**Section 160.70 Enforcement of Support Orders**

a) Income Withholding

Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases, and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

b) Federal and State Income Tax Refunds and Other Payments

1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due the responsible relatives.

2) The Department shall submit past-due support amounts to:

A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:

i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than $150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of $150 for TANF and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and

ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than $500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of $500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection (b)(2)(A)(i) to reach the minimum amounts required for submittal.

B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:

i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or $25, whichever is less;

ii) in inactive IV-D TANF or IV-D foster care cases, past-due support owed in any amount; and

iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that will be submitted for intercept, and that any additional past-due support that accumulates will be subject to collection by the Department without further notice;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:

i) a redetermination by the Department; or

ii) after the redetermination, an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and

D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund that may be payable to that spouse, in the case of a joint federal income tax return.

4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by requesting:

A) a hearing by the Department within 15 days after the date of mailing of the notice; or

B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.

6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.

7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

8) The Department shall notify:

A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;

B) the U.S. Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;

C) the Illinois Department of Revenue of any deletion of an amount submitted for State income tax refund and the Comptroller for other payment intercept or any significant decrease in the amount; and

D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

9) The Department shall:

A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and

B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, the equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion refunds and payments in matters in which the intercepted funds have not yet been transferred to the Department.

10) The Department shall, as promptly as possible, apply collections it receives as a result of intercept under this subsection (b) as follows:

A) federal income tax refunds first to satisfy any IV-D TANF or IV-D foster care assigned past-due support, and then to satisfy any IV-D non-TANF past-due support; and

B) other federal and State payments in accord with distribution provisions in Subpart F.

11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

A) amounts intercepted under this subsection (b) will be applied in accordance with Section 160.130;

B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his or her share of a joint tax refund.

c) Unemployment Insurance Benefits

1) The Department shall collect support owed by responsible relatives in IV‑D cases through intercept of unemployment insurance benefits in matters in which the relative has accumulated a past-due support amount equal to a one-month support obligation.

2) The Department shall take the following action:

A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.

B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.

C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:

i) the amount of the income withholding order; or

ii) fifty percent of the Unemployment Insurance Benefit.

D) receive amounts deducted direct from DES.

E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

F) post each collection to the Department's payment record.

G) apply each collection to the current support obligation, then to past-due obligations.

H) provide a redetermination within 180 days after the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.

3) The Department of Employment Security shall take the following action:

A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.

B) pay all amounts deducted direct to the Department.

d) Contempt of Court and Other Legal Proceedings

1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past‑due support amount equal to not less than a one-month support obligation, except as set forth in subsection (d)(2).

2) Contempt proceedings shall not be used in the following instances:

A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:

i) receiving public assistance;

ii) mentally or physically disabled;

iii) incarcerated;

iv) out-of-the-country;

v) deceased; or

vi) otherwise situated, making action to obtain support payment unproductive.

B) other legal or administrative remedies are more appropriate under the circumstances.

3) Contempt and other legal proceedings shall be used to:

A) establish the amount of past-due support;

B) obtain a judgment for purposes of:

i) imposition of a lien against real estate;

ii) levy upon real estate and personal property; or

iii) registration in another state;

C) secure an order for lump sum or periodic payment of the past-due support or judgment;

D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;

E) obtain full or partial payment of past-due support through incarceration;

F) ascertain the responsible relative's source and amount of income or location and value of assets;

G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;

H) secure other enforcement relief; and

I) combine any of the actions authorized by this subsection (d)(3).

4) During the course of contempt or other legal proceedings to enforce support, if it appears that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for responsible relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code.

e) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support

1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].

2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:

A) the past-due amount is at least $3,500; and

B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy or memorandum of judgment in the county where the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure).

4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure) when the relative has a known equity that is not less than $3,500 in excess of any statutory exemption.

f) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support and Fines Against a Payor of Income Who Willfully Fails to Withhold or Pay Over Income Pursuant to a Properly Served Income Withholding Notice or Otherwise Fails to Comply with any Duties Imposed by the Income Withholding for Support Act [750 ILCS 28]

1) Liens Against Real Estate

A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:

i) the amount of past-due support is at least $3,500; and

ii) the responsible relative has an interest in real estate against which a lien may be claimed.

B) The State shall impose liens on all legal and equitable interests of a payor of income (payor), as that term is defined in the Income Withholding for Support Act, in the payor's real property in the amount of any fine imposed by the Department pursuant to the Income Withholding for Support Act.

C) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative or payor and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative or payor is located. The notice shall inform the responsible relative or payor and the Recorder or Registrar of Titles of the following:

i) the name and address of the responsible relative or payor;

ii) a legal description of the real estate to be levied;

iii) the amount of past-due support to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative or for the fine imposed on a payor pursuant to the Income Withholding of Support Act; and

v) the right to prevent action against the real property by payment of the past-due support amount in full or by payment of the fine imposed on the payor in full, to contest the determination that past-due support is owed, or to contest the amount of past-due support or the fine imposed on the payor, by requesting a hearing by the Department.

D) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (f).

E) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

F) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

G) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative or the payor has a known equity in the real estate that is not less than $3,500 in excess of any statutory exemption.

2) Liens Against Personal Property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

i) the amount of past-due support is at least $1,000;

ii) the responsible relative has an interest in personal property against which a lien may be claimed; and

iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least $300.

B) The State shall impose liens on all legal and equitable interests of a payor, as that term is defined in the Income Withholding for Support Act, in the payor's real property in the amount of any fine imposed by the Department pursuant to the Income Withholding for Support Act.

C) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative or payor, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative or payor is located, the sheriff of the county in which goods or chattels of the responsible relative or payor are located, or any person or entity indebted to or holding personal property of the responsible relative or payor or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative or payor. The notice shall contain the following:

i) the name and address of the responsible relative or payor;

ii) a description of the account or personal property to be levied;

iii) the amount of past-due support or the amount of the fine imposed on the payor to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative of the fine imposed on the payor;

v) the right of the responsible relative or payor to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by payment of the fine imposed on a payor in full, by contesting the determination that past-due support is owed, or to contest the amount of past-due support or the fine imposed on the payor, by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and

vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

D) In addition to the information to be included in the Notice of Lien or Levy under subsection (f)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:

i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code;

ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit those assets within five days after being served with a Notice to Surrender Assets by the Department;

iii) state that the financial institution may charge the responsible relative's or payor's account a fee of up to $50, and that the amount of any fee be deducted from the account before remitting any assets from the account to the Department;

iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy; and

v) include the federal Notice of Right to Garnish Federal Benefits stating that procedures established under 31 CFR 212 for identifying and protecting federal benefits deposited to accounts at financial institutions do not apply to the Notice of Lien or Levy issued by the Department.

E) The form for the response to Notice of Lien or Levy provided for under subsection (f)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

i) the amount of assets in the responsible relative's or payor's account;

ii) the amount of the fee to be deducted from the account;

iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;

iv) the name and address of any joint owners of the account; and

v) the amount of assets surrendered and remitted to the Department.

F) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (f).

G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's or payor's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

H) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.

I) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.

J) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

K) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives or payors shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).

g) Security, Bond or Other Guarantee of Payment

1) Except as provided in subsections (g)(2) and (3), the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security or bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10‑17.4 of the Illinois Public Aid Code.

2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security or bond, or give some other guarantee of payment. Except when the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a request for an order requiring the responsible relative to post security or bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

h) Past-Due Supp ort Information to Consumer Reporting Agencies

1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A):

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support that has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies that shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that will be reported;

C) the date past-due support will be reported; and

D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

A) a request for:

i) a redetermination; or

ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:

i) advance notice; or

ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to those agencies.

i) High-Volume Automated Administrative Enforcement in Interstate Cases

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of the enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states and shall seize those assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:

A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.

5) The Department shall maintain records of:

A) The number of requests for assistance received by the Department.

B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.

j) Past-Due Support Certified to the Illinois Department of Revenue, to Municipalities or to the IV-D Agency of Another State for Administrative Enforcement in the Other State

1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child support (see Section 10‑17.3 of the Illinois Public Aid Code, or to another state's IV-D agency for administrative enforcement when the responsible relative has property in the other state.

2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:

A) past-due support is owed for a child or for a child and the parent with whom the child is living;

B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3);

C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and

D) the responsible relative is not deceased.

3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state that shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that will be submitted for collection;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and

D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

4) Factors for a satisfactory repayment plan will include, but are not limited to:

A) the amount of past-due support owed;

B) the amount to be paid toward the past-due amount;

C) the amount of current child support obligations; and

D) the individual's ability to pay.

5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state the following descriptive information on the responsible relative:

A) name;

B) Social Security Number;

C) IV-D identification number; and

D) the past-due support amount.

6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.

7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within 15 days after the date of mailing of the notice.

8) A written request for hearing made within 15 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6).

9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.

10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

11) The Department shall:

A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or

B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, that is still in the possession of the Department.

k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports

1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds $2,500:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support that has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services that shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount that will be certified;

C) the date past-due support will be certified; and

D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:

A) a request for:

i) a redetermination; or

ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:

i) advance notice; or

ii) notice of redetermination or hearing results.

6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to HHS, the U.S. State Department or other agencies.

l) List of Responsible Relatives

1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code shall be developed as required by this subsection (l).

2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing $5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:

A) the name of the responsible relative;

B) the responsible relative's last known address; and

C) the amount of past-due support as of a given date, expressed within a range (for example, $50,000-$100,000), that has accumulated under the support order.

3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.

4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount as of a given date;

C) the earliest date by which past-due support information will be published;

D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing within 15 days after the date of mailing of the advance notice; and

E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.

5) Factors for a satisfactory payment plan will include, but are not limited to:

A) the amount of past-due support owed;

B) the amount to be paid toward the past-due support;

C) the amount of the current support obligations; and

D) the responsible relative's ability to pay.

6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.

7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:

A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or

B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection (l)(7).

m) Certification to the Illinois Secretary of State for Driver's License Suspension

1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:

A) the amount of past-due support is at least $2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or

B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.

2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:

A) the IV-D case name and identification number;

B) the past-due support amount and the amount of interest that will be certified;

C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;

D) the right of the responsible relative to prevent certification to the Secretary of State for driver's license suspension by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and

E) the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.

3) Factors for an acceptable payment plan will include, but are not limited to:

A) the amount of past-due support and interest owed;

B) the amount of current child support ordered to be paid; and

C) the responsible relative's ability to pay.

4) The responsible relative's commencement of periodic payments on the past-due support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment plan.

5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.

6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with Section 10-17.6(b) of the Illinois Public Aid Code and Section 7-702.1(b) of the Illinois Vehicle Code, when the following circumstances exist requiring the responsible relative to operate a motor vehicle:

A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or

B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or

C) for the purpose of the unemployed responsible relative seeking employment.

8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C), the Department shall require that:

A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. (noon) unless the responsible relative provides written documentation showing that to so limit the hours of the permit would have an adverse effect on the responsible relative's ability to seek employment; and

B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no fewer than 10 potential employers during a 30 day period.

9) The maximum duration of a family financial responsibility driving permit shall be one year from the date of issuance by the Secretary of State, with the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.

10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).

11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.

12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.

n) Certifying Past-Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies

1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:

A) the amount of past-due support is at least $1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or

B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.

2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount and the amount of interest that will be certified;

C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;

D) the right of the responsible relative to prevent certification to the licensing agency by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of past-due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and

E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.

3) Factors for an acceptable payment plan will include, but are not limited to:

A) the amount of past-due support and interest owed;

B) the amount of current child support ordered to be paid; and

C) the responsible relative's ability to pay.

4) The responsible relative's commencement of periodic payments on the past-due support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.

5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying past-due support and interest or failure to comply with a subpoena or warrant to the licensing agency.

6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

o) Debit Authorization for Obligors Who Are Not Subject to Income Withholding

1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.

2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.

3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.

4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in which a child support payment is to be debited and transferred to the State Disbursement Unit.

5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.

6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.

p) Judicial Registration of Administrative Support Orders and/or Administrative Paternity Orders

1) A final administrative support order and/or a final administrative paternity order, excluding a voluntary acknowledgment or denial of parentage, which is governed by other provisions of the Public Aid Code [305 ILCS 5], the Illinois Parentage Act of 1984 [750 ILCS 45] and/or 2015 [750 ILCS 46], and the Vital Records Act [410 ILCS 535], established by the Department under Article X of the Public Aid Code may be registered in the appropriate circuit court of this State by the Department or by a party to the order by filing:

A) Two copies, including one certified copy, of the administrative order to be registered;

B) Any subsequent modification of the administrative support order;

C) Any voluntary acknowledgment of paternity of the child covered by the order;

D) Documents showing service of the notice of support obligation or the notice of paternity and support obligation that commenced the procedure for establishment of the administrative support order and/or the administrative paternity order as required by Section 10-4 of the Public Aid Code;

E) Documentation showing the amount of past-due support accrued under the administrative order by a sworn statement by the person requesting registration or a certified copy of the Department payment records; and

F) A Notice of Registration containing: the name of the obligor and, if known, the obligor's address and the name of the obligee and the obligee's address unless the obligee alleges in an affidavit or pleading under oath that the health, safety or liberty of the party or child would be jeopardized by the disclosure, in which case the information must be sealed and not disclosed to the other party or public. After a hearing, the court may order the disclosure of information that the court determines to be in the interest of justice.

2) Every Notice of Registration must be accompanied by a copy of the registered administrative support order and/or the administrative paternity order and the relevant information accompanying the order as noted in subsection (p)(1).

3) The filing of the administrative support order and/or the administrative paternity order constitutes registration with the circuit court.

4) The Department shall certify the administrative support order and/or the administrative paternity order or payment record by attaching a copy of the Department's certification (HFS 390).

5) The registering party shall serve notice of the registration on the other party by first class mail, unless the administrative support order and/or the administrative paternity order was entered by default or the registering party is also seeking an affirmative remedy. The registering party shall serve notice on the Department in all cases by first class mail.

A) If the administrative support order and/or the administrative paternity order was entered by default against the obligor, the obligor must be served with the registration by any method provided by law for service of summons.

B) If the petition or comparable pleading seeking an affirmative remedy is filed with the registration, the non-moving party must be served with the registration and the affirmative pleading by any method provided by law for service of summons.

6) A Notice of Registration of an administrative support order and/or an administrative paternity order must provide the following information:

A) That a registered administrative order is enforceable in the same manner as an order for support and/or an order for paternity issued by the circuit court.

B) That a hearing to contest enforcement of the registered administrative support order and/or the registered administrative paternity order must be requested within 30 days after the date of service of the notice.

C) That failure to contest, in a timely manner, the enforcement of the registered administrative support order and/or the registered administrative paternity order shall result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.

D) The amount of any alleged arrearages.

7) A non-registering party seeking to contest enforcement of a registered administrative support order and/or a registered administrative paternity order shall request a hearing within 30 days after the date of service of notice of the registration. The non-registering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered administrative support order and/or the registered administrative paternity order, or to contest the remedies being sought or the amount of any alleged arrearages.

8) If the non-registering party fails to contest the enforcement of the registered administrative support order and/or the registered administrative paternity order in a timely manner, the order shall be confirmed by operation of law.

9) If a non-registering party requests a hearing to contest the enforcement of the registered administrative support order and/or the registered administrative paternity order, the circuit court shall schedule the matter for hearing and give notice to the parties and the Department of the date, time and place of the hearing.

10) A party contesting the enforcement of a registered administrative support order and/or a registered administrative paternity order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

A) The Department lacked personal jurisdiction over the contesting party.

B) The administrative support order and/or the administrative paternity order was obtained by fraud.

C) The administrative support order and/or the administrative paternity order has been vacated, suspended or modified by a later order.

D) The Department has stayed the administrative support order and/or the administrative paternity order pending appeal.

E) There is a defense under the law to the remedy sought.

F) Full or partial payment has been made.

11) If a party presents evidence establishing a full or partial payment defense, the court may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered administrative support order and/or the registered administrative paternity order may be enforced by all remedies available under State law.

12) If the contesting party does not establish a defense to the enforcement of the administrative support order and/or the administrative paternity order, the court shall issue an order confirming the administrative support order and/or the administrative paternity order. Confirmation of the registered administrative support order and/or the registered administrative paternity order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Upon confirmation, the registered administrative support order and/or the registered administrative paternity order shall be treated in the same manner as a support order and/or a paternity order entered by the circuit court, including the ability of the court to entertain a petition to modify the administrative support order due to a substantial change in circumstances and/or a petition to modify the administrative paternity order due to clear and convincing evidence regarding paternity, or petitions for visitation or custody of the child or children covered by the administrative support order. Nothing in this Section shall be construed to alter the effect of a final administrative support order and/or a final administrative paternity order, or to restrict judicial review of a final order to the provisions of the Administrative Review Law, as provided in Sections 10-11 and 10-17.7 of the Illinois Public Aid Code.

13) Notwithstanding the limitations of relief provided for under this Section regarding an administrative paternity order and the administrative relief available from an administrative paternity order under Sections 10-12 through 10-14.1 of the Illinois Public Aid Code, a party may petition for relief from a registered final administrative paternity order entered by consent of the parties, excluding a voluntary acknowledgment or denial of paternity as well as an administrative paternity order entered pursuant to genetic testing. The petition shall be filed pursuant to Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401] based upon a showing of due diligence and a meritorious defense. The court, after reviewing the evidence regarding this specific type of administrative paternity order entered by consent of the parties, shall issue an order regarding the petition. Nothing in this Section shall be construed to alter the effect of a final administrative paternity order, or the restriction of judicial review of such a final order to the provisions of the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 10-17.7 of the Illinois Public Aid Code.

q) Certification to State Gaming Licensee of Past-Due Support

1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to State Gaming Licensees (as defined in Section 10-17.15 of the Illinois Public Aid Code). This process will be accomplished via an electronic interface between the Department and the State Gaming Licensee. The Department shall provide signage to the State Gaming Licensee in compliance with the law.

2) The Department shall certify past-due support amounts to be withheld to any State Gaming Licensee when the following conditions exist:

A) The amount of past-due support is at least $1,200 and the responsible relative has not made a voluntary payment within 90 days prior to the certification;

B) As of the date of certification, the Department has not received notice of a pending bankruptcy case involving the responsible relative; and

C) The State Gaming Licensee has notified the Department regarding the winnings of a responsible relative owing past-due support.

3) The State Gaming Licensee shall withhold from winnings required to be reported to the Internal Revenue Service on Form W2-G, or any subsequent amendment or replacement to that form, for licensees covered under the Riverboat Gambling Act [230 ILCS 10] and the Illinois Horse Racing Act of 1975 [230 ILCS 5], with the additional requirement that the winnings are subject to withholding for federal tax purposes for licensees covered under the Illinois Horse Racing Act of 1975, up to the full amount of winnings necessary to pay the responsible relative's past-due support.

A) "Winnings" means any cash award that results from a specific wager connected with limited gaming or pari-mutuel wagering for which the licensee is required to file form W2-G, or a substantially equivalent form, with the Internal Revenue Service (IRS). "Winnings" do not apply to the awarding of merchandise, other non-cash items, promotional awards, loyalty program awards or other cash prize awards not associated with a specific wagering event.

B) For the withholding of winnings, the State Gaming Licensee shall be entitled to an administrative fee not to exceed the lesser of 4% of the total amount of cash winnings paid the responsible relative or $150.

C) The past-due child support required to be withheld under this subsection (q)(3)(C), and the administrative fee under subsection (q)(3)(B), would have priority over any secured or unsecured claim or charitable contribution requested on cash winnings, except claims for federal or State taxes that are required to be withheld under federal or State law.

D) In no event shall the total amount withheld from the winnings, including the administrative fee, exceed the total cash winnings claimed. If the amount claimed is greater than the amount sufficient to satisfy the past-due support amount, the State Gaming Licensee shall pay the responsible relative the remaining balance of the payout, less the administrative fee, at the time it is claimed.

E) The State Gaming Licensee shall provide information required by the Department regarding the responsible relative whose winnings may be subject to being withheld pursuant to this subsection (q)(3) at the time the winnings are redeemed or to be paid by the State Gaming Licensee. At the time the winnings are withheld, an agent of the Illinois Racing Board shall be responsible for notifying the person identified as being delinquent in child support payments that the Gaming Licensee under the Illinois Horse Racing Act of 1975 is required by law to withhold all or a portion of the winnings. Upon request of a State Gaming Licensee under the Riverboat Gambling Act, an agent of the Illinois Gaming Board shall be responsible for notifying the person identified as being delinquent in child support payments that the Gaming Licensee is required by law to withhold all or a portion of the winnings. These notice requirements may be satisfied by giving the person a copy of the certification the Department submitted to the State Gaming Licensee.

4) As part of the Department's annual notice to responsible relatives who owe past-due child support, as provided for in subsection (b)(3), the Department shall include a statement regarding the Department's ability to certify the past-due balance to a State Gaming Licensee. This advance notice shall inform the responsible relative of the following:

A) The IV-D case name and identification number;

B) The past-due support amount that will be submitted for collection; and

C) The type of collection remedies available to the Department.

5) Immediately upon receipt of the information required by subsection (q)(3)(E), the Department's certification to the State Gaming Licensee shall provide the following information regarding the responsible relative:

A) Name;

B) IV-D identification number;

C) The past-due support amount to be withheld;

D) The amount of the administrative fee that the State Gaming Licensee may retain; and

E) The amount, if any, that may be released to the responsible relative.

6) The State Gaming Licensee shall provide the responsible relative with a receipt of the withheld winnings and shall transfer those funds to the Department via electronic transfer. The Department shall hold the funds until the expiration of the period in which the responsible relative may request a hearing or, if a hearing has been requested, until a final administrative decision is rendered.

7) The responsible relative may contest the certification by the Department to the State Gaming Licensee by a written request for hearing made to the Department within 15 days after the date of the certification.

8) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that subsections (b) and (c) of that Section shall not apply.

9) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

10) The Department shall:

A) Apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligations; or

B) If the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible, refund to the responsible relative any overpayment, pursuant to the certification for collection, that is still in the possession of the Department.

11) Confidentiality

Information provided to and accessed by the State Gaming Licensee is considered confidential.

r) Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

s) For all other hearings provided for under this Section, if the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting the hearing has or have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order of support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order for support, either for current support or, in the event that a current support obligation is no longer owed and only past-due support remains, and therefore, periodic payments toward the past-due support must be ordered, the hearing officer shall calculate the new support terms in accordance with the provisions of Section 160.60(c)(2).

(Source: Amended at 41 Ill. Reg. 3338, effective March 7, 2017)