

THE ARKANSAS CHILD SUPPORT CLEARINGHOUSE

OCSE operates a centralized state disbursement unit for processing all child support payments for Title IV-D cases and payments remitted through income withholding in non-Title IV-D cases. The unit operates under the supervision of the Arkansas Child Support Clearinghouse Manager.

Services provided by the Arkansas Child Support Clearinghouse are limited by federal regulation. Persons who do not have an open enforcement case (i.e., those who have a payment processing case) will receive the following services:

- Update the custodial party's address upon written request.
- Respond to inquiries regarding lost, stolen or destroyed checks issued by the Clearinghouse.
- Provide payment histories upon the request of either party.
- Respond to calls regarding payments received and disbursed.
- Pursuant to federal rules, OCSE will provide a new income withholding notice redirecting payments to the Arkansas Child Support Clearinghouse based upon a request from an employer and after notice to the obligor and obligee.

Chapter 3

Central Registry Responsibilities

***** [No changes to current text] *****

State Parent Locate Service (SPLS)

~~SPLS is a function of the Program Support Section in the Central Office. The Program Support Section has the responsibility of receiving requests for locate information from other state child support agencies. Such requests will be accepted only for establishing paternity and/or securing child/medical support for dependant children. Once all local resources have been exhausted, the caseworker will request an SPLS search using the data system.~~

Federal Parent Locate Services (FPLS)

~~In those cases in which the noncustodial parent cannot be located through the local or state locate efforts, an FPLS search will be initiated by the caseworker. FPLS interfaces with Internal Revenue Service, Social Security Administration, Veteran's Administration, National Personnel Records Center, and the Department of Defense. FPLS can also be used to obtain locate information in parental kidnapping, pending adoption cases, and child custody cases.~~

~~OCSE may request and receive information from the following sources: Federal Parent Locator Service; available records in other states, territories, and the District of Columbia; the records of all state agencies; and businesses and financial entities for locating and determining resources of noncustodial parents. State and local government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential.~~

Chapter 3

Requests for Information from the Federal Parent Locate Services (FPLS)

The Social Security Act (the Act) specifies the parameters for FPLS location requests:

- Information may be requested only for an authorized purpose.
- The requestor must be an authorized person.
- Only specified information may be provided for a particular purpose.
- Information shall be used or disclosed only as expressly permitted in the Act.

Federal regulations require state IV-D agencies to honor authorized requests for FPLS location information and submit them to the FPLS using the State Parent Locator Service (SPLS). Authorized Federal agents or attorneys may request FPLS information directly from OCSE.

Each of these parameters is addressed in more detail below with respect to use of the FPLS in cases of parental kidnapping or for custody and visitation purposes.

- **Authorized Purpose:** Title IV-D of the Act authorizes use of the FPLS for enforcing a federal or state law with respect to the unlawful taking or restraint of a child by a biological parent, often referred to as parental kidnapping, or for determining the whereabouts of a parent or child for the purpose of making or enforcing a child custody or visitation determination. In this context, “custody or visitation determination” means a judgment, decree, or other order of a court providing for the custody or visitation of a child. The term includes permanent and temporary orders, and initial orders and modifications.
- **Authorized Person:** Title IV-D of the Act permits only specified authorized persons to obtain FPLS information in the case of an unlawful taking or restraint of a child or for making or enforcing a custody or visitation order. For these purposes, the term “authorized person” means the following:
 - Any agent or attorney of any state who has the duty or authority under the law of that state to make or enforce a child custody or visitation determination
 - Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of such court
 - Any agent or attorney of the United States, or of a state having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child

Under the Act, a parent seeking to locate another parent or a child in a case of parental kidnapping or for custody or visitation purposes is not an “authorized person” and may not receive FPLS information. Nor is a private attorney considered an authorized person for purposes of requesting FPLS information in such cases. The information provided to the authorized person is for his or her own use to enable him or her to proceed with

Chapter 3

~~making or enforcing a custody or visitation determination or investigating or prosecuting the unlawful taking or restraint of a child.~~

- ~~**Authorized Information:** Information that may be obtained from the FPLS includes only the most recent address and place of employment of the parent or child whose location is sought. Upon receipt of any response from the FPLS, OCSE is required to send the information directly to the court or other authorized person that requested it. Afterwards, OCSE must destroy any confidential records and information related to the request.~~
- ~~**OCSE Responsibilities:** When OCSE receives a request to use the FPLS for parental kidnapping, child custody, or visitation purposes, OCSE must ensure the requestor is the proper entity in the state for making such a request and, further, that the authorized requestor understands that no re-disclosure is permissible, except to another authorized court or agent or attorney of the state. The Act also prohibits the disclosure of FPLS information to an authorized person if a state has notified the FPLS that the state has reasonable evidence of domestic violence or child abuse and that disclosure of such information could be harmful to the custodial party or the child of such parent.~~
- ~~**Requesting FPLS Information:** Except for requests from authorized federal agents or attorneys, which come directly to OCSE, the SPLS is the mechanism for submitting requests to the FPLS.~~

Safeguards When Using Federal Parent Locate Service (FPLS)

~~All information obtained from the use of FPLS will be treated as confidential and safeguarded as required by the provisions of OCSE Policy, Chapter 2. States submitting requests for information via remote terminal on preprinted FPLS forms or by letter must have on file a signed certification with the FPLS that affirms the following:~~

- ~~The request is being made to locate an individual for the purpose of establishing paternity or securing child/medical support and for no other purpose.~~
- ~~The Program Support Section has made diligent and reasonable efforts to find the noncustodial parent and cannot locate the person.~~
- ~~The Program Support Section has taken protective measures to safeguard the personal information being transferred and received through FPLS.~~

~~OCSE maintains, and will continue to maintain, such a certification with FPLS. This certification will be renewed semiannually or upon change of the Administrator of OCSE or appropriate designee.~~

Chapter 3

~~Access to information obtained from FPLS for use in parental kidnapping and child custody cases is restricted to Program Support personnel. The OCSE Central Office Program Support Section is responsible for storing data collected and otherwise ensuring confidentiality. The Program Support Section will forward any information obtained directly to the applicant, make no other use of the information, and destroy any records related to the request that are confidential in nature.~~

Documents

~~All documents associated with FPLS that contain confidential information concerning noncustodial parents will be accessible only to authorized OCSE personnel. All such documents will be maintained in a secure, locked area when not in use.~~

~~Computer files and documents will be protected by security measures in place in Data Processing and Administrative Services Sections. Printouts and other computer documents generated for use by OCSE will be disposed of in such a manner that none of the contents come into the possession of unauthorized persons.~~

**** [No additional changes to current text] ****

Chapter 3

State Parent Locate Service (SPLS)

SPLS is utilized to respond to requests for locate information from other state child support agencies needed for establishing paternity, and/or securing child/medical support for dependant children. Additionally, the SPLS process addresses other authorized requests for SPLS information including authorized requests from IV-B or IV-E agencies as well as acting as the conduit for submitting authorized requests through the FPLS. Authorized external requests are processed by Program Support Section staff in the central office location of AR OCSE.

Requests through the SPLS for Information from the Federal Parent Locate Services (FPLS)

Authorized Federal attorneys or agents may request FPLS information directly from the Federal Office of Child Support Enforcement and do not submit their request through the State Parent Locate Service.

Federal regulations require state IV-D agencies to honor authorized requests for FPLS location information and submit them to the FPLS using the State Parent Locator Service (SPLS). Certain types of authorized requests are available only to officials, courts, tribal or government attorneys and programs while others are available to authorized private inquires as described below.

The Social Security Act (the Act) specifies the parameters that are common to all request through the SPLS for FPLS location requests:

- Information may be requested only for an authorized purpose.
- The requestor must be an authorized person.
- Only specified information may be provided for a particular purpose.
- Information shall be used or disclosed only as expressly permitted in the Act.

Authorized Private Inquiries:

Title IV-D of the Act permits a resident parent, legal guardian, or attorney or agent of a child not receiving IV-A benefits to obtain limited FPLS information concerning a noncustodial parent or putative father in specific situations. *Attorney* or *agent of a child* are terms defined by the Act as follows:

- Agent of the Child means the caretaker relative having custody of or responsibility for the child, and
- Attorney of a Child means a licensed lawyer who has entered into an attorney-client relationship with either the child or the child's resident parent to provide legal representation to the child or resident parent related to the establishment of paternity, or the establishment,

Chapter 3

modification, or enforcement of child support. An attorney-client relationship imposes an ethical and fiduciary duty upon the attorney to represent the client's best interests under applicable rules of professional responsibility.

The person making the request must attest that the information will be used for child support purposes, that it will be treated as confidential, and provide evidence that the requestor is an authorized person.

The Act prohibits the disclosure of FPLS information to an authorized person if a state has notified the FPLS that the state has reasonable evidence of domestic violence or child abuse and that disclosure of such information could be harmful to the custodial party or the child of such parent.

The type of information that may be provided includes the person's name, Social Security number, address, and the employer's name, address, and employer identification number. It may also include wage, income, and benefits of employment, including health care coverage as well as assets or debts owed by or to the individual, but excluding IRS information, Multi-State FIDM and State FIDM information.

Safeguards When Using Federal Parent Locate Services (FPLS)

All information obtained from the use of FPLS will be treated as confidential and safeguarded as required by the provisions of OCSE Policy, Chapter 2. AR OCSE annually certifies to the FPLS that the information requested is for purposes specified in Federal law and regulations and that specific safeguards are in place.

The OCSE Central Office Program Support Section is responsible for storing data collected and otherwise ensuring confidentiality for these requests. They will forward any information obtained directly to the applicant, make no other use of the information, and destroy any records related to the request that are confidential in nature.

Documents

All documents associated with FPLS that contain confidential information concerning noncustodial parents will be accessible only to authorized OCSE personnel. All such documents will be maintained in a secure, locked area when not in use.

Computer files and documents will be protected by security measures in place in data processing and administrative services sections. Printouts and other computer documents generated for use by OCSE will be disposed of in such a manner that none of the contents come into the possession of unauthorized persons.

Chapter 3

Arkansas OCSE, as the responding state agency, must pay the costs of processing interstate cases, ~~except that the initiating state must pay for~~ including the costs of paternity testing in actions to establish paternity. If paternity is established in Arkansas, an attempt to obtain a judgment for costs of paternity testing from the putative father will be made. ~~If costs are recovered, Arkansas must reimburse the initiating state.~~

Arkansas OCSE will recover the cost of providing services in interstate cases, when applicable. Any fees deducted will be identified when payments are forwarded to the initiating state. However, the court may assess fees and costs against the noncustodial parent. Fees, cost, or expenses may not be assessed against the custodial party or the support enforcement agency of either the initiating or the responding state except as provided by other law. If an order of support exists in any other state and the order cannot be enforced without court action, the caseworker will forward the case to the legal section so the existing order can be registered.

In an interstate case, the state that initiated the case is OCSE's customer. It is not the responding State's responsibility to be in direct contact with the custodial party in the initiating state. However, it is the caseworker's responsibility to keep the initiating state informed of significant actions taken in the case so that the initiating state can keep the custodial party informed as to the status of the case.

REFERRALS FOR REVIEW FOR CRIMINAL PROSECUTION

State Criminal Nonsupport

A noncustodial parent commits the offense of nonsupport if he or she fails to provide support to any of the following:

- his or her spouse who is physically or mentally infirm or financially dependant
- his or her legitimate child who is less than 18 years old
- his or her illegitimate child who is less than 18 years old and whose parentage has been determined in a previous judgment
- his or her dependant child who is physically or mentally infirm

Nonsupport is a Class A misdemeanor.

If the following conditions are present, nonsupport may be charged as a Class D felony:

- The noncustodial parent leaves Arkansas for 30 days while a current duty of support is unpaid, if the reason for leaving was to avoid payment of support
- The noncustodial parent has previously been convicted of nonsupport or the noncustodial parent owes more than \$2,500 in past due child support, pursuant to a court order or by operation of law and the amount represents at least four months of past due child support

Nonsupport is a Class C felony if the noncustodial parent owes more than \$10,000 but less than \$25,000 in past due child support, pursuant to a court order or by operation of law.

Nonsupport is a Class B felony if the noncustodial parent owes more than \$25,000 in past due child support, pursuant to a court order or by operation of law.

The court may impose a fine upon conviction of nonsupport. The court may also direct that a bond, if posted, be forfeited upon conviction of nonsupport and the money forwarded to the person entitled to support. The district courts in counties having a population greater than 200,000 inhabitants may issue a warrant for arrest upon the affidavit of a spouse or any person who is responsible for maintenance of a dependant child(ren) when nonsupport is alleged.

OCSE shall refer cases for state criminal nonsupport if OCSE has had enforcement responsibility for at least 12 consecutive months, the child support arrears total more than \$10,000, and regular child support payments are not being paid. The custodial party must complete and sign an affidavit requesting that the noncustodial parent be prosecuted for the criminal offense of nonsupport. OCSE may refer cases with less than \$10,000 in arrears if the case meets the conditions outlined in State law for referral.

Chapter 5

AR OCSE may refer cases for state criminal nonsupport to the appropriate prosecuting attorney for consideration if, upon review of the case, it appears the obligation to support is not being met.

Additionally, referrals to the appropriate prosecuting attorney are required if :

- AR OCSE has had enforcement responsibility for at least 12 consecutive months;
- more than \$10,000 is owed and remains unpaid;
- regular child support payments are not being paid, and
- the custodial party has completed and signed an affidavit containing the required information, including a request that the noncustodial parent be prosecuted for the criminal offense of nonsupport.

Chapter 7

- Cases with lost noncustodial parents can be closed if all methods of locating the noncustodial parent have been exhausted for **three** consecutive years when **sufficient information for automated locate is known**. Attempts to locate must be repeated at least quarterly including interviewing the custodial party. The case must be reopened if new information becomes available.
- Cases with lost noncustodial parents can be closed if all methods of locating the noncustodial parent have been exhausted for **one** year when **sufficient information for automated locate is not known**. Attempts to locate must be repeated at least quarterly including interviewing the custodial party. The case must be reopened if new information becomes available.
- ~~The noncustodial parent will be institutionalized or incarcerated for the duration of the child's minority.~~
- That the noncustodial parent is unable to pay support for the duration of the child's minority for the following reasons and it has been determined that there are no assets or income available that can be levied or attached for support:
 - The noncustodial parent will be institutionalized in a psychiatric facility or incarcerated with no chance for parole or
 - The noncustodial parent is an individual with a medically-verified total and permanent disability
- The noncustodial parent has medically verified total and permanent disability and has no income or assets with which to pay support.
- The noncustodial parent is a citizen of a foreign country with which Arkansas has no reciprocity, and the noncustodial parent does not work for the U. S. government or a company whose headquarters are in the United States.
- The case was open for State Parent Locate Services only and the locate services have been provided.
- **Non-TEA and former TEA cases** may be closed if OCSE is unable to contact the custodial party within a 60 calendar day period despite an attempt by at least one letter sent by first class mail to the custodial party's last known address. If efforts to locate the custodial party have failed after 60 calendar days, send a 60-day closure notice to the last known address (120 days total). Medicaid, TEA, and Food-Stamp screens must be checked prior to closing the case.
- **Non-TEA cases** can be closed for non-cooperation upon proper notice to the custodial party, provided OCSE has done everything possible and, due to the non-cooperation, legal action is not possible. (TEA, mandatory Medicaid, and foster care cases cannot be closed due to non-cooperation.)

Chapter 7

- There has been a finding of “Good Cause,” and the State or local IV-A, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk of harm to the child or custodial party.
- OCSE documents failure by the initiating state to take an action that is essential for the next step in providing service.

Notice Of Case Closure

The caseworker must notify the custodial party in writing 60 days prior to the closure date of the intent to close a case. There are three exceptions: