

Working International Cases Effectively with the United States Now and Under the Hague Convention

7 March 2013

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Presentation

- Overview of U.S. Child Support Program
- Procedures for Sending International Cases to the U.S.
- Information and Tips for International Partners Sending Cases to the U.S.

Overview of the U.S. Child Support Program

Mission

- To increase parental support of children by locating parents, establishing paternity and support orders, and enforcing payments
- Serves 1 in 4 children in the country - 17 million children

Statistics (2011)

- 15.8 million total cases in the program
- \$27.3 billion in collections
- \$5.12 collected for every \$1 spent
- 55,608 full-time staff
- Caseload
 - Current welfare benefits – 13%
 - Former welfare benefits – 43%
 - Never welfare benefits – 44%

History and Structure

- Established in 1975 under title IV-D of Social Security Act
- Federal, State, Tribal and local cooperation
 - Federal Office of Child Support Enforcement (OCSE)
 - 50 States, 3 Territories, and Washington, DC
- Federal (66%) and State (34%) funding

State Child Support Programs

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- Federal requirements and state flexibility
- Judicial and administrative processes
- Statewide computer systems
- Automated case-processing
- Increasing use of family-centered strategies

International

- OCSE – U.S. Central Authority
- 26 Foreign reciprocating countries (FRCs)
- U.S. states process individual cases through their child support programs (Central Authority designees)
- Cases from FRCs processed same as a case from another U.S. state
- Cost-free services

Inter-jurisdictional Cases

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- State law - Uniform Interstate Family Support Act (UIFSA)
- Covers international cases
- Amendments developed to comply with the Hague treaty requirements (not in effect yet)

Hague Treaty

- U.S. is working towards ratification
- UIFSA 2008 is implementing legislation
- Hague Treaty child support cases will be processed in the same manner, with a few exceptions

Procedures for Sending International Cases to the U.S.

Locate

- Individual's location in the U.S. is unknown, FRC sends request to OCSE (U.S. Central Authority)
 - OCSE will provide the U.S. State of residence
- Individual is in a U.S. state, but address unknown, send request to the state agency central registry

Paternity Establishment and Order Establishment

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- Voluntary paternity acknowledgement
- Contested cases (genetic testing)
- State guidelines for setting child support
- FRCs should provide financial information about the petitioner and respondent (if known)

Enforcement

- Registration for Enforcement
- Enforcement measures - examples
 - immediate income withholding
 - federal and state tax refund intercepts
 - garnishment from bank accounts or other sources
 - license suspension

Payments

- State Disbursement Units (SDUs) - All payments received and disbursed through centralized payment processing unit
- Bundled payments allowed with consent
- Paper checks still the norm

Modification

- Either parent can ask a state child support agency to review the order every three years or if there is a significant change of circumstances
- States review public assistance cases automatically every three years
- Continuing Exclusive Jurisdiction – for modification

Changes with the Hague Treaty

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- Central Authority
 - OCSE and U.S. state child support agencies
- Forms/required documentation
- Time frames to contest registration of foreign order
 - Non-Hague : within 20 days after notice of registration
 - Hague: not later than 30 days after notice, or 60 days if contesting party outside U.S.
- Defenses

Required Documents - Comparison

Non-Hague Foreign Support Orders

- Transmittal letter
- Two copies of order, including 1 certified copy
- Sworn or certified statement of arrears
- Certain debtor & creditor information
- Name/address of person to whom support payments to be sent (if applicable)

Hague Foreign Support Orders

- Transmittal letter
- Complete text of order (or abstract by issuing tribunal)
- Record : order is enforceable in issuing country
- Record attesting to due process (if default order)
- Record: arrears and automatic adjustment of support
- Record of receipt of free legal assistance in issuing country (if necessary)

Defenses - Comparison

Non-Hague Foreign Support Orders

- Issuing tribunal lacked personal jurisdiction over contesting party
- Order obtained by fraud
- Order vacated/suspended/modified by later order
- Issuing tribunal stayed order pending appeal
- A defense to the remedy sought under the law of the U.S. state
- Full/partial payment made
- Statute of limitation on arrears
- Not the true controlling order

Hague Foreign Support Orders

- Manifestly incompatible with public policy, including failure of issuing tribunal to observe minimum standards of due process
- Issuing tribunal lacked personal jurisdiction
- Not enforceable in issuing country
- Obtained by procedural fraud
- Record transmitted lacks authenticity or integrity

Defenses (cont'd)

Hague Foreign Support Orders (continued)

- Another proceeding filed first between same parties with same purpose and pending before tribunal of the state
- Incompatible with a more recent order involving same parties with same purpose, if more recent support order is entitled to recognition & enforcement under UIFSA
- Full/partial payment made
- If default order, lack of due process (notice and opportunity to be heard)
- Order was made in violation of Section 711 (limitation on modification)

Information and Tips for International Partners Sending Cases to the U.S.

Information Resources

- OCSE
 - Website: www.acf.hhs.gov/programs/css
 - [Intergovernmental Reference Guide \(IRG\)](#): U.S. State, tribal and international child support agency contact and policy information (*International Dear Colleague Letter 12-02*)
 - Email: ocseinternational@acf.hhs.gov
- U.S. state resources: state websites (see IRG)
- Handout

Forms

- To expedite cases, use U.S. intergovernmental forms (see Action Transmittal-11-07 on OCSE's website)
- If available, use bilingual forms in Caseworker's Guide
- Hague treaty cases - forms

Timeliness

- **U.S. State Central Registry:** receive, transmit, respond to all incoming intergovernmental case inquiries
- Within **10 working days** of receipt of the case:
 - Review case documentation
 - Forward the case for necessary action
 - Acknowledge receipt and request missing documentation
 - Inform the requesting agency where case was sent for action
- Within **5 working days** of receipt of case status request
 - Respond to inquiries from the initiating agency

Case Closure

- U.S. agency must provide notice before closing a case (as the responding/requested agency)
- Federal regulations list optional criteria for a state to close a case
- Communication is critical
- Contact OCSE

Other Topics

- Translation / Forms
- Currency Conversion
- Spousal Support
- Cost Free Services

Where to go for help?

- If a U.S. state is not responsive or a case has stalled, contact OCSE (see last slide)
- Please provide
 - names of parties
 - case number from each country (if available)
 - U.S. social security number (if available)

Contact Information – OCSE Central Authority

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