

**40 Years**

**Working Together for Children**

**1976 - 2016**



**June 14 – 17, 2016**

**Merrillville, Indiana**

**Indiana Child Support Conference**

**ARREARS - ONLY CASES:**

**NOW WHAT?**

**What is an “arrears-only” case?**

**How do they happen?**

**What do we do about them?**

**Which rules change?**

**Which rules do not change?**

NOW WHAT AM I  
SUPPOSED TO DO?

# CORE CONCEPTS

(Not complicated...)

**Every CP is entitled to support if the CP asks for it.**

**The CP is only required to ask for support if the CP is receiving TANF.**

**Without TANF, child support is voluntary.**

**FOR THE CP.**



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**If the CP asks for support, and a Child Support Obligation Worksheet indicates that support should be ordered, the CP generally gets that support from the NCP.**

**Once there is a child support order, the NCP owes child support until the entire amount is paid in full.**

**If all of the child support that was due was not paid before the child support order was terminated, you have an amount still left to be paid.**

**That amount left is the arrearage, the amount “in arrears,” the “back support...” Whatever you want to call it.**

**Regardless of the reason why the support order ended, the support not paid prior to the end of the order is still due and collectible from the NCP for the CP who was supposed to receive it.**

**FOREVER.**



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**PERIOD.**



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**How did this happen...?**

**1. The child support order has been terminated...**

**...for whatever reason, but usually either custody has changed, or the CP does not want support anymore, usually because the CP just wants the NCP to go away...**

**Remember: unless there is TANF on the case, this is voluntary...**

**CP can just opt out of IV-D services...\***

**\* (... but that does not make the arrearage go away... it just takes you out of the case... more later...)**

**2. Or, the child support order  
has been modified to \$0...\***

**Think D.O.C. modification.**

**\* And it better not say “zero...”**

**3. Or, the child has been emancipated...**

**This happens by law.**

# I.C. 31-16-6-6

- 1. The child is 19; or**
- 2. The child is married; or**
- 3. The child is in the military; or**
- 4. The child is 18, out of high school for four months, not enrolled in college or trade school, and capable of self-support through employment; or**
- 5. The child is 18 and not under the care of a parent or agency.**

**Whatever the reason, if there is no current support *order*, there is no current *support*...**

**But if there is any support left that was not paid before the order ended, that money is still owed.**

**You keep right on collecting it.**



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**Well, now what are we supposed to do?**

**It is easier to think about it in terms of what you can NOT do.**

# **1. YOU CANNOT FILE A RULE TO SHOW CAUSE.**

**A Rule to Show Cause is filed to establish contempt of court for failing to pay a child support order.**

**There is no child support order  
anymore!**

**You snooze, you lose!**

**No more bites at that apple!**

## **2. YOU CANNOT FILE A FELONY FOR NON-SUPPORT.**

**A felony charge is filed for failure to pay a child support order... or provide any other kind of support, either. It means NO child support was provided.**

**There is no child support order  
anymore!**

**You snooze, you lose!**

**No more bites at that apple!**

# **2. YOU CANNOT FORGIVE THEM AWAY.**

**YOU CANNOT.**

**Arrearages are not forgivable, and may  
not be forgiven...**

BY LAW.



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**“The custodial parent may not bargain away the children’s right to support.”**

*Whitman v. Whitman,*  
**405 N.E.2d 608, 612 (Ind. Ct. App. 1980)**

**“[O]nce funds have accrued to a child’s benefit under a court order, the court may not annul them in a subsequent proceeding.”**

***Zirkle v. Zirkle,*  
172 N.E.2d 192 (Ind. 1930)**

**“ A court is without power to retroactively modify an obligor’s duty to pay a delinquent child support payment.”**

*Beehler v. Beehler,*  
693 N.E.2d 638 (Ind. Ct. App. 1998)

It means **FOREVER.**

**And that's a mighty long time.**

**Well, then...** *what can we do?*

**Virtually anything else you ever did.**

**The rest of your child support  
enforcement procedures are still good.**

**Income Withholding Orders: Still good!**

**License suspensions: Still good!**

**Interceptions: Still good!**

**FIDM seizures:\* Still good!**

**Community outreach: Still good!**

**ALL STILL GOOD!**

**\* If you do not know what “FIDM” is...**

**Your Regional Field Consultant would love to tell you!**

**So, we can never file anything in court  
again?**

**FALSE.**

# Proceeding Supplemental

**I.C. 34-55-8-1**

**Trial Rule 69**

**We're going back to court!!!**

# Proceeding Supplemental

**Complete an arrearage calculation and submit this to the court.**

**This amount is now a judgment.**

# Proceeding Supplemental

I.C. 34-11-2-12

The judgment is collectible for twenty years...

# Proceeding Supplemental

**You keep filing “pro sups” on the case until you start getting your annual payment.\***

**\* Annual payment? Wait for it...**

**BUT!**  
**ALSO!**  
**HOWEVER!**

## I.C. 34-11-2-10

**An action to enforce a child support obligation must be commenced not later than ten (10) years after:**

- (1) the eighteenth birthday of the child; or**
  - (2) the emancipation of the child;**
- whichever occurs *first*.**

**In other words, you can open a new case that is *already* arrears-only and be enforcing only arrears if you file before the deadline...**

**You enforce it like any other arrears-only case.**

**But what if...**

**There was never a judgment...**

**And twenty years have passed...**

**And an arrearage is still owed?**

**Or if...**

**There WAS a judgment...**

**And twenty years have passed...**

**And an arrearage is still owed?**

**HEY!**

**It is time to play our favorite game!**

DODGE THAT QUESTION!



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**A criminal defendant only gets a “fast and speedy” trial if he asks for a “fast and speedy” trial.**

**“Fast and speedy” are Magic Words.**

**The defendant must say them in order for “fast and speedy” to take effect.**

**“Statute of Limitations” equals Magic Words.**

**The NCP must say them for them to take effect.**

**The Magic Words have nothing to do with you.**

**In other words....**

**The REAL answer is...**

**NONE OF THAT MATTERS.**

**Regardless of whether you can file  
anything with the court...**

**YOU STILL HAVE ALL OF YOUR  
ADMINISTRATIVE AUTHORITY.**

**Once you are in the land of the  
judgment...\***

**The legal standard for payments is...**

**Anything other than zero.**

**\* You do not want the law school lecture about debtors'  
prison, etc. Believe me.**

**ANYTHING.**

**OTHER THAN...**

**ZERO.**



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**Because that is the legal standard, that is how collections on arrearage cases are measured.**

**Was there “payment history” in the last year?**

# **WHAT IS A PAYMENT?**

**Anything other zero.**

**You received a payment other than zero?**

**You collected arrears on that case for the year.**

**Who is happy about that?**

**Well, not the CP.**

**But you are.**

**WHY?**



**Avoid The Black Hole.**

**String the NCP along on an Annual Payment, and dare the NCP to ever file for disability or Social Security.**

**BECAUSE YOU WILL GET UP TO 55% OF IT LIKE YOU ALWAYS DID.**

**I know.**

**I have done it.**

**I am not as nice as I seem.**

**Do you have to collect the whole amount?**

**Eventually, yes.**

**Will it take forever in small payments?**

**Probably. Too bad for the NCP. Should have paid it when you were supposed to.**

**Will you have to file twice a year or more  
and torment the NCP to death, forever,  
until death do you part?**

**Yes.**

**Do we care about that?**

**NO.**

**NCP wants to get rid of you? NCP knows  
how.**

**You have to collect on the arrears cases.**

**But you know what the standard is.**

**GET YOUR PAYMENT.**

**This is you now...**

**Until someone pays.**

**Or someone dies.**

**This is you now.**



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**WHAT DO WE WANT?**



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**So, you've heard some of  
the general rules  
regarding arrearage...but  
what about “Outside the  
Box” ideas?!**



# Community Outreach

- \*Work One Partnership for Employment Services**
- \*Centerstone Partnership for Mental Health and Addictions**
- \*Fatherhood Initiatives**

## Memorandum of Understanding Monroe County Prosecutor's Office Child Support Program and WorkOne

### Purpose:

The purpose of this memorandum is to develop and expand a framework of cooperation between Monroe County Prosecutor's Office Child Support Program and WorkOne as well as to develop mutually beneficial programs, projects and activities to better serve the clients of both organizations.

### Statement of Mutual Benefit:

The clients of the Monroe County Prosecutor's Office Child Support Program and WorkOne will benefit from increased access to services and coordination of services. As partners in the workforce development system under the Workforce Investment Act, the participants of Monroe County Prosecutor's Office Child Support Program and WorkOne will benefit from increased referral services and decreased barriers to social services.

### The Monroe County Prosecutor's Office Child Support Program Shall:

- Where appropriate, procure court orders which require Non-custodial Parents (NCPs) to participate in all programs and services recommended by WorkOne, and refer said NCPs to WorkOne accordingly. These referrals shall not exceed twenty (20) participants per week.
- Contact WorkOne to obtain a list of dates available for orientation meetings for Child Support Program participants. Each participant will be provided a date and time for orientation in court at the time of referral, and a list of referrals will be forwarded to WorkOne.
- Set periodic court review hearings to monitor compliance of participants. At least one week prior to the court date, the staff of the Child Support Program shall contact WorkOne to receive an update on each participant and will present that report to the court. Judicial

**Adding these provisions to Proceedings Supplemental orders has the added bonus of potentially opening up contempt as an option!**

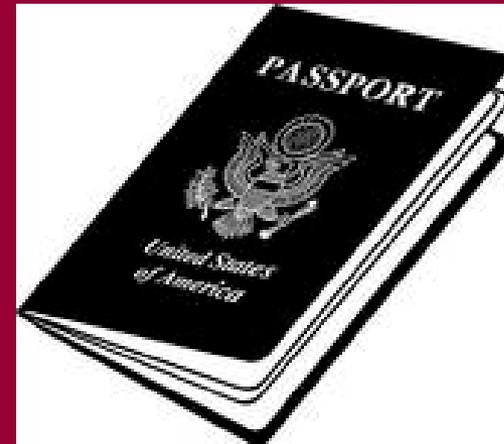
# Community Service

**-Deterrent**

**-Also potentially opens up contempt**

**-Shows CP that at least NCP has to do something, even if NCP can't pay**

# Use Driver's License/DNR License/Professional License/ Passport Suspension Program Effectively



**In other words...NEGOTIATE!**

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