

Modifications for Tribal, Incarcerated, and Interstate Cases

September 29, 2014
Sara Lauthen, DHS
Lori Lofrano, DOC
Chris Brazelton, Wright County

Tribal IV-D Basics

- ▶ In Minnesota, 4 tribes have a Tribal IV-D Program
 - Leech Lake Band of Ojibwe
 - Mille Lacs Band of Ojibwe
 - Red Lake Nation
 - White Earth Nation
- ▶ Cooperative agreements
- ▶ Child Support Division, Tribal Liaison

Matched Cases

When both the Tribal IV-D Agency and County Child Support Agency have a case with the same participants in the same roles.

Shared Interest Cases

- ▶ Occurs when the custodial parent has assigned support to the State on a matched case.
- ▶ The Tribal IV-D Agency is the primary case manager of shared interest cases.

Jurisdiction

Legal authority a court has over a specific person, property, or case.

Tribal Requests for Service

- ▶ All of the following conditions must exist:
 - The Tribal IV-D Agency is located in Minnesota
 - The matched case is shared interest
 - Legal action is required in a Minnesota district court
- ▶ Tribal IV-D agency identifies the case as needing action in a Minnesota district court
- ▶ Tribal IV-D contacts CSD Tribal Liaison
- ▶ Tribal Liaison contacts County Child Support Agency

Tribal Request for Service

- ▶ Temporary Case Assignment to County Child Support Officer
 - Work limited to the specific legal action
 - CSD Tribal Liaison adds activity N1010-REQUEST FOR SERVICE FROM TRIBAL IVD AGENCY
 - CSD Tribal Liaison will provide county with necessary forms and contact information
- ▶ Tribal IV-D Agency continues to be primary case manager during the legal action.

Modification Criteria

- ▶ Two Prongs
 - Substantial Change in Circumstances
 - Unreasonable and Unfair Order
- ▶ Minnesota Statutes section 518A.39, subdivision 2
- ▶ SIR MILO, Topic: Review and Modification, Section: Criteria for Modification

Change in Circumstances-- 518A.39, subdivision 2(a)

- ▶ Substantially increased or decreased income of either parent;
- ▶ The needs of either parent or the joint child(ren) have substantially increased or decreased.
- ▶ Either parent, or the joint child(ren), receive public assistance.
- ▶ The cost-of-living for either parent changed as measured by the Federal Bureau of Labor Statistics.
- ▶ The joint child(ren) have incurred extraordinary medical expenses that were not provided for in the existing order.
- ▶ Change in the availability of appropriate health care coverage or a substantial increase or decrease' in health care coverage costs.
- ▶ Change in child care expenses.
- ▶ A joint child has emancipated, and the existing order still covers at least one additional joint minor child.

Unreasonable and Unfair Order-- 518A.39, subdivision 2(b)

- ▶ The new guidelines child support (total of Basic Support, Child Care Support, and Medical Support) is at least 20% *and* at least \$75.00 per month greater or less than the existing total support obligation.
- ▶ The current child support obligation is less than \$75.00 per month *and* the new guidelines child support increases or decreases the total child support at least 20%.
- ▶ Medical Support provisions of the existing order are not enforceable or the parent ordered to provide health care coverage for the child(ren) no longer has the health care coverage available.
- ▶ The current child support order is a percentage order and does not set a specific dollar amount.
- ▶ Either parent's gross income has decreased by at least 20% through no fault or choice of that parent.
- ▶ The existing order deviated from guidelines support calculations because the child(ren) resided in a foreign county for more than one year with a substantially higher or lower cost of living than in the United States, and the child(ren) no longer reside in the foreign country.

Questions to Ask

- ▶ Has a change in circumstances occurred under Minnesota Statute section 518A.39, subdivision 2(a)?
- ▶ If yes, proceed to determine if the order is unreasonable or unfair. Are any of the factors met in Minnesota Statute section 518A.39, subdivision 2(b)?
 - If yes, proceed with the modification
 - If no, deny the modification and explain the party's right to file his/her own modification motion
- ▶ If no, are any of the factors met in Minnesota Statute section 518A.39, subdivision 2(b)?
 - If yes, a change of circumstances is presumed and the county should proceed with the modification.
 - If no, deny the modification and explain the party's right to file his/her own modification motion.

What's Next?

- ▶ If the case meets modification criteria
 - Proceed with the legal action
 - Once an order is obtained, do not add it to PRISM
 - Send one copy and one certified copy of the order to the Tribal IV-D Agency
 - Send one copy of the order to the CSD Tribal Liaison
 - Assign case to CSD Tribal Liaison Worker ID
- ▶ If the case does NOT meet modification criteria,
 - Notify the Tribal IV-D Agency and CSD Tribal Liaison that no action will be taken
 - Assign the case to the CSD Tribal Liaison Worker ID

Non-Shared Interest Cases

- ▶ If the Tribal IV-D Agency and Minnesota do not have a shared interest case, the Tribal IV-D Agency may initiate a request to the State
- ▶ Central Registry will assign the case to the appropriate county
- ▶ The Child Support Officer should treat the case the same as any responding interstate case

Modifications for Incarcerated Clients



MODIFICATION OF AN EXISTING CHILD SUPPORT OBLIGATION

- ▶ Complete and return the Request for Agency Review of Child Support
- ▶ This form only **STARTS** the process
- ▶ You **MUST** complete and return to the best of your ability any information requested by the county child support office—if you don't know the answer to something, just answer "I don't know", get it signed and returned.



Offender Information

- ▶ Day 2 of incarceration at MCF St Cloud, information provided at orientation.
- ▶ Fill out Request for assistance and agency review
- ▶ Child Support Liaison contact information given.

CHILD SUPPORT



MODIFICATION PROCESS

- ▶ A modification can no longer go retroactive, so begin the process as soon as possible
- ▶ If you do nothing, your child support will continue to add up while you are incarcerated.
- ▶ Not all child support obligations will qualify for a modification. Filling out the initial request will help you determine if your situation meets the criteria.

MODIFICATION PROCESS

- › Carefully go over all Motions served on you by the county child support office.
- › If you have a question, you can send a kite with your questions to "Child Support".
- › Only request a hearing if you disagree with what is proposed in the Motion. If you agree, do nothing.
- › If a hearing is scheduled, contact your case worker asap to facilitate a phone hearing.

OTHER ISSUES

- › Paternity Establishment
- › Signing a Recognition of Parentage
- › Out of state child support orders
- › Driver's license suspension
- › Warrants or holds for nonpayment of support

CHILD SUPPORT QUESTIONS?

If you have any questions related to child support issues, please send a kite to "Child Support".

Automatic Interface

- ▶ As public authority, can take action upon learning that a party meets criteria to modify.
- ▶ As we become more automated, this is a more efficient and timely way to accomplish incarcerated modifications.
- ▶ DOLR/NCDE issues

Barriers



Offender Issues to Consider

- ▶ No access to copy machine
- ▶ Limited access to notary
- ▶ Limited access for phone hearings
- ▶ Mail issues
- ▶ No access to internet/address information
- ▶ Postage costs
- ▶ Mental Health, Depression, Fear

Child Support things to Consider

- ▶ SHLIF/AMPP while doing the modification for public assistance arrears that have accrued
- ▶ Driver's license
- ▶ Writs
- ▶ Reinstatement Language
- ▶ Setting Support obligations
- ▶ Interstate requests

Sesame Street Resource



My Contact

- ▶ Lori Lofrano lori.lofrano@state.mn.us

Intergovernmental Modifications



An illustration showing two children, a boy and a girl, standing on a green circular patch of ground. They are both holding up a large, stylized globe of the Earth. Below the globe, there is a pink heart with radiating lines, symbolizing care or support.

Title 28--Judiciary and Judicial Procedure

PART V--PROCEDURE
CHAPTER 115--EVIDENCE; DOCUMENTARY

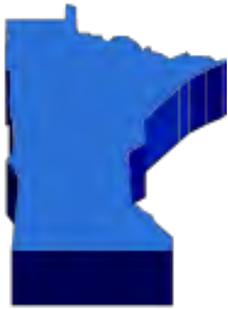


Sec. 1738B. Full faith and credit for child support orders

(i) Registration for Modification.--If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.

From Intergovernmental 101 Workbook reference, the federal [Office of Child Support Enforcement \(OCSE\)](#)

Whose Order Is It?



A blue silhouette map of the state of Minnesota, showing its characteristic shape with the North Star area.

IF the order is from another state, country, or non-Minnesota county jurisdiction

- ▶ Where do the parties reside?
 - If either party or the child(ren) reside in the state or jurisdiction that issued the order, that state or jurisdiction retains "Continuing Exclusive Jurisdiction" (CEJ) to modify the order

To modify that order

- ▶ Do not load REAM
- ▶ Code the case for Interstate Initiating on CAST and add the State Central Registry to the INCM screen for the state or jurisdiction that issued the order. Send the party in our state the Interstate modification documents to complete. Those include the General Testimony (F0206 for the CP or F0218 for the NCP) and the Uniform Support Petition (F0205). Send with cover letter F0221 and privacy rights statement (F0018) and Statement of Rights (F0022).
- ▶ If none of the parties (CP, NCP or child) reside in the state that issued the order, the order must be registered for modification in the non requesting party's state.

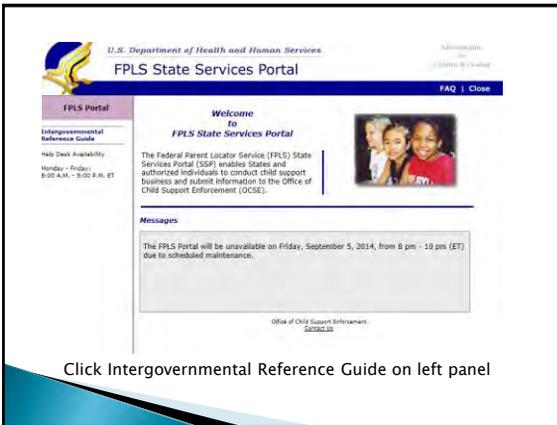
Refer to DHS-SIR>PRISM>Documentation>Training Materials

The screenshot shows the DHS-SIR website interface. At the top, there is a navigation bar with 'DHS-SIR' and a search box. Below the navigation bar, the breadcrumb trail reads 'DHS-SIR > PRISM > Documentation > Training Materials'. The main content area is divided into three columns:

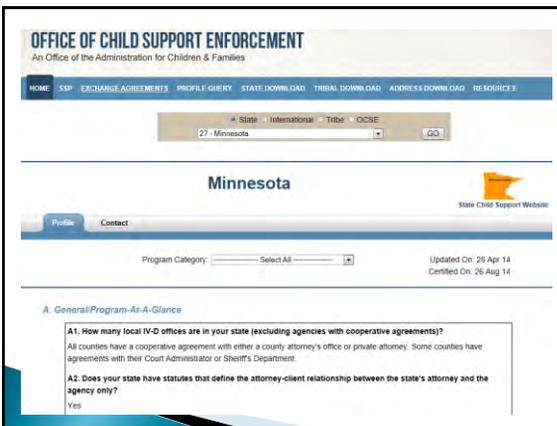
- Documents:**
 - Links
 - Registration Information
 - Training Issue Page
 - Training
 - Participant
 - Guides/Workbooks
 - Other Training
 - Documents
 - Other Training Links
 - Training PowerPoint Files
 - Additional Page
 - Course Information
 - Interjurisdictional
 - Courses
 - How To Enroll (01)
 - After You Enroll (01)
 - 01 011 Description
 - 02 2006 Description
 - After You Enroll (2006)
 - How To Enroll (2006)
- Courses and Course Materials:**
 - Job Help
 - Online Courses
 - Course Web Pages
 - Course Information
 - Participant Guides
 - Distribution Basics - online course home page
 - Legal Process Course Information
 - Interjurisdictional Courses - Information
- Other Resources:**
 - Arrest Management and Prevention Policy Information
 - Stable Information
 - Other Training Documents
 - Supervisor Information Page
 - Training Update - quarterly newsletter
 - Training-related Links

IRG

- ▶ If you are not familiar with the guidelines or statutes of the state or jurisdiction that has jurisdiction over the order or whose assistance you seek in modifying the order, you may want to review them before you proceed.
- ▶ On DHS-SIR->PRISM screen, see CSED Link on upper right corner to FPLS State Services Portal.
- ▶ You will get a message that says "There is a problem with this website's security certificate"
- ▶ Click "Continue to this website", click "Agree" to the authorized user statement, then click on the Intergovernmental Reference Guide (upper left).



Click Intergovernmental Reference Guide on left panel



IRG

- ▶ Load the state or jurisdiction whose program you want to review.
- ▶ Information on several helpful topics including Age of Majority (emancipation), Statutes of Limitations, Support details, such as whether or not that state charges interest on arrears, etc.
- ▶ Under section K it addresses Modification and Review/Adjustment, including criteria and statutory references for guidelines.

Points to Remember

- ▶ Emancipation is based on the statutes of the state or jurisdiction that issued the original order or terms of the order itself, even if other items in the order are later modified by another state.
- ▶ Many states' statutes do not allow them to add CMS or CMI. Several state set limits on adding insurance requirement based on the cost of the insurance coverage. Check with the other state before initiating a modification to address medical support.

Points to Remember

- ▶ Most states do not do COLA's.
- ▶ Some states require a certain amount of time to pass before they will allow a modification/review. Some states won't modify an order due to incarceration. Even if we send a completed General Testimony, some states still require the party to complete that state's own financial statement.
- ▶ NOTE: If you're responding to another state's request to enforce our order, if the order has CMS/PAO you should check to make sure that the other state's statutes allow the CMS to be assigned to the state. If not, stop charging CMS as it is not intended as a windfall for the CP while on MA or other publicly subsidized medical.

Questions?



Contact Information

- ▶ Sara Lauthen, 651-431-4436,
sara.lauthen@state.mn.us
- ▶ Lori Lofrano, 320-240-3032,
lori.lofrano@state.mn.us
- ▶ Chris Brazelton, 763-682-7721,
chris.brazelton@co.wright.mn.us
