

7 FAM 1750 INTERNATIONAL CHILD SUPPORT ENFORCEMENT

*(CT:CON-234; 01-17-2008)
(Office of Origin: CA/OCS/PRI)*

7 FAM 1751 INTRODUCTION

7 FAM 1751.1 Role of The Department of State

(CT:CON-234; 01-17-2008)

a. Summary: The issue of child support enforcement is a high priority to the United States. The Bureau of Consular Affairs (CA) and the Office of the Legal Adviser for Private International Law (L/PIL) work closely with the Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE) to find innovative solutions to international child support enforcement problems. We:

- (1) Provide information through the Consular Affairs Internet home page;
- (2) Deny passport services, *except for direct return to the United States*, to persons HHS/ACF/OCSE certifies as \$2500 or more in arrears (see 7 FAM 1387);
- (3) Negotiate international child support agreements; and
- (4) Facilitate communication among parents, U.S. states, foreign countries, and other U.S. Government agencies on this important subject.

b. Who Does What:

- The Directorate of Passport Services' Office of Legal Affairs and Law Enforcement Liaison, Legal Affairs Division (CA/PPT/L/LA) plays an important role in child support enforcement through the passport denial program explained in *7 FAM 1387*.
- The Office of American Citizens Services (ACS) and Crisis Management

(CA/OCS/ACS) provides guidance to posts about this program as it pertains to passport issuance abroad.

- The Office of Policy Review and Inter-Agency Liaison (CA/OCS/PRI) (ASKPRI@state.gov) and the Office of the Legal Adviser for Private International Law (L/PIL) work with the Department of Health and Human Services (HHS/ACF/OCSE) on negotiation of reciprocal child support enforcement agreements with foreign countries.
 - Posts abroad provide a key element in the Department's efforts to help with international child support initiatives.
- c. Parent Locate Services: Consular sections in U.S. embassies and consulates can respond to requests from the local U.S. child support agency for information from consular registration records regarding U.S. citizen/national parents registered with the U.S. embassy or consulate. Because we must dedicate our limited consular staff to handling critical emergencies of U.S. citizens/nationals abroad, such as deaths, arrests, medical evacuations, and disasters, we are not in a position to conduct actual searches for U.S. citizens/nationals owing child support who are not registered with the embassy or consulate. The U.S. embassy or consulate can provide inquirers with a list of foreign attorneys who may be able to direct you to local private investigators.
- d. U.S. Embassy and Consulate Records: Information regarding the whereabouts of U.S. citizens abroad contained in Department of State passport records or U.S. embassy or consulate registration records abroad is protected by the Privacy Act (5 U.S.C. 552a). For consideration of a request for release of such information from U.S. embassy or consulate registration records, the state child support enforcement office must submit a written request to the Consular Section, American Citizens Services Unit of the nearest U.S. embassy or consulate, or to the U.S. State Department, Overseas Citizens Services, Office of Policy Review and Interagency Liaison (CA/OCS/PRI), SA-29, U.S. Department of State, 2201 C Street N.W., Washington, DC 20520 citing the specific law being enforced for which release of information is being requested under the law enforcement provisions of the Privacy Act (5 U.S.C. 552a). Individuals cannot make requests; they must be made by state child support enforcement agencies. See also STATE-05 on the Department of State Internet page for conditions of disclosure for ACS work. Posts can contact CA/OCS/PRI for help at ASKPRI@state.gov.
- e. Passport Records: Child Support Enforcement Agencies may submit requests for information from U.S. passport records to the U.S. Department of State, Office of Passport Services, Research and Liaison Branch (CA/PPT/TD/RL), Suite 510, 1111 19th Street, N.W., Washington,

DC 20522-1705. Requests must be made in writing citing the specific law being enforced for which release of information is being requested under the law enforcement provisions of the Privacy Act (5 U.S.C. 552a). Individuals cannot make requests; they must be made by state child support enforcement agencies. Posts may not release passport records including PIERS records without authorization from the Department (CA/PPT/IRM/R/RR). See Passport Information For Criminal Law Enforcement Officers and the more general Obtain Copies of Passport Records, on the CA Internet.

- f. Foreign Requests about Enforcement: Residents of other nations should contact family maintenance officials in their country for information and other assistance and review our discussion about enforcing a foreign child support order in the United States.
 - (1) If there is an existing federal bilateral child support arrangement between the United States and the foreign country, or a U.S. state-level arrangement with the foreign country, the foreign country's Central Authority should contact the local child support enforcement agency in the state where the person owing child support resides. If the parent's whereabouts are unknown, the foreign central authority can contact the Director, U.S. Central Authority for International Child Support, Office of Child Support Enforcement, Department of Health and Human Services, (HHS/ACF/OCSE) Phone: 202-260-5943; Fax: 202-401-5539.
 - (2) If there is no state-level or federal arrangement with the foreign country, it may be necessary for the individual seeking enforcement or the foreign authorities working on behalf of that individual to retain the services of a private attorney in the United States to attempt to enforce the foreign judgment in accordance with U.S. law.
 - (3) There is no treaty in force between the United States and any foreign country on the subject of enforcement of judgments. See CA/OCS's general guidance regarding enforcement of judgments on the CA Internet page. Information about lawyer referral services is available from the American Bar Association.

7 FAM 1751.2 U.S. Department of Health And Human Services, Office of Child Support Enforcement (HHS/ACF/OCSE)

(CT:CON-102; 02-27-2005)

The U.S. Department of Health and Human Services Office of Child Support Enforcement (HHS/ACF/OCSE) is the office of the U.S. federal Government charged with principal responsibility for this important subject. HHS/ACF/OCSE is also the U.S. Central Authority for federal bilateral child support agreements. (See 7 FAM 1754.)

7 FAM 1751.3 U.S. State IV-D Child Support Enforcement Agencies

(CT:CON-102; 02-27-2005)

Parents in the United States should contact their local office of child support enforcement. These offices are generally known as the state IV-D Agency, for Title IV-D of the 1975 Social Security Act, which established the U.S. Department of Health and Human Service's U.S Federal Child Support Enforcement program (HHS/ACF/OCSE). If the parent in the other country is employed by a U.S. based company or a U.S. Government agency, there are a variety of measures the local state IV-D agency may be able to take to assist the inquirer.

7 FAM 1752 AUTHORITIES

(CT:CON-102; 02-27-2005)

The legal authorities related to the Department of State's efforts concerning international child support enforcement include:

- (1) 42 U.S.C. 659a International support enforcement;
- (2) 42 U.S.C. 652(k) Denial of passports for nonpayment of child support;
- (3) 22 CFR 51.70(a)(8) Denial of Passports;
- (4) 67 Federal Register No. 231, December 2, 2002, page 71605-71606;
- (5) Department of State Delegation of Authority of September 5, 1997; and
- (6) 18 U.S.C. 228 - Failure to pay legal child support obligations. The Child Support Recovery Act of 1992 makes the willful failure to pay a past due support obligation with respect to a child residing in another state a federal misdemeanor offense. The Deadbeat Parents Punishment Act (DDPA) of 1998 amended the CSRA of

1992. The DPPA established felony violations for traveling in interstate or foreign commerce to evade a child support obligation or for failing to pay a child support obligation which is greater than \$10,000 or has remained unpaid for a period longer than two years. Previously, child support cases involved only a misdemeanor violation with a penalty of less than one-year imprisonment.

7 FAM 1753 PASSPORT DENIAL, REVOCATION AND CHILD SUPPORT ENFORCEMENT

(CT:CON-194; 09-26-2007)

- a. The Passport Denial Program denies the application or renewal of an obligor's passport if \$2500 or more is owed in arrears for child support, based on a certification by the Department of Health and Human Services. See 7 FAM 1387, 42 U.S.C. 652(k); 22 CFR 51.70(a)(8). The program was implemented jointly by HHS's Office of Child Support Enforcement and the Department of State in June 1998. The program has collected over \$27 million in lump sum payments since its inception. With over 3.2 million cases certified to the Department of State by HHS/ACF/OCSE, more than 60 passports are denied each day for child support reasons, up from 30 to 40 at the start of the program.
- b. The Department of State and U.S. embassies and consulates abroad have no authority to issue a U.S. passport if a CLASS hold for child support arrears certified by HHS exists. The passport applicant must contact the IV-D Child Support Enforcement office in the U.S. state where the obligation was ordered to resolve the matter. Only after the U.S. state notifies HHS that the arrearage has been resolved and HHS notifies the Department of State that the matter is closed, and the name is removed from the CLASS system may a passport be issued. The existence of a CLASS hold for child support arrearages does not; make the person ineligible for other consular services, such as documentation of other children.
- c. The program applies to all types of passports, including diplomatic and official passports as well as tourist passports.
- d. The statute has been challenged and upheld in two cases before federal courts. *Eunique v. Powell*, 281 F.3d 940, 2002 (9th Cir. Cal. 2002) (statute does not violate Fifth Amendment freedom to travel internationally); *Weinstein v. Albright*, 261 F.3d 127; 2001 (2nd Cir. 2001) (statutory and regulatory scheme comports with due process and

equal protection).

7 FAM 1754 BILATERAL RECIPROCAL AGREEMENTS AND UNILATERAL DECLARATIONS

(CT:CON-102; 02-27-2005)

- a. 42 U.S.C. 659a authorizes the Secretary of State, under certain conditions and with the concurrence of the Secretary of Health and Human Services, to declare a foreign country or political subdivision thereof to be a foreign reciprocating country for purposes of child support enforcement. In order to be declared a foreign reciprocating country, a foreign country must have established or undertaken to establish procedures available to U.S. residents that are in substantial conformity with the following standards:
 - (1) Procedures for the establishment of paternity;
 - (2) Procedures for the establishment of support orders;
 - (3) Procedures for the enforcement of support orders;
 - (4) Procedures for the collection and distribution of payments under support orders;
 - (5) Provision of all of these services, including administrative and legal assistance where necessary, without cost to the United States resident; and
 - (6) Establishment of a "Central Authority" to facilitate implementation of support enforcement in cases involving residents of the United States.
- b. Questions from foreign States regarding negotiation of a child support agreement with the United States should be directed to the Office of the Legal Adviser for Private International Law (L/PIL) and CA/OCS/PRI (ASKPRI@state.gov).
- c. Delegation of Authority: Department of State Delegation of Authority of September 5, 1997 delegated the authority to declare a foreign country to be a reciprocating country under 42 U.S.C. 659a to the Legal Adviser and the Assistant Secretary for Consular Affairs, in consultation with each other. The authority of the Secretary of Health and Human Services to concur in declarations proposed by the Department of State has been

delegated along with other child support program management authorities to the Assistant Secretary for Children and Families.

- d. U.S. Central Authority: The U.S. Central Authority for these bilateral agreements is the Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE).
- e. U.S. Department of State Contact: The negotiator for the U.S. Department of State is the Office of the Legal Adviser for Private International Law (L/PIL). Consistent with the Department of State Delegation of Authority of September 5, 1997, major issues concerning designation of a country as a “reciprocating country” are coordinated between the Office of the Legal Adviser (L) and the Bureau of Consular Affairs. CA/OCS/PRI is the immediate point of contact, in consultation with CA/OCS/CI and CA/OCS/ACS as appropriate. The Assistant Secretary for Consular Affairs is the authorizing official in CA in these matters.
- f. List of Current Agreements: For a current list of countries with which the United States has bilateral reciprocal agreements or unilateral declarations see the HHS/ACF/OCSE Internet home page under the International Resources.

7 FAM 1755 U.S. STATE-LEVEL RECIPROCAL ARRANGEMENTS

(CT:CON-102; 02-27-2005)

In addition to providing authority for federal-level child support declarations, 42 U.S.C. 659a provides that:

"[s]tates may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a [federal] declaration ...to the extent consistent with Federal law."

The Uniform Interstate Family Support Act (UIFSA), which has been adopted by every state, provides that a state may enter into reciprocal arrangements for the enforcement of child support obligations with a foreign country that has procedures the state determines to be substantially similar to UIFSA. Information about U.S. states and other jurisdictions that have reciprocal arrangements with other countries is available on the HHS/ACF/OCSE Intergovernmental Referral Guide Public Map Page (IRG) under the heading

“reciprocity” for each state.

7 FAM 1756 MULTILATERAL NEGOTIATIONS

(CT:CON-102; 02-27-2005)

The United States is not a party to any existing multilateral child support convention. The United States is actively participating in the negotiation of a new multilateral convention on child support under the auspices of the Hague Conference on Private International Law. We encourage other countries to participate in the Hague negotiation process. See the Hague Conference Internet page under future projects, Maintenance Obligations.

7 FAM 1757 CHILD SUPPORT ENFORCEMENT AND PARENTAL CHILD ABDUCTION

(CT: CON-194; 09-26-2007)

There is no obligation under the federal or state-level bilateral reciprocal child support enforcement arrangements for the provision of any child support enforcement services in cases where a U.S. child has been wrongfully removed to or retained in a foreign country. This was explicitly stated in a February 25, 1999 “Dear Colleague Letter” (DCL-99-19) from Paul Legler, the Assistant Commissioner of the Office of Child Support Enforcement at the Department of Health and Human Services (HHS/ACF/OCSE) to the Directors of all of the state-level child support agencies in the United States. For additional information see the OCSE Policy Documents.

7 FAM 1758 U.S. DEPARTMENT OF STATE EMPLOYEES

(CT:CON-102; 02-27-2005)

- a. Garnishment orders should be sent to the Office of the Legal Adviser, L/EX, Room 3422 N.S., Department of State, 2201 C Street, N.W., Washington, DC 20520. Other questions may be direct to the Department of State, Office of Employee Relations, Conduct, Suitability and Discipline Staff (HR/ER) can be contacted at SA-1, Room 236H, U.S. Department of State, Washington, DC 20520.
- b. Department of State Materials

- (1) Office of the Legal Adviser:
 - (a) 22 CFR 172.2(d) – Service of Process Official Personnel; and
 - (b) 2 FAM 511.1 b Handling Service of Process.
- (2) Family Liaison Office:
 - (a) Divorce; and
 - (b) Foreign Service Family and Divorce.
- (3) Department of State Notices:
 - (a) June 23, 1995 Department Notice on Garnishment of Wages;
 - (b) April 10, 2000 – Department of State Notice Denial of Diplomatic and Official Passports; and
 - (c) The provisions of Executive Order 12953 were publicized in Department of State Notice dated 5/15/95 and Department of State Notice dated 6/23/95.

7 FAM 1759 CHILD SUPPORT AND THE U.S. MILITARY

(CT:CON-102; 02-27-2005)

- a. Interested persons may wish to contact the local military command or the Judge Advocate General's Office for the applicable branch of the military via general information at the Pentagon, tel: (703) 545-6700. Also see the Internet webpages for the Judge Advocate General's Office for the Air Force, Army, and Navy and the Department of Defense Office of General Counsel.

See also ...

- (1) Sec. 363 of H.R. 3734, "Enforcement of Child Support Obligations of Members of the Armed Forces", which requires the Secretary of Defense to establish a centralized personnel locator service for members of the Armed Forces;
- (2) Requests for Military Mailing Addresses Active Duty, and
- (3) The Defense Finance and Accounting Service (DFAS) Internet pages on Child Support and Alimony (DFAS) and DFAS Garnishment.

- b. The U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (HHS/ACF/OCSE) has material available on Internet entitled Caseworkers Guide to Child Support Enforcement and Military Personnel and Quick Guide to Working With the Military as an Employer.
- c. Problems concerning the use of the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters (Hague Service Convention) or the Inter-American Convention on Letters Rogatory and Additional Protocol (Inter-American Service Convention) to serve process on members of the U.S. military in the United States or abroad, contact CA/OCS/PRI. PRI will endeavor to coordinate with the U.S. Department of Justice, Civil Division, Office of Foreign Litigation (DOJ/CIV/OFL), the U.S. Central Authority for the service of process treaties, known under the treaties as the "Office of International Judicial Assistance", and the Office of the Legal Adviser for Private International Law (L/PIL) and HHS/ACF/OCSE. Depending on the terms of applicable Status of Forces Agreements (SOFA), the host country Central Authority under these treaties may or may not have access to the military base to attempt service. The use of letters rogatory to attempt service on a member of the U.S. military abroad is not/not recommended since this would involve the host country government, which again may not have access to the U.S. military base (see 7 FAM 900).
- d. Background Reading

Child Support and the Military

- "A Guide to Child Support Enforcement Against Military Personnel", (February 1996), Administrative and Civil Law Department, Legal Assistance Branch, The Judge Advocate General's School, U.S. Army, Charlottesville, VA 22093-1781
- Barber, "Soldiers, Sailors and the Law", 9 Family Advocate, 38-41 (1987)
- Cook, "The Armed Forces As A Model Employer In Child Support Enforcement: A Proposal To Improve Service Of Process On Military Members", 155 Mil. L. Rev. 153 (1998)
- Zoop, Protecting Soldiers ... From Their Spouses: The Soldiers' and Sailors' Civil Relief Act, Family Advocate, Vol. 23, No. 2 (2000)

International Child Support

- Caswell, G., International Child Support --1999, 32 Fam. L.Q.

525, 537 (1998)

- Dehart, G., *Comity, Conventions, and the Constitution: State and Federal Initiatives in International Support Enforcement*, 28 *Fam. L.Q.* 89, 92-99 (1994)
- Pfund P., *The Hague Intercountry Adoption Convention and Federal International Child Support Enforcement*, 30 *U.C. Davis L. Rev.* 647, 659 (1997)
- Saxon, J., *International Establishment and Enforcement of Family Support*, *Fam. L. Bull.*, Aug. 1999, at 3
- Weintraub, R. J., *Recognition and Enforcement of Judgments and Child Support Obligations in United States and Canadian Courts*, 34 *Tex. Int'l L.J.* 361, 363 n.23 (1999)

7 FAM EXHIBIT 1750 KEY RESOURCES

(CT: CON-194; 09-26-2007)

- CA/OCS Internet Child Support Feature
- CA/PPT Internet Child Support Arrearage Passport Denial Page
- HHS/ACF/OCSE Internet Page
- HHS International Resources Page
- HHS/ACF/OCSE Policy Documents on International Child Support
- HHS Intergovernmental Referral Guide (IVG) to U.S. States
- Hague Conference on Private International Law Maintenance Obligations Page