

Vacating a Default Child Support Order

Do you believe your child support order is higher than it should be? If so, you should read this notice about a program that could help you if you have a child support order issued by Alaska CSSD!

The Alaska Child Support Services Division (CSSD) may be able to **vacate** your present child support order and **replace** it with a new order in a different amount.

This program is available to you if CSSD set your support order without having specific information about your income -- and if your actual earnings are generally lower than the average wages in Alaska. *If you qualify for this program, your child support debt and monthly payments could be reduced.*

If you believe you meet the requirements of this program, please read this material and complete the form in the back of this booklet.

Background of the program

A child support order establishes the amount you pay or receive for child support. This amount should be based upon the paying parent's income and ability to pay. The paying parent usually provides income information such as tax records and pay stubs, and CSSD uses a formula developed by the Supreme Court under Civil Rule 90.3 to determine the monthly child support amount.

We requested such information from you but, for whatever reason, you could not or would not provide sufficient proof of income. Under law, we had to complete a child support order quickly and established the order without full information on your income.

Despite the lack of information, the order, called a default order, is a legal order. Unfortunately, many default orders often don't have much to do with the paying parent's actual ability to pay. CSSD knows when a default order exceeds the parent's ability to pay, the paying parent may decide to pay nothing or far less than the amount owed. As the debt grows larger, the likelihood of payment grows smaller. That's why we asked the legislature to pass a law to help parents with default orders. If parents have an order they can afford to pay, the chances are much better their children will receive the child support they need.

*This material probably includes some unfamiliar terms.
Please turn to glossary on Page 4 to familiarize yourself with these terms*

Why is CSSD asking if I want to change my order?

We know you have had a default order at some time in your case. This means we set your support order without your income information. CSSD wants you to know you have this opportunity to get an order based on actual earnings.

Alaska Statute 25.27.195 -- which became law on October 1, 1996 -- allows CSSD to vacate its own default orders and replace them with new orders. The agency has the authority to go back and issue an order to reflect your ability to pay - but only if you formally ask us to vacate the default order and give us enough information about your income.

How can a default order be changed?

If you have a default order issued by Alaska CSSD and you completed the motion to vacate and provided the information requested, CSSD will begin working on your case.

When CSSD determines that we have enough information to work on the case, we will notify you and the custodial parent by first class mail.

To oppose the request, the custodial parent must file their opposition to CSSD within 30 days. They must supply documents and information in support of the opposition to the request. If they do not respond within 30 days; the request will be processed by the Child Support Specialist.

When the Child Support Specialist vacates the default order, a new order will be sent to you and the custodial parent.

Does everyone qualify for this program?

No! Alaska Statute 25.27.195 only allows CSSD to vacate its own orders and replace them with a new order covering the same period of time. We can't vacate a court order or a support order issued by another state.

Even if we can vacate the default order, it's still up to you to provide enough information to establish a new order. If you fail to provide income information, the agency will cease our actions on your motion for a new order and the original order remains in effect.

*This means the total child support debt owed in the case
could be much smaller than it is today*

What to do if I want a new child support order?

There is a form on Page 5 called **Motion to Vacate Default Order**. This must be completed by you or your legal representative to request that the division vacate the existing support order and replace it with a new order. You must complete this form and provide proof of earnings for each year of the child support order.

What you should do now

Please write neatly or type your answers on the form. And please make sure the copies of your pay stubs, tax returns and other financial records are clear and legible.

Mail the form to the Alaska Child Support Services Division with the affidavits requested and with your proof of earnings.

DO NOT SEND ORIGINALS. They will not be returned by CSSD.

Warning: the information you provide will be released in judicial or administrative proceedings. If there is information on the documents you submit which concern a person who is not related to this case (new spouse, subsequent child, etc.,) you must advise us that you do not want their information released in the proceeding. Do not remove any information from the documents yourself before submitting the documents to the CSSD. CSSD will take action to remove the information before the case proceeds or the information is released.

Note: If the health, safety or liberty of you or your children would be put at risk by disclosure of identifying information, *you must contact us to receive an "Affidavit and Request for Address Confidentiality."* If you do not, the address could be disclosed.

The quicker you submit the information, the quicker you'll see a result.

*If you have any questions, and live outside of Anchorage, call a Child Support Representative at 1-800-478-3300, option 1 extension 6866.
In Anchorage, call 269-6866*

Glossary:

- Arrears** Interest is charged on late payments at the rate of 6% per year.
- Child Support Order** The legal document tells you how much child support you owe and how much you should pay each month. There are two kinds of child support orders: Court orders are established by a judge or other court official, and administrative orders are set by a child support services division.
- Default Order** A support order established without accurate information about the parent's actual income and ability to pay. Sometimes this is because the parent never provided the child support division with information about his or her income and/or failed to answer the division's letters. Many default orders may be too high for the parent to pay. *Default orders may be set by the child support division or by a court, but this program applies only to default orders issued by the division.*
- Vacate an Order** Stop an order and make it void.
- Custodial Parent** The parent who has primary custody of the children and who receives the child support payments on behalf of the children.
- Paying Parent** The parent who does not have primary custody of the children. Sometimes if a judge orders shared custody, and the children live with each parent for part of the year, the parents take turns being the custodial and paying parent. More often, the children live mostly with one parent and visit the other.
- Custodian** A court-approved caretaker who is responsible for the children. This is usually a relative such as a grandparent, aunt or uncle. The custodian can have temporary custody of the children or may have full legal custody. If the children are in foster care, the custodian may even be the State of Alaska or another state.

Obtaining Information from the IRS and the Social Security Administration

Obtaining your Income Information

Income Tax (IRS) Information.

1. If you do not have copies of your income tax returns you may request them through the IRS by completing the attached "Request for Copy or Transcript of Tax Form".
 - a) Alaska residents: The IRS has two offices in Alaska -- one in Anchorage and one in Fairbanks. The Anchorage office is located at 949 East 36th Street, Room 101. Their office hours are 8:00 a.m.- 4:30 p.m., Monday through Friday. The phone number is: 907-271-6877. The Fairbanks office is located in the Federal Building at 101 12th Avenue, Room 160 with the same office hours. The telephone number for the Fairbanks office is 907-456-0204.
 - b) Out of Alaska residents: Each state has local IRS offices that can assist you in obtaining your tax returns. In addition you can call 1-800-829-1040 to contact the IRS.
2. If you were not self-employed, you may request a printout of your tax information called "Tax Account Information" from the IRS. This is NOT a tax return, but it does show your income and tax information. We will accept this printout as proof of your wage information in lieu of a signed tax return. You can request this by writing or visiting an IRS office or call the IRS at the number listed in 1(a) or 1(b) above.
3. If you did not file taxes for any or all years in question, you must complete the "Request for Copy or Transcript of Tax Form" and mark line 8b. Also, on line 11 enter the tax period for which you want verification of nonfiling. The IRS will confirm in writing that you did not file a tax return.
4. If you are or were self-employed we will need to see the complete tax return for any year of self-employment. **Include all self-employed tax schedules and attachments to the tax return.** You can request this information by completing the "Request for Copy or Transcript of Tax Form" and mark line 8d. (There is a charge for this)
5. If you have difficulty in obtaining your tax return or there is going to be a delay in receiving your tax returns, please notify us immediately in writing of the delay and the reason why. Without this notification, we will assume that you did not make an attempt to get wage and tax information and the original order will remain in effect. By notifying us of your attempt to get

your IRS information we can grant you an extension of time if you are unable to get the information to us within the 30-day deadline of this request.

6. Child support is based on your income and not the income of your current spouse. But if you filed a joint income tax return with your current spouse, we need to know how much of the income is yours so that we base our child support calculations solely on your income and not a joint income amount. The best way to show the two incomes are with copies of your and your current spouse's W-2 forms for the years in question. We keep all income information confidential and will not divulge your current spouse's income to another party. However, if you do not provide us with W-2 forms or other documents showing your portion of the income, we will assume that all of the income is yours.

SOCIAL SECURITY INFORMATION. Another possible way to obtain your wage information is through the Social Security Administration (SSA). The SSA maintains extensive wage information on workers who pay into the social security system. You may be able to obtain a wage report for the years needed through their agency. The toll free number for the Social Security Administration is 1-800-772-1213.

DEDUCTIONS FROM YOUR GROSS INCOME. For the purpose of calculating the amount of child support, you may subtract certain "allowable" deductions from your income. Allowable deductions include federal and state income taxes, social security and medicare taxes, union dues, retirement contributions to a qualified tax deferred pension plan or account and unemployment tax. If you can provide proof of these expenses, we will take them into consideration when calculating the support amount.

In addition, if the child(ren) is covered under your medical insurance, you may receive credit against the child support obligation for 50% of the premium. You must provide proof of coverage for the child(ren) and the cost.

SOCIAL SECURITY PAYMENTS OR INSURANCE BENEFITS TO CHILDREN. You should also advise us whether your children receive social security benefits or other insurance benefits due to your retirement or disability. We will count those benefits as income to you when calculating child support, but we will also count those benefits as child support payments made by you. Therefore, your out-of-pocket child support payment may be reduced.

DO NOT SEND ORIGINALS. They will not be returned by CSSD.

MOTION TO VACATE DEFAULT ORDER

I am requesting the child support order in this case be vacated and replaced with a more accurate order. This order was not based on my ability to pay because the Child Support Services Division did not have good information on my income and earnings at the time it issued the order.

I am enclosing the documents checked below. I understand CSSD will send a notice to both the custodial and paying parents when it has calculated the amount of the new order based on my actual income.

The following documents are enclosed as proof of my earnings:

- Completed Child Support Guidelines Affidavit(s) for years _____ to _____.
- Pay stubs for years _____ to _____.
- Copies of signed tax returns - with all applicable schedules attached for the years in question.
- Documentation and verification of medical coverage for the children.
- Documentation verifying retirement plan contributions.
- If self-employed, your company tax returns reflecting your business income and expenses.
- Documentation concerning periodic benefits you receive (such as worker's compensation, unemployment compensation, Social Security benefits including Children's Insurance Benefits, veteran's benefits, Native or corporate and investment interest or dividends, insurance benefits, and any in-kind compensation or monetary benefits paid by any organization).
- Verification of union dues, if paid.
- Any other information you would like us to consider.

I understand that the child support division may deny this motion if I have not provided sufficient information to prove my income and ability to pay child support.

Signature	Date	Home Phone	Work Phone
Printed Name	Mailing Address		
Social Security Number	City		State Zip

Names of Children _____

Be sure to return this page to the address on the enclosed envelope. If you have any questions, call toll free in Alaska 1-800-478-3300 Option 1, extension 6866, in Anchorage call 269-6866.

It's important that you call as soon as possible if there's anything you don't understand.