

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 10: Child Support Order Establishment	Effective Date: 06/10/2024
	Section 2: Elements of a Child Support Order	Version: 3 Revision Date: 06/10/2024

BACKGROUND

In an action for the dissolution of marriage, legal separation, child support, or establishment of paternity, the Court may order either parent or both parents to pay any amount reasonable for support of a child.¹

POLICY

In Title IV-D cases, the Title IV-D Prosecutor’s Office shall petition the Court to establish an order for child support when an order does not already exist.²

The Title IV-D Prosecutor’s Office shall not participate in proceedings to establish a spousal support order.³ Spousal support may be included in a child support order when the spousal support is for the custodial parent (CP) of the child(ren) for whom support is ordered.⁴

The Title IV-D Prosecutor’s Office shall not participate in proceedings to establish orders for post-secondary educational expenses.⁵

In Indiana, the Indiana Child Support Rules and Guidelines (Guidelines) provide the direction for calculating child support obligations to provide consistency in judgments between courts and jurisdictions.⁶ The Child Support Obligation Worksheet (CSOW) is prepared pursuant to the Guidelines and in all cases filed with the Court when child support is established.⁷ This includes cases in which Agreed Orders are submitted. Worksheets shall be signed by both parties, not their counsel, under penalties for perjury.⁸ There is a rebuttable presumption that the amount of child support ordered based upon the Guidelines is the correct amount.⁹

The Court may deviate from the CSOW and is required to specify the reason for the deviation.¹⁰ The Court may determine that a child support order of \$0.00 is appropriate for one (1) or both

¹ IC 31-16-6-1(a)

² IC 31-25-4-13.1; IC 31-25-4-17; 42 U.S.C. § 654(4)(A)

³ 42 U.S.C. § 654(4)(B)(ii)

⁴ Chapter 20: Other Child Support Related Topics, Section 4: Spousal Support Only Cases

⁵ Chapter 20: Other Child Support Related Topics, Section 3: Post-Secondary Educational Expenses

⁶ IC 31-9-2-18; Chapter 10: Child Support Order Establishment, Section 3: Indiana Child Support Rules and Guidelines

⁷ Ind. Child Support Guideline 3(B)(1)

⁸ *Id.*

⁹ Ind. Child Support Rule 2

¹⁰ IC 31-40-1-5(c)(3)

parents. Any child support order that is expressed in a numeric value, which includes an order of \$0.00, is to be entered into the statewide child support system as a child support order.¹¹

The child support order shall include a provision for immediate income withholding unless a stay has been granted by the court.¹² Withheld income shall be forwarded to the Indiana State Central Collection Unit (INSCCU).¹³

A child support order must require either one (1) or both parents to provide medical support for the child(ren) through public or private health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.¹⁴ When health insurance is not available at a reasonable cost, federal law requires the court to order the parties to pay cash medical support.¹⁵ Cash medical support is an amount ordered for medical costs that are not covered by insurance.¹⁶ The uninsured medical expense apportionment calculation on the Child Support Obligation Worksheet satisfies this federal requirement for a cash medical support order when incorporated into the order. Each party's shared income percentages should be listed in the order for uninsured medical expenses.¹⁷

A child support order shall specify which parent of a child may claim the child as a dependent for purposes of federal and State taxes.¹⁸ If a Court determines that a parent who is ordered to pay child support may also claim the child as a dependent for purposes of federal and State taxes, the Court shall include in the order that the child support paying parent may only claim the child as a dependent for purposes of federal and State taxes if that parent has paid at least ninety-five percent (95%) of the child support for the calendar year for which the parent is ordered to claim the child as a dependent by January 31 of the following year.¹⁹

It is not a Title IV-D function to calculate the child support arrearage for the purpose of determining whether or not the obligor is 95% current in his/her support obligation for tax purposes. The Title IV-D Prosecutor's Office is not permitted to advise case participants on tax matters, including who is entitled to the child tax exemption.

REFERENCES

- [IC 31-9-2-18](#): "Child support guidelines"
- [IC 31-14-3](#): Rules of Procedure in Paternity Actions
- [IC 31-14-11-5](#): Date for support obligation to begin
- [IC 31-15-2](#): Actions for Dissolution of Marriage
- [IC 31-15-3](#): Actions for Legal Separation
- [IC 31-16-2](#): Actions for Child Support

¹¹ Ind. Child Support Guideline 2

¹² IC 31-16-6-1(b); IC 31-16-15-0.5; Chapter 12: Enforcement, Section 2.01: Income Withholding Orders

¹³ IC 31-16-15-7.5

¹⁴ IC 31-16-6-4(a); Ind. Child Support Guideline 7; Chapter 15: Medical Support, Section 2: Establishing Medical Support Order

¹⁵ Ind. Child Support Guideline 7; 45 C.F.R. § 303.31(b)(2)

¹⁶ 45 C.F.R. § 303.31(a)(1)

¹⁷ Ind. Child Support Guideline 7

¹⁸ IC 31-16-6-1.5(a)

¹⁹ IC 31-16-6-1.5(d)

- [IC 31-16-6-1](#): Child support orders; relevant factors; income withholding; account at financial institution
- [IC 31-16-6-1.5](#): Claiming child for tax purposes; considerations; conditions
- [IC 31-16-6-4](#): Medical support
- [IC 31-16-15-0.5](#): Income withholding orders; stay
- [IC 31-16-15-7.5](#): Income payor duties
- [IC 31-25-4-13.1](#): Agreements with local government officials; contracting; attorney-client relationship; informing applicant; service level stipulation
- [IC 31-25-4-17](#): Support related duties of bureau
- [IC 31-40-1-5](#): Obligation of parent or guardian for costs of placement; remittance of support payments; enforcement
- [Bill v. Bill](#), 290 N.E.2d 749 (Ind. Ct. App. 1972)
- [Ind. Child Support Rules and Guidelines](#)
- [42 U.S.C. § 654](#): State plan for child and spousal support
- [45 C.F.R. § 303.31](#): [Securing and enforcing medical support obligations](#)

PROCEDURE

A petition to establish child support under Title IV-D shall be filed on behalf of the State of Indiana and not on behalf of either party.²⁰

When preparing and filing a petition to establish child support, the Title IV-D Prosecutor's Office is strongly encouraged to follow local customs and is required to follow local rules and applicable state and federal statutes governing the type of action (e.g., dissolution, paternity, etc.) under which the petition is filed.²¹

The CSOW shall be signed by both parties, not their counsel, under penalties for perjury.²²

In paternity cases child support must be ordered effective at least as of the date of filing of the petition but may be ordered effective as far back as the date of the child's birth.²³ In all other cases, child support may be ordered effective as of the date of filing of the petition or any time after that date.²⁴

When child support is ordered effective as of a date prior to the date the order is issued, the Title IV-D Prosecutor is strongly encouraged to request the Court to establish an arrears amount and periodic repayment amount. This periodic repayment amount is to be paid in addition to the ongoing support obligation.²⁵

FORMS AND TOOLS

[How to Calculate Child Support Arrears](#)

²⁰ IC 31-25-4-13.1

²¹ IC 31-14-3; IC 31-15-2; IC 31-15-3; IC 31-16-2

²² Ind. Child Support Guideline 3(B)(1)

²³ IC 31-14-11-5

²⁴ *Bill v. Bill*, 290 N.E.2d 749 (Ind. Ct. App. 1972)

²⁵ Chapter 12: Enforcement

FREQUENTLY ASKED QUESTIONS

1. Q. When a divorce or legal separation case is open and pending, may a party enroll in Title IV-D services to establish a child support order?
 - A. The party is entitled to open a IV-D case upon the filing of a dissolution or separation action. The prosecutor may intervene in the action to pursue support (or file a separate action as circumstances warrant). Alternatively, the IV-D prosecutor may await the court's determination of the support obligation and enforce the resulting order. The latter option may be especially prudent where the parties are actively involved in contentious litigation surrounding child support, custody and/or parenting time issues.²⁶
2. Q. When parties are married and separated, but there is no divorce or legal separation case pending, may a party enroll in Title IV-D services to establish a child support order?
 - A. Yes. When parties are married and separated, but no petition for dissolution or legal separation has been filed, the Title IV-D Prosecutor's Office shall file a petition to establish a child support order if a parties enrolls in Title IV-D services.²⁷
3. Q. May the Title IV-D Prosecutor's Office file a petition to establish a child support order when the parents have equal physical custody pursuant to the divorce decree? Must a parent first obtain a court order to be the primary CP before pursuing child support?
 - A. The Title IV-D Prosecutor may file a petition to establish or modify a child support order at the request of any party in a Title IV-D case. Primary physical custody is not prerequisite to seeking or obtaining a child support order. The Court will consider, using the CSOW, the financial resources of each parent and the standard of living the child would have enjoyed in a home with both parents. The CSOW calculates a parent's support obligation not by which parent has physical custody of the child(ren), but rather on the number of overnights each parent spends with the child(ren) and which parent pays the controlled expenses.
4. Q. How should the Title IV-D Prosecutor's Office answer questions from case participants about who is entitled to claim the child(ren) as tax exemptions for the past year?
 - A. The Title IV-D Prosecutor's Office is strongly encouraged to direct the case participant to the Clerk of Court's office to obtain a copy of the payment history, as well as the court order if needed. Additionally, the Title IV-D Prosecutor's Office may provide a copy of the How to Calculate Child Support Arrears workbook that is on the Child Support Bureau's website. It is outside the scope of Title IV-D duties to provide to any party advice on who is entitled to claim the tax exemption.

RELATED INFORMATION

²⁶ IC 31-25-4-17(a)(7)

²⁷ *Id.*

1. Chapter 3: Case Initiation, Section 1: Enrollees and Case Types
2. Chapter 12: Enforcement, Section 2.1: Income Withholding Orders
3. Chapter 15: Medical Support, Section 2: Establishing Medical Support Order
4. Chapter 20: Other Child Support Related Topics, Section 3: Post-Secondary Educational Expenses
5. Chapter 20: Other Child Support Related Topics, Section 4: Spousal Support Only Cases

REVISION HISTORY

Version	Date	Description of Revision
Version 1	10/17/2016	Final approved version
Version 2	11/20/2020	Updated hyperlinks; Reviewed for accuracy; Combined prior Sections 2 and 3
Version 3	06/10/2024	Revised to reflect updates to Indiana's Child Support Guidelines