

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
CHILD SUPPORT SERVICES DIVISION**

**CHAPTER 1240-2-3
MISCELLANEOUS IV-D**

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1240-2-3-.01 REPEALED.

Authority: T.C.A. §14-1-105 and Public Chapter 890, Acts of 1986. *Administrative History:* Original rule filed January 23, 1986; effective February 22, 1986. Repeal filed July 23, 1986, effective October 29, 1986.

1240-2-3-.02 FEDERAL TAX REFUND INTERCEPT PROGRAM.

- (1) "Past-Due Support" — The amount of support determined under a court order or an order of an administrative process established under state law for support and maintenance of a child or of a child and the parent with whom the child is living, which has not been paid.
- (2) In order for a past-due support obligation to qualify for a federal tax refund intercept, the following requirements must be met:
 - (a) When past-due support is owed in a case in which there has been an assignment to the state making the request for offset of support rights under Tennessee Code Annotated § 71-3-124 or 42 U.S.C. § 671(a)(17);
 1. The amount of past-due support must be at least one hundred fifty dollars (\$150).
 2. For purposes of complying with part (a)1, the state may combine assigned support amounts from the same obligor in multiple cases to reach one hundred fifty dollars (\$150). Amounts under this subparagraph may not be combined with amounts that have accrued under subparagraph (b) in order to reach one hundred fifty dollars (\$150); or
 - (b) When past-due support is owed in a case in which an application for IV-D services has been filed with the IV-D Agency, but in which there has been no assignment of support rights pursuant to subparagraph (a);
 1. The amount of past-due support must be at least five hundred dollars (\$500); and
 2. In this part the term "past-due support" means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child (whether or not a minor), or of a child (whether or not a minor) and the parent with whom the child (whether or not a minor) is living.
 3. For purposes of complying with part (b)1, the state may combine support amounts from the same obligor in multiple cases where the IV-D agency is providing IV-D services to reach five hundred dollars (\$500). Amounts under this subparagraph may not be combined with amounts that have accrued under subparagraph (a) in order to reach five hundred dollars (\$500); and

(Rule 1240-2-3-.02, continued)

- (c) The Department has in its records:
 - 1. A copy of the order and any modifications upon which the amount referred is based which specify the date of issuance and amount of support; and
 - 2. A copy of the payment record, or, if there is no payment record, an affidavit signed by the custodial parent attesting to the amount of past-due support owed; and
 - 3. In non-title IV-A cases in which support rights have not been assigned under subparagraph (a), the obligee parent's current address; and
 - (d) Before submittal to the federal Office of Child Support Enforcement, the Department has verified the accuracy of the name and social security number of the obligor and the accuracy of the amount of past-due support. If the Department has previously verified this information, it need not reverify it.
- (3) Any individual who has received notice that his/her federal tax refund is or will be intercepted and applied to a past due support obligation, may request and receive a fair hearing as provided in 1240-5-3-.01. If an individual requests a hearing upon receipt of a pre-offset notice, he/she may not request a hearing upon receipt of a post-offset notice.
- (a) If the hearing results in a deletion of, or decrease in, the amount referred for offset, the Department will notify the Federal Office of Child Support Enforcement of the deletion or decrease.
 - (b) If, as a result of the hearing, an amount which has already been offset is found to have exceeded the amount of past due support owed, the Department will refund the excess amount to the absent parent.

Authority: T.C.A. §§ 4-5-201 et seq., 8-21-403, 36-5-101(e), 36-5-116, 71-1-105 and 71-1-132; 42 U.S.C. §§ 654b, 664, 666, 667 and 671; and 45 C.F.R. §§ 301.1, 302.56, 303.72 and 303.72(a) (as amended by 50 FR 19651, 19652). **Administrative History:** Original rule filed January 23, 1986; effective February 22, 1986. Amendment filed August 25, 1989; effective October 13, 1989. Amendment filed July 1, 2005; effective September 14, 2005. Amendment filed September 10, 2007; effective November 24, 2007.

1240-2-3-.03 CHILD SUPPORT PROCESSING FEE.

- (1) Pursuant to T.C.A. §§ 8-21-403 and §§ 36-5-116, the Department of Human Services reduces the fee paid by the obligor for the collection and distribution of child support through the central collection system from five percent (5%) as set forth in T.C.A. §§ 8-21-403 and 36-5-116 to zero percent (0%).
- (2) This fee reduction and new fee amount shall become effective upon implementation of this Rule.
- (3) This Rule shall have no effect on the child support processing fee due to the court clerks that by law would otherwise continue to be paid by the obligor for the collection and distribution of child support through the court clerk.

Authority: T.C.A. §§ 4-5-201 et seq., 8-21-403, 36-5-116, and 42 USC §§ 654b and 666. **Administrative History:** Original rule filed August 26, 2002; effective November 9, 2002.