

ALABAMA DEPARTMENT OF HUMAN RESOURCES
CHILD SUPPORT ENFORCEMENT DIVISION
ADMINISTRATIVE CODE

CHAPTER 660-3-6
STATE AND FEDERAL INTERCEPT PROGRAMS

TABLE OF CONTENTS

660-3-6-.01	General Intercept Information
660-3-6-.02	Federal Offset Program
660-3-6-.03	State Offset Program
660-3-6-.04	Unemployment Compensation Intercept Program
660-3-6-.05	Administrative Offset Program
660-3-6-.06	Federal Passport Denial, Revocation, Or Restriction Program
660-3-6-.07	Hearings On Federal Or State Tax Refund Offsets (Repealed)
660-3-6-.08	Procedures For Handling Complaints
660-3-6-.09	Taxpayer Notice Of Tax Refund Offset (Repealed)
660-3-6-.10	Transmitting Offset Refunds To Non-TANF Clients
Attachment	(Repealed 12/14/20)

660-3-6-.01 General Intercept Information.

(1) As used in this Chapter, the following terms shall have the following meaning:

(a) "tax refund intercept program" - another term for "tax offset program", the program through which tax refunds are intercepted to satisfy support obligations.

(b) "legitimately in dispute" - used to denote that the noncustodial parent has presented cancelled checks, copies of money orders, court records, court orders, etc., which appear to refute the claim by the custodial parent that support payments have been missed. The noncustodial parent's "word" that he has made the payments is not sufficient evidence that support payments have been made. The term is not intended to convey the settlement of the dispute. Ultimately, the court will have to determine what is actually owed.

(c) "tax offset fee" - a fee of \$10.00 will be deducted each year from the offset collection due to the non-TANF client from each noncustodial parent.

(d) "TANF arrearage" - past-due support debts which accrued during or prior to the time a client receives TANF; except that if the client no longer receives TANF, the past-due support certified as a "TANF arrearage" must be limited to the debt owed DHR. The term includes FCMP foster care arrearages. It may include assigned spousal support.

(e) "non-TANF arrearage" - past-due support owed to a custodian which accrued under an order of support during the child's minority regardless of the current age of the child. The term includes ACFC foster care arrearages. It may also include spousal support owed in conjunction with a child support order.

(f) "affidavit of past-due support" - in the absence of publicly accountable payment records, the client must sign an affidavit which itemizes all missed support payments. The statement will serve as the basis for documenting past-due support until such time as a court rules on the matter.

(g) "administrative offset fee" - a fee of \$10.00 will be deducted each time a federal payment is received.

(h) "administrative offset program" - the program through which certain federal payments are eligible for intercept to satisfy support obligations.

(i) "federal passport denial, revocation, or restriction program" - the program through which a U.S. passport is denied, revoked, or restricted due to a past-due child support debt.

(j) "unemployment compensation intercept program" - the program through which a portion of the unemployment compensation benefits of a noncustodial parent are intercepted and applied to current support obligations and arrearages.

(2) Eligible Cases

(a) Intercept enforcement remedies may be used for cases which involve a delinquent court or administrative ordered amount of child support and (1) the State has an assignment of

rights to support as a result of the client's receipt of TANF or FCMP foster care or (2) the non-TANF client has made application for or is otherwise receiving Title IV-D enforcement services. Requirements for the various programs are provided below:

1. TANF (including FCMP Foster Care) Tax Offset Certification Requirements

(i) The support obligation must have been established by court order. An administrative order of another state is also acceptable.

(ii) The TANF arrearages, including interest, must be at least \$150.00 for federal tax offset.

(iii) The arrearages, including interest, must be at least \$500.00 for state tax offset.

(iv) Before submittal, the county has verified the accuracy of the noncustodial parent's name and SSN and the amount of past-due support for which there is a TANF assignment in effect.

(v) The county has a copy of the payment record or an affidavit completed in the manner prescribed by the Department and signed by the custodial parent attesting to the amount of support owed.

(vi) The validity of the debt is not legitimately in dispute.

(vii) The validity of the debt is not legitimately in dispute.

(viii) In interstate cases, the federal certification can only be made by the state which has the TANF assignment. Any enforcing state must be advised that the noncustodial parent's name is being certified for federal refund offset. It may also be necessary to communicate with the enforcing state for purposes of verification of arrears, obtaining a copy of the payment record, etc.

(viii) TANF arrearages certified must also include spousal support arrearages assigned to the State as a condition of the receipt of TANF. (NOTE: In accordance with State law, cases with an arrearage of less than \$25.00 will not be certified to the State Department of Revenue.)

2. Non-TANF (including ACFC Foster Care) Tax Offset Certification Requirements

(i) The client must have applied for the child support services. The support obligation must have been established by court order except that an administrative order of another state is also acceptable. A \$10.00 certification fee will be deducted from an offset collection due the client from each noncustodial parent.

(ii) The non-TANF arrearages, including interest, must be at least \$500.00 for Federal and State certification. (NOTE: If a client currently receives TANF, all arrearages are certified under the TANF category. If the client previously received TANF, but does not currently receive it, the debt due the Department must be certified under the TANF category. Any remaining arrearages due the client would be certified under the non-TANF category.)

(iii) The validity of the debt is not legitimately in dispute.

(iv) In Interstate cases, the federal certification can only be made by the state where the client resides or has made application for child support services. Any enforcing state must be advised that the noncustodial parent's name is being certified for federal refund offset. It may also be necessary to communicate with the enforcing state for purposes of verification of arrears, obtaining a copy of the payment record, etc.

(v) Before submittal, the county has verified the accuracy of the noncustodial parent's name and SSN and the amount of delinquent support.

(vi) The Department has a copy of the order and any modifications and has a copy of the payment record or an affidavit completed in the manner prescribed by the Department and signed by the custodial parent attesting to the amount of support owed.

(vii) The noncustodial parent must not be involved in bankruptcy proceedings.

(viii) TANF and foster care records have been checked to see if there is an arrearage.

(ix) In non-TANK cases, the Department has the custodial parent's current address.

3. Unemployment compensation intercept program requirements:

(i) There is child support order with a provision for income withholding.

(ii) If there is no order, the noncustodial parent voluntarily agrees to the intercept by signing an agreement to withhold unemployment compensation.

(iii) The noncustodial parent owes a child support arrearage.

4. Administrative offset program requirements:

(i) There must be a court order for support or an administrative order from another state.

(ii) Arrearage, including interest, must be at least:

(I) \$150 for a TANF or IV-E Foster Care Maintenance Payment (FCMP) case.

(II) \$500 for a Non-TANF, Medicaid-only or Aid to Children in Foster Care (ACFC) case.

(iii) The name, social security number, and arrearage amount of the noncustodial parent must be verified.

(iv) If there was a non-IV-D period, the case record must contain a copy of the payment record, or the affidavit of the custodial parent specifying the payment not made by the noncustodial parent.

(v) The noncustodial parent must not be involved in bankruptcy proceedings.

(vi) The state certifying the case must be:

(I) The state with the TANF assignment on TANF cases,
or

(II) The state where the custodial parent lives or is receiving non-TANF services.

5. Federal passport denial, revocation, or restriction program requirements:

(i) The child support delinquency must exceed \$2,500.

(3) Original Submittal Procedures

(a) The Alabama Location, Enforcement, and Collection System (ALECS) will automatically certify all noncustodial parents meeting the criteria for intercept as requirements for submittal are met.

(4) Pre-offset Notice

(a) The Department or OCSE must send a written advance notice to individuals before referring their names for offset and passport restriction. The notice must inform noncustodial parents of the following:

1. the right to contest the State's determination that past-due support is owed or the amount of past-due support submitted;

2. the right to an administrative review hearing by the submitting state or at the noncustodial parent's request, the state with the order upon which the referral for offset is based;

3. the procedures and time frames for contacting the IV-D agency in the submitting state to request an administrative review.

(5) Case Updates: Deletions and Modifications

(a) Deletions and downward modifications of arrearages will be made by ALECS when appropriate payments are made by noncustodial parents, balances are otherwise adjusted, or a case is determined to be inappropriate for certification based on guidelines established. Upward modifications will be made as additional child support accrues.

Author: Clifford Smith

Statutory Authority: 11 U.S.C. §362; P.L. 109-171 P.L. 104-193; P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; 42 U.S.C. §654; §9 of P.L. 96-611; 42 U.S.C. §663; §5011 of P.L. 101-508

42 U.S.C. §664; 45 C.F.R. 205-235; 45 C.F.R., 301-307; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 12, 40-18-100 through 110.

History: Effective June 28, 1983. Emergency amendment effective August 8, 1985. Permanent amendment effective November 8, 1985. Succeedent emergency amendment effective November 25, 1987. Succeedent permanent amendment effective March 18, 1988. Succeedent emergency amendment effective August 30, 1991. Succeedent permanent amendment effective December 10, 1991. Succeedent emergency amendment effective July 20, 1999. **Amended:** Filed September 3, 1999; effective October 8, 1999. **Amended:** Filed October 6, 2006; effective November 10, 2006. **Amended:** Filed March 7, 2007; effective April 11, 2007. **Amended:** Filed March 6, 2009, effective April 10, 2009. **Amended:** Filed July 6, 2011, effective August 10, 2011. **Amended:** Published October 30, 2020, effective December 14, 2020.

660-3-6-.02 Federal Offset Program. IRS will freeze a potential refund which may become available for the tax processing year. The money will be transferred to the State in accordance with federal regulations for distribution by the State pursuant to federal and state law, regulations and/or rules.

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; §5011 of P.L. 101-508; 42 U.S.C. §664; 45 C.F.R. 205-235; 45 C.F.R. 301-307; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 12, 40-18-100 through 109.

History: Effective June 28, 1983. Emergency amendment effective August 8, 1985. Permanent amendment effective November 8, 1985. Succeedent amendment effective August 30, 1991. Succeedent permanent amendment effective December 10, 1991. Succeedent emergency amendment effective July 20, 1999. **Amended:** Published October 30, 2020, effective December 14, 2020.

660-3-6-.03 State Offset Program.

(1) The State Department of Revenue may freeze any refund of at least \$25 that has been certified by the Child Support Enforcement Division as a debt owed. The amount of the claimed debt will be sent to the Department of Human Resources. At the time of the transfer of the refund the Department of Revenue will notify the taxpayer that the transfer has been made. The notice to the taxpayer will give the name of the noncustodial parent, the reason for the debt, the amount of the debt, and notification that the refund (up to the amount of debt) has been transferred to DHR. The notice will provide instructions regarding the taxpayer's right to appeal and persons to contact should an appeal be desired.

(2) If a joint return has been filed and a joint refund is to be made, the notice must give the name of the taxpayer who has no debt claimed against him. The notice will state that such taxpayer is entitled to a refund if it is due regardless of the debt claimed against the spouse. The taxpayer must apply in writing for a hearing within thirty (30) days of the mailing date of the notice.

(3) Refunds received by the Department of Human Resources will be distributed pursuant to federal and state law, regulations and/or rules.

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; §5011 of P.L. 101-508; 42 U.S.C. §664; 45 C.F.R. 205-235; 45 C.F.R. 301-307; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 12, 40-18-100 through 109.

History: Effective June 28, 1983. Emergency amendment effective August 8, 1985. Permanent amendment effective November 8, 1985. Succeedent emergency amendment effective August 30, 1991. Succeedent permanent amendment effective December 10, 1991. Succeedent emergency amendment effective July 20, 1999. **Amended:** Filed September 3, 1999; effective October 8, 1999. **Amended:** Filed July 6, 2011, effective August 10, 2011. **Amended:** Published October 30, 2020, effective December 14, 2020.

660-3-6-.04 Unemployment Compensation Intercept Program.

(1) Through the income withholding process, a portion of the unemployment compensation benefits of a noncustodial

parent may be withheld and applied to the current support obligation and arrearages.

(2) The Department of Human Resources sends an income withholding order to the Department of Industrial Relations.

(3) The Department of Human Resources sends the noncustodial parent a copy of the income withholding order and a notice of the right to an administrative review. The noncustodial parent has 15 days from the date that appears on the notice to request an administrative review.

(4) Once the intercept begins, the payments continue until the Child Support Enforcement Division instructs DIR to terminate the intercept, or the noncustodial parent no longer receives unemployment compensation.

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. 651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; 45 C.F.R. 205-235; 45 C.F.R. 301-306; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6; 38-10-1 through 11, 40-18-100 through 109.

History: Succeedent emergency amendment effective July 20, 1999.

New Rule: Filed September 3, 1999; effective October 8, 1999.

Amended: Filed July 6, 2011, effective August 10, 2011.

Amended: Published October 30, 2020, effective December 14, 2020.

660-3-6-.05 Administrative Offset Program.

(1) Certain federal payments are eligible for intercept through the administrative offset program. Federal payments that are available for intercept include:

(a) Federal Retirement payments.

(b) Vendor payments.

(c) Miscellaneous payments including expense reimbursement payments and travel payments.

(2) Payments which are excluded from the administrative program include:

(a) Benefit payments from the Department of Veterans Affairs.

(b) Payments made by the Department of Education under Title IV of the Higher Education Act.

(c) Social Security payments.

(d) Railroad Retirement payments.

(3) The custodial parent is informed at the time of application for non-TANF child support services of the criteria for the administrative offset program. Additionally, the applicant is informed that:

(a) A \$10.00 certification fee will be deducted from any money collected by the intercept on behalf of a custodial parent unless the case is Medicaid-only or a TANF case;

(b) There is no guarantee that the offset will net any money.

(c) Any money collected as a result of the offset will first be applied to assigned arrearages owed by the noncustodial parent.

(d) The custodial parent is personally responsible for repaying money paid in error.

(e) The custodial parent must inform the child support agency of any address changes.

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; §5011 of P.L. 101-508; 42 U.S.C. §664; 45 C.F.R. 205-235; 45 C.F.R. 301-307; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 12, 40-18-100 through 109.

History: Succeedent emergency amendment effective July 20, 1999.

New Rule: Filed September 3, 1999; effective October 8, 1999.

Amended: Published October 30, 2020, effective December 14, 2020.

660-3-6-.06 Federal Passport Denial, Revocation, Or Restriction Program.

(1) The passport of a noncustodial parent may be denied, revoked, or restricted through the Federal Passport Program if the child support debt is in excess of \$2,500.

(2) In an interstate case, only the certifying state has the authority to delete a noncustodial parent from the passport denial, revocation, or restriction process.

Author: Clifford Smith

Statutory Authority: P.L. 109-171; P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; 45 C.F.R. 205-235; 45 C.F.R. 301-306; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 11, 40-18-100 through 109.

History: Succeedent emergency amendment effective July 20, 1999.

New Rule: Filed September 3, 1999; effective October 8, 1999.

Amended: Filed March 7, 2007; effective April 11, 2007.

Amended: Published October 30, 2020, effective December 14, 2020.

660-3-6-.07 Hearings On Federal Or State Tax Refund Offsets.
(Repealed)

Author: Janice Grubbs

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. 651 et seq.; §9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, §§30-4-80 through 98, 38-2-6; 38-2-6(1), 38-10-1 through 11, 40-18-100 through 109.

History: Effective June 28, 1983. Emergency amendment effective August 8, 1985. Permanent amendment effective November 8, 1985. Succeedent emergency amendment effective July 20, 1999. **Repealed:** Filed September 3, 1999; effective October 8, 1999 (**Ed. Note:** This rule was previously 660-3-6-.04).

660-3-6-.08 Procedures For Handling Complaints.

(1) Complaints made Prior to Offsetting the Tax Refund

(a) Noncustodial parents (or their current spouses) may file a complaint orally or in writing at any time after they receive the pre-offset notice.

(b) On receiving a complaint, the worker must conduct a case review in an effort to resolve the complaint. The noncustodial parent (or their spouse in regard to tax offset) may request an administrative review. If a joint tax refund has already been offset at the time of the complaint, the IV-D agency must refer the injured spouse to the IRS.

(c) If the review results in a deletion of, or decrease in, the amount referred for offset, the Department must notify OCSE using prescribed procedures for updates.

(2) Complaints Involving Monies Previously Collected by IRS and Transmitted to DHR for an Instate Order

(a) The Internal Revenue Service will issue notification to the noncustodial parent (and their spouse if joint return filed) that part or all of a tax refund has been received to satisfy a past-due support obligation and refer him to DHR to correct any errors or answer questions. Requests for administrative hearings should be made in writing to the County DHR or the State DHR. Administrative hearings will be conducted in accordance with hearings policy of the Department.

(b) The Department cannot conduct hearings on federal tax returns where the sole issue involves joint refunds or joint returns. These cases must be referred to IRS.

(3) Complaints Involving Monies Previously Collected by the State Department of Revenue and Transmitted to DHR for an Instate Order

(a) Noncustodial parents (and their spouse if joint return filed) have thirty (30) days from the date of mailing of the notice of offset by the State Department of Revenue to appeal. Failure of the noncustodial parent (or spouse if joint return) to apply in writing for an administrative hearing at the County Department or State Department within the thirty (30) day period will constitute a waiver of any opportunity to contest the offset. Administrative hearings will be conducted in accordance with hearings policy of the Department.

(b) Taxpayers may appeal the administrative hearing decision of the Department through the courts by filing notice of appeal within thirty days after receipt of the final hearing decision. Notice can be filed with the county or state Department of Human Resources office. A petition for judicial

review must be filed in the circuit court in the claimant's county or residence or Montgomery County Circuit Court. A petition for judicial review must be filed within thirty days of the filing of the notice of appeal.

(c) In accordance with state law, after final determination of the debt due the State as a result of an administrative hearing (or after thirty days, if the taxpayer does not request a hearing) state tax refund monies that are due the Department or its Title IV-D clients will be transferred from an escrow account (where they have been held) to the noncustodial parent's child support account. Any refund due will be issued to the taxpayer at the time monies are transferred from the escrow account.

(4) Complaints Involving Interstate Cases (Order Issued Outside Alabama)

(a) Upon receipt of a complaint from a noncustodial parent concerning a refund which may be or already has been offset, the child support worker must immediately conduct a review of the case in an effort to determine the complaint's validity.

1. If the sole issue of the complaint involved a federal joint return, the complaint should be referred to IRS.

2. If the refund has not already been offset and the certified amount is determined to be legitimately in dispute, a deletion or modification, as appropriate, must be submitted to OCSE within 10 working days of the review.

3. If the refund has been offset and it is determined in the review that money is owed the noncustodial parent, a refund to the noncustodial parent should be made promptly.

4. If the child support worker is unable to resolve a noncustodial parent's complaint and the NCP requests a review by the state which issued the order, the worker must notify the state which issued the support order within 10 days of the request. OCSE must also be advised of the transfer.

(b) The state (in Alabama this will be the local child support unit) with the order must send a notice to the noncustodial parent and custodial parent of the time and place of the review, conduct the review and make a decision within 45

days of the receipt of the notice and information from the certifying state. The reviewing state must base its decision on policy considerations of the submitting state.

(c) When the review results in a deletion of, or modification in, or a change in the amount referred for offset, they must notify OCSE within 10 working days of the administrative review using the regular update procedures. OCSE will confirm with the certifying state that the state with the order has deleted or modified a case due to a review. If the offset has already occurred, the state with the order must notify the submitting state of its decision and the submitting state must take steps to refund any excess amount offset to the noncustodial parent promptly. If the client has already been sent the money, he or she is to be asked to return it. He or she should be given the option to pay the full amount or arrange a payment plan to satisfy the debt within 90 days if unable to pay the full amount. (When a review is conducted in the state with the order, the submitting state is bound by the decision made by that state. As in intrastate cases, refunds in joint return cases are payable to both parties.)

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; §5011 of P.L. 101-508; 42 U.S.C. §664; 45 C.F.R. 205-235; 45 C.F.R. 301-307; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 12, 40-18-100 through 109.

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660-3-6-.09 Taxpayer Notice Of Tax Refund Offset. (Repealed)

Author: Janice Grubbs

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. 651 et seq.; §9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, §§30-4-80 through 98, 38-2-6, 38-2-6(1), 38-10-1 through 11, 40-18-100 through 109.

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660-3-6-.10 Transmitting Offset Refunds To Non-TANF Clients.

(1) The Department shall promptly send offset refunds due clients except that in the event an offset is made on a federal joint refund, the amount offset shall be retained by the Department for six months from the date the Department was notified of the offset. This is to avoid the potential filing of an amended return and the resulting refund of monies to the taxpayer.

(2) In the event refund monies are forwarded to a client and it is later determined that the client is not entitled to all or a portion of said amount, the client shall be required to return the amount in dispute to the Department. This could be the result of an erroneous or invalid offset, the filing of an amended return, a hearing decision, etc. The client is to be given an opportunity to repay the money in full or to arrange a payment plan to satisfy the debt within ninety (90) days if unable to pay the full amount.

Author: Clifford Smith

Statutory Authority: P.L. 93-647; P.L. 98-378; 42 U.S.C. §651 et seq.; §9 of P.L. 96-611; 42 U.S.C. §663; 45 C.F.R. 205-235; 45 C.F.R. 301-306; Alabama State Plan - Child Support Enforcement Program; Code of Ala. 1975, §§30-3D-101 through 902, 38-2-6, 38-10-1 through 11, 40-18-100 through 109.

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ALABAMA DEPARTMENT OF HUMAN RESOURCES
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