

Effective Access to Procedures and Enforcement – U.S. Perspective

Effective access to procedures means....

“...for a person seeking assistance under this Convention implies the ability, with the assistance of authorities in the requested State, to put one’s case as fully and as effectively as possible to the appropriate authorities of the requested State. It also implies that a lack of means should not be a barrier.” (Explanatory Report, paragraph 358)

The United States Perspective

- Cost-free services
- Comprehensive access to services
- Effective procedures and economies of scale

Program Structure

- Federal Office of Child Support Enforcement (OCSE) (Central Authority)
- 54 U.S. states and territories, and a growing number of tribes, work individual cases through their child support programs (Central Authority designees)

Funding & Expenditures

- Funding structure for child support program
 - 66% Federal funds
 - 34% State matching funds
- \$5.7 billion – Total expenditures (2011)
 - \$3.5 billion – Federal funds
 - \$2.2 billion – State funds

Program Statistics (2011)

- 15,800,000 cases
- 17,340,482 children in the caseload
- \$27,300,000,000 - Total child support collections
- 55,608 full-time staff (decrease due to recession)
- 94 percent - Proportion of collections going to families
- \$5.12 - Cost-effectiveness ratio

Cost-free Services



Cost-free Services

U.S. state child support agencies and the federal government already provide all services mandated under the treaty, including provision of any necessary legal assistance in international cases, **free of charge**, as required under U.S. federal law.

Costs in the U.S.

- Domestic cases
 - Mostly cost-free services although States may charge fees (2011 - \$32 million in fees)
- Foreign Reciprocating Countries (FRCs)
 - No fees charged to creditors or FRCs
 - States have option to recover costs from debtor

Comprehensive Access to Services



Who receives services currently?

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- Domestic cases
 - Anyone may apply to a U.S. State for child support services (creditors or debtors)
 - Automatic referral of public welfare cases
- International cases
 - Foreign reciprocating country requests services

Typical Case

- Location of a debtor or creditor
- Establishment of paternity
- Establishment of child support orders
- Recognition and enforcement of child support orders
- Service of process
- Modification of child support orders per state law

Legal Procedures

- States have discretion in structuring their programs
 - Judicial
 - Quasi-judicial
 - Administrative
- States must have sufficient staff to achieve the standards for an effective program which must include attorneys or prosecutors to represent the agency in court or administrative proceedings with respect to the establishment and enforcement of orders of paternity and support.

Effective Procedures and Economies of Scale

Locating a Debtor or Creditor

- National Directory of New Hires (NDNH)
- Federal Parent Locator Service (FPLS)
- States have their own databases for new hires that roll up into the national database
- FPLS also draws on other federal databases, including tax and social security data

Paternity Testing Procedures

- Paternity cases are now done by a voluntary acknowledgment of paternity or genetic testing.
- Genetic testing technology is non-invasive, simple and accurate.
- Child support agencies generally have a contract with a paternity testing lab.
- Frequently, the total cost for 3 parties is \$200.

Order Establishment

- Evolved from a system where every judge decided an individual case (every child support case went to trial) to a guidelines-based system
- Guidelines are determined by the state and standardize order amounts across the state
- In most places, there is an opportunity to set the order amount without an attorney

Enforcement: Income Withholding

- When entering a child support order, judicial and administrative officials must enter an Immediate Income Withholding Order
- Using the National Directory of New Hire resources, payments are made within weeks after establishing the order
- All payments are sent from the employer to the Child Support Agency's State Disbursement Unit
- Income withholding brings in 70% of all collections

Enforcement: Tax Refund Offset

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- U.S. citizens must file taxes by April 15 each year
- Based on income earned and federal and state tax law, people may receive a tax refund
- If a debtor is in arrears, their refund will be intercepted and ultimately sent to the creditor
- Federal Tax Refund Offset (7% of collections; \$2.2 Billion collected in 2011)
- State Tax Refund Offset (1% of collections)

The Future is (almost) Here

International child support cases within the scope of
the Convention will receive cost-free services AND
the same effective access to procedures and
comprehensive enforcement measures provided to
domestic cases

Contact Information – OCSE Central Authority

- Anne Miller – anne.miller@acf.hhs.gov
- Liza Lowe – eliza.lowe@acf.hhs.gov
- Barbara Addison – barbara.addison@acf.hhs.gov
- Katie Donley – katherine.donley@acf.hhs.gov
- Dvora Wilensky – dvora.wilensky@acf.hhs.gov
- Locate request/Inquiries –
ocseinternational@acf.hhs.gov

Conclusion