



# Your Guide to Past-Due Support

## WI BUREAU OF CHILD SUPPORT



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When support is not paid as the court ordered, many actions may be taken. Some actions such as interest charges, tax refund intercepts, and child support liens are automatic when the amount of past-due support reaches a certain level. Other actions, such as license denial and court actions, are done on a case-by-case basis. Agreeing to and following a payment plan will prevent some, but not all, enforcement measures.

Avoiding past-due support when income decreases on page 6.

## Increased Amount Withheld from Income

If a parent owes past-due support, the amount withheld might be increased - up to 50% of the current support amount ordered by the court. For example, the court order is for \$250/month for current support. Another \$125 (50% of \$250) could be added to the income withholding notice. The total amount withheld would then be \$375 (\$250 for current support, and an additional \$125 for past-due support). The Consumer Credit Protection Act limits still apply. For details, please see the "Guide to Paying Support," (online at [dcf.wisconsin.gov](http://dcf.wisconsin.gov) or from your child support agency).

## Interest Charges

Wisconsin law requires interest charges of .5 % per month (6 % per year) on past-due support. Effective April 1, 2014, interest charged on past-due support changed from 1% per month (12% per year) to .5% per month (6% per year). Interest charges begin when the past-due support is equal to or more than the amount due in one month. For example, if the support order is for \$300/month, interest is charged on past-due support amounts of \$300 or more. Interest on past-due support owed to a parent is owed to that parent. Interest due on state-owed past-due support is owed to the state. Interest is charged even if the parent is making payments on the debt. Interest is not charged on unpaid birth costs.

## Tax Refund Intercept

The Child Support program uses intercepted tax refunds to collect past-due child support, family support, maintenance (alimony), medical support, interest, fees, and other debts such as birth expenses paid by the Medicaid and BadgerCare Plus programs.

**Important to Know:** Past-due support that built up while the family received cash benefits from W-2, SSI Caretaker Supplement, Temporary Assistance for Needy Families (TANF) may be "assigned" (signed over) to the state. A child's birth costs paid by the Medicaid and BadgerCare Plus programs are also assigned debts.

## Federal Tax Refunds

Intercepted federal income tax refunds first pay past-due support and debts that are "assigned" and then pay past due support owed to the family. If the family no longer gets cash benefits, and no birth costs or TANF debts are owed, the **family will get** the intercepted federal income.

## More about intercepting tax refunds

**Federal tax** refunds are intercepted if the case meets all three conditions below:

1. The past-due amount owed to the family is \$500 or more on a court case – OR – \$150 or more if any part of the past-due amount is “assigned” to the state.
2. The child support agency knows the Social Security number or Tax Identification number of the parent who owes the past-due support.
3. The case gets case management services (child support services) from a local child support agency.

## State Tax Refunds

Intercepted state tax refunds first pay current support on all of the paying parent’s cases certified for tax intercept. Any remaining tax refund will go to past-due support. If a family is getting cash benefits from the W-2 or SSI Caretaker Supplement programs, the family will get part of the current support paid by that state refund.

State tax refunds are intercepted if all four conditions below are met:

1. The past-due amount on a court case is \$150 or more.
2. The child support agency knows the Social Security number or Tax Identification number of the parent who owes past-due support.
3. The case receives case management services (child support services) from a local child support agency.
4. The case is a Wisconsin child support case. If the payer files a state return in another state, Wisconsin might work with that state to intercept that state’s refund.

## How tax intercept works

1. Child support mails a one-time notice to parents who owe past-due support the first year. Then, Child Support reports the debt to the federal Internal Revenue Service (IRS) or Wisconsin Department of Revenue (DOR). The notice includes information about appealing the intercept. If the parent pays off the debt, but the debt builds up again, child support will mail another notice to the parent. **Please note:** Child support mails this notice to the address listed with the child support agency. Parents can update their address online at [dcf.wisconsin.gov](http://dcf.wisconsin.gov) or by contacting their local child support agency.
2. Child support sends the names of parents owing past-due support and the amount owed to the IRS and to the Wisconsin Department of Revenue. The amount of past-due support is regularly updated. The amounts may go up or down depending on how much support is paid or not paid.
3. **Federal tax refunds:** The IRS takes the past-due support out of the paying parent’s federal tax refund. The IRS sends the rest of the refund to the paying parent. The U.S. Treasury will mail a letter to the paying parent stating the amount intercepted and where the money was sent. The Wisconsin Support Collections Trust Fund usually gets the tax intercept four to five weeks after the paying parent receives the U.S. Treasury letter.
  - Refunds intercepted from **federal joint returns** are held for six months. However, the paying parent gets credit for the payment immediately. The hold protects the parent who receives the money from having to repay intercepted refunds if the IRS changes the refund. This hold does not guarantee that the IRS will not recall the intercepted refund in the future. After the 6-month hold, the Trust Fund sends the money to the parent receiving support.
  - Refunds intercepted from **federal non-joint returns** are not held.
4. **State tax refunds:** The Wisconsin Department of Revenue (DOR) takes the support out of the paying parent’s state tax refund. DOR sends the rest of the refund to the paying parent. DOR then sends a letter to the paying parent stating how much of the refund they intercepted, and where the money was sent. The Trust Fund usually gets the state intercept 10 days after the paying parent receives the letter. The Trust Fund immediately sends the money to the parent receiving support.

## Questions paying parents ask about tax intercept

### How will I know if my tax refunds have been intercepted?

The U.S. Treasury and the state DOR will mail you a notice when they intercept your refund. The notice tells you the amount they intercepted and where they sent the money. You can call the IRS at **1-800-304-3107** to get more information about your intercepted federal tax refund.

### Is tax intercept used to collect birth costs even if I live with the mother and our child?

Yes. If Medicaid or BadgerCare Plus paid for your child's birth costs **and** the court orders you to pay these costs, child support will intercept your tax refunds to repay these programs if your case meets the requirements 1 - 3 listed on the top of page 2 for **federal tax** refund intercept.

If the Medicaid or BadgerCare Plus program paid your child's birth costs, please see the *Guide to Repaying Birth Costs*.

### If I am paying on my past-due support (or birth costs), is tax intercept still used?

Yes, if your case meets the requirements 1 - 3 listed on the top of page 2 for **federal tax** refund intercept.

### What happens if I paid all the past-due support before my tax refund was intercepted?

The IRS and the state DOR only intercept the amount owed at the time they process your tax return. If your intercepted refund is more than the support amount owed when the Trust Fund gets your refund, the Trust Fund will immediately send the rest of the refund to you.

### I plan to file a joint return with my new spouse. Will the IRS take my new spouse's tax refund, too?

No, **not if** you also file an "Injured Spouse Claim" (IRS form 8379) with your federal joint return. You can download this form from <https://www.irs.gov/pub/irs-pdf/f8379.pdf>. The Injured Spouse Claim will allow your spouse to receive his or her part of the refund. If you have questions about the Injured Spouse Claim, or if your spouse's portion of a refund was intercepted after you filed an Injured Spouse Claim, contact the IRS at **1-800-829-1040**.

You do not need to file an Injured Spouse Claim with your joint Wisconsin state tax return. The Wisconsin DOR calculates your share of a joint refund and only intercepts your share. The Wisconsin DOR will send your spouse's share of the refund to your spouse.

### I owe \$500 in past-due support. Why did they take \$500 from both my federal and my state refund?

Child support sends the names of parents who owe past-due support to both the IRS and the Wisconsin DOR. If the IRS and Wisconsin DOR process your returns at the same time, both agencies might intercept your refunds. If just one of your refunds pays the entire amount owed, your other refund is immediately returned to you. On the other hand, if the first refund did not pay the entire debt, the rest of your debt will be taken from your second refund. When you pay your support in full, the remaining refund is sent to you immediately.

## Questions parents receiving support ask about tax intercept

### When will I receive the child support payment from tax intercept?

First, the parent owing support must file a tax return and have a refund due. Then:

- You will usually get the support payment from federal joint returns about six months after the Trust Fund gets the payment.
- You will usually receive the support payment from all state refunds and federal non-joint refunds about two days after the Trust Fund receives the tax intercept.
- If the paying parent requests a hearing about the tax intercept, the money cannot be sent to you until after the hearing.

## More questions from the parent receiving support

### How do I find out when I am going to get the tax intercept?

Payments noted on the Child Support Online Services web site (<https://csos.wisconsin.gov/login>) will list the payment source as “other.” The date noted for a federal tax intercept from a joint return is the date the Trust Fund gets the money. You can expect the payment about six months later.

### Do I pay a fee for intercepted tax refunds?

Yes. If you receive a support payment from a tax refund, the fee is 10% of each collection of \$10 or more. The fee will not be more than \$25. The fee is taken out of the support payment before you get it. This fee cannot be waived. You are not charged a fee for any part of the intercepted refund that pays assigned support. The fee will be credited to your account if the IRS or DOR later recalls the intercepted refund.

### The other parent owes past-due support to two families. How much will I get?

The state refund must first pay any **current support** for **all** the payer’s court orders certified for tax intercept. Then any remaining state refund is split between the families who are owed past-due support. The amount each family gets depends on how much each family is owed.

For example, a parent owes \$500 in past-due support to Family A and owes \$750 in past-due support to Family B. After paying the current support owed for the month, \$100 is left of the state tax intercept. The debt to Family A is 40% of the past-due support. Family A would receive \$40 of the remaining \$100. The debt to Family B is 60% of the past-due support. Family B would receive \$60. The federal tax refund will be split the same way – 40% to Family A, and 60% to Family B.

**Please remember:** The **federal** tax intercept pays **assigned** past-due support first. In the example above no past-due support is assigned to the state. See the information on page 1 under “federal tax refunds.”

## Important points about tax intercept

- No matter how much past-due support a parent owes, the most that can be intercepted is the amount of the tax refund itself. For example, the refund is \$200, and the past-due support owed is \$500. Only \$200 (the full refund) can be intercepted.
- If the IRS or DOR recalls the intercepted tax refund, the parent who received the intercepted money must return the money to the Wisconsin Support Collections Trust Fund. Recalls can happen for a number of reasons, such as a mistake on the tax return. If the parent cannot repay all the money at once, half of all future support payment will be used to repay the recalled amount.
- When the Trust Fund gets a federal tax intercept from a joint return, the paying parent gets immediate credit. The parent getting the payment gets the money about six months later (after the hold).

## Court Actions

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Courts may take action against parents who fail to pay child support. Charges such as contempt of court or criminal nonsupport may be filed. If convicted, the court may fine and/or jail offenders for not paying support.

The child support agency or the parent who is owed support may file for a contempt hearing. If the court finds that the parent could have paid child support but did not, the court can find the parent who owes support in contempt of court. The court may order a jail sentence but may also set “purge conditions.” Purge conditions are an amount of money that the parent must pay or actions that the parent must take to avoid serving the jail sentence.

Criminal nonsupport is a crime prosecuted by the district attorney or by the tribal court. Child support agencies may refer cases to the district attorney. The parent who is owed support may file a complaint directly with the district attorney. The district attorney decides whether or not to take the case, usually after talking with the child support office.

## Child Support Liens

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Federal and state laws give child support agencies the option of using “administrative enforcement” actions. Administrative enforcement allows the child support agency to act without going to court. In Wisconsin, these actions are based on the child support lien.

A child support lien is a hold placed on property (such as land and cars) until past-due child support is paid. These liens will be placed without a court hearing. Liens must be paid off (satisfied) or released before the parent can sell the property. In most cases, a lien is automatically created when past-due support is \$500 or more. Past-due support for a child support lien does not include unpaid birth costs or fees. As of March 1, 2020, interest charges will be included as past-due support.

The Child Support Lien Docket is an electronic list of all parents with child support liens in Wisconsin. This list includes the names of parents owing past-due support and the lien amounts. The Department of Children and Families maintains the Child Support Lien Docket. The Lien Docket is a public record and may be viewed online at <https://liendocket.wisconsin.gov/>.

### **How do parents find out they are listed on the Child Support Lien Docket?**

When a parent is listed on the Child Support Lien Docket, a “Notice of Lien and Credit Bureau Reporting” is mailed to the parent. The notice tells the parent the amount of the lien and the date that it was listed on the docket. This notice also describes the parent’s rights and the procedures for disputing the lien amount. This notice is sent to the parent’s address on file with the child support agency. Parents can update their addresses online at <https://dcf.wisconsin.gov/cs/parent-rights/updates> or by contacting their child support agency.

### **What happens when a parent is listed on the Child Support Lien Docket?**

When a parent is listed on the Child Support Lien Docket:

- A lien will be placed on the parent’s real property (home, land) and on titled property (car, truck).
- Child support will report the lien to credit bureaus. This could affect the parent’s ability to get loans.
- State agencies will deny grants and loans to the parent. These grants and loans include student loans and higher education grants, as well as mortgage loans from the Wisconsin Housing and Economic Development Authority (WHEDA). If a parent agrees to and follows a payment plan, the parent may receive these grants and loans. See page 7 for information about payment plans.

The child support agency may also take these enforcement actions against those listed on the Lien Docket:

- Intercept lump-sum pension payments from public retirement funds, such as the retirement funds for Wisconsin state employees and City of Milwaukee and Milwaukee County employees. (Periodic payments from public retirement funds are not intercepted.)
- Intercept judgments or settlements, such as a personal injury settlement.
- Request the suspension or denial of professional, occupational, driver’s, and recreational (hunting and fishing) licenses when a child support lien equals or exceeds three months’ worth of support.
- Seize bank accounts including checking, savings, IRAs, and mutual funds when a child support lien equals or exceeds \$1,000 or three months’ worth of support, whichever is greater.
- Seize real property (land) and titled personal property (cars) when a child support lien equals or exceeds six months’ worth of support.

Before these actions are taken, child support mails a written notice to the parent at the address listed with the child support agency. The notice informs the parent of the right to a hearing. The hearing only looks at whether or not the child support debt is correct. The hearing is not about the type of action planned. The notice will also tell the parent what actions can be avoided if the parent agrees to and follows a payment plan. Parents should contact their child support agency to set up an alternative payment plan (see page 7).

## Interstate Cases

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Some parents with a Wisconsin court order live in another state. The child support agency in Wisconsin may give the case information to the other state and ask that state to take appropriate actions. The other state might charge fees for interstate cases.

When the child, the mother, and the father leave Wisconsin, Wisconsin can not ask the court for a new support order or a change to an order. However if there is already a Wisconsin child support order, Wisconsin can still enforce the order.

## Federal Actions

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When a parent does not pay his or her child support, that parent cannot receive certain services from the federal government. When the past-due amounts reach a certain level, the parent will not be able to receive some college grants or small business loans. These actions are taken without a court hearing.

The U.S. State Department will not issue or renew a passport if the debt certified by tax intercept reaches \$2,500 or more. The debt includes all unpaid support, fees, costs, and interest. If a parent was ever certified for tax intercept with a debt of \$2,500 or more and has not paid the debt in full, the State Department will not issue or renew the parent's passport. For example, a few years ago, a parent received a letter telling the parent that he or she was certified for tax intercept. The letter stated that the parent owed \$6,000. The parent began to pay on the debt, but still owes \$2,000. Because the parent did not pay off the entire \$6,000, the State Department will deny the passport request.

### **How can I get my passport if I still owe past-due support?**

If the State Department denies your passport, contact your local child support agency. In almost every situation, you must pay the entire amount owed in order to get a passport.

## What a paying parent should do

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### **What if I do not think I owe past-due child support?**

You can get a copy of your payment records from Child Support Online Services at <https://csos.wisconsin.gov/login> or from the Wisconsin Support Collection Trust Fund. Call the Trust Fund, Monday through Friday, 8:00 a.m. to 5:00 p.m. (Central Standard Time) at:

Toll Free: (800) 991-5530

TTY (toll free): (877) 209-5209

After receiving the records, you should compare them with your own records to determine if the past-due support amount is accurate.

If you think there is an error, contact your local child support agency to discuss possible reasons for the discrepancy. You must provide evidence that the amount is in error. The child support agency will review your case to determine if there is an error. If you do not agree with the child support agency's decision, you may request a court review.

**Important:** If a substantial change in circumstances reduces your ability to pay the child support amount ordered, contact your child support agency and ask how to have your court order reviewed. See "Guide to Changing or Ending Support" and "Job Loss and Child Support" (online at <https://dcf.wisconsin.gov/cs/agencylist> or from your child support agency).

If you get laid off or get called to active duty, please call your child support agency. They may be able to help.



## **More information about what a paying parent can do**

### **How can I avoid enforcement actions?**

Pay past-due support in full. One way you could do this is by taking out a loan. Once past-due support is paid, stay current.

Arrange a payment plan for past-due support with your child support agency. See the information below about payment plans.

## **Alternative Payment Plans – help for parents who owe past-due support**

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### **What an alternative payment plan will do for you**

An alternative payment plan provides a way for you to pay off past-due child support while also paying your current support. As long as you follow your payment plan, **it will:**

- Stop actions to suspend or deny your recreational (hunting, fishing), driver's, and professional and occupational licenses.
- Stop actions to seize your bank accounts, including checking, savings, IRAs, and mutual funds.
- Stop actions to seize your titled property (home, car).
- Allow you to apply for state government loans and grants (such as college grants and WHEDA loans).
- Allow you to sell titled property (land, cars) with a child support lien.

The child support agency will send you a notice before taking any of the actions listed above (actions on licenses and bank accounts, property seizures). **Important:** Agencies mail notices to the last address they have on file. Make sure your child support agency knows your mailing address. You can update your address on the Child Support Online Services website (<https://csos.wisconsin.gov/login>) or by contacting your child support agency.

### **What a payment plan cannot do for you**

A payment plan **cannot:**

- Remove your child support lien. Only satisfying the lien (paying it off in full) will remove your name from the Child Support Lien Docket.
- Stop the report of the child support lien to credit bureaus.
- Stop your tax refunds from being taken to pay the past-due support you owe.
- Stop the interception of your lump-sum payments from a public retirement fund.
- Allow you to get a passport (see "Federal actions" on page 6).

### **When should I ask for a payment plan?**

You may ask your child support agency for a payment plan at any time. However, if you receive a notice about an enforcement action (such as denying a license or seizing a savings account), you need to ask for a payment plan within 10-business days. Contact your child support agency.

### **What information do I have to provide to set up a payment plan?**

You must provide all financial information to your child support agency within 5-business days of your request for a payment plan. Your child support agency will not agree to a payment plan without this information. Your child support agency will use the information to develop a payment plan.

### **I have support orders in more than one county. What should I do?**

If you have more than one child support court order (case), and more than one child support agency notifies you of an enforcement action, you must ask each child support agency for a payment plan.

### **What would a payment plan look like?**

To prevent an action based on a lien, a plan's payments **must equal or be more** than the amount the court has already ordered. For example:

- Your court order is for \$300/month for current support and \$30/month for payment on past-due support.
- Your payment plan might look like this: You agree to pay \$400 every month until all the past-due support is paid. The \$400 monthly payment includes the \$300 for your current support, the \$30 payment ordered on past-due support, and an additional \$70 for the past-due support you owe.

### **What can I do if I do not agree with the child support agency's payment plan?**

Your child support agency will propose a payment plan. You may agree to the plan, reject the plan, or propose another plan. If you and your child support agency cannot agree on a payment plan, you may ask the court to review the plan. If the court finds that the proposed payment plan is not reasonable, the court might offer another payment plan.

### **Following your payment plan**

You must follow your payment plan by making all the payments when due. If you do not follow your payment plan, your child support agency can take actions against your bank accounts, property, and licenses. If you do not follow your plan, you might not be able to get government grants and loans.

### **Changing your payment plan**

Your payment plan might be changed if you can show a substantial change in circumstances such as a change in your "ability to earn." (Your ability to earn might change if your employer closes. However, if you decide to reduce your hours to part-time, your ability to earn has not changed.) Contact your child support agency if you have a substantial change.

### **Need more information?**

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Contact your local child support agency for information about your case or for a copy of a child support guide (listed on the front page). Phone numbers are listed under "County Government" or tribal name and online at <https://dcf.wisconsin.gov/cs/agencylist>.

More child support information is online at <https://dcf.wisconsin.gov/>. Most public libraries have free Internet access.

Or contact:

DCF is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Child Support program at (608) 422-6250. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the department.