Technical Amendment
January 1, 0001
CABINET FOR HEALTH AND FAMILY SERVICES
Department for Income Support
Division of Child Support Enforcement
(Technical Amendment)

921 KAR 1:410. Child support collection and enforcement.

RELATES TO: KRS 13B.010(2), 15.055, 131.570, 205.712(3)-205.795, 237.110(4), 405.060(2), (3), 427.005, 31 C.F.R. 285.1, 285.3, 45 C.F.R. 303.6, 15 U.S.C. 1673, 42 U.S.C. 652, 654, 664, 666(a)(1)-(4), (6)-(12), (14)- (19), (b), (c), 669a

STATUTORY AUTHORITY: KRS 15.055(2), 186.570(2), 194A.050(1), 205.712(3), 205.712(17), 205.745(9), 205.795, 405.411(2), 405.520, 42 U.S.C. 656, 659, 666(a),

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 666 requires states to have laws that prescribe procedures to improve effectiveness of child support enforcement. KRS 205.712(3) requires the Cabinet for Health and Family Services to collect and enforce child support obligations and authorizes the cabinet to promulgate administrative regulations to implement its duties. This administrative regulation establishes procedures for collection and enforcement of child support.

Section 1. Definition. "Lump sum payment of any kind" means a lump sum payment of earnings as defined in KRS 427.005.

Section 2. Collection.

(1) Income withholding shall be used for the collection of a support obligation or health insurance coverage in an order being enforced by the Child Support Enforcement (CSE) program.

(2) The cabinet shall issue the CS-89, Income Withholding for Support, and CS-72, National Medical Support Notice, to an employer or other income source:

(a) Within fifteen (15) calendar days of a request for income withholding; or

(b) Within two (2) working days after entry of an obligor into the State Directory of New Hires.

(3) The employer or other income source shall:

(a) Implement income withholding no later than the first pay period that occurs after fourteen (14) working days following the date of the CS-89; and

(b) Transfer the CS-72 to the employer's health plan administrator within twenty (20) business days after receipt of the notice.

(4) The employer or other income source, in accordance with KRS 405.465(4) and (6)(a), may deduct the sum of one (1) dollar for each payment made pursuant to the order.

(5) The total amount to be withheld shall not exceed the maximum amount allowed under 15 U.S.C. 1673(b).

(6) In the case of an initial withholding, the cabinet shall send the obligor a copy of the CS-89 in order to notify the obligor that the income withholding:

(a) May be contested by requesting an administrative hearing pursuant to 921 KAR 1:430, in accordance with KRS 405.467(5); and

(b) Shall apply to the current and any subsequent employer.

(7) The health plan administrator shall notify the obligor and the cabinet of the health insurance coverage within forty (40) working days of receipt of the CS-72.
(8) If an obligor terminates employment, the employer or other income source shall notify the cabinet of the obligor's last known address and name of the new employer, if known, in accordance with KRS 405.465(5).
(9) An obligor shall inform the cabinet of any changes in:
(a) A current employer or source of income;
(b) Access to health insurance; and
(c) Residential or mailing address.
(10) If an obligor transfers or assigns income or income-producing property after receipt of notification of a child support obligation, the cabinet shall take action pursuant to KRS 405.060.
(11) If an arrearage only amount is subject to withholding, the arrearage payment and frequency of payment shall be equal to the payment and frequency last designated by court or administrative order.
(12) The employer or other income source shall forward:
(a) The support obligation payment to the state disbursement unit in the child support agency within seven (7) working days from the date an amount is withheld; or
(b) The medical insurance premium to the health insurance carrier or notify the cabinet prior to payment if more than one (1) option is available under a plan within twenty (20) business days.
(13) The employer or other income source shall include on the transmittal to the cabinet the obligor's:
(a) Name;
(b) Social Security number; and
(c) Cabinet-assigned identification number.
(14) The employer or other source of income shall not be required to change payroll frequency but shall withhold:
(a) At least once monthly; and
(b) May combine withheld amounts from more than one (1) obligor's income in a single payment to the cabinet, if the amount attributable to each obligor is identified by:
1. Name;
2. Social Security number; and
3. Cabinet-assigned identification number.
(15)
(a) An employer with twenty (20) or more employees shall provide written notification of a lump sum payment of any kind of $150 or more to be made to an employee who is currently under an income withholding order, in accordance with KRS 405.465.
1. The written notice to the cabinet shall include the following:
a. Name of the employee;
b. Social Security number of the employee;
c. Amount of the lump sum payment; and
d. Intended payment date.
2. The notice may include multiple employees on one (1) written notification if the information in accordance with subparagraph 1 of this paragraph is provided for each employee.
(b) Upon receipt of notification of a lump sum payment, Child Support Enforcement shall determine if the employee owes an arrearage on a support obligation enforced by the cabinet.
(c) If the employee owes no arrearage, Child Support Enforcement or its designee shall notify the employer to release the lump sum payment to the employee.

(d) If the employee owes an arrearage, pursuant to paragraph (b) of this subsection, Child Support Enforcement or its designee shall initiate:

1. A court order to the employer in accordance with KRS 405.465; or
2. An administrative order in accordance with KRS 405.470.

(e) If Child Support Enforcement or its designee does not contact the employer, the employer shall:

1. Hold the lump sum for thirty (30) calendar days, in accordance with KRS 405.465(6)(a), from the projected date of its release; and
2. Release the lump sum payment to the employee after the 30th calendar day, unless the employer has received from Child Support Enforcement or its designee a court order or an administrative order to withhold any portion of the lump sum payment.

(16) If an obligor receives unemployment compensation benefits, the cabinet shall:

(a) Through an agreement with the Education Cabinet, Office of Employment and Training, submit a CS-76, Unemployment Insurance Notice of Withholding, to the Department of Unemployment Insurance within the Education Cabinet to collect a child support payment from an obligor receiving unemployment compensation; and

(b) Notify an obligor with a CS-73, Unemployment Insurance Letter, along with a copy of the CS-76, Unemployment Insurance Notice of Withholding that:

1. Current child support obligation or delinquency is owed;
2. The cabinet has completed a CS-76 to order withholding of:
   a. Fifty (50) percent of the unemployment benefit; or
   b. The amount of the assigned support obligation, whichever is less; and
3. The obligor may contest the withholding by requesting an administrative hearing as specified in 921 KAR 1:430.

Section 3. Support Collection by Methods Other than Collection through Income Withholding.

(1) Federal income tax refund offset and federal administrative offset.

(a) A public assistance case shall qualify for offset if there is:

1. A court-ordered or administratively-established support obligation;
2. An assignment of support to the cabinet;
3. An arrearage of at least $150; and
4. Cabinet verification of the accuracy of the obligor's name and Social Security number.

(b) A nonpublic assistance case, for which the cabinet is providing services, involving past-due child support, a specific dollar amount of medical support, or spousal support shall qualify for offset if the:

1. Cabinet is enforcing a court-ordered or administratively-established support obligation;
2. Cabinet verifies accuracy of the obligor's name and Social Security number;
3. Nonpublic assistance arrearage owed is equal to or greater than $500, exclusive of fees, court costs, or other non-child support debt; and
4. Cabinet has the following:
   a. A copy of the current support order;
   b. A copy of the payment record; and
   c. The custodial parent's last known address.

(c)

1. If a case is submitted for federal tax refund offset, the case may be subject to federal administrative offset of nonexempt federal payments pursuant to 42 U.S.C. 664 and 31 C.F.R. 285.1 and 285.3.
2. Nonexempt federal payments shall be denied to individuals owing a child support arrearage as defined in paragraphs (a) and (b) of this subsection.

(d) An Advance Notice of Intent to Collect Past Due Support, Form CS-122, shall be sent to the obligor of the intent to intercept the tax refund and the administrative offset to be applied to the obligor's account. The notice shall inform noncustodial parents:

1. Of their right to contest the fact that past due support is owed or the amount of past due support by requesting an administrative hearing;

2. Of the procedures and timeframe for contacting CSE to request an administrative hearing;

3. That the hearing shall be conducted by the submitting state unless the noncustodial parent requests the hearing be conducted by the state with the order upon which the referral for offset is based; and

4. That, in the case of a joint return, the Secretary of the U.S. Treasury shall notify the noncustodial parent's spouse at the time of offset regarding the steps to take to protect the share of the refund which may be payable to that spouse.

(2) State income tax refund offset.

(a) A public assistance case and nonpublic assistance case shall qualify for offset if there is:

1. A court-ordered or administratively-established support obligation;

2. An assignment of support to the cabinet or the Child Support Enforcement program is providing services involving past due child support, a specific dollar amount of medical support, or spousal support;

3. An arrearage of at least $150; and

4. Cabinet verification of the accuracy of the obligor's name and Social Security number.

(b) In accordance with KRS 131.570, an advance written notice shall be sent to the obligor that he or she may contest the accuracy of a past due amount by requesting an administrative hearing as specified in 921 KAR 1:430.

(3) Tort claim settlements and state administrative offset. The cabinet shall:

(a) Identify a child support case for state administrative offset, including tort claim settlements, if a child support case meets the criteria specified in subsection (2)(a) or (b) of this section; and

(b) Notify the Finance and Administration Cabinet to offset administrative payments, including tort claim settlements, in accordance with KRS 205.712(18), for a case identified in paragraph (a) of this subsection.

(4) Financial Institution Data Match (FIDM). The cabinet shall:

(a) Use the following criteria to identify a case for seizure of assets:

1.

a. Assignment of support is made to the cabinet; or

b. Child Support Enforcement program is providing support services; and

2. The obligor owes past-due support in an amount equal to or greater than one (1) month's support obligation;

(b) Issue a CS-68, Order to Withhold and Deliver, and CS-69, Answer to Withhold and Deliver, to a financial institution holding the obligor's account or accounts;

(c) Issue a CS-68 and CS-121, Noncustodial Parent's Answer to Withhold and Deliver, to the obligor within two (2) working days:

1. After both of the forms specified in paragraph (b) of this subsection are issued to the financial institution; and

2. To notify the obligor that the funds in the account with the financial institution may be retained by requesting an administrative hearing to contest the Order to Withhold and Deliver in accordance with 921 KAR 1:430;

(d) Notify an obligor that to retain the funds in the account with the financial institution, an obligor shall take one (1) of the following actions within twenty (20) calendar days from the date of receipt of a CS-68:

1. Pay the total arrearage;
2. Request an administrative hearing to contest the CS-68; or
3. Post a bond satisfactory to the cabinet; and

(e) To release or amend an Order to Withhold and Deliver, send a CS-70, Release/Amendment of Order to Withhold and Deliver to:
1. The obligor; and
2. The financial institution.

(5) If a seizure of assets request is identified, as specified in subsection (4)(a) of this section, and is initiated from outside the commonwealth as a result of a FIDM, pursuant to 42 U.S.C. 666(a)(17), the cabinet shall comply with KRS 205.712, 407.5305, and 407.5507 to issue:

(a) A CS-68 and a CS-69 to a financial institution holding the obligor's account or accounts;

(b) A CS-68 and a CS-121, Noncustodial Parent's Answer to Withhold and Deliver, to the obligor within two (2) working days after both of the forms specified in paragraph (a) of this subsection are issued to the financial institution; and

(c) A CS-70 to the financial institution if the initiating state's request is withdrawn.

Section 4. Enforcement Actions.

(1) Liens.

(a) The cabinet shall file a lien on an obligor's interest in personal or real property, in accordance with KRS 205.745, if:
1. The obligor owes an arrearage equal to or greater than one (1) month's obligation;
2. The child support has been assigned to the cabinet;
3. The property has been identified and located; and
4. The value of the property exceeds the costs related to filing the lien.

(b) To file a lien, the cabinet shall:
1. Issue a CS-85, Notice of Lien, for property within or outside Kentucky in accordance with KRS 205.745 or 205.7785; and
2. Provide a CS-119, Noncustodial Parent's Notice of Lien, along with a copy of the CS-85 to the obligor notifying him that:
a. The obligor may contest the lien as specified in 921 KAR 1:430;
b. A transfer of property in order to avoid payment shall be considered an act of fraud, in accordance with KRS 405.060(2); and
c. If the obligor makes full payment of the arrearage, including interest, penalties, and fees, a lien release shall be provided to the obligor using the CS-85, Notice of Lien.

(c) To release a lien, the cabinet shall provide a CS-85, Notice of Lien, to the obligor.

(2) License and certificate denial, suspension, or revocation.

(a) If an obligor owes an arrearage equal to or greater than six (6) months of an assigned support obligation or fails to comply with a subpoena or warrant relating to paternity or child support proceedings, as established in KRS 205.712(10):
1. The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
2. The denial or suspension shall remain in effect until:
a. The obligor makes full payment of the arrears;
b. Payments on the past due child support are made in accordance with a court order or an administrative order;
c. The obligor complies with the subpoena or a warrant relating to paternity or child support proceedings has been removed;

d. The obligor provides supporting documentation of extenuating circumstances that is accepted by the cabinet; or

e. The appeal of the denial or suspension is upheld and the license is reinstated.

3. The cabinet shall send to the obligor a CS-44, Notice of Intent to Request Denial or Suspension, which includes:

a. A section for an Answer to Notice of Intent providing the obligor with notice of the obligor's right to request an administrative hearing contesting the action as specified in 921 KAR 1:430; and

b. Notification that the CS-63, Notice to Licensing/Certification Board or Agency shall be rescinded if an action specified in paragraph (a) 2 of this subsection has been taken.

4. The cabinet shall send to the issuing agency or board of licensure or certification a CS-63, if an action in subparagraph 2 of this paragraph has not been taken.

5. The cabinet shall send to the issuing agency or board of licensure or certification a CS-63, within twenty (20) calendar days of the date of administrative hearing decision, if an administrative hearing results in a finding that the case qualifies for:

a. A license or certificate denial;

b. Suspension; or

c. Revocation.

6. The cabinet shall notify the issuing board or agency that the obligor is no longer subject to denial, suspension, or revocation, if the obligor, in accordance with KRS 205.712(12):

a. Has eliminated the child support arrearage;

b. Is making payments on the child support arrearage in accordance with a court or administrative order; or

c. Complies with a subpoena or warrant relating to paternity or child support proceedings.

(b) If an obligor owes an arrearage equal to or greater than one (1) year's obligation, the cabinet shall take action against a license to carry a concealed deadly weapon as specified in KRS 237.110(4).

(3) Vehicle booting.

(a) If an obligor owes an arrearage equal to or greater than six (6) months obligation of an assigned support obligation and fails to comply with a subpoena or warrant relating to a child support proceeding, the cabinet may enforce a lien on a vehicle registered to the obligor by immobilization with a vehicle boot as established in KRS 205.745(9).

(b) The cabinet shall:

1. Verify with the Department of Vehicle Regulation that the vehicle identification number for the vehicle to be booted is registered in the obligor's name;

2. Verify the vehicle to be booted is solely owned by the obligor, co-owned by the obligor and current spouse, or owned by a business in which the obligor is the sole proprietor;

3. Send a notice of intent to the obligor, unless there is reason to believe that the obligor will leave town or hide the vehicle;

4. File a lien in the county where the vehicle is kept; and

5. Set a target date for booting the vehicle, if the obligor does not contact the cabinet within ten (10) days of notice to negotiate a settlement.

(c) The cabinet shall send a cancellation notice to the obligor and to the appropriate local law enforcement personnel to terminate the booting of the vehicle.

(4) Newspaper publication of a list of delinquent obligors. If an obligor owes an arrearage equal to or greater than six (6) months of an assigned support obligation or fails to comply with a subpoena or warrant relating to paternity or child support proceedings, as established in KRS 405.411, a cabinet designee under 205.712(7) may:

(a) Compile and furnish a list to a newspaper of general circulation in that county for publication; and

(b) Include the name, last known address, and the past due amount owed by the obligor.

(5) Passport denial, revocation, or limitation. If the obligor owes an arrearage of $2,500 or more, in accordance with 42 U.S.C. 652(k) and 654(31), the cabinet shall:

(a)

1. Provide the Advance Notice of Intent to Collect Past Due Support, CS-122, to the obligor of the determination to be referred for passport denial, revocation, or limitation; and

2. Include in the notice the consequences of the referral and the right to contest the action by requesting a hearing in accordance with KRS 205.712(9);

(b) Provide the U.S. Secretary of Health and Human Services the names of individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport; and

(c) Notify the Secretary of the U.S. Department of Health and Human Services that the cabinet requests the release of the passport of an obligor that had been denied if any of the following criteria are met:

1. There was an erroneous submittal of a Social Security number;

2. There is a case of mistaken identity and the cabinet has verified this information;

3. The obligor is required to pay the past due support in full;

4. The obligor provides documentation on company letterhead verifying travel for employment or business purposes and makes alternate payment arrangements acceptable to the cabinet; or

5. There are extenuating circumstances in which the reason for travel is a family emergency and supporting documentation is provided to and accepted by the cabinet.

(6) Delinquent list.

(a) The cabinet shall provide to the Office of the Attorney General a list of names of delinquent obligors for publication on the Internet, as established in KRS 15.055 and 205.712(17).

(b) The cabinet shall send the obligor a CS-175, Notice of Intent to Place Noncustodial Parent's Name on Delinquent Listing notifying him or her of his or her right to contest by requesting a hearing.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "CS-44 Notice of Intent to Request Denial or Suspension", 10/23;

(b) "CS-63 Notice to Licensing/Certification Board or Agency", 10/23;

(c) "CS-68 Order to Withhold and Deliver", 10/23;

(d) "CS-69 Answer to Withhold and Deliver", 9/10;

(e) "CS-70 Release/Amendment of Order to Withhold and Deliver", 9/16;

(f) "CS-72 National Medical Support Notice", 04/24;

(g) "CS-73 Unemployment Insurance Letter", 9/10;

(h) "CS-76 Unemployment Insurance Notice of Withholding", 9/10;

(i) "CS-85 Notice of Lien", 08/24[~~10/23~~];

(j) "CS-89 Income Withholding for Support", 04/24;

(k) "CS-119 Noncustodial Parent's Notice of Lien", 9/10;

(l) "CS-121 Noncustodial Parent's Answer to Withhold and Deliver", 10/23;

(m) "CS-122 Advance Notice of Intent to Collect Past-Due Support", 10/12; and

(n) "CS-175 Notice of Intent to Place Noncustodial Parent's Name on Delinquent Listing", 4/09.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Income Support, Child Support Enforcement, 730 Schenkel Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and available online at https://csws.chfs.ky.gov/csws.

(20 Ky.R. 2299; eff. 3-14-1994; 21 Ky.R. 2557; 22 Ky.R. 61; eff. 6-21-1995; 1389; 1606; eff. 3-7-1996; 23 Ky.R. 3432; 3831; 4154; eff. 6-16-1997; 24 Ky.R. 2033; 2380; eff. 5-18-1998; 25 Ky.R. 644; 1642; eff. 1-19-1999; Recodified from 904 KAR 2:410, 2-1-1999; 26 Ky.R. 241; 776; eff. 10-20-1999; 27 Ky.R. 1955; eff. 3-6-2001; 28 Ky.R. 1703; 2216; eff. 3-28-2002; 30 Ky.R. 1127; 1554; eff. 1-5-2004; TAm eff. 10-27-2004 31 Ky.R. 1362; 1519; 1680; eff. 3-8-2005; 33 Ky.R. 249; eff. 9-20-2006; 34 Ky.R. 1874; 2146; eff. 3-19-2008; 35 Ky.R. 1927; eff. 3-11-2009; TAm eff. 5-14-2009; 36 Ky.R. 2395; 37 Ky.R. 385; eff. 8-18-2010; 39 Ky.R. 345; 776; eff. 10-17-2012; 41 Ky.R. 1715; 2000; eff. 4-3-2015; 43 Ky.R. 631, 992; eff. 12-14-2016; TAm eff. 8-22-2018; TAm eff. 4-14-2021; 50 Ky.R. 1198; eff. 2-20-2024; TAm eff. 4-18-2024; TAm eff. 9-19-2024; Recodified to 040 KAR 001:410; eff. 6-22-2026.)

FILED WITH LRC: September 19, 2024