

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources  
Rule No. and Title 660-3-6-.01 General Intercept Information  
         New   X   Amend          Repeal          Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

N/A

Is there a reasonable relationship between the state's policed power and the protection of the public health, safety, or welfare?

N/A

Is there another, less restrictive method of regulation available that could adequately protect the public?

N/A

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

NO

Is the increase in cost, if any, more harmful to the public than the harm that it might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

YES

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Does the proposed rule have an economic impact?

NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer:  
*Amey A. Guskner*  
Date: 5-12-11

DATE FILED  
(STAMP)

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Department of Human Resources

RULE NO. & TITLE: 660-3-6-.01 General Intercept Information

INTENDED ACTION: Proposed permanent rule to bring rule in line with administrative due process procedure and terminology outlined in other rules and child support policy.

SUBSTANCE OF PROPOSED ACTION: To bring rule in conformity with administrative due process procedure and terminology outlined in other rules and child support policy. The rule is being changed to clarify that the amount certified for federal and state income tax offset includes unpaid interest.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views or arguments respecting the proposed amendment by mail or in person through close of business on July 5, 2011. Persons wishing to submit data, views or arguments orally should contact the Department's Administrative Procedures Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-1328 to set up an appointment for such oral/in-person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 5, 2011

CONTACT PERSON AT AGENCY:

Mrs. Gail Grobe  
State Department of Human Resources  
Gordon Persons Building  
50 Ripley Street  
Montgomery, Alabama 36130-1801

  
\_\_\_\_\_  
Nancy T. Buckner  
Commissioner

RULE  
OF THE  
DEPARTMENT OF HUMAN RESOURCES  
CHILD SUPPORT ENFORCEMENT DIVISION

CHAPTER 660-3-6  
STATE AND FEDERAL INTERCEPT PROGRAMS

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660-3-6-.01     General Intercept Information

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

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

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

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

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

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

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

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

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

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

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

## (2) Eligible Cases

(a) Intercept enforcement remedies may be used for cases which involve a delinquent court or administrative ordered amount of child support and (1) the State has an assignment of rights to support as a result of the client's receipt of TANF or FCMP foster care or (2) the non-TANF client has made application for or is otherwise receiving Title IV-D enforcement services. Requirements for the various programs are provided below:

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

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

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

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

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

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

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

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

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

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

(i) The client must have applied for the child support services. The support obligation must have been established by court order except that an administrative order of another state is also acceptable. A \$10 certification fee will be deducted from an offset collection due the client from each noncustodial parent.

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

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

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

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

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

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

(viii) The Department has the custodial parent's current address.

3. Unemployment compensation intercept program requirements:

(i) There is an income withholding order ~~authorizing an unemployment compensation.~~

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

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

~~(iv) The balance remaining in the entitlement amount of the noncustodial parent is more than \$200.00.~~

4. Administrative offset program requirements:

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

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

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

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

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

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

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

(vi) The state certifying the case must be:

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

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

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

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

(3) Original Submittal Procedures

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

(4) Pre-Offset Notice

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

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

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

3. the procedures and timeframes for contacting the IV-D agency in the submitting state to request an administrative review. ~~hearing.~~

(5) Case Updates: Deletions and Modifications

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

**Author:** Janice Grubbs

**Statutory Authority:** Code of Alabama 1975, §30-3-60, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -12, 40-18-100 through -109, §5011 of P.L. 101-508, §9 of P.L. 96-611; P.L. 109-171, P.L. 104-193; P.L. 104-134; P.L. 93-647; P.L. 98-378; 11 U.S.C. Section 362, 42 U.S.C. 651 et seq.; 42 U.S.C. 663;; 42 U.S.C. 664; 45 C.F.R. 205-235; 301-307; ALABAMA STATE PLAN – CHILD SUPPORT ENFORCEMENT PROGRAM.

**History:** Effective June 28, 1983. Emergency amendment effective August 8, 1985. Permanent amendment effective November 8, 1985. Succeedent emergency amendment effective November 25, 1987. Succeedent permanent amendment effective March 18, 1988. Succeedent emergency amendment effective August 30, 1991. Succeedent permanent amendment effective December 10, 1991. Succeedent emergency amendment effective July 20, 1999. **Amended:** Filed September 3, 1999; effective October 8, 1999. **Amended:** Filed October 6, 2006; effective November 10, 2006. **Amended:** Filed March 7, 2007; effective April 11, 2007. **Amended:** Filed March 6, 2009, effective April 10, 2009. Succeedent permanent amendment effective August 5, 2011.