has been assigned to the case, the URESA petition should be prepared. If use of the long arm statute is not applicable, RICSS must request the responding State to establish paternity by following these procedures:

- o Print the URESA packet via FORMS. The system will automatically print the form with the appropriate case

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data and the correct responding State central registry address. The packet will include the:

Uniform Support Petition,  
General Testimony for URESA,  
Child Support Enforcement Transmittal, and  
Affidavit of Non-Military Service;

- o Print the paternity affidavit from the FORM function/LEGAL FORMS panel. (This is a "stand alone" form and will not be a part of the regular URESA packet);
- o After the custodial parent has been interviewed and the paternity affidavit has been completed and notarized, attach a copy of the affidavit to each of the five URESA packets;
- o Retain one full URESA packet for the RICSS case record;
- o Transmit the remaining four packets to the R.I. Family Court. The court will attach a signed Judge's Certificate to each packet, stamp them with the court seal and send out three packets to the responding State's central registry. One complete packet will be retained by the court for its file.
- o Family Court will return a copy of the transmittal form that shows the date and the State to which the petition was sent. The agent should enter this information in case tracking.
- o When the responding State acknowledges receipt of the petition, all appropriate data such as contact person, phone number, and address of the local enforcement agency that will be handling the case should be entered in the OOSC panel of APPD function.
- o Enter the NEXT CSE REVIEW date on the APPD CASE panel. This date should be 90 calendar days from the date Family Court sent the packet to the responding State central registry.

When the responding State establishes paternity, the agent should go to the APPD/CHLD panel and change the paternity status from PI to PNI (paternity not an issue).

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**Initiating Support Order Establishment**

**0724.20.60**

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REV:07/1994

The RICSS agency will initiate a URESA action to obtain an order for support when:

- o The absent parent is located out of state;
- o Paternity is not an issue in the case;
- o There is no order for support.

**Docket Number Processing**

**0724.20.60.05**

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REV:07/1994

The RICSS agent will enter DAIL/ DOCKET NUMBER PROCESSING to obtain a docket number. The system will show whether there are other docket numbers for this absent parent/custodial parent/State combination.

- o When there is an existing docket number reflecting an instate case and a decision is made to use the same case number for the interstate case, the agent will have the Jr. Systems Specialist put the instate docket number on hold and then generate a new docket number from the DAIL/DOCKET NUMBER PROCESSING panel;
- o When there is already a docket number for this absent parent/custodial parent/state combination use that docket number;
- o When no docket number is found, the agent will generate a new docket number from the DAIL/DOCKET NUMBER PROCESSING.

**Preparing the Packet**

**0724.20.60.10**

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REV:07/1994

Once the DOCKET NUMBER PROCESSING panel shows the number has been activated (A), the agent will:

- o Print a URESA packet via FORMS. The system will generate five packets, each of which will include the:

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Child Support Enforcement Transmittal;  
Uniform Support Petition;  
General Testimony for URESA, and  
Family Court Certificate (Judge's Certificate)

- o Retain one packet for the RICSS case record;
- o Transmit the remaining four packets to R.I. Family Court. One will be retained for the court file and the remaining three packets will be sent to the responding State central registry.
- o When Family Court returns a copy of the transmittal form showing the date and State to which the petition was sent, the agent should enter this information in case tracking.
- o The agent should then enter the NEXT CSE REVIEW date on the APPD/CASE panel. This date should be 90 calendar days from the date Family Court sent the packet to the responding State central registry.

Upon receiving the acknowledgment from the responding state, the interstate agent will record, on the APPD/OOSC panel, the name of the out of state contact person, his/her address and phone number.

**0724.20.65**

**Initiating Interstate Enforcement**

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REV:07/1994

The RICSS agency will determine what type of action to take on an interstate case depending upon certain circumstances. The agent may request:

- o Interstate Income Withholding in cases when:
  - The absent parent both lives and works out of state; and
  - An existing order is less than three years old;
- o A URESA action to establish an out of state order when:
  - The absent parent is located out of state; and

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There is no support order or an existing order is at least three years old;

- o Registration of a foreign support order when:

A custodial parent requests it on a non-welfare case;

The absent parent's residential or postal address is verified.

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**Initiating Interstate Income Withholding**

**0724.20.65.05**

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REV:07/1994

When RICSS identifies cases where interstate income withholding is appropriate, the agent will initiate action to request the responding State to issue an income withholding order. This request is made on the Child Support Enforcement Transmittal Form. The packet sent to the responding State includes:

- o A verified place of employment for the absent parent;
- o An original and four copies of the support order. The original must be certified with the court seal;
- o An affidavit of arrears showing the accumulation of arrears on month by month basis. An original and four copies are required. The original and the two copies that will be sent to the responding State should all be notarized and stamped with the notary seal. Welfare cases are signed by the agent as the RICSS representative and on non-welfare cases the obligee must sign.
- o A copy of the Rhode Island income withholding laws should accompany each of the three packets that will be sent to the responding State;
- o One complete packet will be retained for the RICSS case file and the remaining four will be transmitted to R.I. Family Court. One will be retained by the court for its file and three packets will be sent to the responding State central registry.

In Interstate income withholding, except with respect to when withholding must be done, which is controlled by the State where

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the support order was entered, the law and procedures of the State in which the absent parent is employed shall apply.

**0724.20.65.05.05      Docket Number Processing**

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REV:07/1994

To initiate an interstate income withholding, the Interstate Agent will enter DAIL/DOCKET NUMBER PROCESSING and follow the same procedures outlined in section 0724.20.55.10.

**0724.20.65.05.10      Preparing the Packet**

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REV:07/1994

Once the DOCKET NUMBER PROCESSING panel indicates that the number has been activated (A), the agent will:

- o Print a URESA packet via FORMS. The packet will include the:
  - Child Support Enforcement Transmittal (requesting income withholding); and
  - Family Court Certificate;
- o Attach to each packet:
  - A copy of the support order and any modifications to it. These copies must be certified.
  - An affidavit of arrears showing the accumulation of arrears on a month by month basis. These affidavits should be notarized and stamped with the notary seal. Welfare cases are signed by the child support agent as the RICSS representative; on non-welfare cases the obligee must sign.
  - A copy of the withholding laws of the state where the order was entered;
- o Retain a copy of the packet for the RICSS case record;
- o Transmit the remaining four packets to the R.I. Family Court. Family Court will retain one for its file and send three to the responding State central registry;



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- o When Family Court returns a copy of the transmittal form showing the date the petition went to the responding State, the agent should enter the date and the State to which the petition was sent in case tracking.

Upon receiving the acknowledgment from the responding state, the interstate agent should record, on the APPD/OOSC panel, the name of the out of state contact person, his/her address and phone number.

**Initiating a URESA Action**

**0724.20.65.10**

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REV:07/1994

In a URESA proceeding, the RICSS agency will file a petition on behalf of the custodial parent and forward the petition and other documents to the Central Registry of the responding state. The custodial parent does not have to attend the hearing nor hire counsel in the responding state. An attorney or representative designated under the responding state's URESA statute will appear on the custodial parent's behalf.

In some states, the most recent order is presumed to correctly determine the current amount of support unless either party proves a change in circumstances. Other states consider a URESA proceeding to be a de novo hearing, that is, being heard for the first time. Although an existing support order is prima facie evidence of a duty to support (evidence that if unexplained or uncontradicted is sufficient to carry the case to a jury and to sustain a verdict), the responding court is not bound by the amount of support ordered. This factor should be considered when deciding whether a URESA action should be filed or a request made to register the existing order.

**Docket Number Processing**

**0724.20.65.10.05**

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REV:07/1994

To file a URESA action, the Interstate Agent will enter DAIL/DOCKET NUMBER PROCESSING to obtain a docket number. See procedures to be followed in section 0724.20.55.10.05.

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0724.20.65.10.10 Preparing the Packet

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REV:07/1994

Once the DOCKET NUMBER PROCESSING panel indicates that the number has been activated (A), the agent will:

- o Print a URESA packet via FORMS. The packet will include the:

Child Support Enforcement Transmittal requesting:

Establishment of a new order,  
Arrearage collection (if appropriate)  
Income withholding;

General Testimony for URESA and  
Family Court Certificate;

- o Attach:

A copy of the order and any modifications.  
The custodial parent's signed arrearage affidavit;

A copy of the withholding laws of the state where  
the order was originally entered (when requesting  
an interstate wage withholding only);

- o One packet will be retained by RICSS for its case file;
- o Transmit the original packet plus three copies to the R.I. Family Court;
- o Enter a message on case tracking indicating that the packets were sent to the Family Court;
- o After Family Court has returned the transmittal form with the date the responding State was sent the petition, agent should go into case tracking and make a notation of the date and the name of the State to which the petition was sent;
- o Also the agent should enter NEXT CSE REVIEW date on the APPD/CASE panel. This date should be 90 calendar days from the date the petition was sent to the responding State central registry.

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**Transmitting the Packet to Court**

**0724.20.65.10.15**

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REV:07/1994

The Interstate Unit secretary will bundle packets together, complete a transmittal form and forward the packets, with the transmittal form attached, to the Family Court.

The Family Court will:

- o Obtain the Judge's/Master's signature on the Family Court Certificate;
- o Add copies of the Rhode Island URESA laws to each of the three packets being sent to the responding State;
- o Retain a copy of the packet and establish a Family Court file;
- o Forward the original packet and two copies to the out of state central registry.

Upon receiving acknowledgment from the responding state, the Interstate agent will record, on the APPD/OOSC panel, the name of the out of state contact person, his/her address and phone number.

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**Registration of a Foreign Order**

**0724.20.65.15**

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REV:07/1994

A foreign support order is any administrative or judicial order entered outside R.I.. In the registration of a foreign support order, the court clerk in the responding state is responsible for filing the foreign support order in a Registry of Foreign Support Orders. This filing constitutes registration. Personal jurisdiction over the absent parent is not required since registration determines no rights or obligations of the absent parent. At the time of filing, the clerk gives the absent parent notice of registration by certified or registered mail. The absent parent has a certain time within which to request that registration be vacated. If the absent parent does not contest registration, or fails to prevail at any hearing, the registered order is confirmed.

A registered foreign support order is treated in the same manner as a local support order entered by the responding court. It is subject to the same defenses and procedures for reopening, staying,

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and enforcing. The interstate agent will usually request a responding State to register an order when a non-welfare client requests the registration and there is a verified residential or postal address for the absent parent.

**0724.20.65.15.05      Docket Number Processing**

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REV:07/1994

When R.I., acting as the initiating State, requests another State to do a registration of a foreign support order, the procedures for obtaining a docket number for the outgoing petition are the same as for any URESA filing. See section 0724.20.55.10.05.

**0724.20.65.15.10      Preparing the Packet**

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REV:07/1994

Once the DOCKET NUMBER PROCESSING panel indicates that the number has been activated (A), the agent will:

- o Print five URESA packets from FORM function. Each packet will include the:

Child Support Enforcement Transmittal;

Statement of Fact (for Registration of Foreign Support Order);

Uniform Support Petition; and

Family Court Certificate;

- o Attach to each of the five packets:

A certified copy of the order and any modifications;

A certified copy of the affidavit of arrears (if arrears are being sought);

If the order was entered in a State outside R.I., attach a copy of that State's URESA laws to each packet. (If it is a R.I. order, Family Court will attach the R.I. URESA laws to the packets being sent to the responding State);

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- o Retain one full packet for the RICSS file and forward the remaining four to R.I. Family Court;
- o When Family Court returns the transmittal showing the date the petition was sent to the responding State, the agent should enter that information in case tracking;
- o Enter the NEXT CSE REVIEW date on the APPD/CASE panel. This date should be 90 calendar days from the date Family Court sent the petition to the responding State;

**Transmitting the Packet to Court**

**0724.20.65.15.15**

REV:07/1994

Outgoing URESA petitions will be sent to R.I. Family Court in packets of four. (Of the five originally created, RICSS will retain one for its file). They should be sent with a transmittal form. When Family Court has completed its processing, one complete packet will be retained by the court for its file and the remaining three will be sent to the responding State central registry.

The Family Court processing consists of:

- o Obtaining the Judge's/Master's signature on the Family Court Certificate and adding one to each outgoing packet;
- o Adding copies of the Rhode Island URESA laws to each packet.
- o Returning a copy of the transmittal form to RICSS confirming the date and State to which the packets were sent. This information should be inputted into the INRHODES IV-D system case tracking.

When the responding State acknowledges receipt of the petition, RICSS will record any relevant information in the APPD/OOSC panel. This would include the name and phone number of the contact person, address of the local enforcement agency, and any identifying number assigned to the petition by the responding State.

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**0724.25**

**RHODE ISLAND AS THE RESPONDING STATE**

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REV:07/1994

The RICSS agency, on behalf of the DHS, will respond to requests from other states to locate absent parents, establish paternity and orders for support when necessary, and to enforce and collect support.

**0724.25.05**

**Legal Basis**

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REV:07/1994

The statutes governing Rhode Island as the responding state in an interstate action are found in the Rhode Island General Laws, Title 15, Chapter 11, Sections 18 through 42 (RIGL 15-11-18-42).

**0724.25.05.05**

**Responsibility of Court and DHS**

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REV:07/1994

After the responding court receives copies of the petition or complaint, certificate, and act from the initiating court, the clerk of the court will docket the case and notify the DHS and prosecuting attorney where applicable.

The DHS, and where applicable the prosecuting attorney, shall prosecute the case diligently. All action necessary according to the laws of this State to enable the court to set a time and place for a hearing, and give notice thereof to the obligor in accordance with law will be taken.

**0724.25.05.10**

**Duties of Court and DHS**

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REV:07/1994

The DHS and, where applicable, the prosecuting attorney will use all means at their disposal to locate the obligor or his property and, if because of inaccuracies in the petition or complaint or otherwise, the Family Court cannot obtain jurisdiction, the DHS or where applicable, the prosecuting attorney shall inform the Family Court of what they have done and request the court to continue the case pending receipt of more accurate information or an amended petition or complaint from the initiating court.

If the obligor or his property is not found in the State of Rhode Island and the DHS or, where applicable, the prosecuting attorney

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discovers that the obligor or his property may be found in another state, they shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other state, or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by the Reciprocal Enforcement of Support Act apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court, he shall notify the initiating court.

If the DHS or, where applicable, the prosecuting attorney has no information as to the location of the obligor or his property, they shall so inform the initiating court.

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**Hearing and Continuance**

**0724.25.05.15**

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REV:07/1994

If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or complaint or offers evidence constituting a defense, the Family Court, upon request of either party, may continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition, or by appearing in person before the court. The Family Court may designate the judge of the initiating court as a person before whom a deposition may be taken.

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**Immunity from Criminal Prosecution**

**0724.25.05.20**

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REV:07/1994

If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the Family Court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

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**0724.25.05.25**

**Evidence of Husband and Wife**

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REV:07/1994

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under the Rhode Island General Laws, Title 15, Chapter 11. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

**0724.25.05.30**

**Rules of Evidence**

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REV:07/1994

In any hearing for the civil enforcement of Rhode Island General Law, Title 15, Chapter 11, the court is governed by the rules of evidence applicable in a civil court action in the Family Court. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity or to a defendant in an action or a proceeding to enforce a foreign money judgement. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights or custody or visitation granted by a court.

**0724.25.05.35**

**Order of Support**

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REV:07/1994

If the Family Court finds a duty of support, it may order the obligor to furnish support therefor and subject the property of the obligor to the order. Support orders made pursuant to Rhode Island General Law, Title 15, Chapter 11 shall require that payments be made to the clerk of the Family Court. The appropriate court of the state in which the obligor is present or has property has the same powers and duties to enforce the order as has the court in which it was first issued. If enforcement is impossible or cannot be completed in the state in which the order was issued, the DHS or the prosecuting attorney, where applicable, shall send a certified copy of the order to the appropriate official of any state in which it appears that proceedings to enforce the order will be effective. The said appropriate official to whom the order is forwarded shall proceed with the enforcement, and report the results of the proceedings to the court first issuing the order.



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**Transmit Support Order to Initiating Court** **0724.25.05.40**

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REV:07/1994

The Family Court will send a certified copy of all support orders to the initiating court.

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**Additional Powers of Responding Court** **0724.25.05.45**

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REV:07/1994

In addition to the foregoing powers, the Family Court may subject the obligor to any terms and conditions proper to assure compliance with its orders, and in particular to:

- o Require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;
- o Require the obligor to report personally and to make payments at specified intervals to the clerk of the court;
- o Punish, under the power of contempt, the obligor who violates any order of the court.

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**Paternity** **0724.25.05.50**

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REV:07/1994

If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both parties are present at the hearing or the proof required indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

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**Additional Duties of Responding Court** **0724.25.05.55**

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REV:07/1994

A responding court has the following duties, which may be carried out through the clerk of the court:

- o Transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise;

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and

- o Furnish to the initiating court, upon request, a certified statement of all payments made by the obligor.

**0724.25.05.60**

**Proceedings Not to be Stayed**

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REV:07/1994

The Family Court shall not stay the proceeding or refuse a hearing under Rhode Island General Law, Title 15, Chapter 11 because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this, or any other state. The court shall hold a hearing and may issue a support order pendente lite. It may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding, and the judgement therein provides for the support demanded in the petition or complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter, the court shall not stay enforcement of its support order because of retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

**0724.25.05.65**

**Nullification of Support Orders**

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REV:07/1994

A support order made by a court of this state, pursuant to Rhode Island General Law, Title 15, Chapter 11, does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law, or by a support order made by a court of any other state pursuant to a substantially similar act, or any other law regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state, shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.

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**Effect of Participation in Proceeding**

**0724.25.05.70**

REV:07/1994

Participation in a proceeding under Rhode Island General Law, Title 15, Chapter 11 does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

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**Intrastate Application**

**0724.25.05.75**

REV:07/1994

This act applies if both the obligee and obligor are domiciliaries and/or residents of this state.

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**Appeals**

**0724.25.05.80**

REV:07/1994

If the DHS is of the opinion that a support order is erroneous, and presents a question of law warranting an appeal in the public interest, it may:

- o Perfect an appeal to the state Supreme Court if the support order was issued by a court of this State; or
- o Cause the appeal to be taken in the another state if the support order was issued in the other state.

In either case, expenses of the appeal may be paid on its order from funds appropriated for its office.

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**Foreign Support Orders-Additional Remedies**

**0724.25.05.82**

REV:07/1994

If the duty of support is based on a foreign support order, the obligee has the additional remedies as provided in the Rhode Island General Laws, Title 15, Chapter 11, Sections 36 through 40.

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**0724.25.05.84                      Right to Register Foreign Support Orders**

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REV:07/1994

The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes herein provided.

**0724.25.05.86                      Registry of Foreign Support Orders**

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REV:07/1994

The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders.

**0724.25.05.88                      Representation of Oblige by DHS**

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REV:07/1994

If this state is acting either as a rendering or a registering state, the DHS shall represent the obligee in proceedings under the Rhode Island General Laws, Title 15, Chapter 11, Sections 36 through 40.

**0724.25.05.90                      Registration Procedure-Notice**

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REV:07/1994

An obligee seeking to register a foreign support order in a court of this state, shall transmit to the clerk of the court:

- o Three (3) certified copies of the order with all modifications thereof;
- o One (1) copy of the Reciprocal Enforcement of Support Act of the state in which the order was made; and
- o A statement verified and signed by the obligee showing:
  - The post office address of the obligee;
  - The last known place of residence and post office address of the obligor;
  - The amount of support remaining unpaid;
  - A description and the location of any property of

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the obligor available upon execution; and

A list of the states in which the order registered.

Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under Rhode Island General Law, Title 15, Chapter 11.

Promptly upon registration, the clerk of the court shall send to the obligor, via registered or certified mail to the address given, a notice of the registration with a copy of the registered support order and the post office address of the obligee. He shall also docket the case and notify the DHS of his action. The DHS shall proceed diligently to enforce the order.

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**Effect of Registration-Enforcement Procedure** **0724.25.05.92**

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REV:07/1994

Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state, and may be enforced and satisfied in like manner.

The obligor has twenty (20) days after the mailing of notice of the registration in which to petition the court to vacate the registration, or for other relief. If he does not so petition, the registered support order is confirmed.

At the hearing to enforce the registered support order, the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgement. If he shows to the court that an appeal from the order is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that

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is required for a support order of this state.

**0724.25.05.94                      Uniformity of Interpretations**

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REV:07/1994

Rhode Island General Law, Title 15, Chapter 11 shall be so construed as to effectuate its general purpose to make uniform the law of those state which enact it.

**0724.25.05.96                      Severability**

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REV:07/1994

If any provisions of Rhode Island General Law, Title 15, Chapter 11 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of Chapter 11 are severable.

**0724.25.10                          CSE Agency Responsibilities**

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REV:01/2002

The Department of Administration, Division of Taxation - Child Support Enforcement is designated as the state information agency under Rhode Island General Law, Title 15, Chapter 11.1, and it shall:

- o     Maintain the official record of support orders and arrearages of all support orders entered in accordance with applicable administrative orders issued by the Rhode Island Family Court.
  
- o     Compile a list of the courts and their addresses in this state having jurisdiction under RIGL 15-11.1 and transmit it to the state information agency of every other state which has adopted this or a substantially similar act. Upon the adjournment of each session of the General Assembly the agency shall distribute copies of any amendments to RIGL 15-11.1, and a statement of their effective date, to all other state information agencies;
  
- o     Maintain a register of lists of courts received from

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other states, and transmit copies thereof promptly to every court in this state having jurisdiction under RIGL 15-11.1; and

- o Forward to the court in this state, which has jurisdiction over the obligor or his property, petitions or complaints, certificates and copies of the act it received from courts or information agencies of other states;
- o Use all means at its disposal to obtain information regarding the location of the obligor or his property if the state information agency does not know, or no state location service is available. This includes the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices, both state and federal, where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act, as amended;
- o After the deposit of three (3) copies of the petition or complaint and certificate and one (1) copy of the act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the Department of Human Services who may undertake the representations.

**CSE Agency Regulatory Provisions**

**0724.25.10.05**

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REV:01/2002

The Division of Taxation - Child Support Enforcement Interstate Unit will provide:

- o The same services as in intrastate IV-D cases, including: establishing paternity and/or orders for support; processing and enforcing orders referred by another state; collecting, monitoring and distributing any support payments received from the absent parent;

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- o Timely notice to the initiating state of any formal hearings which may result in establishment or modification of an order;
- o Notice to the initiating state of any new information within 10 working days of discovery, by submitting an updated form or a computer generated replica in the same format and containing the same information;
- o Notice to the initiating state when a case is closed;
- o A status update within five (5) working days of receiving the request from another state.

**0724.25.15**

**Initial Case Activities**

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REV:07/1994

Within 10 working days of the receipt of a case from an initiating state, the RICSS Interstate Unit will:

- o Review the request to ensure that all necessary documentation is included and complete. When documentation is inadequate and cannot be remedied by the Interstate Unit without the assistance of the initiating state, the Interstate Unit will forward the case for any action which can be taken, pending action by the initiating state;
- o Forward the case to the State PLS for location services, or to the appropriate agency for processing;
- o Send acknowledgment of the request to the initiating state, and request any missing documentation;
- o Inform the IV-D agency in the initiating state where the case was sent for action.



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**Establishing a Case**

**0724.25.20**

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REV:07/1994

Within 20 calendar days of receiving a request from an out of state IV-D agency, the RICSS agency will establish a case record and supplement the case record with all information and documents pertinent to the case, as well as all relevant facts, dates, actions taken, contacts made and results in a case. The RICSS agent will establish an interstate case by:

- o Entering data to the appropriate APPD panels using E (Entry) mode;
- o Querying the PRSN (Person Search) on both the absent parent and child(ren) to determine whether they are on other IV-D cases. When searching for the absent parent, do a name search and then a SSN search;
- o Making a narrative on the (CONT)ACT, recording any information or action not automatically recorded on CASE (TRAC)KING;
- o Entering a NEXT CSE REVIEW date, indicating when the case should be worked next.

NOTE: An INRHODES case will not be established for cases where only location is requested.

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**Case Processing Time Frames**

**0724.25.20.05**

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REV:07/1994

Within 75 calendar days of receiving an Interstate Child Support Enforcement Transmittal form and documentation, the interstate agent will:

- o Provide location services when requested or needed;
- o Notify the initiating agency of the necessary additions or corrections if unable to proceed with the case because of inadequate documentation;
- o Process the case to the extent possible if the documentation received with a case is inadequate and cannot be remedied by the Interstate Unit without the assistance of the initiating state, pending necessary

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action by the initiating state.

Within 10 working days of discovering that an absent parent resides in a different state, the RICSS agency must return the form and documentation, including the new location, to the initiating state, or if directed by the initiating state, forward the form and documentation to the central registry in the state where the absent parent has been located.

**0724.25.25**                      **Responding to Location Requests**

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REV:07/1994

Upon receiving a Child Support Enforcement Transmittal for location only services, the RICSS Interstate Unit will:

- o Enter the case name on the Out of State Log;
- o Follow location procedures as outlined in Section 0716;
- o Document location activities on the Out of State Log;
- o Forward the copies of all location forms to the initiating state.

**0724.25.30**                      **Requests for Paternity Establishment**

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REV:07/1994

The interstate unit will review all interstate requests for paternity establishment. The agent should ensure that the initiating state could not have established paternity via its long arm statute before proceeding with the case. If it is necessary for Rhode Island to establish paternity, the agent will:

- o Review the case to ensure that the necessary documentation has been provided. Besides the Child Support Enforcement Transmittal, the initiating state is required to provide a birth certificate and paternity affidavit for each child;
- o Establish a case in INRHODES;
- o Enter DAIL/DOCKET NUMBER PROCESSING to obtain a docket number. The system will show whether there are other docket numbers for this absent parent and custodial

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parent combination:

When there is already a docket number for this putative father/custodial parent/initiating State combination use the same docket number;

When no docket number is found, generate a new docket number for the case.

- o After the docket number has been assigned, proceed as with any URESA petition.

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**Request Received to Establish a Court Order**

**0724.25.35**

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REV:07/1994

When a foreign court case is received by the interstate unit, it must be time stamped and entered in a log. The petition should then be reviewed by the agent for accuracy and completeness:

- o All necessary forms and documents attached;
- o Consistency between actions requested on the Child Support Enforcement Transmittal and the actions requested in the petition;
- o If arrears are being sought, there must be an affidavit of arrears and a certified copy of the court order under which they accrued;
- o If it is a request to establish paternity that could not have been done under the initiating State's long arm statute, a birth certificate and a paternity affidavit are needed for each child;
- o Is the general testimony complete (in particular questions dealing with the custodial parent's income)?;
- o If the information is inadequate or inaccurate, the initiating State must be notified; until all documentation and/or clarification is received, the petition will be kept in a pending file;
- o Acknowledgment of the receipt of the petition must be sent to the initiating State within 10 days of the receipt of the petition by the responding State;

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- o If the petition is ready for service by the constable, the agent will generate the necessary forms from FORM function and the clerical unit will forward one copy of the petition to R.I. Family Court for the court file; one will go to the constable for personal service and the third will be placed in the RICSS file;

The Constable has three weeks in which to obtain successful service. At the end of that time, (s)he will return the packet to the administrative secretary regardless of whether successful service was obtained. The secretary will record the service results on the DAIL CONS panel and return the case to the clerical pool if the service was good.

If successful service could not be made, the packet will be returned to the interstate agent who will notify the initiating State of the location problem and ask for any additional information on the absent parent's whereabouts and/or place of employment. The agent will also initiate new location activities on his/her own.

**0724.25.40**

**Responding to Enforcement Requests**

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REV:07/1994

The RICSS agency will respond to enforcement requests from other states as indicated on the Child Support Enforcement Transmittal. However, Rhode Island does not have the authority to enforce out of state orders administratively. Therefore, when a request is received for enforcement of an existing order (URESAs), the RICSS agent will return the request advising the other state that enforcement cannot be done as requested. The RICSS agency will advise that Rhode Island can only enforce an out of state order by interstate income withholding, registering the order, or by establishing a Rhode Island order.

**0724.25.40.05**

**Interstate Income Withholding Requests**

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REV:07/1994

Rhode Island provides the same income withholding services to interstate cases as it does for in-state cases. Rhode Island law requires employers to comply with a withholding notice issued by the State.

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**Responsibilities of the Initiating State**

**0724.25.40.05.05**

REV:07/1994

When the initiating state verifies that an absent parent has income derived from another state, it will promptly notify the state in which the absent parent is employed to implement interstate withholding. The notice contains all information necessary to carry out the withholding including:

- o The amount requested to be withheld;
- o A copy of the support order; and
- o A statement of arrearage.

**Responsibility of RICSS as Responding State**

**0724.25.40.05.10**

REV:07/1994

The RICSS agency will promptly implement the requests for interstate income withholding:

- o Provide advance notice to the absent parent of the withholding and the opportunity to contest the action;
- o Provide notice (administrative order) to the employer;
- o Notify the initiating state when the absent parent ends employment; and
- o Provide the name and address of the absent parent's new employer, if known.

Interstate income withholding must be carried out in full compliance with all procedural due process requirements of the state in which the absent parent is employed. Except with respect to when a withholding order can be implemented, which is controlled by the state where the support order was entered, the law and procedures of the state in which the absent parent is employed apply.

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**0724.25.40.10                      Processing Administrative Income Withholding**

REV:07/1994

In receiving requests for interstate wage withholding, R.I. as the responding State, should time stamp the request and log it in the Interstate Central Registry Log. These requests should be submitted on the Child Support Enforcement Transmittal in packets of three and have all the appropriate documentation attached:

- o Certified copy of the order and any modifications;
- o Notarized arrears affidavit;
- o Copy of the withholding laws of the State in which the order was entered;
- o Before proceeding with the case, the agent should verify the place of employment;
- o Acknowledge receipt of the request within 10 days of the date received;
- o Assign a docket number to the case;
- o Print the Advance Notice of Proposed Income Withholding from the FORM function.

**0724.25.40.10.05                      Docket Number Processing**

REV:07/1994

The RICSS agency will:

- o Enter DAIL/DOCKET NUMBER PROCESSING to obtain a docket number. The system will show whether there are other docket numbers for this absent parent/custodial parent/State combination:

When there is a R.I./R.I. docket number existing for this custodial parent/absent parent combination, that number is to be put on "hold" by the Junior Systems Specialist if the same case suffix is to be used for the interstate case;

When there is already a docket number for this absent parent, custodial parent and the state the

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case is being referred from, use that docket number;

When no docket number is found, obtain a new docket number.

**Serving the Advance Notice**

**0724.25.40.10.10**

REV:07/1994

Advance notice of income withholding may be delivered to the absent parent by either personal service or certified mail. If it is done by personal service it may be delivered to the place of employment. The constable has 3 weeks in which to serve the absent parent. At the end of the 3 weeks, the packet must be returned regardless of whether it was successfully served. Upon receiving the packet back from the constable, the secretary will:

- o Record the service action on the DAIL/CONS panel;
- o Return the packet to the agent if the service was unsuccessful. The agent should notify the initiating State and make diligent efforts to locate the absent parent's new place of employment.

An absent parent has 20 calendar days from the date of service to contest the proposed action. The protest must be in writing and state the reason for the protest.

When the absent parent does not contest the action, the agent will initiate the Administrative Order to Withhold Income from the FORM function;

The clerical pool will:

- o Take this administrative order to legal for signature;
- o The signed order may then be delivered to the employer by either certified mail or personal service by a constable;

Upon receiving verification that the employer has received the withholding order, the agent will make all appropriate entries in the APPD/EMPL panel thus ensuring that the employer will receive a monthly transmittal statement to send to R.I. Family Court with the withheld payments.

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- o The unit supervisor will complete and transmit to R.I. Family Court a CSS-1 form that will be used to input the order amount and frequency into the system.

**0724.25.40.15**

**URESAs Action to Enforce**

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REV:07/1994

Once Rhode Island has entered an order on behalf of an out of state custodial parent, the initiating state may request enforcement of that order. The RICSS agent will enforce the order as requested on the Child Support Enforcement Transmittal and according to policies and procedures outlined for in-state cases.

**0724.25.40.20**

**Registration of a Foreign Support Order**

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REV:07/1994

When a Child Support Enforcement Transmittal is received requesting registration of a foreign support order, the RICSS agent will review the incoming petition to ensure that the transmittal is complete and accurate. Incoming petitions should consist of three complete and separate identical packets each of which consist of:

- o A certified copy of the order and any modifications;
- o If arrears are being sought, a certified copy of the arrears affidavit (showing a month by month history of how the arrears accrued);
- o A certified copy of the Statement of Fact form;
- o A copy of the initiating state's URESA laws;

When the review is completed and the petition is complete and accurate the agent will:

- o Input the case into the system. Do not obtain a docket number for this type of case. Later in the process, R.I. Family Court will assign a special docket number (RFS number) for these foreign court registration cases.
- o Prepare the 3 copies of the Order of Confirmation;



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- o Forward the entire case file to the legal unit for review and signature of the Order of Confirmation;

When the legal unit returns the file, one packet will remain in the RICSS file and the remaining two WITH ALL THREE COPIES OF THE ORDER OF CONFIRMATION are to be forwarded to R.I. Family Court.

The Family Court will:

- o Assign the RFS docket number;
- o Send a certified letter along with one packet of the petition to the absent parent. This letter will inform the absent parent the foreign court order has been registered (making it enforceable in a R.I. Court) and the absent parent has 20 days to request that the registration be vacated;
- o If the absent parent does not dispute the registration, the three copies of the Order of Confirmation are certified by the court, one is retained for the court file and the remaining two are returned to RICSS where one is placed in the RICSS file and the other mailed to the initiating State;
- o If the absent parent disputes the registration, Family Court will set a hearing date. If the certified mail is not deliverable, Family Court will notify RICSS. In either case the initiating State must be notified;
- o When the order becomes registered, it may be enforced just as any order entered by a R.I. court.



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**INTRODUCTION**

**0726.05**

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REV:01/2002

Under federal regulations and State statutes, the Division of Taxation - Child Support Enforcement is required to provide for the review and modification/adjustment of child support orders being enforced under Title IV-D of the Social Security Act. These reviews will be conducted as a result of either a request from any party subject to a child support order in the State or because of federal mandatory review requirements. Mandatory reviews are required only for the following types of cases: FIP, MAO (Medical Assistance Only), and IV-E Foster Care.

Although requests for reviews will be evaluated by Division of Taxation - Child Support Enforcement staff, only R. I. Family Court can make a decision to actually modify or adjust an order entered in a R. I. court. Division of Taxation - Child Support Enforcement's decision whether or not to refer a request for a review of a R. I. order to the R.I. Family Court will be made in accordance with the criteria specified in section 0726.05.05. The same criteria will be applied in reviewing requests for reviews in interstate cases.

In the case of mandated reviews, for those orders entered in a R.I. court, Division of Taxation - Child Support Enforcement will initiate the process whereby each such case will be brought to hearing before R. I. Family Court where the review will be conducted. For orders entered in jurisdictions outside R.I., Division of Taxation - Child Support Enforcement will petition the other State to review the order.

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**Criteria for Modification-Requested Reviews**

**0726.05.05**

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REV:01/2002

Under federal regulations and State statutes, Division of Taxation - Child Support Enforcement is required to respond to requests for reviews of support orders being enforced under Title IV-D of the Social Security Act from either parent subject to a child support order in the State. Requests by either parent for a review must be accompanied by information that demonstrates a change in circumstances that meets the criteria listed below. Referral of requests for reviews to the R. I. Family Court for hearing may be denied by Division of Taxation - Child Support Enforcement because the request fails to meet any of the criteria listed below. (See Section 0726.05.20 for Division of Taxation -

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Child Support Enforcement responsibilities on interstate cases).

**HOW TO APPLY FOR A REVIEW**

A request for a review must be made in writing. The request must contain information that will enable the Division of Taxation - Child Support Enforcement to determine if it meets any of the criteria listed below. It should be mailed to:

Division of Taxation - Child Support Enforcement  
77 Dorrance St., Providence, RI 02903

Division of Taxation - Child Support Enforcement must make a decision whether or not the order should be reviewed within fifteen (15) days of receipt of all information needed to make a decision.

**CRITERIA FOR REFERRING REQUESTS FOR REVIEW TO R.I. FAMILY COURT**

The Division of Taxation - Child Support Enforcement's response to a request for a review will consist of evaluating the request to determine if there is sufficient evidence/documentation to meet any of the following criteria that would warrant a hearing in R.I. Family Court:

- o The existing support order would deviate fifteen percent (15%) or more as a result of applying new income information to the State's Child Support Guidelines.
- o That health insurance is available at reasonable cost to the absent parent and the existing support order makes no provision for the health care needs of the children covered by the order.
- o To add an additional child of the parties to the order who is not covered by the existing support order.
- o There has been a custody change or a change in the responsibility for care of a child covered by the order.

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**Requested Reviews**

**0726.05.10**

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REV:01/2002

REQUESTS FROM CUSTODIAL PARENTS

If the Division of Taxation - Child Support Enforcement's evaluation of the custodial parent's request for a review of the order determines that a hearing before R.I. Family Court is warranted, a court date will be assigned and the Division of Taxation - Child Support Enforcement will provide for the service of process to both parties to the order. Once served, the custodial parent will be required to appear and give testimony at the court hearing. The Division of Taxation - Child Support Enforcement will represent the custodial parent in the court hearing.

If the Division of Taxation - Child Support Enforcement determines that circumstances do not warrant a hearing in R.I. Family Court, the requesting custodial parent is notified. This notification will also inform the custodial parent that s/he may submit additional information not previously provided if s/he would like Division of Taxation - Child Support Enforcement to reevaluate the request. Also included in this notice will be information about the "pro se" (on your own) process whereby the custodial parent may file a motion for modification with the court without the involvement of Division of Taxation - Child Support Enforcement.

REQUESTS FROM ABSENT PARENTS

Division of Taxation - Child Support Enforcement will evaluate a request from an absent parent to see if it meets any of the modification/adjustment criteria listed in section 0726.05.05 and notify the absent parent of the results of the evaluation. This notification will be informational in nature only. It will indicate to the absent parent whether the circumstances presented indicate that an modification/adjustment hearing in R.I. Family Court seems warranted or not. It will also inform the absent parent of the "pro se" (on your own) process for filing a motion with the court. The Division of Taxation - Child Support Enforcement's responsibilities do not include scheduling a hearing date, representing the absent parent in any hearing before the R.I. Family Court, or in interstate cases, petitioning an out-of-State jurisdiction for a review of the order on behalf of the absent parent.

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The requesting absent parent, like the requesting custodial parent, will be afforded the opportunity to provide additional information not previously submitted if a reevaluation of the request for review is desired. This second evaluation, like the first, will simply give the absent parent an indication of whether a court hearing may or may not result in a modification of the order. All decisions on whether or not to modify an order rest with the court.

**0726.05.15**                      **Mandatory Reviews**

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REV:01/2002

Under federal regulations and State statutes, a review of an order is required without the need of a request from either parent in the following type cases; except as provided below, all FIP, Medical Assistance Only, and IV-E Foster Care cases where it has been either thirty-six (36) months since the order was entered or thirty-six (36) months since the order was last reviewed.

FIP and IV-E Foster Care cases will automatically be referred to R. I. Family Court for adjustment hearings when they meet the above criteria. No other criteria need be met before referral to court is made. (See section 0726.05.20 for procedures on interstate cases.)

Medical Assistance Only cases will be referred to R. I. Family Court only if there is no court order providing for the health care needs of a child who is included in the Medical Assistance Only case. (See section 0726.05.20 for procedures on interstate cases.)

Cases with characteristics for mandatory review that NEED NOT BE REVIEWED ARE those where:

- o Case closure criteria exists. (See Sections 0714.35.05 and 0714.35.10.)
- o The youngest child covered by the order is at least seventeen (17) years six (6) months old, and there is no outstanding past due support.
- o There has been a good cause granted in the case for not pursuing child support. (See Section 0704.25.10.)

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**Review and Modification - Interstate Cases**

**0726.05.20**

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REV:01/2002

**R.I. AS THE RESPONDING STATE**

Reviews of orders on interstate cases must be performed by the State where the order was entered. For Division of Taxation - Child Support Enforcement interstate cases, these will be identified by a case status of UR (URESAs Responding). This indicates that R.I. has responded to a request to establish a R.I. order on behalf of another State. When a request for review of an order is received in these types of cases, Division of Taxation - Child Support Enforcement must respond by evaluating the request and determining whether it meets the criteria for referral to R. I. Family Court for an adjustment hearing just as it does on instate cases. However, in UR cases, no review of the order will be conducted unless a request is received - regardless of the age of the order.

Any requested review of an order on a FIP/AFDC case with a UR case status where it has been three years since the order was entered or three years since the last review, will automatically be referred to R. I. Family Court for an adjustment hearing. No other criteria for review need be met.

Notification requirements and the time frames for completion of reviews are the same as they are for instate cases. The Division of Taxation - Child Support Enforcement is responsible for sending any required notices regarding the review to the parent in R. I. and to the parent in the initiating State through that State's local enforcement agency.

**R.I. AS THE INITIATING STATE**

When acting as the initiating State (UI case status), Division of Taxation - Child Support Enforcement must respond to a request for review of the order by evaluating the request to determine whether it should be forwarded to the responding State (the State where the order was entered). The decision whether to forward the request to the responding State is based on the same criteria used in determining whether instate requests for reviews should be referred to R. I. Family Court.

Any active FIP, or IV-E Foster Care case where it has been three (3) years since the order was entered or three (3) years since the order was last reviewed, will automatically be referred to

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the responding State for review. There will be no need to evaluate whether the case should be referred or not. Of course, the decision whether to adjust the order or decide that no adjustment is warranted will rest with the responding State.

For MAO cases where it has been three (3) years since the order was entered or three (3) years since the order was last reviewed, the case will only be referred to the other jurisdiction if the existing order does not provide for the health care needs of a child who is included in the Medical Assistance Only household.

In each of these three (3) types of cases, FIP, MAO, and IV-E Foster Care, the Division of Taxation - Child Support Enforcement will have met its responsibilities under the federal regulations pertaining to the periodic review and adjustment of support orders by making the referral to the other State.

**0726.10**

**RETROACTIVE MODIFICATION OF CHILD SUPPORT**

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REV:07/1994

Notwithstanding the provisions of Rhode Island General Law, Title 15, Chapter 5, Section 16.2, the court in its discretion may modify a child support order retroactively only to the date that notice of a petition to modify was given to the adverse party, if it finds that a substantial change in circumstances has occurred. The court shall set forth in its decision the specific findings of fact which show a substantial change in circumstances, and upon which findings of fact the court has decided to make its order of modification retroactive. The court in its discretion may for good cause shown suspend payment of child support arrearages until there is a finding by the court of financial ability to make payment on arrearages.

**0726.15**

**EMANCIPATION**

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REV:01/2002

Pursuant to Rhode Island law, a child is emancipated upon his or her eighteenth birthday. However, the court may, if in its discretion it deems it necessary or advisable, order child support and education costs for children attending high school at the time of their eighteenth birthday and for ninety (90) days after graduation, but in no case beyond their nineteenth birthday. Furthermore, an absent parent is obligated to continue paying current child support until s/he has obtained a



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modification terminating that obligation. Therefore, the Division of Taxation - Child Support Enforcement agent will continue to enforce an order until such time as notification is received, from the Family Court, that the order has been terminated.

**MODIFICATION**

**0726.25**

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REV:01/2002

An order may be modified in one of two ways:

- o Filing a Motion to Modify when only a modification is being sought. The absent parent is making payments as ordered;
- o Filing a Motion to Adjudge in Contempt and to Modify, when both a modification and enforcement of the order are needed.

In non-assistance (NA) cases, the Division of Taxation - Child Support Enforcement agent will get prior approval of the Division of Taxation - Child Support Enforcement attorney before filing for a modification.

**Motion to Modify**

**0726.25.05**

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REV:01/2002

To file a Motion to Modify, the Division of Taxation - Child Support Enforcement agent will:

- o Obtain a completed expense sheet from the custodial parent;
- o Print the appropriate Motion to Modify packet;
- o Select a court date and indicate that Constable service is being requested.

The clerical pool will receive the packet and:

- o Review the forms;
- o Take the packet to the Division of Taxation - Child Support Enforcement Legal Unit for signature;

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- o Take the packet to Family Court to obtain the Family Court seal;
- o Give the packet to the Constable for service.

The constable has three (3) weeks in which to obtain successful service. At the end of that time, s/he will return the packet to the administrative secretary regardless of whether successful service was obtained. The secretary will record the service results on the DAIL CONS panel.

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**0726.25.05.05                      The Absent Parent is Successfully Served**

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REV:01/2002

When successful service is obtained, the clerical pool will:

- o Send the original packet to the Family Court;
- o File a copy of the packet in the Division of Taxation - Child Support Enforcement case record;
- o File the case record in the court tickler file by court date;
- o Take the case to the Family Court two (2) days before the hearing.

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**0726.25.05.10                      The Absent Parent Cannot be Served**

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REV:07/1994

When the absent parent cannot be served the Administrative Secretary will return the packet to the agent. The agent will:

- o Review the Constable Return Form to see what attempts were made at service;
- o Attempt to verify another address;
- o When a new address is verified:

Update the appropriate APPD panel(s);

Repeat the process beginning with printing the

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Complaint for Support packet;

- o When a new address cannot be verified, enter a B (Bad) in the VERIFICATION field on the appropriate APPD panel (ABSP or EMPL).

**Motion to Adjudge in Contempt and to Modify**

**0726.25.10**

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REV:07/1994

When the decision is to file a Motion to Adjudge in Contempt and to Modify, the agent will:

- o Obtain from the custodial parent:
  - A completed expense sheet; and
  - An Arrearage Affidavit.
- o Follow procedures as outlined under Section 0722.15 Contempt Processing.



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**LEGAL BASIS-COLLECTIONS BY THE STATE**

**0728.05**

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REV:07/1994

Whenever an individual assigns his/her support rights to the State, that assignment constitutes an obligation owed to Rhode Island by the individual responsible for providing such support. Such an obligation is collectible under all applicable State and local processes. Likewise, whenever the Department of Children, Youth and Families (DCYF) or such other department, agency, society, institution or person having the charge, care or custody of a child must pay for the support and maintenance of a child, the parents of the child are liable for the support and maintenance of the child and are liable for the reimbursement to the DCYF or other department, agency, society, institution or person having the charge, care, or custody of a child for the support and maintenance of the child.

**ARREARAGE**

**0728.10**

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REV:07/1994

An arrearage is a debt that results because of an unpaid support obligation. An arrearage accrues at the rate of the unpaid periodic child support amount.

**UNREIMBURSED ASSISTANCE**

**0728.15**

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REV:01/2002

The Department of Human Services shall not seek reimbursement for AFDC/FIP remitted either from the custodial or non-custodial parent, except in cases of fraud.

**INTEREST ON ARREARAGES**

**0728.20**

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REV:01/2002

All alimony and support obligations established under Rhode Island General Law, Title 15, Chapter 5 which are in arrears shall be subject to the imposition of interest at the rate of twelve percent (12%) per annum at the discretion of the court.

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**0728.20.05**

**Imposition of Late Payment Fees**

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REV:01/2002

The State has elected to impose a late payment fee on absent parents who owe overdue support. A late payment fee:

- o Must be uniformly applied in an amount not less than three percent (3%) nor more than six percent (6%) of overdue support;
- o Shall accrue as arrearages accumulate, and shall not be reduced upon partial payment of arrears;
- o May be collected only after the full amount of overdue support is paid and any requirements under State law for notice to the absent parent have been met;
- o Must not directly or indirectly reduce the amount of current or overdue support paid to the individual to whom it is owed;
- o Must be imposed in public assistance cases, Medical Assistance only cases, and non-assistance (NA) cases.

**0728.25**

**FEES**

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REV:01/2002

A fee represents an amount due as payment for services rendered. IV-D fees include but are not limited to blood testing fees, non-assistance (NA) fees, and services for location only.

**0728.30**

**VERIFICATION OF CHILD SUPPORT PAYMENTS**

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REV:01/2002

When calculating a child support debt, the Division of Taxation - Child Support Enforcement agent will document any information used to determine the debt amount. In addition, s/he will explain how, why, and when the information was obtained and exactly what it verifies. The following resources can be used in calculating the amount of child support owed:

- o The amount of assistance paid on behalf of the payee and each child;

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- o The amount of court ordered support due. This will be calculated by using the original court order and any subsequent modifications;
- o The absent parent's payment receipts, the custodial parent's Affidavit of Arrearage, and/or the circuit clerk payment records.

**DISTRIBUTION**

**0728.35**

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REV:07/1999

Distribution refers to the act of collecting child support payments and disbursing those payments to the proper individual or agency.

Prior to October 1, 1998, for purposes of distribution in IV-D cases, amounts collected, other than collections made through Federal or State income tax offset, are treated first as payment on the required child support obligation for the month in which the support was collected, next applied to any applicable "A" (AFDC/FIP) arrearage, and then "N" (Non-AFDC/FIP) arrearage. Amounts collected through Federal and State income tax refund offset must be applied to arrears owed to the State ("A"), then applied to arrears owed to the client ("N"), unless otherwise specified in a support order(s).

On or after October 1, 1998, distribution is subject to new criteria based on the client's FIP or former AFDC/FIP status, assignment requirements, and priority ordering of arrearages as outlined in the following subsections.

The Department of Administration, Division of Taxation-Child Support Enforcement will re-process child support collections under the(se) new rules, and to the extent that additional monies are owed to families, such payments will be authorized. If families are adversely affected by the new rules, no amount will be owed for any collection made prior to July, 1999.

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**0728.35.02**

**Definitions**

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REV:07/1999

ASSISTANCE PAID TO THE FAMILY -- For child support enforcement purposes, the term "assistance paid to the family" means money payments paid in cash, checks, or warrants immediately redeemable at par to eligible families under a State Plan approved under Title IV-A.

ASSISTANCE -- The term "assistance from the State" means assistance under the State program funded under Title IV-A of the Social Security Act or under the State plan approved under Title IV-A (as in effect on August 21, 1996).

FEDERAL SHARE -- The term "Federal share" means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the federal fiscal year in which the amount is distributed.

FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) -- The term "Federal medical assistance percentage" means the Federal medical assistance percentage (as defined in section 1905(b) of the Act, as such section was in effect on September 30, 1995) in the case of any other State.

STATE SHARE -- The term "State share" means one hundred percent (100%) of the amount collected which does not exceed the cumulative unreimbursed assistance, minus the Federal share.

CURRENT ASSISTANCE CASE -- The term "current assistance case" means any IV-D case which is currently receiving TANF (FIP) assistance.

FORMER ASSISTANCE CASE -- The term "former assistance case" means any IV-D case which formerly received AFDC or TANF (FIP) assistance.

NEVER-ASSISTANCE CASE -- The term "never-assistance case" means any IV-D case which has never received AFDC or TANF (FIP) assistance.

PERMANENTLY-ASSIGNED ARREARAGES -- The term "permanently-assigned arrearages" means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls: (1) which are or were assigned under an assignment of support rights in



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effect on September 30, 1998, and (2) which accrued under an assignment entered into on or after October 1, 1998, while a family is receiving assistance.

TEMPORARILY-ASSIGNED ARREARAGES -- The term "temporarily-assigned arrearages" means those arrearages which accrued prior to the family receiving assistance and which were assigned to the State after September 30, 1998. These arrearages are not permanently assigned and the temporary assignment will expire when the family leaves the assistance program.

CONDITIONALLY-ASSIGNED ARREARAGES -- The term "conditionally-assigned arrearages" means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls. They are owed to the family unless they are collected through Federal income tax refund offset. They are arrearages which were temporarily assigned to the State and became conditionally assigned to the State when the temporary assignment expired. If a conditionally-assigned arrearage is collected through a Federal income tax refund offset, the collection is retained by the State to reimburse the State and the Federal government up to the cumulative amount of unreimbursed assistance paid to the family. Collections of conditionally-assigned arrearages by any other enforcement mechanism are paid to the family.

NEVER-ASSIGNED ARREARAGES -- The term "never-assigned arrearages" means all arrearages in never-assistance cases, and, in former assistance cases, means those arrearages that accrue after the family's most recent period of assistance ends.

UNASSIGNED DURING-ASSISTANCE ARREARAGES -- The term "unassigned during-assistance arrearages" means all previously-assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued during the receipt of assistance.

UNASSIGNED PRE-ASSISTANCE ARREARAGES -- The term "unassigned pre-assistance arrearages" means all previously-assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued prior to the receipt of assistance.

UNREIMBURSED ASSISTANCE -- The term "unreimbursed assistance" means the cumulative amount of assistance paid to a family for

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all months which has not been repaid by assigned support collections. The total amount of unreimbursed assistance a State may recover through the IV-D program is limited by the total amount of the assigned support obligation.

**0728.35.02.05                      Date of Collection**

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REV:07/1999

This section is divided into policy and procedures to be followed based on support collected before October 1, 1998 and on or after October 1, 1998.

For support collected before October 1, 1998:

**INTERSTATE CASES**

For collection and distribution purposes, an interstate case is one in which one of the parties resides in Rhode Island and the other resides out of state. The following rules shall be used for determining the date a child support payment is made by a noncustodial parent in interstate cases:

- o The date of collection for distribution purposes in IV-D interstate cases shall be the date on which the payment is received by the IV-D agency in Rhode Island or the legal entity of any State or political subdivision actually making the collection, whichever is earliest. For interstate cases, the responding IV-D agency must include sufficient information to identify the case and indicate when the payment was received at the initial point of receipt by the IV-D agency or legal entity of the State or political subdivision actually making the collection, whichever is earlier. In the absence of sufficient information, the Department of Administration, Division of Taxation-Child Support Enforcement must promptly obtain this data.
  
- o When the custodial parent turns in support payments which were received directly from the noncustodial parent, the Department of Administration, Division of Taxation-Child Support Enforcement will use the date on the check or money order as the date of collection unless the custodial parent can provide proof that the payment was made at another time. If the support payments were forwarded to the custodial parent from another jurisdiction, the Department of Administration, Division of Taxation-Child Support

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Enforcement must contact the other jurisdiction to ascertain the date the collection was made in that jurisdiction.

**IN-STATE CASES**

An in-state case is one in which both parties reside in Rhode Island. The following rules shall be used for determining the date a child support payment is made by a noncustodial parent in in-state cases:

- o With respect to in-state payments made through wage or other income withholding that are received by the IV-D agency, the date of collection for distribution purposes shall be the date the wages or other income are withheld (pursuant to a court or administrative order for income withholding) to meet the support obligation. If the employer fails to report the date of withholding, the IV-D agency must reconstruct that date by contacting the employer, or comparing actual amounts collected with the pay schedule specified in the court or administrative order;
- o With respect to in-state payments (except for tax offset, income withholding collections, and payments made in person at the R.I. Family Court or any DHS office), the date of collection for distribution purposes shall be the date the payment is mailed as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. For payments made in person at the R.I. Family Court or any DHS office, the date of collection is the date the payment is tendered;
- o The policy on support payments made directly to the custodial parent from either the noncustodial parent or another jurisdiction is the same for in-state cases as it is for interstate cases. (See above policy for interstate cases.)
- o If none of the above are applicable, the date of collection shall be the date the payment was actually received by the Department of Human Services or its agent, R.I. Family Court.

For support collected on or after October 1, 1998, the date of collection is, for amounts collected and distributed under title IV-D of the Act, the date of receipt by the State disbursement

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unit, except when current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month due. When this occurs, the date of withholding is deemed to be the date of collection.

**0728.35.04 Payment Received**

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REV:07/1999

Prior to October 1, 1998, any amount collected in a month is considered payment on the required support obligation for the month in which the support was collected and will be sent to the family within fifteen (15) calendar days of the date of initial receipt by the State.

On or after October 1, 1998, any amount collected is distributed according to the order of distribution based on the family's FIP, non-FIP, or former FIP status as outlined in Sections 0728.35.05 and 0728.35.10 and any payment distributed to the family shall be sent to the family within two (2) business days of the determination that the amount is due and owing.

**0728.35.05 Distribution for Current FIP Recipients**

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REV:07/1999

All child support amounts collected, except for amounts collected through Federal income tax refund offset, must be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

The State shall retain all collections of child support up to the amount of unreimbursed assistance while a family receives cash assistance under the FIP Program.

Prior to October 1, 1998, any collections of child support shall be distributed in the following order:

To satisfy:

- \* Current support and, as appropriate, current spousal support;

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- \* FIP arrears and spousal arrears;
- \* MA reimbursement;
- \* Non-FIP arrears if there are active SSI children; reimbursement; and
- \* Non MA reimbursement.

Any collections on or after October 1, 1998 shall be distributed in the following order:

To satisfy:

- \* Current support and, as appropriate, current spousal support;
- \* FIP arrears, temporary arrears, and spousal arrears;
- \* MA reimbursement;
- \* Non-FIP arrears if there are active SSI children; reimbursement; and
- \* Non MA reimbursement.

Amounts collected by the Department of Administration, Division of Taxation-Child Support Enforcement are accessible to the IV-A agency in INRHODES as soon as such collection is posted.

Hard-copy reports of cases receiving Excess of Grant payments (Section 0728.35.10) and Excess of Unreimbursed Assistance payments are generated monthly by record location and distributed for follow-up. Upon review of the reports of these amounts, the IV-A agency will determine if such amounts are sufficient to make families ineligible for an assistance payment. If so, the IV-A agency representative closes the case; INRHODES automatically codes the case as "N" (Non-AFDC/FIP) and issues a Continuation of Services letter explaining that the Child Support Enforcement agency will continue to provide IV-D services.

In any case in which direct support payments are received by a FIP recipient with respect to whom an assignment is in effect, such payments shall be endorsed over to the Department of Administration, Division of Taxation-Child Support Enforcement or Family Court, as appropriate, and not retained by the family.

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**0728.35.05.05**

**Payment of Pass Through to FIP Families**

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REV:07/2004

As outlined in Section 0728.35.05, all child support collections made on behalf of current FIP clients shall be retained by the state up to the cumulative amount of unreimbursed assistance.

For any month in which a noncustodial parent makes a child support payment in the month when due and the support is collected by the Department of Administration, Division of Taxation for a child or children receiving FIP cash assistance, the first fifty dollars (\$50) of the child support payment, or the actual amount of the child support payment if the payment is less than fifty dollars (\$50), shall be paid to the family in which the child resides. If more than one noncustodial parent makes a child support payment to children living in the in the same family, there shall be only one (1) payment not to exceed fifty dollars (\$50) paid to the family from the child support collected. This payment is known as the "pass through" payment and shall be sent to the family within two (2) business days of the determination of the amount that is due and owing and no later than within two (2) business days of the end of the month in which the support was collected.

Pass through payments are excluded from income in calculating the family's FIP cash assistance amount. However, the fifty dollars (\$50) pass through is counted as income in the Food Stamp Program.

**0728.35.05.10**

**Payment in Excess of Grant**

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REV:07/2004

Any amount collected during the month which represents payment on the required support obligation for that month, and is in excess of the fifty dollars (\$50) pass through, shall be retained by the State to reimburse, in whole or in part, the assistance payment for the month in which the support was collected.

If the monthly amount owed and collected is greater than the assistance payment for the month, DHS authorizes payment to the family an amount equal to the difference between the assistance payment for the month and the court ordered amount for that month. This payment will be made in the month following the month in which the amount of the collection was used to redetermine eligibility for a FIP payment. If the court-ordered

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amount is less than the FIP payment, no amount shall be paid to the family. In cases in which there is no court order, the family shall not be paid any amount under this section.

Any month in which the amount collected exceeds the current support due, the State will retain such amount as reimbursement of past assistance payments up to the cumulative amount of unreimbursed assistance.

Any payment made under this section must be sent to the family within two (2) business days of the determination that the amount is due and owing.

**Future Payments**

**0728.35.05.15**

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REV:07/1994

If an amount collected represents payment on the required support obligation for future months, the amount will be applied to future months only after amounts which have been collected fully satisfy the support obligation assigned for the current month and all past months.

**Federal or State Tax Offset-Active FIP Cases**

**0728.35.05.20**

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REV:07/1999

Prior to October 1, 1998, amounts collected through Federal or State tax offset are applied first to AFDC/FIP arrears. Any balance remaining is applied to the past-due support owed to the family in the amount certified to the federal and state governments.

Any collection received as a result of Federal or State income tax refund offset which is due to a FIP family must be sent within thirty (30) calendar days of the date of initial receipt by the IV-D agency.

For amounts collected under Federal income tax offset on or after October 1, 1998, the amount collected in active FIP cases will be distributed as outlined below. Any collection received from tax offset which is due to a FIP family must be sent within two (2) business days of receipt.

The State shall retain all collections of child support while a family receives cash assistance under the FIP Program. Any

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collections from Federal income tax offset on or after October 1, 1998 shall be distributed in the following order:

To satisfy:

- \* FIP arrears;
- \* Temporary arrears;
- \* Spousal arrears;
- \* Reimbursement; and
- \* Non-FIP arrears if there are active SSI children.

Amounts collected through state income tax offset will be applied and distributed in accordance with Section 728.35.05.

**0728.35.05.25**

**Payment in Excess of Required Support**

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REV:07/1999

Prior to October 1, 1998, any amount collected in a month which exceeds the required monthly support amount is treated as payment on the required support obligation for previous months (past-due support). The State will retain such amounts to satisfy arrears that have accrued while the family was on assistance when:

- o There is no specific arrears order on the case; or
- o There is no arrearage priority set on the case to distribute to non-FIP arrears first.

After October 1, 1998, any amount collected in excess of the required current monthly support obligation for active FIP cases will be applied as outlined in Section 0728.35.05 and for former FIP cases, as outlined in 0728.35.10.



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**Former AFDC/FIP Cases**

**0728.35.10**

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REV:07/1999

Prior to October 1, 1998, when a family ceases to receive FIP, amounts collected which represent payment on the current support obligation will be sent to the family within fifteen (15) calendar days of the date of initial receipt in the State. However, support collected in a month after any month in which the support collected made the family ineligible for an assistance payment, but prior to or in the month in which the family receives its last assistance payment, shall be used to reimburse the State for any assistance paid in such months with any excess being paid to the family. This provision will not apply when a hearing is requested pursuant to 45 CFR 205.10. In these cases, when the hearing results in a determination that the family was ineligible for an assistance payment, the Department of Administration, Division of Taxation, Child Support Enforcement will:

- \* Determine the total amount of support paid in the last month assistance was paid;
- \* Determine the total amount of assistance paid in the month; and
- \* Pay the excess amount to the family.

If the family is determined to be eligible for assistance, distribution will continue as outlined in Section 0728.35.05.

For collections made on or after October 1, 1998 (other than collections through Federal income tax refund offset), the State will:

1. Distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;
2. Distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;
3. Distribute any amount in excess of the amounts distributed in 1. and 2. to satisfy unassigned pre-assistance arrearages and conditionally-assigned arrearages and pay that amount to the family.

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4. Distribute any amount above amounts distributed in 1., 2., and 3. to satisfy permanently-assigned arrearages.
5. Reduce the cumulative amount of unreimbursed assistance by the total amount distributed under 4., distribute collections exceeding the cumulative amount of unreimbursed assistance to satisfy unassigned during-assistance arrearages and pay those amounts to the family.

**0728.35.10.15 Federal or State Tax Offset-Former FIP Cases**

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REV:07/1999

Prior to October 1, 1998, amounts collected through Federal or State tax offset are applied first to AFDC/FIP arrears. Any balance remaining is applied to the past-due support in the amount certified to the federal and state governments.

Any collection received as a result of Federal or State income tax refund offset which is due to a family must be sent within thirty (30) calendar days of the date of initial receipt by the IV-D agency.

For amounts collected under Federal income tax offset on or after October 1, 1998, the amount collected in former AFDC/FIP cases are distributed as outlined below. Any collection received from tax offset which is due to a client must be sent within two (2) business days of receipt.

To satisfy:

- \* FIP arrears and conditional arrears;
- \* Reimbursement, not including past liability;
- \* Non-FIP arrears and unassigned during assistance arrears;
- \* Past liability; and
- \* Spousal arrears.

Amounts collected through state income tax offset will be applied and distributed in accordance with Section 728.35.10.

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**Never-Assistance Cases**

**0728.35.15**

REV:07/1999

Prior to October 1, 1998, all support collected is first applied to the required support obligation for the month in which the support is collected and is sent to the family within fifteen (15) calendar days of the date the collection is received by the Family Court.

Any amount collected in excess of the required current support amount is applied to past-due support. Payments are sent to the family within fifteen ( 15) calendar days of the date the collection is received by the State.

On or after October 1, 1998, all support collections must be paid to the family within two (2) business days.

**Foster Care Distribution**

**0728.35.20**

REV:01/2002

For distribution purposes, amounts collected in Foster Care maintenance cases shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months.

Effective June 9, 1988, the date of collection shall be the date on which the payment is received by the Division of Taxation - Child Support Enforcement or the legal entity of any State or political subdivision actually making the collection, whichever is earliest. In any case in which collections are received by an entity other than the agency responsible for final distribution under this section, the entity must transmit the collection within ten (10) days of receipt.

**Payment Received**

**0728.35.20.05**

REV:07/1994

Any amount collected in a month which represents payment on the required support obligation for that month will be retained by the State to reimburse itself for foster care maintenance payments.

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**0728.35.20.10**

**Payment in Excess of Required Support**

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REV:07/1994

If the amount collected is in excess of the monthly amount of the foster care maintenance payment but is not more than the monthly support obligation, the State will pay the excess to the state agency responsible for supervising the child's placement and care.

If the amount collected exceeds the amount required to be distributed as described above, but is not greater than the total unreimbursed foster care maintenance payments provided or unreimbursed assistance payments the State will retain the excess to reimburse itself for these payments. If past foster care payments are greater than the total support obligation owed, the maximum amount the State may retain as reimbursement for such payments is the amount of such obligation.

If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received public assistance or foster care maintenance payments, such amounts may be retained by the State to reimburse the difference between such support obligation and such payments.

Any balance remaining is paid to the State agency responsible for supervising the child's placement and care and is used to serve the best interest of the child.

**0728.35.20.15**

**Future Payments**

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REV:07/1994

If an amount collected as support represents payment on the required support obligation for future months, the amount will be applied to those future months. However, no amounts can be applied to future months unless amounts have been collected which fully satisfy the support obligation for the current month and all past months.

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**Foster Care Maintenance Payments Cease**

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**0728.35.20.20**

REV:01/2002

When a State ceases making foster care maintenance payments the assignment of support rights terminates except for the amount of any unpaid support that accrued under the assignment. The Division of Taxation - Child Support Enforcement will attempt to collect such unpaid support.

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**Interstate Cases**

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**0728.35.25**

REV:07/1994

When an absent parent is making payments to one state IV-D agency for a family residing in another state, amounts collected by the responding agency must be forwarded to the initiating State within 15 calendar days of the initial point of receipt in the responding State. Amounts will be distributed as outlined in Section 0728.

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**SSI CHILD HAVING SPECIAL NEEDS**

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**0728.40**

REV:01/2002

Title XVI of the Social Security Act provides funding to states to pay benefits to indigent, aged, blind, and/or disabled individuals. This program, known as Supplemental Security Income, is commonly referred to as SSI. There may be instances in which an SSI child is a member of a family where all other members are eligible for and in receipt of FIP benefits. Because SSI is a special category of assistance, the SSI child is not included in the FIP grant and his/her resources are not included in determining FIP eligibility.

Also, the SSI child is not included in any assignment of support rights and therefore, support received on behalf of an SSI child cannot be retained by the State and must be disbursed to the family. Distribution of support must occur within five (5) days of receipt by the Division of Taxation - Child Support Enforcement according to the requirements outlined below:

- o If the SSI child is the only person covered by the support order, one hundred percent (100%) of the support collected shall be paid to the custodial parent.

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- o If the SSI child is not the only person covered by the child support order, a per capita proportion of the amount collected shall be paid to the custodial parent, unless otherwise specified in the court order.

Child support distributed to a custodial parent on behalf of an SSI child is not considered income for purposes of determining FIP eligibility or payment level for members of the FIP household. However, child support distributed to a custodial parent on behalf of an SSI child is considered unearned income in the Food Stamp Program.

The Division of Taxation - Child Support Enforcement will provide to the custodial parent of an SSI child a monthly statement which discloses the amount of child support collected and distributed during the month on behalf of the child. The statement includes notification of the custodial parent's right to a hearing with regard to disputes involving the collection and distribution of the child support.

**0728.45**

**RECOVERING ERRONEOUSLY DISBURSED SUPPORT**

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REV:01/2002

Erroneously disbursed support payments are those payments collected by Division of Taxation - Child Support Enforcement and distributed to the wrong obligee. It includes, but is not limited to, fixed amount medical support, spousal support, arrears payments, and ongoing current support payments. Whenever the Division of Taxation - Child Support Enforcement discovers that an erroneous amount of support has been disbursed to a client that results in an overpayment, Division of Taxation - Child Support Enforcement shall:

- o Provide the client with notice by mail that an overpayment has been made, including the amount of the overpayment, the date(s) on which the overpayment(s) was made, and the reason for the overpayment.

This notice is to advise the client that:

- o Full repayment is to be made within thirty (30) days of the date of the notice or;
- o If full repayment is not made within thirty (30) days, Division of Taxation - Child Support Enforcement may

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proceed to recover the overpayment by withholding fifty percent (50%) of future support collections until the total amount of the overpayment has been recovered and/or by initiating civil action to recover the erroneously disbursed support.

NOTE: Any notice to the client about recovery of erroneously disbursed support will also inform him/her of:

- (1) The right to an informal review with Division of Taxation - Child Support Enforcement to discuss the overpayment. This meeting will allow the client to discuss any disagreement about the correctness of the overpayment without the need to file for a formal, administrative hearing.
- (2) The right to an administrative hearing. This may be requested regardless of whether the client has had an informal meeting with Division of Taxation - Child Support Enforcement as described in the preceding paragraph.

**RECOVERING TAX OFFSETS**

**0728.45.05**

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REV:01/2002

Whenever either the Federal Internal Revenue Service (IRS) or the State Division of Taxation requires the Division of Taxation - Child Support Enforcement to return all or a part of a tax refund intercepted by the IRS or the State Division of Taxation which had been sent to Division of Taxation - Child Support Enforcement by either of these tax collection agencies, and subsequently disbursed by Division of Taxation - Child Support Enforcement to a client in accordance with Federal or State tax refund offset requirements, the Division of Taxation - Child Support Enforcement shall:

- o Provide notice to the client that IRS or the State Division of Taxation has demanded a return of all or a part of the tax refund that was intercepted. Indicate in the notice the amount of the refund being requested to be returned, and the date of the disbursement to the client.
- o Notify the client to return, in full, the total amount of the tax refund intercept that is being requested by

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either IRS or the State Division of Taxation, within thirty (30) days of the date of the notice. The notice should caution the client that failure to do so could result in Division of Taxation - Child Support Enforcement initiating civil action to recover the tax refund intercept.

NOTE: Tax refund intercepts that are sent to clients erroneously because of mis-postings to accounts will be recovered under the procedures outlined in Section 0728.45.



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**RETAINED SUPPORT**

**SECTION 0730**

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**DIRECT SUPPORT DEFINED**

**0730.05**

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REV:01/2002

Direct support payment means an assigned support payment from an absent parent received directly by an FIP recipient. These payments may go to the FIP recipient directly from the absent parent or, in some cases, may have been sent by either an out-of-State court or agency or a R. I. court.

FIP recipients are required to turn over direct support payments to the:

Division of Taxation - Child Support Enforcement  
Business Office  
Recovery Unit  
110 Eddy St.  
Providence, R. I. 02903

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**DIRECT SUPPORT RETAINED**

**0730.10**

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REV:01/2002

**RHODE ISLAND AS A IV-D RECOVERY STATE**

Rhode Island is a IV-D recovery State. This means that R.I. has opted to place the responsibility for recovery of retained direct support payments with the IV-D agency (Division of Taxation - Child Support Enforcement). Recovery of retained direct support payments cannot, therefore, be made by the IV-A agency through the FIP recoupment process. Exception: Direct support payments received and retained during a period when an FIP recipient is under sanction for failure to cooperate with child support is counted as income against the FIP grant.

**REPAYMENT AGREEMENTS FOR RECOVERY OF RETAINED DIRECT SUPPORT**

The IV-D agency must do the following before establishing a repayment agreement.

1. Document that the recipient has received direct support.
2. Provide written notice of intent to recover the retained direct support payments. This notice contains:

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**RETAINED SUPPORT**

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- a) An explanation of the recipient's responsibility to cooperate by turning over direct payments and description of documentary evidence;
  - b) A detailed list of the dates and amounts of payments and description of documentary evidence;
  - c) A proposal for a repayment plan;
  - d) An explanation that a repayment plan is a condition of cooperation.
3. Provide the recipient with an opportunity for an informal review to clarify the recipient's responsibility and to resolve any differences regarding repayment. The repayment agreement between the IV-D agency and recipient must be reasonably related to:
- a) The recipient's income and resources including the FIP grant;
  - b) The total amount of retained support.

Division of Taxation - Child Support Enforcement may use the same formula for repayment agreement amounts as are allowed by law for FIP recoupment. These repayment agreements may be modified based on changes in client financial circumstances.

Referrals to the IV-A agency must be made along with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement, or if the recipient enters into an agreement and subsequently fails to make a payment. The final determination as to whether failure to cooperate exists will be made by the IV-A agency.

After notification by IV-A that the client has been sanctioned for failure to cooperate with IV-D, the Division of Taxation - Child Support Enforcement must notify IV-A whenever the client does begin to cooperate. If, for example, the client signs a repayment agreement after previously having failed to do so, or resumes making regularly scheduled payments after a period of nonpayment. A regularly scheduled payment is a payment made in the current month for the amount specified in the initial repayment agreement.

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**CHILD SUPPORT**

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**SECTION 0732**

**WORD PROCESSING UNIT**

**0732.05**

REV:07/1994

The clerical pool is responsible for:

- o Receiving forms/packets generated from INRHODES;
- o Reviewing printed documents for accuracy;
- o Forwarding forms/packets to the appropriate individual or unit;
- o Preparing packets for court;

**Requesting Service**

**0732.05.05**

REV:01/2002

When a form/packet is printed which is to be served by the constable, the clerical pool will:

- o Review it for accuracy;
- o Take the form/packet to the Division of Taxation - Child Support Enforcement attorney for signature, if required;

At the end of three (3) weeks, the constable will return the form/packet to the administrative secretary, regardless of whether service was successful.

**Unsuccessful Service**

**0732.05.05.05**

REV:01/2002

When service is unsuccessful, the administrative secretary will:

- o Record the service action on the DAIL/CONS panel;
- o Return the case to the Division of Taxation - Child Support Enforcement agent for location.

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**0732.05.05.10**

**Successful Service**

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REV:07/1994

When service is successful, the Administrative Secretary will:

- o Record the service action on the DAIL CONS panel;
- o Update the appropriate INRHODES panels to ensure that the calendar (when appropriate), absent parent address and other information is recorded;
- o Forward the form/packet to the appropriate unit or person.

**0732.05.10**

**Preparing a Case for Court**

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REV:01/2002

When a case is prepared for court, the clerical pool will:

- o Take the appropriate form/packet to the Division of Taxation - Child Support Enforcement Legal Unit to be signed and notarized;
- o File the form/packet in the case record;
- o Prepare the case for hearing by completing and placing in the Division of Taxation - Child Support Enforcement case record:

Draft order (1);

Attorney Worksheet (1);

Medical Form (1);

Guideline Worksheet (2);

CSS-1 (Domestic cases only) (1);

- o File the case record in the court hearing pending file by court date.

Two days before the hearing:

- o Print the appropriate system panels;

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- o File printed panels in the case record;
- o Take the case record to the Family Court.

**Post Hearing Activities**

**0732.05.15**

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REV:01/2002

After the hearing, the Division of Taxation - Child Support Enforcement Technical Staff Assistant will prepare legal forms, obtain the absent parent's signature, if required, and send the Division of Taxation - Child Support Enforcement case record with the legal forms to the clerical pool. The clerical pool will:

- o Type the appropriate forms;
- o Obtain the Division of Taxation - Child Support Enforcement attorney's signature on the original court forms;
- o Make copies;
- o Forward the original court forms to the Family Court;
- o Send copies to the:
  - Absent parent or his/her attorney and the  
Division of Taxation - Child Support Enforcement;
- o When the case is continued, return the case record to the court hearing pending file;
- o When there are special instructions, notify the appropriate agent or unit;
- o When the case needs no further update, return the case to Master File.

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**0732.05.20**

**General Forms Processing**

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REV:01/2002

The Division of Taxation - Child Support Enforcement agent will print forms/packets from INRHODES that do not require Constable service. These forms/packets may require "service" by certified mail, or need to be returned to the agent for signature.

When a form/packet requires "service" be certified mail, the clerical pool will enter a message on the (CONT)ACT panel indicating the date the form/packet is being sent. The clerk will forward a form/packet that requires an agent's signature back to the agent who printed it.

**0732.10**

**BODY ATTACHMENTS**

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REV:07/1994

The Family Court Judge/Master may issue a warrant for a body attachment when an absent parent/putative father or custodial parent fails to appear in court. The warrant instructs the Sheriff or Constable to apprehend the individual for the purpose of bringing him/her to court.

Body attachments are issued by the Family Court via BODY within the ORDR subsystem. Once information is input, a message appears on DAIL indicating that the body attachment order is awaiting action. The ORDR BODA panel is used to enter the date a bad address is discovered or the body attachment return date. Once a return date is entered, the record will no longer exist in DAIL.

The Family Court will withdraw or execute orders by entering the appropriate dates on the ORDR BODY panel.

**0732.10.05**

**Body Attachment Issued**

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REV:07/1994

When the court issues a body attachment, the RICSS record will be forwarded to the RICSS Legal Unit where the Secretary will hold the case until the warrant is received from the court.

When the warrant is received, the RICSS Legal Secretary will:

- o Match the RICSS case record with the warrant.

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- o Check the service address to determine which county Sheriff or Constable the case should be sent to;
- o Update the case DAIL BODA panel with:
  - The date the body attachment was mailed to the sheriff;
  - The county code of the sheriff who was notified;
- o Mark the file with the date that the warrant was sent to the Sheriff or Constable;
- o Forward the warrant to the appropriate county Sheriff or Constable.

**Body Attachment Executed**

**0732.10.05.05**

REV:07/1994

When a body attachment is executed (defendant is apprehended by the sheriff), the individual is either taken:

- o Directly to court, if it is in session; or
- o To the ACI until the next session of court;

The Family Court will remove the order via the ORDR/BODY panel. This will remove the DAIL/BODA message.

**Body Attachment Withdrawn**

**0732.10.05.10**

REV:01/2002

When the individual appears on his/her own, the Judge/Master will withdraw the order. However, the body attachment will remain with the Sheriff, and therefore remains in DAIL until a return date is entered to remove it. The Division of Taxation - Child Support Enforcement Legal Unit Secretary will:

- o Request, by memorandum, that the warrant be returned;
- o Update the DAIL BODA panel by entering the RETURNED date.

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**CHILD SUPPORT**

**SECTION 0732**

**SUPPORT PROCESSING**

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**0732.15**

**CONSTABLE SERVICE**

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REV:01/2002

The Division of Taxation - Child Support Enforcement enters into service contracts with Constables for the purpose of process service. All constables must:

- o Be licensed by the Chief Judge of the Rhode Island District Court and by the Chief Judge of the Family Court as required by law;
- o Have a bond for District Court and Family Court with sufficient sureties in the sum of five thousand dollars (\$5,000) for the faithful performance of the duties of his/her office;
- o Comply with any and all administrative requirements set by either the District Court or Family Court.

**0732.15.05**

**Rules and Regulations of CSE Constables**

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REV:01/2002

Responsibilities to be performed by Constables include, but are not limited to:

- o Serving and executing writs, process and legal forms issued from the Rhode Island Family Court and the Division of Taxation - Child Support Enforcement;
- o When performing services for the Division of Taxation - Child Support Enforcement, being governed by both State statutes: Rhode Island General Law, Title 9, Chapter 5, Section 1 et seq (RIGL 9-5-1 et seq) and Rhode Island General Law, Title 45, Chapter 16, Section 1 et seq (RIGL 45-16-1 et seq), and Rule 4 of the Rhode Island Rules of Domestic Procedure;
- o Not carrying any firearm while performing the duties of a Constable for the Division of Taxation - Child Support Enforcement;
- o Being available at all times by beeper or answering machine;
- o Being on call for emergency assignments from 7:00 a.m.



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to 6:00 p.m., every Monday through Saturday;

- o Reporting to the Division of Taxation - Child Support Enforcement sometime between 1:00 and 4:00 p.m. every Friday afternoon;
- o Being paid only for successful service of legal forms on either the defendant and/or plaintiff, third party witnesses, employers etc., as required by the specifics of the case;

Note: Successful service is defined as completed forms of legal process or other documents prepared by the Division of Taxation - Child Support Enforcement, returned in a manner that renders them completely and legally acceptable and ready for referral to Rhode Island Family Court by the Division of Taxation - Child Support Enforcement.

- o Being paid a fixed fee for successful personal service;
- o Preparing and submitting a monthly invoice, as specified by the Division of Taxation - Child Support Enforcement, for all complete legal services for each calendar month within the first five (5) days of the subsequent month;
- o Completing a report, as specified by the Division of Taxation - Child Support Enforcement, detailing the Rhode Island Family Court and Division of Taxation - Child Support Enforcement legal papers that could not be served and an explanation for why service was unsuccessful;
- o Meeting with the Division of Taxation - Child Support Enforcement Constable Unit Supervisor on a weekly basis;
- o Maintaining complete and accurate records on all referrals of legal papers made to them by the Division of Taxation - Child Support Enforcement, and make them available to the Rhode Island Family Court upon request;
- o Being willing and prepared, when called upon, to testify in Rhode Island Family Court hearings;

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- o Being licensed as a Notary Public in the State of Rhode Island and performing the services of a Notary Public as required in the performance of any Division of Taxation - Child Support Enforcement Constable duties at no further charge to the Division of Taxation - Child Support Enforcement plaintiff or defendant.

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**CHILD SUPPORT**

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**NOTICE AND HEARING PROCEDURES**

**SECTION 0734**

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**MONTHLY NOTICE AND HEARING PROCEDURES**

**0734.05**

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REV:07/2004

The Rhode Island Division of Taxation - Child Support Enforcement shall provide a monthly notice (computer generated) to FIP recipients and non-assistance (NA) recipients for whom a child support obligation has been established, and for whom a child support collection has been made. The monthly notice shall specify at a minimum the amount of support paid, the date such payment was made, the date such payment was received by Division of Taxation - Child Support Enforcement or the R.I. Family Court, the date and amount of pass through and/or child support paid to the FIP client, and an explanation of the recipient's rights to a hearing, which must be requested within thirty (30) days of the date of the notice. When a pass through payment is not sent to a recipient in a particular month, the monthly notice will include an explanation as to why it was not made. A hearing request form is enclosed with the monthly notice. The following constitute the Division of Taxation - Child Support Enforcement hearing procedures:

- o The recipient of the monthly notice will mail the request form to the Division of Taxation - Child Support Enforcement Business office, 110 Eddy Street, Providence, RI 02903. The form will be date stamped and logged in a central location by the Business office. The Business Agent shall research the records to determine all pass through payments made for the months the recipient was on FIP, if applicable. The agent shall refer the hearing request form packet to the Legal Unit for scheduling of a hearing, indicating in their log the date the matter was so referred;
- o Clerical staff will date stamp the packet, log the case in a central log, and schedule the matter for hearing. A notice shall be mailed to the client advising her/him of the hearing date. Notice of scheduled hearings shall be given to the business office on a weekly schedule;
- o The hearing will be conducted in the same manner as the income tax intercept hearings. The business officer or other Division of Taxation - Child Support Enforcement representative will be present and will be available to answer the client's relevant questions relating to the information provided to the client in the monthly

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notice. The client will then have an opportunity to present when s/he believed s/he should have received a child support payment and/or pass through in a given month. The business officer or other Division of Taxation - Child Support Enforcement representative will then be given an opportunity to respond by presenting testimony and/or evidence with respect to the child support and/or pass-through payments and periods contested by the client;

- o The hearing officer may, in his or her discretion, grant a continuance to any party for good cause, including, but not limited to, a party's reasonable request to obtain, review, and present additional relevant evidence. The client will be advised s/he will receive a written decision by mail within thirty (30) days following the close of the hearing;
- o A decision letter will be prepared by the hearing officer. The original will be sent to the client, with copies to her or his representative, master file, hearing file, and business office;
- o Any person who has exhausted all available administrative remedies, and who is aggrieved by a final order of the agency, is entitled to judicial review pursuant to Section 42-35-15 of the R.I. General Laws. If a client appeals the decision of the hearing officer to the Superior Court, the hearing officer will be responsible to obtain a transcript of the hearing, assemble the evidence (exhibits), and forward the material to the Deputy Chief Legal Counsel, Division of Taxation - Child Support Enforcement.

**0734.10**

**KENYON NOTICE AND HEARING PROCEDURES**

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REV:07/1994

The Department of Human Services, as a result of Federal Court Civil Action, No. 89-0553P, Kenyon et al v. Sullivan, has been ordered to provide special notices to recipients. The Court required that all members of the Kenyon class (all individuals who received AFDC and for whom the state was collecting child support from 1984 forward) be notified by mail and publication of their right to an accounting and hearing. Accordingly, the DHS Rhode Island Child Support Services Agency has implemented the following

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procedures:

- o Members of the Kenyon class received notice of their right to an accounting and a hearing by direct mail at their last known address and by newspaper publication. Enclosed with the notice, and available at the RICSS Business Office, is a form to request a hearing. The class members are to mail the request form to Legal Counsel, DHS, 600 New London Avenue, Cranston, RI 02920. A letter of acknowledgement is sent to the class member. The request form will be date stamped, assigned an internal docket number, and logged in. Copies of the request shall be retained by DHS Legal Counsel. The originals shall be sent to RICSS Legal Counsel on a transmittal form;
- o Immediately upon receipt, clerical staff at the RICSS Legal Unit shall sign the transmittal, date stamp it, and return it to DHS Legal Counsel at 600 New London Avenue;
- o All request forms will be date stamped and manually logged in, indicating the class member's name and social security number. An attorney worksheet form shall be attached to the request form, serving as a request for an accounting from the Business Office. The date the request for an accounting was made shall be indicated in the log;
- o An agent from the Business Office shall obtain the AFDC payroll card at the Central Office, obtain the payment history or "PM-10" for each obligor, and research the records to determine all pass-through payments made for the corresponding months the client received AFDC. The internal business accounting form shall be completed, indicating the dates of AFDC payments, amount of AFDC, amount of child support due, amount of child support paid by the obligor, and pass-through payments paid in each month. The dates of manual issuances of pass-through payments must also be provided. The detailed accounting form will assist the Business Agent in presenting the facts at the hearing, and will serve to clearly inform the AFDC client of all activity on his/her case;
- o The completed attorney worksheet packet will be forwarded to the Legal Unit at RICSS. The clerical staff will select a hearing date, and notice of the hearing shall be

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forwarded to the client. Hearings shall be conducted by attorneys and paralegal staff, depending upon availability. Notice of hearings shall be provided to the Business Office on a weekly schedule;

- o The hearing will be conducted in the same manner as the income tax intercept hearings. The business officer, or other RICSS representative, will present the client with the "accounting" and will be available to answer the client's questions relating to the account. The client will then have an opportunity to present why s/he believes s/he should have received a pass-through in a given month. The business officer or other RICSS representative will then be given an opportunity to respond by presenting testimony and/or evidence with respect to the pass-through payments and periods contested by the client;
- o The hearing officer may, in his or her discretion, grant a continuance to any party for good cause, including, but not limited to, a party's reasonable request to review the accounting and to obtain, review, and present additional relevant evidence. The client will be advised s/he will receive a written decision by mail within 30 days next following the close of the hearing;
- o A decision letter will be prepared by the hearing officer. The original will be sent to the client, with copies to his/her representative, masterfile, hearing file, and business office;
- o Any person who has exhausted all available administrative remedies, and who is aggrieved by a final order of the agency is entitled to judicial review pursuant to Section 42-35-15 of the R.I. General Laws. If a client appeals the decision of the hearing officer to the Superior Court, the hearing officer will be responsible to obtain a transcript of the hearing, assemble the evidence (Exhibits), and forward the material to the Deputy Chief Legal Counsel, RICSS.

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**LEGAL REPRESENTATION**

**SECTION 0735**

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**Legal Representation**

**0735.05**

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REV:12/2002

In any legal proceeding, legal counsel for the child support enforcement agency shall represent the Department of Administration, Division of Taxation - Child Support Enforcement agency or, when acting on behalf of the Department of Children, Youth and Families, Department of Human Services, or other state agency, shall represent the interests of those entities. The attorneys do not represent the interest of any individual person. There is no attorney-client relationship between legal counsel and either party. The Department shall provide services to both the custodial and noncustodial parents. Either party may retain representation by a private counsel.

Each party applying for services shall be given a notice regarding legal representation, and be required to sign a Waiver of Legal Representation prior to services being rendered.

For those existing cases where a prior attorney-client relationship was established, appropriate notice as described above and a waiver regarding legal representation shall be mailed. No further services will be rendered until the waiver is returned. Legal counsel shall either withdraw as counsel, or, upon receipt of a signed waiver, continue to provide services only. However, in no event will legal representation continue.