



# Child Support Enforcement Program

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# Child Support Enforcement Program

## Introduction

There is a significant difference in the economic well-being of children who are raised in two-parent families and children raised in families headed by a single parent. Wisconsin census data for 2016 indicate that 14.6% of families with children under the age of 18 and 16.3% of families with children under the age of five lived in households with income below the federal poverty level. For single-parent, female-headed households, those statistics increase to 39.2% and 47.8%, respectively.

The share of single-parent households in Wisconsin has increased significantly over the past 50 years. The percentage of Wisconsin households with children headed by a married couple declined from 91% in 1970, to 68% in 2016. In contrast, the percentage of households with children headed by a single woman rose from eight percent in 1970 to 23% in 2016, while the percentage of households with children headed by a single man rose from two percent in 1970 to 9% in 2016.

The child support enforcement program is designed to ensure that parents provide financial and medical support for their children. According to the U.S. Census Bureau's current population survey for 2015, the average amount received under the program represents 58% of income for custodial-families in poverty that received the full amount of child support owed.

In addition, the child support enforcement program helps reduce public welfare spending for single-parent families. The creation of Title IV-D of the Social Security Act in 1975 and subsequent federal and state legislation was a response to an increasing awareness that most families are eligible for public welfare programs solely due to the

absence of a parent as a result of a non-marital birth, divorce, desertion, or separation.

In 1996, the federal Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193, also referred to as PRWORA) abolished aid to families with dependent children (AFDC) and related programs and replaced them with a block grant program called "temporary assistance for needy families" (TANF). Wisconsin made a number of changes to its paternity establishment and child support enforcement laws in order to conform to PRWORA in 1997 Wisconsin Act 191. States previously had been required to operate a child support and paternity establishment program in order to be eligible for AFDC funding. As part of PRWORA, states are still required to operate a child support and paternity establishment program meeting federal requirements in order to be eligible for TANF funds. PRWORA required states to increase the percentage of fathers identified, establish an automated network linking all states to information about the location and assets of parents, and to implement additional paternity establishment and support enforcement provisions. Additional changes were introduced by the federal Deficit Reduction Act of 2005 (P.L. 109-171), which are discussed in further detail throughout this paper.

Child support enforcement is administered at the federal, state, and local levels. The federal government provides funding to the states to offset the costs of child support administrative and enforcement activities. In order to receive federal funding, state child support enforcement programs must conform to certain federal regulations and standards. The Office of Child Support Enforcement (OCSE) in the U.S. Department of Health

and Human Services administers the child support program at the federal level. OCSE's primary responsibilities include: (a) establishing regulations and standards for state child support programs; (b) providing technical assistance to help states establish effective child support collection and paternity establishment systems; (c) reviewing and approving state Title IV-D plans; (d) evaluating and auditing state programs; and (e) operating the federal parent locator service.

At the state level, the Wisconsin Department of Children and Families (DCF), Bureau of Child Support administers the child support enforcement program. The Bureau's primary responsibilities include: (a) developing and administering the state Title IV-D plan; (b) monitoring the activities of local agencies to ensure compliance with state and federal law and policies; (c) providing technical assistance, training, and written instructions for county child support agencies; (d) collecting and disbursing child support payments; (e) operating the state parent locator service and a central registry to expedite processing of interstate cases; (f) coordinating intercept programs, property liens, and license suspensions for failure to pay child support; (g) operating a financial record matching program; (h) developing and maintaining a statewide automated child support data system; (i) operating a state directory of new hires in conjunction with the Unemployment Insurance Division in the Department of Workforce Development (DWD); (j) approving reimbursement payments for allowable costs, distributing incentive payments, and establishing fees for non-Wisconsin Works (W-2) child support services; (k) maintaining statewide records of collections and disbursements and providing reports to OCSE; (l) publicizing the availability of child support services; and (m) maintaining the child support lien docket.

At the local level, counties are required to contract with DCF to implement and administer the program. County responsibilities include: (a) establishing child support and medical support orders; (b) establishing paternity; (c) providing data

related to support orders; and (d) enforcing medical and financial child support orders. In order to carry out these activities, counties enter into cooperative agreements with the offices of the corporation counsel or private attorneys, clerks of court, sheriffs, and other officials and agencies. The attorneys responsible for child support enforcement, corporation counsel, circuit court commissioners, clerks of court, and all other county officials are also required to cooperate with DCF, as necessary, to provide the services required under the program.

This paper provides information on federal and state child support enforcement provisions, how child support amounts are determined in Wisconsin, the various methods used by counties and the state to enforce child support orders, and how these enforcement services are funded.

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### **Establishment of Paternity**

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According to the Wisconsin Department of Health Services (DHS), in 2016, a total of 66,593 children were born to women who were Wisconsin residents. Of these babies, 37.1% were born to unmarried mothers. This reflects an increase in the proportion of non-marital births in Wisconsin from 30% in 1999. Nationally, 39.8% of all babies born in 2016 were born to unmarried mothers. In 2016, the Wisconsin Child Support program established paternity for 24,893 children.

A man cannot be ordered to support a child unless he is presumed to be the child's father based on marriage, has filed a voluntary acknowledgment of paternity with the state registrar, or is adjudicated the father by a court.

### **Presumption of Paternity Based on Marriage**

Wisconsin law raises a presumption of paternity based on marriage in two circumstances.



First, a man is presumed to be the natural father if the child is conceived and/or born after marriage and before a legal separation, annulment, or divorce. Second, paternity will be presumed if the child is conceived during a pre-marital relationship and the man and woman marry after the child is born (except in those cases where another man already has been adjudicated as the father or has been presumed father by marriage).

The presumption of paternity is rebuttable in a court proceeding if a genetic test shows that the statistical probability of another man's parentage is 99% or higher and that this other man is not excluded as the child's father. The man presumed to be father need not be available for the proceedings in order for genetic tests to rebut the presumption.

### **Presumption of Paternity Based on Voluntary Acknowledgement**

If no other man is presumed to be the father by marriage, a man who is not married to the child's mother is presumed to be the natural father of a child if he and the mother file a signed statement with the state registrar acknowledging paternity. Once filed, the father's name will be entered onto the child's birth certificate. A statement acknowledging paternity, that has not been rescinded, is a conclusive determination of paternity and has the same effect as a judgment of paternity.

An action for custody, child support, or physical placement rights may be brought once the statement of acknowledgement is signed and filed. However, to be effective the statement must contain an attestation clause showing that both parties received notice of the legal consequences of, the rights and responsibilities arising from, and the alternatives to, signing the statement.

A statement acknowledging paternity may be rescinded if the person rescinding the statement files a document with the state registrar. To be effective, the rescinding document must be filed on

or before the earlier of: (a) 60 days after the acknowledgement statement was filed or (b) before the day a court or circuit court commissioner makes an order involving the man and the child.

A parent under age 18 may not sign a statement acknowledging paternity.

A statement acknowledging paternity may be voided at any time if fraud, duress, or mistake of fact is demonstrated. If a court finds that a man who had previously filed a statement acknowledging paternity is not the child's father, the court must vacate any order entered in reliance on that statement, and no further paternity action may be brought against the man with respect to the child.

### **State Paternity Establishment Program**

For a birth that occurs at, or en route to, a hospital and if the child's parents are not married, the hospital must give the mother a pamphlet on how to add the father's name to the birth certificate and a form for the voluntary acknowledgment of paternity. Before the parents sign the form, trained and designated hospital staff must provide the child's parents with oral and written information about the form and about the significance and benefits of, and alternatives to, establishing paternity. DCF provides training to hospital staff regarding the provision of this information. If the form is completed while the mother is in the hospital and within five days after the birth, the hospital must send the form directly to the state registrar.

DCF pays the hospital a \$20 financial incentive if the statement is filed within 60 days after the child's birth. DCF indicates that such payments totaled approximately \$187,100 in 2016-17.

### **Birth Certificates**

For births occurring within Wisconsin, state law requires a birth certificate to be filed by the hospital or physician with the state registrar on or before five days after the birth. Consistent with the

presumption of paternity based upon marriage, if the mother was married at any time from conception up to the time of the child's birth, the name of the mother's husband will be recorded on the birth certificate as the father (except in certain cases of surrogacy and artificial insemination). If the mother was not married at any time from the conception to the birth, unless a statement acknowledging paternity is filed, no name will be entered for the father on the birth certificate.

A birth certificate may be altered by a valid statement acknowledging paternity. If the mother and father of a non-marital child marry after the child's birth, the child is considered to be a marital child and the parents are entitled to file an acknowledgment of marital child to change the birth certificate to add the father's name.

In the event that the father's name has not been inserted onto the birth certificate within six months of the child's birth, the state registrar must refer the certificate to the county child support agency. The district attorney, or corporation counsel, must follow up with the mother and make a reasonable effort to obtain her cooperation to establish paternity. If such attempts fail, the attorney must commence a paternity action except in limited circumstances such as artificial insemination, surrogacy, or where establishment of paternity would result in physical or emotional harm to the child or mother.

### **Adjudication of Paternity**

Under state law, the following persons may bring a legal action to determine the paternity of a child: (a) the child; (b) the child's natural mother; (c) a man presumed to be the child's father (unless a statement acknowledging paternity is filed); (d) a man alleged or alleging himself to be the father of the child; (e) the personal representative of an individual listed above if the individual is deceased; (f) the child's legal or physical custodian; (g) a guardian ad litem appointed for the child; (h) a grandparent (or alleged grandparent) of the

child, in conjunction with a petition for visitation rights or if the grandparent is potentially liable for maintenance of the child; and (i) under certain circumstances, a state or county child support enforcement attorney. In general, an action to establish paternity must be commenced within 19 years of the child's birth.

A paternity action is commenced by filing the summons, notice, and petition for paternity with the clerk of court for the county in which the child or alleged father resides. The alleged father must be served with process within 90 days unless there is good cause to extend the time for service. The court or court commissioner may dismiss a paternity action and refuse to order genetic tests if it is determined that it is not in the best interest of the child to determine if the man is the child's father.

A paternity action generally proceeds in three stages. First, the initial appearance is held within 30 days after the alleged father is served. The court will inform the parties of their rights, and may enter a paternity judgment if paternity is uncontested or, if contested, order genetic testing. Second, at the pretrial hearing the court will review evidence (such as genetic testing) and issue a recommendation regarding the probability of determining paternity at trial. Based upon the agreement of the parties to the court's recommendation, the court may enter a paternity judgment at the pretrial hearing. If no settlement is reached, the case proceeds to trial.

Paternity hearings, discovery, and trials are generally confidential and closed to all those who are unnecessary to the conduct of the proceedings. However, the clerk of circuit court must provide access to the record of any paternity proceeding to DCF or any child support agency, regardless of whether they are a party to the proceeding, for purposes of administering child support enforcement activities.

If an alleged father is properly served but fails to appear for a scheduled court hearing or court-ordered genetic test, the court must enter a default

judgment which adjudicates him as the father. If there is more than one person alleged to be the father, a default judgment cannot be entered unless all other alleged fathers have been excluded as the father and the individual in question is the only one who fails to appear, or his genetic test shows his statistical probability of parentage as 99% or higher. A default paternity judgment may be reopened upon motion within one year or at any time upon a showing of good cause. The alleged father may still be adjudicated the child's father if the mother fails to appear at certain proceedings.

A paternity judgment must be entered if the father files, and the court approves, a written stipulation which acknowledges his paternity and resolves issues of child support, legal custody, and physical placement. Unless the father presents evidence of good cause why the order should not take effect, the order takes effect upon entry if the father agrees or 30 days after service (or the date mailed) if the father does not agree. A stipulated paternity judgment may be reopened upon motion within one year after the judgment or at any time upon a showing of good cause, unless each party appeared personally before the court at least one time during the proceeding.

A judgment or order determining paternity must contain all of the following: (a) an adjudication of paternity; (b) orders for legal custody and physical placement; (c) an order requiring either or both parents to contribute to the support of a child who is less than 18 years of age (or a child less than 19 years of age if the child is pursuing a high school diploma or its equivalent); (d) a determination of which parent can claim the child as an exemption for federal or state income tax purposes; (e) an order establishing the amount required to be paid or contributed by the father for reasonable expenses associated with the mother's pregnancy and the child's birth (not to exceed one-half of total costs); (f) an order requiring either or both parents to contribute to the cost of a guardian ad litem, genetic test, and other costs; (g) an order requiring either party to pay or contribute to the

other's attorney fees; and (h) an order that the payer must provide notice within 10 days of any change in address, employer, or substantial change in income.

Generally, liability for child support under the paternity judgment begins with, and is limited to, the day after the filing of the paternity determination petition. An exception to this limitation is provided if both of the following are shown to the satisfaction of the court: (a) the petitioner was induced to delay because of duress, threats, promises made by the other party upon which the petitioner relied, or actions taken by the other party to evade paternity proceedings; and (b) after the inducement ceased to operate, the petitioner did not unreasonably delay commencing the action. State law specifies that liability for past support may not be imposed for any period before the birth of the child.

### *Genetic Tests*

If paternity is contested, the court may, and upon the request of a party or by the guardian ad litem must, order the mother, child, and any alleged father to submit to genetic tests. County child support agencies also have the authority to order genetic tests. However, an alleged father may be asked to submit to a genetic test only if there is probable cause to believe he and the child's mother engaged in sexual intercourse during a possible time of conception. If the genetic tests show that the alleged father is not excluded and that the statistical probability of the alleged father's paternity is 99% or higher, a rebuttable presumption arises that the alleged father is the child's father. If the results of the test exclude the man as the father of the child, this evidence is conclusive evidence of non-paternity and the court must dismiss the paternity action. Contested paternity actions are usually settled by the results of genetic tests. Very few cases go to trial.

The county initially pays the cost of genetic tests. However, at the close of the paternity

proceeding, the court may order either or both parties to reimburse the county if they have sufficient resources. If two or more identical tests were performed on the same person, the person requesting the subsequent tests must pay for them in advance, unless the court finds that person to be indigent. If the county child support agency orders genetic tests and the test shows a probability of 99% or greater that a man is the father, the agency may seek reimbursement from either or both parties for the costs of the test.

At any time while a paternity action is pending, when a genetic test shows that the alleged father is not excluded as the child's father and shows a probability of 99% or greater that the man is the father, the court is required, upon motion by a party, to make a temporary order for the payment of child support. The court may also make a temporary order regarding the child's health care expenses. Before making such a temporary order, the court must consider the same factors that are considered in granting a final judgment of paternity.

### **Paternity Cases Involving Public Assistance**

Federal law requires applicants for, and recipients of, TANF assistance to assign their support rights to the state in order to receive benefits. In addition, each TANF recipient must cooperate with the state to establish paternity and to obtain child support payments.

All paternity cases involving recipients of Wisconsin Works (W-2), medical assistance (MA), and child care assistance are referred to the appropriate county child support agency. The county agency must attempt to establish paternity in non-marital cases. In some situations, such as those possibly involving incest or sexual assault, an action to establish paternity may be waived if it is in the best interest of the child to do so.

Each parent (whether the custodial or noncustodial parent) must cooperate in good faith with the child support agency in establishing paternity and obtaining support payments in order to be

eligible for W-2, child care assistance, and MA coverage, unless good cause can be shown for refusing to do so. Good cause may be established in a number of ways, such as demonstrating that cooperation may be reasonably anticipated to result in serious physical or emotional harm to the child, the parent, or other caretaker relative. A W-2 group whose members have failed to meet this requirement three times is ineligible for benefits until all members of the group cooperate or for six months, whichever is later.

Similarly, medical support for the expenses of the mother's pregnancy and the child's birth are assigned to and recoverable by the state. Notwithstanding the above requirements for cooperation with the child support agency, cooperation is not a condition of MA eligibility for children or pregnant women.

Previously, Wisconsin also required supplemental nutrition assistance program (SNAP, or, in Wisconsin referred to as FoodShare) applicants and recipients to establish and comply with child support and paternity orders to be eligible. However, with the enactment of 2007 Act 20, Wisconsin no longer requires compliance with child support orders and paternity establishment efforts.

2017 Act 59 restored the child support cooperation requirement in FoodShare as a condition of eligibility. However, the relevant provisions of Act 59 will not take effect unless DCF and DHS determine that the new provisions can be implemented in a manner that is substantially state budget-neutral in regard to collection of fees for child support services. Upon making such a determination, the new provisions would take effect on the first day of the sixth month beginning after the date of DHS and DCF notify the Governor and the Joint Finance Committee.

As of January, 2019, DCF had not requested the necessary waivers from the U.S. Department of Health and Human Services in order to

implement the changes included in Act 59. DCF had been waiting to determine whether federal law changes to SNAP, potentially included in the Agricultural and Nutrition Act of 2018 (the 2018 Farm Bill), would render a waiver unnecessary.

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### **Establishing Support**

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In federal fiscal year 2017, the Wisconsin Child Support program helped establish support orders for 36,025 families. A court must direct either one or both parents to pay an amount reasonable or necessary to fulfill the parental responsibility to provide for their minor children whenever the court: (a) enters a judgment of annulment, divorce, or legal separation; (b) approves a stipulation for child support; (c) enters an order or judgment in a paternity action or action for child or family support; or (d) enters an order or judgment in actions to compel support or in voluntary acknowledgements of paternity. The parental support obligation continues until a child reaches age 18, unless the child is pursuing an accredited course of instruction leading to a high school diploma or the equivalent. In such cases, the support obligation continues until the child either reaches age 19 or completes a high school diploma or equivalent.

State law requires the court to determine the child support amount by using the percentage standard established by administrative rule (DCF 150). Under this standard, the amount of child support is based on the obligor's income and the number of children that are to be supported. Special provisions apply to cases in which a parent has support obligations in more than one family, when both parents have substantial periods of physical placement, and when a parent is either a low-income payer or a high-income payer.

The amount of support ordered must be expressed, with limited exceptions, as a fixed dollar

amount in the order. This enables the federal government to assess Wisconsin's performance on collecting current amounts of support due and arrearages. These performance measures are used to determine the amount of federal child support incentive payments awarded to states (discussed in a later section of this paper).

In the limited instances where a percentage-based orders are allowed, the order must be converted to a fixed sum for purposes of assignment of income, regardless of whether the parties agree that the amount may be calculated as a percentage of the payer's income. As a result, although the underlying support order may be expressed as a percentage of income, for purposes of withholding income the order is required to state a fixed sum which may be adjusted as described below.

### **Determining Child Support Using the Percentage Standard**

The percentage standard established in DCF 150 is based on research, conducted by the University of Wisconsin's Institute for Research on Poverty, which produced estimates of the amount of income and disposable assets that parents use to raise their children. The intent of the standard is to ensure that, to the extent possible, a child's standard of living is not adversely affected because his or her parents do not live together.

Under the percentage standard established in DCF 150, the amount of child support is based on the income of the parent obligated to pay support (payer) and on the number of children that are to be supported, as follows:

- a. for one child, 17% of the payer's income;
- b. for two children, 25% of the payer's income;
- c. for three children, 29% of the payer's income;

d. for four children, 31% of the payer's income; and

e. for five or more children, 34% of the payer's income.

The percentage of income standard is applied to the payer's actual and imputed gross income available for child support. Actual gross income includes wages and salary, interest and investment income, social security disability and old-age insurance benefits, net proceeds from worker's compensation or other personal injury awards intended to replace income, unemployment insurance, income continuation benefits, voluntary deferred compensation and other employee contributions to any pension or retirement account, military allowances and veterans disability benefits, undistributed income of a corporation, and all other income except for public assistance and child support. Contributions to pension and retirement accounts are considered income, regardless whether that contribution is voluntary.

In determining the payer's base income amount, the court may adjust gross income by adding wages paid to dependent household members and deducting necessary business expenses. The court may also consider and adjust the payer's income downward for the child's adoption assistance payments and the child's social security benefits that are received by the custodial parent.

In situations where the income of a parent is less than the parent's earning capacity or is unknown, in the absence of credible evidence to the contrary the court may impute income to the parent at an amount that represents the parent's ability to earn based on various factors, including the parent's education, training and recent work experience, and the availability of work in or near the parent's community. As an alternative to imputed income, the court may order a noncustodial parent to search for a job or participate in a work experience and job training program (such as the Children First program).

A court may also impute a reasonable earning potential to a parent's underproductive assets if the parent has diverted income into underproductive assets in order to avoid paying child support or the income from underproductive assets is necessary to maintain the child at the standard of living they would have had if the child were living with both parents. Imputed income from assets is determined by multiplying the total net value of such assets by the current six-month treasury bill rate, or any other rate that the court determines is reasonable, and subtracting the actual earnings of the assets that were included in actual gross income.

As an example, if a payer's annual gross income is \$30,000 and the payer is ordered to provide support for one child, the monthly support obligation would be \$425. This amount is determined by multiplying the payer's \$2,500 monthly income ( $\$30,000 \div 12$ ) by the 17% standard for one child. The court may order the payee to waive the personal exemption for the dependent child for federal income tax purposes, contingent on the receipt of child support payments.

The court may, upon request, deviate from the amount of child support payments determined by using the percentage of income standard if the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties. The court may consider the following factors:

- a. the financial resources of the child;
- b. the financial resources of both parents;
- c. maintenance received by either party;
- d. the needs of each party for support at a level equal to or greater than the federal poverty level;
- e. the needs of any person, other than the child, whom either party is legally obligated to support;

f. if the parties were married, the standard of living the child would have enjoyed had the marriage not ended in annulment, divorce, or legal separation;

g. the desirability that the custodian remain in the home as a full-time parent;

h. the cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home;

i. the award of substantial periods of physical placement to both parents;

j. extraordinary travel expenses incurred in exercising visitation rights;

k. the physical, mental, and emotional health needs of the child, including the costs of health insurance and uninsured health care for the child;

l. the child's educational needs;

m. the tax consequences to each party;

n. the earning capacity of each parent, based on each parent's education, training, and work experience, and the availability of work in or near the parent's community;

o. the best interests of the child; and

p. any other factors that the court in each case determines are relevant.

If the court deviates from use of the percentage of income standard, the court must state, in writing or on the record, its reasons for finding that use of the percentage standard is unfair to the child or the parent, the amount of the modification, and the basis for the modification.

DCF currently charges interest at a rate of 0.5% per month on unpaid child support. The interest is added to the amount owed by the payer.

## **Determining Child Support in Special Circumstances**

DCF 150 also includes special provisions for determining child support obligations in situations under which: (a) an individual has child support obligations in more than one family (serial-family payers); (b) a child has substantial periods of physical placement with each parent (shared custody); (c) an individual has custody of some, but not all, of his or her children (split custody); and (d) the payer is either a low-income payer or a high-income payer.

For shared placements in which the court orders each parent to have placement for at least 25% of the time, the basic support costs will be adjusted in proportion to the time that each parent cares for the child. Further, based upon a list agreed to by the parents (or as ordered by the court) the court must assign responsibility for variable costs above the basic support costs (such as transportation for physical placement, child care, and tuition) in proportion to each parent's share of placement.

For parents supporting more than one family, the court may adjust a parent's income downward to account for the preexisting legal obligation to other children. For example, assuming a parent with a monthly income of \$3,000 is obligated to pay a support order of \$750 (25%) for two older children, when establishing a new support order for a younger child with a different family the court will adjust the parent's income to \$2,250. The order of legal obligation begins when a child is conceived or born during the parent's marriage, when adopted, or when legal fatherhood is established. For the purpose of calculating a support obligation for children from a subsequent family, a parent with a preexisting legal obligation to support a child in an intact family is considered to be a serial family payer.

For split placements, the percentage standard is prorated based on the placement of the children.

For example, if two children are placed with parent A having \$2,000 of monthly income and one child is placed with parent B having \$2,500 of monthly income, then parent B's monthly child support would be \$241.75, which is the difference between \$483.50 (two-thirds of 29% of parent B's income) and \$241.75 (one-third of 29% of parent A's income).

Low-income payers pay less than the established percentage standard. Appendix C to DCF 150 establishes the percentage of income which a low-income payer is obligated to contribute for child support. DCF updates Appendix C each year, based on the most recently available federal poverty guidelines. For 2018, with a monthly income of \$759, a low-income payer must contribute: (a) 11.22% of income for one child; (b) 16.50% of income for two children; (c) 19.14% of income for three children; (d) 20.46% of income for four children; and (e) 22.44% of income for five or more children. The percentage of income a low-income payer must contribute to child support gradually increases until monthly income equals \$1,518. At a monthly income of \$1,518, the standard percentage amounts listed above would apply.

In addition, if a payer's monthly income is less than \$759, a court may establish an amount of child support appropriate for the payer's total economic circumstances. This amount may be less than the lowest amount established for a low-income payer in DCF 150.

A high-income payer is a payer whose monthly income is greater than or equal to \$7,000. A high-income payer's monthly income would be divided into three tiers. The high-income payer is required to pay different percentage levels of income based on the tier of income. First, the standard percentage amounts apply up to the first \$7,000 of a high-income payer's monthly income. Second, for the monthly income from \$7,000 to \$12,500, the high-income payer would pay from 14% to 27% based on the number of children supported. Finally, for all monthly income greater than \$12,500, the high-

income payer would pay from 10% to 20% based on the number of children supported.

The court may apply any combination of the provisions for serial, shared, and split placements where applicable. Further, the formula used for low-income payers may be combined with the formulas used for shared, serial, and split placements, if applicable (such as multiple support orders pushing the parent into the low income threshold). And the formula used for high income payers may be combined with the formula used for shared placements, if applicable.

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### **Revising Child Support Orders**

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A final judgment or order for child support is periodically subject to modification by court order. A party seeking to modify a child support order may commence an action without the assistance of an attorney. The circuit court commissioner must provide information relating to the procedure for modifying child support orders and the major issues usually addressed in such actions. Some counties also provide "do-it-yourself" packets for filing such actions. If a party desires legal assistance, he or she may seek the services of a private attorney. Alternatively, either parent may seek child support modification services from the county child support agency. These services are provided free of charge to persons receiving cash benefits under W-2, supplemental security income (SSI) caretaker supplements, or kinship care. Fees may be charged to parents who do not receive assistance under these programs.

The following sections describe provisions relating to the revision of child support orders.

### **Venue for Actions to Revise Child Support Orders**

Actions to modify a child support judgment or



order generally must be filed in the county where the original judgment or order was rendered or in the county where the minor child resides. However, such actions may be filed in another county if: (a) all parties stipulate to filing in another county; or (b) the court in the original county orders the action to be filed in another county upon a showing of good cause.

### **Factors Considered in Actions to Modify Support**

The amount of child support established under a child support order or judgment may be modified only if the court finds a substantial change in the circumstances of the parties or the child. Under state law, several occurrences give rise to a rebuttable presumption that a substantial change of circumstances has occurred. These include:

- a. commencement of participation in W-2 by either parent since the entry of the last child support order;
- b. the expiration of 33 months since the date of the last child support order, except in the case of a percentage-expressed order;
- c. failure of the payer to furnish a timely annual financial disclosure; or
- d. a difference between the amount of child support ordered by a court and the amount that would have been required based on the percentage standard, if the court did not use the percentage standard in determining the child support payments and did not explain its reasons for doing so.

In addition to the above-identified rebuttable presumptions, the statutes specify several other occurrences that may be found to constitute a substantial change in circumstances. These conditions include: (a) a change in the payer's income from the last time support was set (except for orders expressed as a percentage of income); (b) a change in the needs of the child; (c) a change in the payer's

earning capacity; and (d) any other factor the court determines to be relevant. A change in the child's variable costs is not in and of itself considered a substantial change in circumstances sufficient to justify a revision of a judgment or order.

If the court decides to modify a child support order, it generally may not revise the amount of support due, or the arrearages that have accrued, prior to the date that notice of the action to modify the order is given to the responding party, except to correct previous errors in calculations. However, the statutes specify exceptions to this restriction to allow the court to grant credit against support due for certain payments the non-custodial parent may have made to the custodial parent that fall outside the regular court-ordered support. Examples include non-regular payments made directly to the custodial parent by check or money order that--by a preponderance of the evidence--can be shown to be intended for support (and not, for example, as a gift to the child) and payments made to the custodial parent that can clearly be shown to have resulted from a written agreement under which the payee expressly agreed to accept the payments in lieu of child or family support (subject to the restriction that the payments were not gifts or contributions for entertainment).

### **Determining the Amount of Modified Support**

In modifying a child support order, a court must apply the percentage-of-income standard discussed above. If married or remarried, the obligor is treated as if he or she were single for purposes of applying the percentage standard. Thus, the percentage standard is applied only to the income of the obligor and not to the income of that parent's spouse. Upon request of a party to the action, the court may deviate from the percentage standard if it finds by the greater weight of the credible evidence that the use of the percentage standard is unfair to the child or any of the parties. In determining whether the percentage of income standard is unfair, the court must consider the

factors identified in the section entitled "Establishing Support."

Under state law, if the state is a real party in interest, DCF must periodically review the case to determine if a modification is necessary. The state is a real party in interest whenever: (a) in an action to establish paternity, a completed application for legal services has been filed with the child support agency or the agency has received notice that no father is named on the child's birth certificate; (b) in an action to establish or enforce a child support obligation, a completed application for legal services has been filed with the child support agency; or (c) the child receives or has received medical assistance, kinship care, AFDC, or foster care benefits, or the custodial parent receives or has received W-2 or child care benefits. If the county child support agency determines it appropriate to modify the child support order, the agency must seek a modification of the order.

### **Annual Adjustments in Support**

A child support order may provide for an annual adjustment to the support obligation based on a change in the payer's income and based on the percentage standard established by administrative rule DCF 150. No adjustment may be made under this provision unless the order specifically allows for the adjustment, and an adjustment under this provision may not be made more than once per year. However, there is no limit on a party's right to file, at any time, a petition for a change in the support amount under other sections of Wisconsin's child support enforcement laws.

Either party--not just the person entitled to the payments-- may request such an adjustment. In the order, the court or circuit court commissioner must specify what information the parties are required to exchange to determine whether the payer's income has changed, as well as the manner and timing of the information exchange. In addition, if the order provides for an annual adjustment, a form must be provided by the court or circuit court

commissioner for the parties to use in stipulating to an adjustment of the support amount. The form must include an order, to be signed by a judge or circuit court commissioner, for approval of the stipulation of the parties.

If the payer's income changes from the amount used in determining the existing support order, the parties may implement an annual adjustment by stipulating to the changed income amount and the adjusted support amount, using the form described above. An adjustment made in this way takes effect on the date when the revised order is signed by the judge or court commissioner.

If the payer's income changes, but a party refuses to sign the stipulation for an adjustment in the amount of support, any party (including the state if the state is a real party in interest) may file a motion, petition, or order to show cause for implementation of an annual adjustment. Such a filing may also be made if a party refuses to provide the information required by the court in order to determine whether the payer's income has changed. If it is determined after a hearing that an adjustment should be made, the court or circuit court commissioner must enter an order for the revised amount of support. In general, such an adjustment may not take effect before the date on which the responding party received notice of the action. However, the court or circuit court commissioner has discretion to order that all or part of the adjustment not take effect until a date of the court's determination under any of the following circumstances: (a) the payee was seeking an adjustment and the payer establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted support obligation; (b) the payer was seeking an adjustment and the payee establishes that the payer voluntarily and unreasonably reduced his or her income below his or her earning capacity; or (c) the payer was seeking an adjustment and the payee establishes that the adjustment would be unfair to the child.

Finally, if the court or circuit court

commissioner determines that a party has unreasonably failed to provide the information required in order to determine whether the payer's income has changed, or to provide the information on a timely basis, or unreasonably failed or refused to sign a stipulation for an annual adjustment, the court or circuit court commissioner may award actual costs (including service costs, any costs attributable to time missed from employment, the cost of travel to and from court, and reasonable attorney fees) to the aggrieved party.

### **Mandatory Review and Adjustment of Support for Families Receiving TANF Assistance**

Federal law requires states to review and adjust, if necessary, child support orders every three years (or sooner as the state may determine), in actions involving families receiving TANF assistance. One of three methods may be used to review and adjust these child support orders: (a) full review and adjustment; (b) cost-of-living adjustment; or (c) automated adjustment. Under the options of (b) and (c), the procedures must include the opportunity for either party to contest the adjustment within 30 days after the date of the notice of the adjustment.

As discussed above, state law provides for annual adjustments based on a change in the payer's income if the amount of child or family support is expressed in the order as a fixed sum, based on the percentage standard, and a provision for an annual adjustment is included in the court order. Annual adjustments do not require the parties to show a substantial change of circumstances before an adjustment can be made outside the normal three-year review and adjustment cycle.

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## **Medical Support Obligations**

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### **Birth Cost Judgement**

Wisconsin law requires the paternity order to

establish the amount of the father's obligation to pay for the reasonable expenses of the mother's pregnancy and the child's birth. The order must take into account the father's ability to pay and may not exceed one-half of the total actual and reasonable pregnancy and birth expenses nor exceed 5% of the father's current monthly income available for child support multiplied by 36 months. Each year DCF produces a payment schedule based upon federal poverty level guidelines for use in such determinations.

Recovery of birth costs is inappropriate in cases where the alleged father is a member of an intact family that includes the mother and the child at the time paternity or support is established, and the father's income, if any, contributes to the support of the child.

### **Health Care Expenses**

In addition to child support, the court is also required to assign responsibility for, and direct the manner of payment of, a child's health care expenses. The court may order either or both parents to enroll a child in private health insurance at a reasonable cost.

"Reasonable cost" means that the cost of the policy (not just the cost of enrolling the child to the parent's policy) does not exceed 10% of the insuring parent's gross monthly income. The court may order the non-insuring parent to contribute to the cost of enrolling the child in an amount that does not exceed 10% of that parent's monthly income available for child support (but not exceeding the additional cost of adding the child to the insuring parent's single coverage).

Courts may require a parent to initiate or continue health care insurance coverage for a child and to provide copies of necessary program or policy identification to the custodial parent. In assigning responsibility for a child's health care expenses, the court must consider specific factors, including: (a) whether a child is covered under a

parent's health insurance policy or plan at the time of the court action; (b) the availability of health insurance to each parent through an employer or other organization; (c) the extent of coverage available to a child; and (d) the costs to the parent for the coverage of the child. Further, the court must also consider the effect of the dependency exemption on the availability of insurance in the marketplace and the imposition of penalties, if any, applicable under federal law. For example, under the federal Patient Protection and Affordable Care Act ("ACA"), P.L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010 (HCERA), the most cost-effective health insurance may now be available through health exchanges rather than the parents' respective employers.

The court may, in directing the manner of payment of a child's health care expenses, order that payment be withheld from the payer's income and sent directly to the appropriate health care insurer, provider, or plan. An employer who receives a notice of assignment for health insurance premiums must send the withheld premiums to the appropriate insurer, provider, or plan. Alternatively, a court may order that medical support payments be withheld from a payer's income and sent to DCF (or its designee) for disbursement to the person, other than a health care insurer, provider, or plan, for whom payment has been awarded. In addition, if a court orders a parent to initiate or continue health insurance for a child under a health insurance policy available to the parent through an employer, and the court does not specify how the premiums must be paid, the court, circuit court commissioner, or county child support agency may provide notice to the employer of an income assignment for health insurance premiums.

If a court orders a person to provide coverage for a child's health care expenses and the parent is eligible for family coverage, the employer must: (a) permit the parent to obtain family coverage for the person's child, if eligible for coverage, without regard to any enrollment period or waiting period

restrictions that may apply to the policy; (b) provide family coverage for the person's child, if eligible for coverage, upon application by the person, the child's other parent, DCF, or a county child support enforcement agency; (c) notify the county child support agency when coverage under the plan is in effect and, upon request, provide copies of necessary program or policy identification to the child's other parent; and (d) after the child is covered, and as long as the parent is eligible for family coverage under the policy, continue to provide coverage for the child unless the employer receives satisfactory written evidence that the court order is no longer in effect or that the child is covered under another policy that provides comparable coverage.

If a parent who is ordered to provide health care coverage changes employers, the county child support agency must notify the new employer and the parent (parents must notify the county child support agency of any change in employer within ten business days) that he or she must continue to provide health care coverage. The new employer is required to provide coverage to the child upon receiving the notice. The parent may, within 10 business days, request a hearing before the court on the issue of whether the order should remain in effect. The court must notify the employer if the court or circuit court commissioner determines that the order should not remain in effect.

Wisconsin insurance laws prohibit health insurance policies that provide coverage to dependent children from denying coverage, or setting a premium for any child that differs from the amount set for other dependent children, based solely on: (a) the fact that the child does not reside with the group member or insured or is dependent upon another parent rather than the group member or insured; (b) the proportion of the child's support provided by the group member or insured; (c) the fact that the child is a non-marital child; (d) the fact that the child resides outside the insurer's geographical service area; or (e) the fact that the

group member or insured does not claim the child as an exemption for federal or state income tax purposes.

In addition, if an insurer provides coverage for a child of a group member or insured who is not the child's custodial parent, the insurer must provide information related to the child's enrollment to the custodial parent and must allow the custodial parent, a health care provider, or DHS to submit claims for covered services on behalf of the child to the insurer without approval of the parent who is the group member or insured. The insurer is required to pay claims directly to the health care provider, the custodial parent, or DHS, as appropriate.

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## **Collection of Child Support Payments**

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### **Immediate Income Withholding**

In 1983, Wisconsin became the first state in the nation to implement immediate income withholding on a pilot basis. Immediate income withholding was enacted statewide in 1987. Under this process, child support is automatically withheld from an obligor's paycheck or other income source when the obligor is paid so as to prevent a child support payment from becoming overdue. Effective October 1, 2015, federal law requires all states to implement the "electronic income withholding order" program designed by OSCE to transmit income withholding orders electronically to employers.

Under state law, each child support order constitutes an assignment to DCF (or its support-collection designee) of all commissions, earnings, salaries, wages, pension benefits, worker's compensation, public employee income continuation insurance, unemployment compensation, certain duty disability benefits, lottery prizes payable in installments, and other money due or to be due in

the future. The assignment is for an amount sufficient to ensure payment under the order and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due. However, the addition of arrearages may not leave the obligor with income below the federal poverty level. If the obligation for support terminates (as occurs when the child turns 18, for example), the assignment remains in effect if there are arrearages outstanding.

The court, circuit court commissioner, or county child support agency must provide notice of each child support assignment to the last-known address of the employer or other person from whom the obligor receives or will receive money. A court may exempt a person from the withholding requirement if the court finds that income withholding is likely to cause the payer irreparable harm. In addition, the amount withheld may not exceed the maximum amount allowed under federal law. Federal law limits the maximum amount that can be withheld to 50% of the obligor's disposable income if the obligor is supporting dependents in addition to the person for whom support has been ordered (60% if the obligor is not supporting other dependents). These amounts may be increased by 5% if the withholding is to enforce certain past-due obligations. As described below, a court also may require the use of a deposit account in lieu of withholding. Child support withholding assignments have priority over any other assignment, garnishment, or similar legal process under state law.

If immediate income withholding is not required, the court or circuit court commissioner must initiate income withholding if the obligor fails to make a required payment within 10 days after its due date. Withholding must be implemented within 20 days after the payment's due date and a notice must be provided to the obligor and their employer (or other person from whom the obligor receives money). The notice to the obligor indicates that they may request (within 10 days after the notice is mailed) a hearing on the

issue of whether the assignment should remain in effect. If requested, the hearing must be held within 10 working days. If the obligor establishes at the hearing that the assignment is not proper because of a mistake of fact, the court or circuit court commissioner may direct that the assignment be withdrawn. If the decision is made by a circuit court commissioner, either party may seek review of the decision by the court with jurisdiction over the action within 15 working days.

Employers and other persons who receive notice of assignment under these provisions or similar laws of another state must withhold the amount specified in the notice from any money paid to the obligor. Withheld child support must be remitted to DCF (or its designee) within five days after the employer or other person pays the obligor. In the case of amounts withheld for health care expenses, the funds must be sent to the appropriate health care insurer, provider, or plan within the five days. Along with the child support submitted, the obligor's gross income from which the payment was withheld must be reported. Each time income is withheld, the employer (or other person from whom the obligor receives money) may retain an amount to cover administrative expenses associated with withholding and remitting the funds, not to exceed \$3. The administrative reimbursement is deducted from the money to be paid to the obligor.

Child support payments are withheld from unemployment benefits by the Department of Workforce Development and are forwarded to the custodial parent. When money is withheld from unemployment insurance benefits, no administrative fee may be deducted and no fine may be levied for failure to withhold the money.

Generally, child support paid through income withholding is first applied to cover support due within the calendar month during which the payment is received. Any remaining monies are applied to the payment of delinquent support and then to the payment of any interest that may have accrued and fees owed. If federal law requires a

different order of distribution of child support payments, then support would be distributed according to federal law. This issue arises if the payee is a TANF recipient or former TANF recipient. In these cases, federal law may require that interest on some of the delinquent support be paid before another portion of the delinquent support is paid.

If an employer or other person fails to withhold or remit the required amounts, the person may be proceeded against for contempt of court and be required to forfeit not less than \$50 nor more than an amount equal to 1% of the amount not withheld or sent. An employer who receives an assignment for income withholding on behalf of an employee must notify DCF within 10 days after the employee is terminated or otherwise leaves employment. An employer who fails to provide such notice may be proceeded against for contempt of court.

No employer may use a withholding assignment as a basis for the denial of employment, the discharge of an employee, or any disciplinary action against an employee. An employer who violates this provision may be fined not more than \$500 and may be required to make full restitution, including reinstatement and back pay. An aggrieved person may apply to the district attorney or to DCF for enforcement of this provision.

### **Transfers from Deposit Account**

If a court or circuit court commissioner determines that income withholding is inapplicable, ineffective, or insufficient to satisfy a child support or medical support obligation, the court or circuit court commissioner may require the obligor to identify or establish a deposit account from which funds may be periodically transferred for payment of support. The obligor must complete an authorization to transfer funds to DCF and file it with the financial institution at which the account is located. The authorization must specify the frequency and the amount of transfer, sufficient to meet the individual's child support obligation. The

authorization must also include the obligor's consent for the financial institution to disclose information regarding the account to the court, circuit court commissioner, county child support agency, or DCF.

Financial institutions must transfer the specified amounts (or any available funds if the account balance is less than the authorized amount) by any lawful means, including payment by check, subject to the terms of the account. The financial institution may deduct its usual fee for such fund transfers. If the account is closed, or if no funds are available at the time of transfer, the financial institution must notify the county child support agency or DCF within 10 days. An authorization for a child support transfer has priority over any other authorization for transfer and over an assignment, garnishment, or similar legal process under state law or the laws of another state. An authorization for a child support transfer may not be revoked except by court order. No financial institution or officer, employee, or agent of a financial institution is liable to an account owner for any sum transferred, or for any information disclosed, in compliance with these provisions.

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### **Child Support Enforcement Services**

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Any parent who needs help in locating an absent parent, establishing a support obligation, or enforcing or modifying a support obligation may apply for these services from the county child support agency. These services are also available from the tribal governing bodies in Wisconsin that run a child support enforcement program. Parents receiving benefits under TANF receive these services at no cost.

Efforts to collect delinquent amounts generally include the collection of child or family support, maintenance, medical expenses, or birth expenses, and accrued interest and penalties. DCF and

county child support agencies have the authority to subpoena financial and employment information and to obtain records from state or other governmental entities for use in enforcement efforts.

Several administrative powers were created under 1997 Act 191 in order to comply with PRWORA. For example, applications for licenses, permits, or credentials issued by state agencies and documents related to matters affecting families must include the social security numbers of the persons involved. Judicial remedies are also available for enforcing child support orders. Several enforcement services offered by child support agencies are described below.

### **Tax Refund, Lottery, and Benefits Intercepts**

Under federal law, anyone entitled to a federal income tax refund who owes past due child support may have his or her refund check intercepted and applied to past-due support. The federal Deficit Reduction Act of 2005 permits states to intercept a federal tax refund and apply it to non-assigned arrearages for children over age 18. Wisconsin implemented this provision in August, 2007.

Wisconsin law also provides for the interception of state income tax refunds, Wisconsin lottery winnings equal to or greater than \$1,000, court judgments and settlements, and lump sum retirement benefits to satisfy past-due support obligations. In addition, certain benefits received by the obligor, such as unemployment compensation, may be intercepted and applied to past due support. These activities can be initiated by DCF based on the child support order, without an additional court order. Federal law also authorizes the Internal Revenue Service to assist in collecting delinquent child support obligations, if the state has made diligent and reasonable efforts to collect the amount due. However, this service is used infrequently.

## **Child Support Lien Docket**

The federal PRWORA legislation required all states to establish a process for placing administrative liens against the property of delinquent obligors. Wisconsin's child support lien docket took effect in October, 2000. The lien docket contains the name, date of birth, the amount of the lien, and the date the entry was made for obligors whose arrearages exceed a certain threshold. If an obligor has more than one court case eligible for lien, the docket will combine the amounts owed into one lien amount.

Initially, obligors who exceeded a threshold of \$30,000 were placed on the lien docket and were notified of the lien and enforcement actions that can be taken to enforce the lien. Approximately 4,000 obligors met this threshold. The \$30,000 threshold has been reduced several times since 2000. The threshold is currently the greater of \$500 or one month's worth of the obligor's support obligation. As of October 31, 2018, there were approximately 125,638 court cases meeting this threshold listed on the lien docket.

The financial record matching program, discussed in further detail below, was also created as part of this initiative. Amounts collected under these provisions are deposited to the support collections trust fund for disbursement to the appropriate payee.

### **Liens and Levies against Property**

Under state law, if a person fails to pay court-ordered support, the delinquent amount becomes a lien in favor of DCF upon all of that person's property existing at the time of levy, including accounts at financial institutions, real and personal property, tangible and intangible property, and rights to property. A child support lien becomes effective upon entry into the statewide child support lien docket and delivery of the docket to the register of deeds in the county where the property is located. A child support lien is effective for a

maximum of five years. Payment of the delinquent amounts owed extinguishes the lien.

A child support lien has the same priority as a judgment lien, and has priority over all other liens that are filed or recorded after the child support lien becomes effective, except those liens granted priority by law, such as tax and special assessment liens, purchase money mortgages, and construction liens.

DCF updates the child support lien docket to reflect changes in the amounts of the liens and in response to orders issued by a court or circuit court commissioner. A copy of the lien docket must be provided to the county register of deeds, county child support agencies, and to each state agency that titles personal property. For example, the Wisconsin Department of Transportation reviews the names appearing on the child support lien docket and automatically records a child support lien on any vehicle registrations that are issued to individuals.

To enforce a child support lien, DCF may seize a delinquent payer's property subject to the conditions set out by administrative rule in DCF 152 and to due-process procedures regarding payment, notification, redemption, hearings, judicial review, and the treatment of jointly-held property. If the obligor fails to pay delinquent support after a demand for payment has been made under these provisions, or has not entered into a satisfactory payment plan, DCF may enforce the lien by seizing and selling any personal property (including motor vehicles) and real property (including homesteads) until the support owed and levy fees and costs are paid in full. DCF must apply all proceeds from the sale of the property first against the support and then against levy fees and costs. The obligor may submit a claim for amounts collected in excess of this amount.

DCF may notify and instruct a financial institution to freeze amounts sought under a lien until further notice from DCF (or a court if the obligor



requests a hearing). In the case of a lien in favor of another state which satisfies that state's due process requirements, DCF is authorized to enforce that lien against a financial account in Wisconsin without additional notice and hearing procedures. Furthermore, pursuant to 2015 Act 55, other states may send requests to enforce child support liens (along with a due process certification) directly to the obligor's financial institution. Financial institutions must honor such requests and send the amount specified up to the amount contained in the obligor's account (minus any fees and costs owed to the financial institution).

In general, DCF may delegate its authority under the financial record matching program and the provisions relating to liens and levies against property to county child support agencies. However, a county agency may not initiate a levy proceeding against real property without approval by DCF.

### **Financial Record Matching Program**

Under the financial record matching program, financial institutions, in agreement with DCF, must provide specified information for each non-custodial parent who has an account at the institution and is identified as owing past-due child support. There are two options available to financial institutions for conducting data matches, which are done quarterly: (a) DCF provides the institution with information regarding delinquent support obligors (including names and social security numbers), and the financial institution determines whether any delinquent obligors maintain an account; or (b) the financial institution provides DCF with information concerning all accounts and DCF determines whether any support obligor has an account. Financial institutions must be reimbursed for costs they incur by participating in the program, up to \$125 per quarter. The information provided by DCF to financial institutions may only be used for the purpose of matching records; violations are punishable with a fine of \$25 to \$500, imprisonment for 10 days to one year, or

both.

The financial record-matching program was implemented in September, 2000. As of August 31, 2016, DCF and OCSE had data-exchange arrangements with 4,203 financial institutions, both in-state and out-of-state. For the period May, 2016, through September, 2018, 953 account seizures were implemented, yielding past-due support collections of approximately \$1.8 million.

### **License Suspension**

Licensing agencies, credentialing boards, and licensing authorities (the Supreme Court and the Lac du Flambeau Band of the Lake Superior Chippewa), are required to restrict, suspend, or deny applications by individuals who owe past-due support or who fail to comply with subpoenas or warrants relating to paternity or child support proceedings. Applications reviewed include those for driver's licenses, recreational licenses, and professional and occupational licenses. Pursuant to 2013 Act 20, additional applications are also subject to suspension review, such as licensing applications by certain insurance brokers and employee benefit plan administrators as well as registrations of charitable organizations and professional employer organizations.

DCF is required to enter into a memorandum of understanding (MOU) with the licensing agencies outlining the following: (a) the circumstances for license restriction, suspension, or denial; (b) the procedures used by DCF to certify to the licensing entity that a person is delinquent in paying support or has failed to comply with a subpoena or warrant and to notify the licensing entity of the individual's subsequent satisfactory payment of the delinquency or compliance with a subpoena or warrant; (c) the procedures used by the licensing entities in restricting, suspending, or denying a license and in issuing or reinstating a license upon expiration of the restriction, suspension, or denial; and (d) procedures for the use of social security numbers obtained from license applications and

for safeguarding confidentiality. Procedures to notify the person of these actions are also outlined in the MOU.

As of October, 2018, DCF had license suspension processes in place with the Department of Transportation--driver's and professional licenses, the Department of Natural Resources--recreational and professional licenses, the Department of Safety and Professional Services--professional and occupational licenses and credentials, the Division of Gaming, the Department of Health Services--Division of Public Health, the State Bar, the Office of the Commissioner of Insurance, the Department of Workforce Development, and the Wisconsin Ethics Commission.

A delinquent obligor must owe at least three months of support and have an enforceable lien before a license can be restricted, suspended, or denied. In addition, DCF or a county child support agency must notify the individual, who may request a hearing before the circuit court that ordered the support payments within 20 business days after receiving the notice. If requested in a timely manner, a hearing must be scheduled within 10 business days. The hearing will address only issues related to the delinquent support. If an initial hearing is not requested or full payment or alternative payment arrangement is not made, the individual's name is placed on a certification list, which subjects the individual to license restriction, suspension, or denial for five years. Again, the individual must be notified of the certification and has 20 business days to schedule a second hearing. Licenses will not be restricted, suspended, or denied if delinquent amounts are paid in full or if satisfactory alternative payment arrangements are made. An individual whose driver's license is suspended may be eligible for an occupational license.

All subpoenas and warrants related to support or paternity proceedings must include information to the individual regarding the effect noncompliance may have on any licenses held or applied for.

If the individual fails to comply, notice is provided that any license will be subject to restriction, suspension, or denial for six months. If the individual still does not satisfy the subpoena or warrant, DCF places his or her name on the certification list.

A license restriction, suspension, or denial remains in effect for five years (six months for failure to comply with a subpoena or warrant) or until the individual satisfies the support delinquency, complies with the subpoena or warrant, or enters into an alternative payment arrangement, whichever comes first. A license that has been restricted, suspended, or denied under these provisions will be reinstated or issued if the obligor pays the delinquent amount of support in full, makes satisfactory payment arrangements, or complies with the subpoena or warrant.

### **Credit Bureau Reporting**

DCF must disclose the amount of delinquent support to consumer reporting agencies. Individuals must be notified of the disclosure at least 20 business days beforehand. If the amounts reported are paid in full or are found to be erroneous, the consumer reporting agency must be notified within 30 days.

### **State Loans, Grants, and Waivers**

State agencies and authorities are prohibited from providing grants, loans, or waivers to individuals who have been certified by DCF as owing delinquent support, including grants, loans, and waiver programs administered by the Departments of Military Affairs, Veterans' Affairs, Safety and Professional Services, Workforce Development, Natural Resources, Justice, the University of Wisconsin System, the Higher Educational Aids Board, the Department of Agriculture, Trade and Consumer Protection, and the Wisconsin Housing and Economic Development Authority. These agencies and authorities refer to the lien docket, rather than the certification list, to determine who owes delinquent support.

## **Court-Ordered Employment and Training**

In any action to establish or modify a child support order, state law permits courts to order either or both parents to seek employment or participate in an employment or training program as a means of increasing financial support for the child. Unemployed teenage parents (less than 20 years of age) are required to do one or more of the following: (a) register for work at a public employment office; (b) apply for jobs; (c) participate in a job training program; or (d) pursue a high school degree or its equivalent.

The state work experience and job training program for noncustodial parents who fail to pay child support is referred to as "children first." A noncustodial parent who has no current means of meeting a child support obligation may be ordered by the court into the program. A participant successfully completes the children first program when he or she either fulfills child support obligations for three consecutive months, or completes 16 weeks of employment and training activities.

The children first program requires a formal partnership between the county child support agency, the county/tribal judicial system, and the W-2 agency. The amount provided to county child support agencies or W-2 agencies administering the program is "not more than \$400" for each participant. Additional program costs are paid by the agency. The children first program is budgeted \$1.14 million per year from TANF funding. The program operated in 21 counties and two tribal areas in calendar year 2018.

## **Interstate and International Enforcement**

It is usually more difficult to establish paternity and support orders and make collections when parents live in different states or countries. According to the 2017 preliminary OCSE annual report, 10,516 cases out of the total 361,406 Wisconsin child support cases open in September 2017 were received from other states. Further, an

additional 60 cases received from foreign jurisdictions and 54 cases initiated by Wisconsin into foreign jurisdictions were open in September, 2017.

To address the complexity of interstate enforcement, federal law requires states to adopt the Uniform Interstate Family Support Act (UIFSA), which was drafted and approved by the National Conference of Commissioners of Uniform State Laws, in order to qualify for funding for child support enforcement. UIFSA is used in actions to establish, enforce, or modify support orders when the parties do not reside in the same state and in situations in which support orders have been issued in more than one state.

Under Wisconsin's UIFSA law, a Wisconsin employer is required to treat an order for income withholding from another state as if it were issued by a court in Wisconsin. The employer must comply with the order's terms as they relate to: (a) duration and amount of support; (b) the designated payee; (c) medical support; (d) payment of fees and costs; and (e) payment of arrears and interest. The employer must comply with Wisconsin's laws with respect to: (a) the employer's fee for processing the order; (b) the maximum amount allowed to be withheld; and (c) the time period in which the order must be implemented. In addition, Wisconsin's laws regarding the receipt of multiple orders to withhold income, immunity from civil liability, and penalties for noncompliance govern Wisconsin employers in multijurisdictional support cases.

Wisconsin courts may exercise personal jurisdiction over nonresidents under limited circumstances in child support cases and paternity actions. Wisconsin courts also are empowered to review multiple orders issued by tribunals in Wisconsin and other states and determine which order is controlling for purposes of continuing, exclusive jurisdiction over enforcement of interstate wage withholding (so that only one support order is in effect at any time). Wisconsin courts may modify support orders of another state if: (a) the

parties and the child are not residents of the issuing state; (b) the nonresident petitioner seeks modification; and (c) the respondent is subject to personal jurisdiction in Wisconsin. Wisconsin courts may also modify a support order from another state if an individual party or the child is subject to personal jurisdiction in Wisconsin and all parties file written consent for the Wisconsin court to modify the order.

As for international enforcement, the United States signed the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the "Convention"), concluded at The Hague on November 23, 2007. The Convention sets forth a process to establish, modify, recognize, and/or enforce child and family support orders when parents live in different countries. As required by Public Law 113-183 2009 Wisconsin Act 321 and 2015 Wisconsin Act 82 modified and expanded Wisconsin's UIFSA statutes to address child support enforcement when parents live in different countries, as well as different states, in accordance with the Convention.

### **Parent Locator Service: Case Registries and Directory of New Hires**

The PRWORA legislation required the establishment of federal and state directories of new hires and case registries. The federal activities operate within the federal parent locator service (PLS). The federal PLS is a computerized national location network operated by the Office of Child Support Enforcement providing address, employment, asset, and social security number information on persons to assist in the location of non-custodial parents and delinquent obligors. Information also may be requested of the PLS with regard to enforcement of custody and visitation rights, investigating parental kidnappings, adoption, and foster care.

The federal PLS obtains data from the U.S. Social Security Administration, the Internal Revenue Service, the Selective Service System, the

Department of Defense, the Veterans Administration, the National Personnel Records Center, and state employment security agencies. The federal PLS also obtains data from state registries. Federal law requires each state to maintain a directory of all newly-hired employees in that state. Likewise, each state must maintain a case registry of that state's TANF child support cases and all support cases established or modified in the state on or after October 1, 1998. Each state registry transmits this data to the corresponding component of the federal PLS. States also are required to transmit quarterly wage and unemployment insurance data to the national directory of new hires.

Wisconsin employers began reporting to the state's directory of new hires on January 1, 1998. Employers are required to report the name, date of birth, address, and social security number of each newly-hired employee in addition to their own name, address, and federal employer identification number. Employers must also report the date the employee started work. Federal law requires this information to be reported within 20 days of a new employee's hire. However, if filed electronically, an employer may file such information twice a month between 12 and 16 days apart.

Under Wisconsin law, as required by federal law, multi-state employers may designate another state for purposes of providing the required information upon notification of the Department of Workforce Development and the U.S. Department of Health and Human Services. Employers who fail to comply may be fined up to \$25 for each new employee they fail to report. However, if the failure is found to be the result of a conspiracy between the employer and employee, a fine of up to \$500 may be imposed.

### **Passport Denial**

PRWORA required states to report individuals owing \$5,000 or more in support to the U.S. State Department. These individuals may then be denied issuance of a passport. DCF began

implementing this provision in September, 2000. Beginning on October 1, 2006, the federal Deficit Reduction Act of 2005 lowered the threshold from \$5,000 to \$2,500.

Subject to certain exceptions, DCF policy requires full payment of past due child support (or if the obligor is unable to pay, a minimum payment of \$2,500) in order to release the passport restrictions. Once the restrictions are released, the passport may be issued and is valid for a period of 10 years. There is no process to revoke or suspend a passport after it is issued.

### **Child Support Public Awareness Program**

State law requires DCF to establish a program to increase public awareness about the importance of the payment of child support, including the publication of information, such as names and photographs, which identifies significantly delinquent child support obligors. The Department may use posters, media presentations, or other appropriate means for the publication of the information. The publications must include information about the child support owed by each obligor, and, if appropriate, must solicit information from the public to assist in locating the delinquent obligor.

### **Court-Ordered Enforcement Remedies**

A court may order that a child support payment obligation be paid in the amounts and at the times that it considers expedient. The court may require a party to give sufficient security for payment and may impose liability as a charge upon specific real estate of the obligated party. If a party fails to pay or to give security as ordered, the court is empowered to enforce the judgment "by any appropriate remedy," including: contempt of court, entry of a money judgment for past due payments, garnishment, and the attachment and sale of the obligated party's property. Furthermore, because child support arrearages automatically constitute a lien

upon vessels owned by the obligor, a petitioner may bring action for the sale of such vessels to satisfy the child support obligation.

### **Child Support Collections**

Table 1 identifies child support, medical support, and other support-related collections of \$933.7 million in federal fiscal year (FFY) 2017 (the one-year period that ends on September 30). Approximately 71% of child and medical support was paid on behalf of families who used county child support enforcement services and approximately 29% was paid to families who did not use county services in FFY 2017. In addition to the amounts identified in the table, \$16.3 million was collected for costs, fees, and other debt-types that are not support-related.

**Table 1: Child Support Collections (FFY 2017)**

Type of Collection	Amount
Income Withholding	\$688,826,385
Federal Tax Intercept	37,160,730
Collections Received from Other States	28,537,355
State Tax Intercept	12,658,795
Unemployment Compensation Intercept	8,640,396
Collections from Other Sources	<u>157,833,117</u>
Total	\$933,656,778

### **Termination of Services**

DCF is authorized to terminate child support and spousal maintenance services if there is no longer a current court order and the arrearage is less than \$500 or is unenforceable due to the obligor's inability to pay for three or more years. In such cases the recipient of services must receive written notice of the intent to terminate services at least 60 days prior to termination. The services must continue if the recipient supplies information in response which could lead to the enforcement of the support or maintenance order.

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## Civil and Criminal Enforcement

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In situations where a person has failed to meet an obligation to support a child and where wage assignment or account transfer have not been feasible, the court may, on its own initiative, and must, upon application of a person owed support, issue an order for the obligor to show cause for the nonpayment or be held in contempt of court. The obligor may be required to provide payment for past due support or be incarcerated for up to six months, or both. Other remedies designed to ensure compliance with the obligation may also be ordered. Contempt proceedings may also be initiated by the county child support agency or circuit court commissioner if court-ordered child support payments are not paid when due.

Criminal penalties for failure to provide support may also be imposed. Intentionally failing to pay child support for 120 or more consecutive days is a Class I felony, punishable by a fine of not more than \$10,000 or imprisonment for up to three-and-a-half years, or both. A person may be charged with multiple counts of felony nonsupport if each count covers a distinct period of at least 120 consecutive days. Thus, a person who intentionally fails to provide support for a period of a year could be charged with up to three counts of felony nonsupport. Failure to pay support for less than 120 consecutive days is a Class A misdemeanor, punishable by a fine of up to \$10,000 or imprisonment for up to nine months, or both.

A person who is charged with failure to support may raise the defense of inability to pay. However, a person may not demonstrate inability to provide child support if the person is employable but, without reasonable excuse, fails to diligently seek employment, terminates employment, or reduces his or her earnings or assets. A person who raises an affirmative defense of inability to pay must prove the defense by a preponderance of the evidence.

In a criminal action for failure to support, a court must (in addition to, or instead of, imposing the criminal penalty for a Class I felony or a Class A misdemeanor) order the defendant to pay the amount required under a court order for child support, including any amount necessary to meet a past legal obligation for support. If no court order exists, the court must enter an order for child support in the manner prescribed under the family-actions statutes (see earlier section in this paper on establishing support).

The willful failure to pay a past-due child support obligation on behalf of a child residing in another state is a federal crime under the Child Support Recovery Act of 1992 (P.L. 102-521). Under the law, any person who willfully fails to pay a support obligation for a child residing in another state, if the obligation has not been paid in more than a year or exceeds \$5,000, is subject to a fine of up to \$5,000, imprisonment for not more than six months, or both. The federal Deadbeat Parents Punishment Act of 1998 (P.L. 105-187) added two new categories of offenses. A person who has done either of the following is subject to a \$5,000 fine or imprisonment for not more than two years, or both: (a) willfully fails to pay a support obligation for a child residing in another state, if the obligation has not been paid in more than two years or exceeds \$10,000; or (b) travels nationally or internationally to evade a support obligation, if the obligation has not been paid in more than a year or exceeds \$5,000. The court must order a person found to have violated any of these provisions to make restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

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## Distribution of Child Support Collected on Behalf of Public Assistance Recipients

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### TANF and Child Support Distribution

Under current federal law, child support

collected on behalf of families who have never received public assistance must be distributed to the family. For families who have received, or are receiving, public assistance, there are "assignment of child support" and "distribution of assigned child support" requirements and options that apply.

As noted, the 1996 federal welfare reform legislation (PRWORA) eliminated the AFDC program and replaced it with a block grant program called "temporary assistance for needy families" (TANF). Like the AFDC program, under the TANF provisions, states required recipients to assign to the state the right to collect any child support obligations that accumulated before the family received welfare as well as support that came due while the family received benefits, not to exceed the total amount of assistance provided. States may not require the assignment of support that accrues after the date the family leaves the program.

The federal Deficit Reduction Act of 2005 made two changes to the assignment of arrearages for child support obligations that accumulated before the family received welfare, one of which was mandatory and the other optional. First, beginning October 1, 2009, states can no longer require TANF recipients to assign to the state the right to collect any child support obligations that accumulated before the family received welfare. This provision was enacted in Wisconsin under 2009 Act 28.

Second, states have the option to eliminate all existing assigned child support arrearages for TANF recipients for child support that accrued before the family received assistance. Wisconsin opted to enact this provision under 2009 Act 28. Beginning October 1, 2009, all existing assigned child support arrearages that accrued before the family received TANF assistance are passed through to the family.

In the case of child support assigned to the state

while families receive assistance, the state must distribute child support collected as follows: (a) first pay to the federal government the federal share of the support collected; and (b) retain, or distribute to the family, the remaining amount collected. The federal share is based on the federal financial participation rate for the Medicaid program in effect during the year in which the collections were made (currently about 59% in Wisconsin).

The federal Deficit Reduction Act of 2005 provided states with another option to distribute assigned child support while the family is receiving assistance. States now have the option to pass through \$100 per month (\$200 per month for a family that has two or more children) without being required to pay the federal share on that amount. States have the option of passing through the full amount of support to the family, but are still required to pay the federal government its share.

Act 28 enacted this provision, beginning October 1, 2010, by requiring 75% of any support the state collects to be passed through to the family and the remaining 25% to be paid to the federal government for its share of the assigned support collected. These percentages were calculated by estimating the total amount of assigned support collected, subtracting out the \$100 per month (\$200 per month for a family that has two or more children), and then calculating the federal share on the remaining amount. Of the total amount collected, the federal share is estimated to be 25%.

Finally, the federal Deficit Reduction Act of 2005 authorizes states to pass through all arrearages that accumulated while an individual received assistance, if the individual is no longer receiving assistance, without having to pay the federal share on these amounts. As a result, the individual would receive 100% of any assigned child support collected that accrued while the individual received assistance. This option includes authorizing states to change the order of

distribution of arrearages of any collections made through federal tax intercepts to pay family-owned arrearages first, before satisfying government-owned arrearages. The state also enacted this option under Act 28, beginning January 1, 2010.

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### Program Administration Costs

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The costs of administering child support enforcement activities performed by counties in Wisconsin are supported by a combination of federal funds, state general purpose revenue (GPR), and county revenue from local sales tax, property tax, and shared revenue. The largest source of funding for child support enforcement activities comes from the federal government in the form of federal child support incentive payments and federal matching funds.

### Federal Funds

#### *Federal Incentive Payments*

The federal government distributes incentive payments to states in order to encourage and reward state programs that operate effectively. Such payments are required to be reinvested into the child support enforcement program.

Under the program, the annual incentive payment to each state is based on that state's performance, relative to the other states, on several criteria. Currently, performance on five criteria determines the amount of the award: (a) paternity establishment; (b) establishment of support orders; (c) collection of current child support due; (d) collection of child support arrearages; and (e) cost effectiveness ratio (dollars collected compared to dollars expended). Although standards for a sixth criterion (medical support enforcement) have been developed, this criterion has not been implemented and there are no immediate plans for

its use as a performance measure.

Attachment 1 provides information on Wisconsin's performance on the federal incentive performance measures for FFY 2017. Of the fifty states and the District of Columbia, Wisconsin ranked 33<sup>rd</sup> overall in establishment of support orders, 2<sup>nd</sup> in collection of current child support due, 8<sup>th</sup> in collection of child support arrearages, and 20<sup>th</sup> in cost effectiveness ratio.

Wisconsin received federal child support incentive payments of \$14.5 million for FFY 2016. Under current law, DCF distributes the entire amount of federal incentive payments to counties up to \$12,340,000. For any amounts that exceed \$12,340,000, 30% of the excess is distributed to counties (\$0.6 million) and 70% of the excess is retained by DCF (\$1.5 million). Table 2 shows the state share and county share of the federal incentive payments awarded for FFY 2008 through FFY 2016.

**Table 2: Federal Child Support Incentive Awards for FFY 2008-16**

	State Share	County Share	Total Award
2008	\$865,192	\$12,710,796	\$13,575,988
2009	1,131,370	12,824,873	13,956,243
2010	911,549	12,730,664	13,642,213
2011	836,718	12,698,594	13,535,312
2012	954,460	12,749,054	13,703,514
2013	1,032,919	12,782,679	13,815,598
2014	1,294,690	12,894,867	14,189,557
2015	1,487,326	12,977,426	14,464,752
2016	1,475,602	12,972,401	14,448,003

#### *Federal Matching Funds*

Most administrative and enforcement costs incurred by the state and counties are reimbursed by the federal government based on a federal financial participation ("FFP") rate of 66% of eligible costs. Costs that are reimbursed at this rate include the costs of administering the child support enforcement program, the establishment of paternity, establishment and enforcement of



support obligations, the collection and distribution of support payments, the state parent locator service, activities related to federal tax intercepts, establishing and maintaining case records, operating a computerized support enforcement system, securing medical support, and performing laboratory tests for paternity establishments.

The ratio of 66% to 34% implies that for each qualifying dollar spent on child support enforcement programs, the federal share is 66 cents and the state's share is 34 cents. In other words, for every dollar the state allocates to such programs, the state may plan on the federal government providing an additional \$1.94 (that is, one state dollar multiplied by the ratio of 66/34 is equal to an additional 1.94 federal dollars). There is no upper limit or ceiling on the amounts matched at the FFP rate of 66%.

Prior to the enactment of the federal Deficit Reduction Act ("DRA") of 2005, states could claim 66% federal child support matching funds if they reinvested their federal incentive payments into child support enforcement activities. Thus, a reinvestment of \$1 of federal incentive payments would also count as an expenditure generating an additional federal match of \$1.94. As a result, \$1 of incentive payments effectively funded nearly \$3 of child support enforcement expenditures. Beginning on October 1, 2007, child support expenditures funded with federal incentive payments are no longer eligible to receive the 66% federal match. DRA therefore significantly reduced the amount of federal revenue available for child support enforcement activities in Wisconsin and other states.

The federal American Recovery and Reinvestment Act of 2009 temporarily reinstated the ability to receive the 66% federal match on federal incentive payments from October 1, 2008 until September 30, 2010. However, there has been no subsequent federal legislation to reinstate the ability to receive federal matching funds for federal child support incentive payments.

### ***Federal Medical Support Incentive Payments***

Federal law encourages child support agencies to attempt to recover birth expenses provided by Medicaid by permitting the child support agency to retain an incentive payment equal to 15% of the amount of medical support recovered by the agency. A total of \$2.3 million was earned by counties in calendar year (CY) 2017 under this program. These federal incentive payments are supported from monies that would otherwise be used to offset federally funded MA costs.

### **State Payments to Counties**

#### ***Child Support Incentive Payments***

In order to ensure that Wisconsin earns the highest possible federal child support incentive payments, DCF employs a performance-based approach to distribute funds to counties. Funding is distributed to counties based upon four of the above described federal performance measures and an additional fifth measure: (a) court order establishment rate; (b) paternity establishment rate; (c) current support collection rate; (d) arrears cases with collections rate; and (e) caseloads adjusted for the number of full-time employees. Available funding is allocated to each performance measure as follows: 15% for measure (d), 20% for measures (a), (c), and (e), and 25% for measure (b).

The allocation amount that may be earned by each specific county child support agency is based on that agency's share of the overall state child support caseload. Counties can earn more or less than 100% of this allocation based on performance, which is measured using data at the end of each FFY. For 2019, after adjusting for performance, 90% of unallocated funds are distributed to counties on a pro rata basis based on county earnings under all five performance measures. The remaining 10% will be distributed to counties which have employment organizations integrated into child support services.

In total, counties were allocated \$38.0 million in CY 2018. This amount consists of \$8.5 million of state, general purpose revenue (GPR), \$16.5 million in federal matching funds, and \$13.0 million in federal incentive payments (\$12.34 million plus 30% of the amount in excess of \$12.34 million). DCF retained \$1.5 million of federal incentive payments in calendar year 2018 (70% of the amount in excess of \$12.34 million).

### ***Incentive Payments for Identification of MA-Covered Children***

Provisions of 2009 Act 28 established an incentive program for local child support agencies to identify children who are receiving medical assistance benefits, yet already have other health insurance coverage or have access to other health insurance coverage. Many of these children would continue to be enrolled in MA, but some health care expenses would be covered by private insurance.

In the 2017-19 biennium, \$300,000 GPR (generating federal matching funds of \$582,400) is annually appropriated for this incentive program based on an estimate of \$100 per child identified for 3,000 children. These funds are pro-rated across all county child support agencies based on a report that counts newly added worker-entered private health insurance coverage for children receiving Medicaid and BadgerCare. The performance report covers the period from October 1, 2016 through September 30, 2017. During this time period, 7,731 children receiving benefits under Medicaid enrolled in private health care. Therefore, the incentive payment amounts to approximately \$39 per child.

### ***Potential Custodial Parent Fees for Child Support Enforcement Services***

Parents who receive cash benefits under the W-2, kinship care, or SSI caretaker supplement programs automatically receive child support services at no cost. Fees for parents who do not receive

public assistance and other potential fees are charged as follows:

*a. Annual fee.* An annual \$25 fee is charged to the custodial parent on each case receiving \$500 or more in support if the parent never received public assistance. The Federal Deficit Reduction Act of 2005 requires an annual fee of \$25 for each case in which an individual has never received TANF assistance and for whom the state has collected at least \$500 of child support. 2007 Act 20 authorized the fee to be charged to the custodial parent. The fee is taken out of the support payment before the payment is sent to the custodial parent.

*b. State and Federal Tax Intercept Fees.* A fee is charged to the custodial parent for each federal or state tax intercept, when the intercepted amount to be paid to the applicant is at least \$10. The fee is 10% of intercepted amounts, with a maximum of \$25. The fee is deducted from the refund before payment is made to the custodial parent.

*c. Other Potential Fees.* Other fees may be charged for requesting the location of the noncustodial parent (\$25 if that is the only service requested of the child support agency), by other states for interstate case enforcement (fee varies by state), for certain child support debit card transactions, for genetic testing done at a child support agency (maximum fee of \$60, but no fee is charged to the man if the test shows he is not the father), and if the child support agency files a motion to modify child support at the custodial parent's request (\$30 filing fee if required by the court).

### **Local Revenues**

In addition to federal reimbursement and incentive payments, many counties support a portion of their child support enforcement costs with local revenues. According to DCF, the counties spent an estimated total of \$90.9 million on child support enforcement activities in calendar year 2017. While the majority of these expenditures

were covered by state and federal payments, all counties provided a total of approximately \$15.6 million in county funds to support the operation of their child support enforcement programs in 2017.

Attachment 2 details the total costs of child support enforcement and total reimbursement and incentive payments by county for 2017. The data are based on the county in which the court order for support was entered, rather than on the residency of the obligor or the child. Attachment 3 shows total child support collections and total child support enforcement costs by county for FFY 2017 (the administrative costs are shown for calendar year 2017).

### **Fees for State Services**

All child support payments collected from the noncustodial parent by the state and counties for non-TANF recipients are paid to the person to whom the money is owed. However, if DCF has contracted with, or employed, a collection agency, attorney, or other person to enforce a child support obligation of a delinquent parent, DCF may defray the administrative costs by: (a) charging a fee to counties; (b) using federal matching funds or federal incentive payments retained by DCF; or (c) using up to 30% of the state's share of a collection made on behalf of a recipient of kinship care payments under such agreements. In addition, DCF may charge other states and counties for administrative costs related to interstate child support collections, the interception of unemployment compensation, or the intercept of state and federal income tax refunds. Beginning in 2019, DCF no longer charges counties for the costs of the federal parent locator service.

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### **Centralized Receipt and Disbursement**

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Wisconsin's statewide, automated system for the receipt and disbursement of child support, maintenance (alimony), health care expenses,

birth expenses, and other support-related expenses commenced operations on January 4, 1999. The system is funded from interest on balances in the support collections trust fund, unclaimed child support, GPR, federal incentive funds, a \$65 annual receipt and disbursement fee charged by DCF to support obligors, and federal matching funds.

Under the centralized receipt and disbursement (CR&D) function, a vendor receives all child support payments from employers and individuals and passes a file to the state. The state interfaces the information into the statewide Kids Information Data System (described below) and payment amounts are determined. Child support is distributed to the appropriate payees through one of the following means: (a) printed and distributed checks; (b) deposited funds into a direct deposit account; or (c) deposited funds into a debit card account. Most custodial parents receive child support through an electronic form of payment. As of December 31, 2017, only 3,946 custodial parents received a check, while 163,954 had a direct deposit account, and 159,372 had a debit card account.

State provisions regarding income withholding and assignment of support and the assignment of arrearages also applied to the CR&D fee. DCF may report delinquent payment of CR&D fees to the Department of Revenue, for purposes of collection through intercept of state income tax refunds, even in cases in which the child support payee does not receive services from county child support agencies.

Contract costs for the CR&D system were \$3.4 million in 2016-17. Funding for CR&D activities is included in the child support state operations budget, discussed in more detail below.

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### **Child Support State Operations**

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The child support state operations budget

includes funding for the CR&D system, the Kids Information Data System (KIDS), and state staff. KIDS is the statewide automated child support system, which is generally funded at the FFP rate of 66%. Funding is also provided for a contract with the Wisconsin Institute for Research on Poverty for studies related to child support.

As shown in Table 3, the child support state operations revenues for the 2017-18 state fiscal year were \$29.5 million. An opening balance of \$11.3 million resulted from delayed implementation of software upgrades to KIDS and expenditures for the document generation technology upgrade coming under budget. Expenditures for child support state operations in 2017-18 totaled

\$28.0 million.

Revenue sources of \$27.7 million for 2018-19 include: an opening balance of \$12.8 million, \$3.5 million GPR, \$11.8 million FED, \$13.9 million in CR&D fees, \$0.1 million in unclaimed support, \$2.5 million in annual fees charged to the custodial parent, and \$1.2 million in other revenue, such as tax intercepts and unemployment insurance intercepts.

Budgeted expenditures for 2018-19 include: \$3.3 million for use of the Department of Administration's mainframe computer and related costs; \$10.0 million for KIDS-related IT maintenance and development costs; \$1.7 million for child

**Table 3: Funding for State Operations of the Child Support Program**

<b>Revenues</b>	2017-18 Actual	2018-19 Budgeted
Opening Balance	\$11,337,906	\$12,760,450
GPR	\$3,794,756	\$3,538,100
Incentive Payments (FED)*	0	1,634,900
Matching Funds - DCF (FED)	5,970,821	7,241,900
Matching Funds - Other Agencies (FED)	2,896,931	2,917,300
CR&D Fee (PR)	12,615,885	13,925,500
\$25 Annual Custodial Parent Fee (PR)	2,532,782	2,500,000
Trust Fund Earnings (PR)	85,716	10,000
Unclaimed Support (PR)	456,075	100,000
Other revenues (PR)**	<u>1,129,398</u>	<u>1,200,000</u>
Total	\$29,482,363	\$33,067,700
 <b>Expenditures</b>		
State staff costs (non-IT)	\$3,288,020	\$3,670,000
KIDS System Maint. & Development	7,947,936	10,026,200
Mainframe Info Tech Charges	3,729,616	3,337,300
IT Contracts	3,624,596	3,689,000
Non-IT Contracts	1,048,068	1,446,600
IRP Research Contract	1,432,087	1,676,500
Mailing and Postage	1,393,794	1,993,400
Supplies and Other	<u>5,595,702</u>	<u>8,024,900</u>
Total Expenditures	\$28,059,819	\$33,863,900
Ending Balance	\$12,760,450	\$11,964,250

\* Federal Fiscal Year 2016 incentive payments were not realized until 2018-19.

\*\* Miscellaneous revenue, such as tax intercepts and unemployment insurance intercepts.

support research by the University of Wisconsin Institute for Research on Poverty; \$8.8 million for staffing costs and information technology and other vendor contracts; and \$10.0 million for other expenses (such as supplies, mailings, and tax

intercept charges). DCF indicates that the \$12.0 million ending balance is expected to be spent on upgrading KIDS and other information technology development over the 2019-21 biennium.

## ATTACHMENT 1

### Incentive Performance Measures, FY 2017 Paternity Establishment (PEP) %

<u>States</u>	<u>IV-D PEP</u>	<u>Statewide PEP</u>	<u>% Cases with Orders</u>	<u>% of Current Collections</u>	<u>% of Arrearage Cases</u>	<u>Cost Effectiveness Ratio</u>
Alabama	96.13		88.15	54.03	59.83	\$4.30
Alaska		93.97	92.56	55.83	65.14	4.07
Arizona	149.19		89.35	58.13	57.18	6.15
Arkansas	100.92		91.84	64.41	68.90	4.84
California		94.28	91.19	66.46	66.42	2.52
Colorado		104.26	87.72	64.15	68.14	4.30
Connecticut	97.61		92.85	61.35	59.82	3.27
Delaware	88.44		72.34	60.20	55.01	2.54
DC		90.01	78.95	61.46	57.78	2.01
Florida		90.59	82.95	63.01	69.71	6.24
Georgia		97.18	89.93	60.32	64.45	8.04
Hawaii		88.25	77.21	62.48	43.69	4.83
Idaho	97.06		91.70	64.46	57.60	6.13
Illinois		91.72	82.84	63.07	61.70	5.19
Indiana	105.24		93.90	65.98	72.32	5.25
Iowa		94.18	92.52	73.02	69.51	5.46
Kansas		92.92	87.45	55.87	57.85	5.72
Kentucky	95.65		89.57	58.15	60.91	6.33
Louisiana	95.65		87.25	52.80	53.50	5.46
Maine	103.66		95.35	63.11	65.36	3.47
Maryland		89.21	86.03	69.01	70.42	4.64
Massachusetts		90.88	88.70	72.39	64.17	6.06
Michigan		96.11	81.16	71.49	66.13	5.56
Minnesota	101.05		88.56	74.53	72.26	3.30
Mississippi	97.24		78.91	53.67	57.25	9.50
Missouri		90.44	90.89	60.24	60.48	8.59
Montana	105.18		88.78	63.77	64.80	4.39
Nebraska		96.31	87.71	70.93	68.46	5.23
Nevada	124.11		87.98	65.90	66.29	3.91
New Hampshire	108.91		82.14	64.72	65.39	3.55
New Jersey		98.65	86.47	67.55	66.61	4.12
New Mexico	98.72		81.43	54.81	64.22	3.50
New York		90.24	86.88	66.35	57.33	4.99
North Carolina	100.66		85.43	67.95	66.87	4.50
North Dakota	105.31		92.75	73.23	63.45	6.08
Ohio		92.65	90.85	69.50	65.98	6.51
Oklahoma		104.72	83.00	54.56	61.99	5.97
Oregon		96.48	87.63	63.20	60.59	3.88
Pennsylvania		99.81	90.64	84.10	84.16	5.02
Rhode Island	98.77		77.06	61.78	53.21	5.85
South Carolina		79.99	83.24	55.29	62.11	4.51
South Dakota	105.03		92.61	64.19	61.24	10.42
Tennessee		95.83	84.44	56.54	63.38	6.74
Texas		96.29	85.50	64.61	62.99	10.33
Utah		103.46	87.91	65.05	64.00	6.49
Vermont	107.52		89.46	73.77	76.31	2.84
Virginia		92.00	88.90	64.81	65.65	6.20
Washington	98.66		93.28	66.86	61.87	4.27
West Virginia	102.17		90.35	67.20	60.53	4.91
Wisconsin	100.52		87.03	74.63	69.40	5.56
Wyoming	128.15		93.79	66.19	69.24	8.55
Averages	101.96	93.83	87.18	65.43	64.11	\$5.15

Source: Office of Child Support Enforcement, Preliminary Report for FY 2017

## ATTACHMENT 2

### Total Child Support Enforcement Costs, Reimbursement Payments and Incentive Payments by County Calendar Year 2017

<u>Agency</u>	<u>Child Support Enforcement Costs</u>	<u>Federal Matching Funds</u>	<u>State GPR</u>	<u>Federal Incentive Payment</u>	<u>Medical Liability Incentives**</u>	<u>Med Sppt GPR</u>	<u>Fees Paid by County*</u>	<u>Net County Contribution</u>
Adams	\$301,347	\$165,117	\$29,134	\$49,192	\$6,180	\$1,125	-\$704	\$51,303
Ashland	607,297	362,955	32,955	54,464	13,157	504	-764	144,026
Barron	779,418	440,235	65,870	110,272	2,775	427	-1,528	161,367
Bayfield	338,988	208,039	13,869	22,746	33	39	-320	94,582
Brown	2,832,322	1,477,082	339,845	566,931	126,997	21,265	-8,068	308,269
Buffalo	165,711	94,010	13,564	22,224	1,364	582	-320	34,287
Burnett	339,191	194,864	24,794	41,718	12,617	1,358	-604	64,444
Calumet	735,801	440,637	39,595	64,787	12,378	1,552	-944	177,796
Chippewa	838,008	459,296	82,363	137,313	33,729	3,686	-1,972	123,592
Clark	610,385	364,207	33,864	55,556	12,889	1,203	-804	143,471
Columbia	1,061,491	620,135	70,467	116,369	25,008	3,104	-1,692	228,100
Crawford	320,207	186,551	21,648	35,340	3,149	1,319	-524	72,724
Dane	8,079,360	4,643,033	610,117	1,014,753	205,578	15,677	-14,248	1,604,450
Dodge	1,463,049	857,382	102,377	156,305	40,949	5,937	-2,476	302,575
Door	590,642	358,288	26,613	44,958	4,781	1,087	-644	155,558
Douglas	1,069,483	618,496	78,109	129,430	23,295	776	-1,832	221,209
Dunn	795,678	467,768	50,660	83,442	19,594	970	-1,188	174,432
Eau Claire	1,310,317	684,323	127,754	212,534	54,195	4,152	-3,040	230,400
Florence	133,564	82,108	5,136	8,390	636	388	-120	37,026
Fond du Lac	1,499,143	835,651	133,494	219,665	21,252	9,818	-3,260	282,523
Forest	299,409	178,670	16,717	27,353	4,470	504	-404	72,098
Grant	681,196	393,188	48,669	79,901	9,691	3,454	-1,188	147,481
Green	465,469	260,880	39,825	66,065	11,976	815	-944	86,852
Green Lake	520,165	314,590	24,437	40,444	3,041	1,707	-604	136,549
Iowa	195,807	104,027	22,646	37,193	8,310	427	-544	23,748
Iron	112,705	67,949	5,726	9,367	0	39	-140	29,764
Jackson	414,167	233,437	33,964	55,832	5,332	2,251	-824	84,174
Jefferson	1,392,743	790,212	109,504	182,240	21,646	8,421	-2,676	283,396
Juneau	490,757	270,884	44,211	73,683	8,740	2,949	-1,068	91,359
Kenosha	5,581,732	3,332,181	303,522	503,037	86,100	15,211	-7,144	1,348,826
Kewaunee	389,276	236,885	17,437	28,938	4,829	466	-424	101,145
La Crosse	1,250,406	679,839	128,267	214,473	39,453	2,794	-3,020	188,600
Lafayette	255,621	148,490	17,607	29,350	6,902	504	-424	53,192
Langlade	441,807	247,005	39,205	65,251	16,611	1,087	-924	73,572
Lincoln	445,923	251,823	39,853	60,844	24,508	2,289	-964	67,571
Manitowoc	945,213	510,585	99,015	163,675	44,243	6,713	-2,416	123,397
Marathon	1,866,624	1,059,912	156,305	238,638	54,259	12,146	-3,824	349,188
Marinette	596,458	317,711	66,469	110,455	29,632	3,376	-1,588	70,404
Marquette	261,090	150,232	19,666	31,955	2,399	815	-464	56,487
Milwaukee	20,095,305	10,411,019	2,623,847	4,249,321	389,518	50,835	-61,584	2,432,349

<u>Agency</u>	<u>Child Support Enforcement Costs</u>	<u>Federal Matching Funds</u>	<u>State GPR</u>	<u>Federal Incentive Payment</u>	<u>Medical Liability Incentives**</u>	<u>Med Spt GPR</u>	<u>Fees Paid by County*</u>	<u>Net County Contribution</u>
Monroe	603,402	313,950	74,281	122,175	22,919	3,182	-1,772	68,667
Oconto	453,217	253,812	40,402	65,675	11,163	1,746	-964	81,383
Oneida	752,852	449,781	44,494	67,932	29,955	1,863	-1,068	159,894
Outagamie	2,289,885	1,287,901	212,137	323,884	95,341	8,343	-5,072	367,351
Ozaukee	618,123	343,138	57,342	94,662	11,659	1,863	-1,368	110,827
Pepin	87,737	50,487	6,757	10,841	1,093	194	-160	18,525
Pierce	503,723	294,017	34,176	55,332	5,055	1,436	-824	114,531
Polk	693,512	413,185	40,177	65,621	69	660	-944	174,744
Portage	1,065,676	611,088	77,895	130,493	29,148	4,307	-1,872	214,616
Price	228,110	132,129	15,856	25,687	3,994	815	-384	50,013
Racine	3,138,330	1,612,396	426,078	683,777	110,037	9,236	-9,900	306,705
Richland	248,128	138,175	21,424	35,266	4,454	1,824	-524	47,509
Rock	3,251,248	1,831,786	279,057	460,535	74,179	12,185	-6,680	600,186
Rusk	288,358	163,901	23,816	38,622	9,332	582	-564	52,670
Saint Croix	983,568	560,450	78,540	130,012	8,118	1,901	-1,852	206,399
Sauk	993,913	556,340	90,060	146,625	34,408	1,746	-2,112	166,846
Sawyer	419,872	246,782	26,922	44,430	4,333	155	-624	97,874
Shawano	422,094	223,943	48,147	79,528	3,513	2,212	-1,148	65,899
Sheboygan	1,712,889	963,222	141,823	234,788	48,997	8,809	-3,440	318,690
Taylor	313,354	179,508	23,360	39,162	15,027	1,319	-564	55,542
Trempealeau	569,777	332,444	36,889	56,321	5,594	2,600	-904	136,833
Vernon	319,405	182,057	24,612	37,577	822	1,940	-604	73,002
Vilas	274,943	161,740	16,951	28,344	6,775	737	-404	60,801
Walworth	1,449,552	829,776	115,478	187,958	65,167	1,009	-2,696	252,860
Washburn	298,572	171,342	21,954	37,499	2,120	776	-524	65,404
Washington	1,103,998	628,304	103,038	168,890	33,461	6,015	-2,496	166,786
Waukesha	3,602,185	2,106,481	237,024	392,093	117,383	9,430	-5,512	745,285
Waupaca	446,202	225,069	59,365	97,770	18,910	2,872	-1,428	43,643
Waushara	316,471	171,644	32,106	49,019	12,211	1,785	-764	50,469
Winnebago	1,877,006	989,676	218,673	359,771	65,635	13,970	-5,292	234,573
Wood	<u>1,033,815</u>	<u>555,399</u>	<u>112,046</u>	<u>186,028</u>	<u>33,758</u>	<u>2,716</u>	<u>-2,536</u>	<u>146,405</u>
Totals	\$90,933,193	\$50,499,620	\$8,500,000	\$13,870,721	\$2,276,846	\$300,000	(\$201,216)	\$15,687,222

\* Includes adjustment for fees paid by Counties.

\*\* Medical incentive payments are not subject to the local spending restrictions that govern federal child support incentive payments. Counties may spend medical incentive dollars on any costs; they are not required to reinvest the monies in child support enforcement activities.



### ATTACHMENT 3

#### Child Support Collections and Enforcement Costs

County	FFY 2016-17 Child Support Collections			CY 2017 Child Support Enforcement Costs
	TANF Cases	Non-TANF Cases	Total	
Adams	\$515,798	\$1,665,511	\$2,181,309	\$279,828
Ashland	470,156	1,976,846	2,447,002	575,908
Barron	922,765	4,276,036	5,198,802	686,854
Bayfield	130,264	1,018,025	1,148,289	287,221
Brown	3,400,804	23,417,359	26,818,163	2,370,030
Buffalo	164,736	1,179,029	1,343,765	190,025
Burnett	346,367	1,624,939	1,971,306	355,594
Calumet	475,516	5,020,296	5,495,813	673,726
Chippewa	917,955	6,299,422	7,217,377	721,960
Clark	633,653	2,947,812	3,581,465	525,175
Columbia	860,024	5,472,368	6,332,391	996,559
Crawford	357,658	1,587,363	1,945,021	290,507
Dane	10,937,862	48,529,471	59,467,333	6,390,765
Dodge	1,733,075	8,213,787	9,946,862	1,475,198
Door	348,830	2,215,655	2,564,485	586,456
Douglas	1,102,568	5,013,850	6,116,418	1,041,788
Dunn	800,278	3,374,745	4,175,023	675,961
Eau Claire	2,011,251	9,927,844	11,939,095	1,275,487
Florence	58,892	505,142	564,035	137,351
Fond du Lac	2,733,176	11,508,577	14,241,753	1,342,199
Forest	227,623	839,326	1,066,949	272,183
Grant	644,865	4,058,940	4,703,805	642,512
Green	778,260	3,370,748	4,149,008	452,449
Green Lake	410,507	1,866,425	2,276,931	360,903
Iowa	235,002	1,836,646	2,071,648	158,051
Iron	73,643	437,844	511,487	106,414
Jackson	470,486	2,038,949	2,509,435	346,405
Jefferson	1,325,954	10,489,932	11,815,886	1,323,623
Juneau	571,049	2,740,301	3,311,350	461,606
Kenosha	7,191,316	16,747,099	23,938,415	4,772,791
Kewaunee	176,171	1,885,360	2,061,531	372,390
La Crosse	1,696,291	9,170,003	10,866,293	1,035,188
Lafayette	226,836	1,546,286	1,773,122	139,227
Langlade	555,317	2,062,110	2,617,428	418,776
Lincoln	685,661	2,640,170	3,325,831	432,983

County	Child Support Collections			Child Support Enforcement Costs
	TANF Cases	Non-TANF Cases	Total	
Manitowoc	1,389,164	9,333,709	10,722,873	1,103,234
Marathon	2,814,819	10,690,244	13,505,063	1,535,132
Marinette	729,960	4,817,983	5,547,943	666,398
Marquette	317,537	1,402,404	1,719,940	222,139
Milwaukee	50,307,017	66,055,941	116,362,958	18,383,582
Monroe	977,256	5,155,718	6,132,974	469,587
Oconto	384,799	3,094,298	3,479,097	495,787
Oneida	833,962	3,152,321	3,986,283	528,228
Outagamie	3,638,505	21,426,238	25,064,743	2,048,019
Ozaukee	867,985	6,434,425	7,302,409	555,540
Pepin	73,477	633,344	706,821	100,621
Pierce	464,550	3,271,103	3,735,653	468,679
Polk	566,187	3,365,902	3,932,088	641,343
Portage	1,347,726	6,709,306	8,057,032	821,022
Price	231,801	1,155,815	1,387,616	274,590
Racine	7,335,002	23,562,249	30,897,252	3,004,821
Richland	321,849	1,315,746	1,637,595	202,230
Rock	5,370,969	15,903,087	21,274,057	3,310,774
Rusk	315,364	1,525,176	1,840,540	221,624
Saint Croix	859,810	8,310,643	9,170,453	802,004
Sauk	1,256,109	7,137,551	8,393,659	942,704
Sawyer	309,885	1,476,565	1,786,449	400,405
Shawano	914,592	4,097,394	5,011,985	402,905
Sheboygan	2,552,658	10,893,736	13,446,394	1,233,075
Taylor	304,828	2,003,593	2,308,421	330,661
Trempealeau	509,262	3,503,058	4,012,321	567,672
Vernon	186,804	2,187,667	2,374,472	201,924
Vilas	208,810	1,299,874	1,508,685	284,316
Walworth	2,006,238	11,801,693	13,807,931	1,363,755
Washburn	247,257	1,334,816	1,582,073	293,950
Washington	1,421,587	11,772,097	13,193,684	1,180,913
Waukesha	3,177,049	21,883,466	25,060,515	3,425,298
Waupaca	843,249	5,577,167	6,420,416	576,558
Waushara	679,107	2,534,853	3,213,960	317,101
Winnebago	3,712,270	15,029,707	18,741,977	1,377,367
Wood	<u>2,087,138</u>	<u>8,378,821</u>	<u>10,465,959</u>	<u>917,101</u>
Totals	\$143,755,193	\$515,731,926	\$659,487,118	\$81,845,151

\* Amounts do not include payments to families who do not use county child support enforcement services. Costs are for calendar year 2017.

\* Does not include amounts paid to families who do not use county child support enforcement services.