



# CHILD SUPPORT SERVICES DIVISION

## CRIMINAL ENFORCEMENT

### Federal Criminal Prosecution

CS 509.1

## **SUPERSEDES**

[New Section]

## **REFERENCES**

18 U.S.C. § 228 et seq.

## **POLICY**

The Federal Office of Child Support Services (OCSS), in cooperation with the U.S. Department of Health and Human Services Office of the Inspector General (OIG) and the U.S. Department of Justice, administer Project Save Our Children (PSOC) to coordinate efforts in support of activities resulting from the federal criminal non-support laws.

Title 18 U.S.C. §228(a)(1) and (a)(3) Failure to pay legal child support obligations, wherein the United States must prove that:

- A parent failed to pay a support obligation.
- The parent acted willfully in failing to pay the support obligation.
- The support obligation was for a child who resides in another state.
- The support obligation remained unpaid for longer than 1 year for the misdemeanor or in the case of a felony prosecution, 2 years or the amount of the past due obligation is greater than \$5,000 for a misdemeanor, or in the case of a felony prosecution, is greater than \$10,000.

PSOC cases are referred to OCSS by state child support programs offices via PSOC referral forms based on the following referral criteria:

- There must be an open CSSD enforcement case.
- One parent resides in Montana, the other must reside in another state. The paying parent must have confirmed physical address in the United States and is not incarcerated.
- There has been no payment on the case in the past 12 months.
- Support must be past due for more than one year OR for an amount greater than \$5,000.00.
- There must be evidence to prove "willful non-support." This is a "facts and circumstances" decision. For example, evidence that the obligor parent has concealed assets or their location, used false identification, failed to report changes in employment, relocated to avoid paying support. Some of this evidence may be contained in case notes.
- There should be exhaustion of available enforcement remedies, and their failures noted. When an obligated parent resides in another state, tribe, territory, or country, it is required to use intergovernmental remedies prior to a referral for federal criminal prosecution. Generally, PSOC referrals are not available when an obligor resides in another country.



## **PROCEDURES**

### **Caseworker**

- Identifies cases appropriate for referral by comparing the criteria for referral with the case information. If an obligor has multiple cases, all cases meeting the criteria for a referral should be reviewed for referral to the Regional Manager.
- Contacts the obligee or initiating agency to verify obligee's address and the physical custody of the child(ren).
- Prepares a written, chronological summary of all remedies pursued, and all outcomes.
- Completes CS 509-1a PSOC checklist.
- Forwards checklist to Regional Manager for checklist review and referral approval.

### **Regional Manager**

- Reviews case for referral criteria, including review of the PSOC checklist and makes a system case note and notation on the PSOC checklist approving or denying referral.
- Signs and forwards checklist to State PSOC Coordinator.

### **CSSD PSOC Coordinator**

- Receives checklist and reviews case for referral criteria, if the case meets criteria, completes PSOC Federal Criminal Prosecution for Non-Support Referral Form and sends it to the OCSS PSOC Coordinator.
- Keeps an electronic log of all PSOC referrals, including status of the referral.
- Periodically, or upon request from the OCSS PSOC Coordinator, provides updated information such as obligor address, arrears balance or case status.
- Responds to requests from the OCSS PSOC Coordinator.
- OLA can be consulted for assistance with evidentiary questions regarding information requested by the OCSS PSOC Coordinator.

### **Upon receipt of the referral, the OCSS PSOC Coordinator will:**

- Assign a PSOC case number, establish a case file, and forward the referral to the appropriate OIG agent.
- Coordinate requests and information between the OIG or the Department of Justice and the referring state.



## CHILD SUPPORT SERVICES DIVISION CRIMINAL ENFORCEMENT

### CHECKLIST FOR USAO PROSECUTION

CS 509.1

**Regional office:** \_\_\_\_\_ **Obligor:** \_\_\_\_\_

**Caseworker:** \_\_\_\_\_ **Obligee:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Case Number:** \_\_\_\_\_

The information below supports a referral to the U.S. Attorney's Office for criminal prosecution under the "Child Support Recovery Act of 1992":

- Signed application for CSSD services or assignment of right.
- Evidence that the absent parent owes at least \$5,000.00 in support arrearages or is one-year delinquent.
- Copy of most recent support order, whether initial or modified
- Last address verified, date verified, method of verification.
- Administrative enforcement remedies have been utilized where appropriate and have been unsuccessful, excluding federal and state tax refund intercepts and IRS full collection.
- For absent parents residing in another state, the required interstate enforcement remedies have been utilized, and the responding state has been unsuccessful.
- Custodial parent has been contacted within the past 30 days to verify that no payments have been received and that he/she still maintains physical custody of the child(ren).
- Fiscal record showing history of unpaid child support has been reviewed for accuracy and a complete debt computation has been printed.
- Employment/unemployment history of obligor is detailed.
- Information of obligor's property ownership.
- Obligor's credit report, including credit cards.
- Evidence of any concealment of assets by obligor.
- Information on all assets, including contacts from any party, title changes, 1099 information.
- Evidence of obligor's relocation to avoid payment of child support.
- Outcome of any previous criminal actions against the obligor.
- Any "lifestyle" information that tends to show a pattern of flight to avoid payment.
- Information regarding the obligor's physical custody of the child(ren).

Any information regarding child(ren)'s disability or special needs, if any.