

Progressive Enforcement

Dane County Child Support Agency

3/15/21

Policy Authority

Per 45 CFR 303.6 (c), the Child Support Agency must take any appropriate enforcement action (except income withholding and Federal and State tax refund offset) unless service of process is necessary, within no more than 30 calendar days of identifying a delinquency or other support-related non-compliance with the order or the location of the noncustodial parent, whichever occurs later.

Wisconsin Statute 767.57(1h) - states that if maintenance, child support, or family support payments are not paid to the department or its designee at the time provided in the judgment or order, the county child support agency under s. 59.53(5) or a circuit court commissioner of the county shall take proceedings to secure the payment of the sum, including enforcement by contempt proceedings under Ch. 785 or by other means.

PROGRESSIVE ENFORCEMENT STEPS

I. Automated Delinquency Processing in KIDS (Time varies)

Delinquency is determined automatically at the end of each month. It compares what is due for the month, versus what was paid for the month, to determine the delinquency amount. The delinquency amount is calculated for each Court Case that the paying parent has. CSA workers are alerted on a monthly basis after a court case is 100% or more delinquent. This process can take between 90-120 days to alert the caseworker.

- a. DLQ0 – 0% to 51.99% delinquent (considered not delinquent to take enforcement action)
- b. DLQ1 – 52% to 99.99% delinquent
- c. DLQ2 – 100% or more delinquent

A payer can become DLQ1, make a payment that satisfies all the current support due, plus the past-due balance, and the next month the system will put them back at DLQ0, but if they

fail to pay the following month after, they will go back to DLQ1. Payers can be between DLQ0 and DLQ1 for as long as they continue to make payments as above.

II. Notifications to the Paying Parent (90-120)

Payers receive many notifications, both electronic and written, when their case is delinquent. Not only can they see the past-due amounts on the Child Support On-line Services (CSOS) website and their monthly statement of account, they receive several notifications throughout the lifetime of the court case. These letters are automated and are sent out from the State of Wisconsin, Bureau of Child Support. Because the delinquency program runs at the end of each month, the worker is alerted to review the case for enforcement actions between 90-120 days.

a. Enforcement Reminder Letter (EN35)

- i. Court Case is DLQ1 status

b. Enforcement Warning Letter (EN01)

- i. Court Case is DLQ2 status

c. Second Enforcement Warning Letter (EN30)

- i. Court Case is still DLQ2 status for one month **AFTER** the EN01 document date.

III. Child Support Caseworker Actions (30-40 days)

30 days after the payer is 100% or more delinquent, the system automatically generates an alert to the worker to take the next enforcement action. Case workers will typically assess the case information between 1-10 days after receiving the alert to determine if they will need to proceed with a Contempt request to the attorney.

a. Case Worker Reviews each Court Case for the Following Information:

- i. Employment history
- ii. Phone calls from payer
- iii. Payer responses to letters sent
- iv. Jail/Incarceration
- v. Payee phone calls requesting enforcement
- vi. Children First/Urban League referrals
- vii. SS/SSDI pending
- viii. Are other enforcement actions being taken

- ix. Benefits received in CARES (public assistance)
 - x. Good faith efforts taken by the paying parent
- b. Case worker will attempt to locate other information
 - i. Request to employer
 - ii. Request to payer
 - iii. Request to payee
 - iv. Benefits received in CARES (public assistance)
 - v. Referral to Dane County Resource Guide
 - c. Provide Children First Outreach Letter/Phone Call
 - i. FSET referrals
 - ii. Urban League Referral
 - iii. W2 Liaison Referral
 - d. Has Administrative Enforcement Action Started?
 - i. Account Seizure
 - ii. License Suspension
 - iii. Personal Injury Intercept
 - iv. Lump-Sum Pension intercept
 - v. Workers Comp Intercept
 - vi. Unclaimed Funds Intercept
 - vii. Alternative Payment Plan (not less than Court Order)
 - viii. State issued student loan denial
 - e. Ability to Pay Letter is Generated – Pre-Contempt Notice

Child Support Agencies must attempt contact with the paying parent within the last 30 days prior to a Contempt hearing, by at least two methods of communication.

 - i. <https://share.dcf.wisconsin.gov/cs/Policy%20Docs/csb/2017/csb17-11.pdf>
 - ii. Letter includes this statement: “This is a contempt action and your ability to pay or otherwise comply with the order is the critical issue. You may provide the court information about your ability to pay or otherwise comply with the order, which may include paper documentation of testimony.”
 - iii. Payer is afforded 2 weeks to respond to this notice.
 - f. Caseworker calls the paying parent two weeks after the Ability to Pay Letter, if no contact has been made by the parent.
 - g. Caseworker refers case with accompanying information to the assigned Child Support attorney for review and approval for Contempt.

IV. Contempt Hearing Process

- a. Paying parent must be served with the Motion for Contempt.
 - i. Copy is also sent to the paying parent via the post office.
 - ii. Dane County Sheriff's Office or Private process server
- b. At the hearing, paying parent must prove ability to pay/or barriers and inform the Court why there has been no payments made.

- c. Family Court Commissioners hear the Contempt Hearing, enters the Order if the State has met it's burden, and submits the order to the Judge for approval.
 - i. **The Contempt sentence is stayed** and the paying parent is given the right to purge the contempt, based upon the set purge conditions in the order.
 - ii. Commissioner can Order the paying parent to the Children First Program to assist with job seeking, and attend workshops and trainings to become gainfully employed. The Children First program may be ordered by the court; however, the participation is on a voluntary basis.
- d. A copy of the order is provided to the parties in the court room (or mailed to the parties during remote working).
- e. If the paying parent was served with the Motion, but not present at the hearing, the Sheriff or process server serves a copy of the order on the paying parent.

V. Caseworker Follow Up After Contempt (60 days)

- a. Reviews the case 60-days after the Contempt hearing
 - i. Monitor all purge conditions to see if they have been met.
 - ii. Perform additional investigation on the cases or cases for the paying parent.
 - iii. Review cases for payments.
 - iv. Perform a complete review of the case details to determine if the case qualifies for a Bench Warrant and Commitment.

VI. Bench Warrant and Commitment Determination

Sixty (60) days after the paying parent has been found in Contempt of Court for failing to comply with the court order, the caseworker performs a complete research of the case to determine if the paying parent is complying with the purge conditions in the Contempt Order. If the paying parent is not complying with the purge conditions in the order, and has not contacted our office to provide a detailed explanation, the caseworker will prepare the case for attorney approval to consider a Bench Warrant and Commitment.

VII. Warrant Process (10 days)

If the Attorney approves the Bench Warrant:

- i. A Bench Warrant Order is typed up and sent to the Court Commissioner's Office for signature.
- ii. The paying parent has 7 days to object to the Bench Warrant.
- iii. If the Court receives a written objection, the Court places a hearing on the calendar.
- iv. If the Court does not receive a written objection, the Order is signed once the time has expired, and filed with the Clerk of Courts.