

# Intercepting Federal Stimulus Checks to Offset Overdue Child Support

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## Issue

Explain why the direct payments issued to individuals under the 2020 federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) can be intercepted for child support enforcement purposes.

## Summary

As part of the federal CARES Act, the Internal Revenue Services (IRS) issued direct payments to individuals in 2020 based on certain criteria, such as income and household size ([P.L. 116-136](#), Mar. 27, 2020). The IRS refers to these payments as “economic impact payments.”

The act specifies that the economic impact payments cannot be intercepted to offset past due debts to federal agencies, past due state income tax debt, or unemployment compensation debt. However, the act does not exempt past-due child support from such an offset ([P.L. 116-136 § 2201\(d\)](#)). As such, a delinquent child support obligor (i.e., person who owes overdue child support) whose case is under the Child Support Enforcement (CSE) program may have his or her economic impact payment intercepted to cover past due child support.

### *2020 Federal Economic Impact Payment Amount*

- \$1,200 per adult
- \$2,400 per couple filing a joint return
- \$500 for dependent children

### *Federal CSE Program*

Title IV-D of the federal Social Security Act established the CSE program ([42 USCA § 651 et seq.](#)). The CSE program provides services related to the establishment, modification, and enforcement of child support orders related to government assistance recipients.



Additionally, the state employs a variety of other civil and administrative enforcement methods to ensure child support is paid. These include income withholding, income tax refund intercepts, credit agency reporting, lien placement, seizure of real and personal property, lottery offsets, license suspensions, and passport denials.

## **Background**

Federal law authorizes the U.S. Treasury Department's Bureau of the Fiscal Service (BFS) to intercept federal payments to collect delinquent debts, including past-due child support. This is called an "administrative offset" ([31 CFR § 285.1](#)) and is done through the [Treasury Offset Program](#) (TOP), a fully-automated, centralized program.

TOP's legal authority is grounded in the 1996 Debt Collection Improvement Act (DCIA), which authorizes the head of an executive, judicial, or legislative agency, after trying to collect a claim, to use administrative offset to collect debts owed to the federal government ([31 USC § 3716](#)). Under this authority, on September 26, 1996, President Bill Clinton issued an executive order, requiring the Treasury secretary, in consultation with other specified agencies, to (1) develop and implement procedures necessary to collect past-due child support debts by administrative offset and (2) issue implementing rules, regulations, and procedures ([Exec. Order No. 13019, 61 FR 51763](#)). Subsequent implementing regulations established TOP.

## **Administrative Offset**

Specifically, "administrative offset" means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt ([31 CFR § 285.1\(a\)](#)). States can work with the federal government through the administrative offset process to intercept federal payments to satisfy a child support debt. DCIA allows certain federal payments to be offset, such as payments to government contractors, federal retirement payments, and certain reimbursements to federal employees.

State participation in the administrative offset program is optional. A case may be submitted for administrative offset when the debt is at least \$25 and is 30 days past due, although states have flexibility to determine a higher threshold. Both recurring and nonrecurring payments are eligible for administrative offset. Certain payments cannot be intercepted through the offset program, including veteran's disability benefits, federal student loans, some Social Security payments, and other need-based programs such as Supplemental Security Income (SSI).

## Penalties for Child Support Delinquency

In Connecticut, a delinquent child support obligor may be charged with (1) criminal nonsupport, punishable by up to one year in prison and (2) contempt of court, punishable by up to \$100 in fines, up to six months in prison, or both ([CGS §§ 53-304, 46b-171\(a\)\(6\) & 51-33](#)).

### *Criminal Nonsupport*

Connecticut law deems anyone who neglects or refuses to furnish reasonably necessary support to his or her minor child (under age 18) guilty of criminal nonsupport. It is punishable by imprisonment for up to one year unless the accused satisfies the trial court that he or she is unable to provide such support due to good cause (e.g., physical incapacity). Fathers of children born out of wedlock may also be prosecuted for nonsupport if they have acknowledged paternity in writing or the court has established paternity ([CGS § 53-304](#)).

### *Contempt of Court*

Under Connecticut law, failure to obey a child support order may be considered contempt of court ([CGS § 46b-171\(a\)\(6\)](#)). This offense is punishable by up to \$100 in fines, up to six months in prison, or both ([CGS § 51-33](#)). The law authorizes the court or family support magistrate to commit a delinquent child support obligor to a community correctional center ([CGS § 46b-171\(a\)\(4\)](#)). (Family support magistrates establish and enforce child and spousal support orders ([CGS § 46b-231\(b\)\(7\)](#).)

## Additional Resources

Following are links to reports that discuss child support enforcement measures and laws in other states:

1. [Congressional Research Services Report](#) – Federal Tax Offset, April 9, 2020 – April 24, 2020
2. [Enforcing Child Support Orders](#) – NCSL, March, 19 2014 (this provides an overview of different enforcement techniques used around the country)
3. [Criminal Non-Support and Child Support Laws](#) - NCSL (this provides information on criminal non-support laws and penalties in all 50 states)
4. [Connecticut Child Support Guidelines](#) - adopted by the Commission for Child Support Guidelines pursuant to [CGS § 46b-215a](#) and updated effective July 1, 2015

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