

Child Support Terms and Definitions

Administrative order - a judgment or order of an agency of the executive branch of state government, or an agency of comparable jurisdiction of another state, ordering payment of a set or determinable amount of support money, or ordering withholding of income.

Amount collected - the amount of payment collected by the DCS and retained as reimbursement of federal and state aid expenditures in the month in which the collection was made or for a previous month in which aid was paid or the amount collected and paid to a nonrecipient or a former recipient.

Applicant and recipient - a parent or caretaker relative of a child(ren) who is entitled to receive child support enforcement services by filing an application for services or is required to cooperate with child support enforcement activities due to eligibility for TANF benefits under SDCL chapter 28-7A. May also be referred to as receiver of support.

Arrearage - the total amount of unpaid support obligations.

Assignment - the transferring to and vesting in the department, by virtue of SDCL 28-7A-7 or by written instrument, all rights of support from any person payable, whether accrued, pending, or continuing, to or on behalf of an applicant for or recipient of aid, or on behalf of another family member for whom the applicant or recipient is applying for or receiving aid.

Assistance unit - an individual or a group of related recipients within a household whose needs are recognized in one assistance grant and whose support rights have been assigned to the department under SDCL 28-7A-7.

Child Support Guidelines - the state laws used to establish the amount of child support obligations for noncustodial parents of children, including a "grid" listing support obligation amounts for various income ranges and numbers of children. The guideline laws utilize both the custodial and non-custodial parents income in reaching an appropriate obligation. See SDCL 25-7-6.1 – 25-7-6.19 for most recent guidelines.

Child Support Referee - a licensed attorney appointed by the Unified Judicial System whose role is to hear and make recommended decisions in child support establishment and child support modification proceedings.

Commission on Child Support - A commission appointed by the Governor every four years as required by federal regulations and SDCL 25-7-6.12 to recommend adjustments to South Dakota's child support guidelines and related statutes.

Court order - a judgment or order of a circuit court of this state or a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support money.

Custody – there are two types of custody recognized in the law. Actual "physical custody" which is the parent designated by the court with whom the child lives with and

spends most of their time. Legal Custody which designates which parent or parents make the major decisions effecting their child's lives.

Dependent child - a child who has not attained 18 years of age or has not attained 19 years of age and is a full-time student in a secondary school and who has been deprived of support or care of a parent because of the parent's death, continued absence from the home, or physical or mental incapacity, or who is a child of unemployed parents who is living with the parents in a residence maintained by the parents as their home.

Division of Child Support (DCS) – Division of Child Support is an agency within the Department of Social Services. DCS provides services to both parents and any adult who has legal custody/guardianship of a minor child. Services include locate payors of support, establish paternity, establish and enforce support orders, modify orders when appropriate, and collect and disburse child support payments.

Family - the children of an obligee and an obligor and the obligee, legal guardian, or caretaker relative who has custody of or responsibility for the children for the purpose of distribution of support payments.

Federal parent locator service or FPLS - a service operated by the federal office of child support enforcement to assist state child support enforcement agencies to locate noncustodial parents for purposes of support enforcement or to locate parents and children in parental kidnapping and child custody cases.

Incentive payment - a payment made by the federal government to state child support enforcement agencies based on a formula to reward and encourage high performance in providing services.

Income - any form of payment to a person, regardless of source, including wages, salary, commission, bonuses, compensation as an independent contractor, workers' compensation, unemployment compensation, disability, annuity and retirement benefits, gift or inheritance, all gain derived from capital or labor, profit gained through the sale or conversion of capital assets, and any other payments, including personal property, money and credits on deposit with or in the possession of, or made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by public act. However, for the purposes of income withholding, income excludes:

- a. Any amount required by law or as a condition of employment to be withheld, other than creditor claims, including federal, state, and local taxes, social security and other retirement contributions
- b. Any amount exempted by federal law; and
- c. Public assistance payments

Income Shares Model - utilization of both parents' incomes in computing a child support obligation as opposed to only using the non-custodial parent's income. South Dakota utilizes the income shares approach within its guidelines.

Medical support - the provision of a health insurance benefit plan, including any employer sponsored group health plan or self-insured plan, or any individual health insurance policy, to meet the medical needs of a dependent child including the cost of any premium required by such a health insurance benefit plan.

Nonrecipient - a resident parent or legal guardian who has legal custody of a child or, in the absence of a custody order, a parent who has actual custody of a child not otherwise eligible for or receiving assistance from the department.

Obligee - any person or entity to whom a duty of support is owed. DCS uses the term **receiver of support**.

Obligor - any person who owes a duty to make payments under an order for support. DCS uses the term **payor of support**.

Order for support - a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, which provides for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

OCSS – Office of Child Support Services, formerly called the Office of Child Support Enforcement or OCSE. OCSS is the federal agency which helps states and tribes develop, manage, and operate their child support programs according to federal law.

Parent - the natural parent, adoptive parent, or stepparent of a dependent child.

Paternity - an official act to establish the legal father of a child.

Payor - any person or other entity owing income or having personal property or money and credits belonging to an obligor.

Rothbarth Model - a study conducted by Dr. David Betson of the University of Notre Dame which attempts to determine the actual costs of raising children throughout the nation. Most states use this model to establish their actual child support guidelines.

Shared Parenting - situations where the child(ren) spend basically equal time with both parents. See, SDCL 25-7-6.14 which outlines shared parenting requirements.

Standard of need - the need established by the Department of Social Services to maintain a household.

State Parent Locator Service or SPLS - a unit within the Division of Child Support that conducts and coordinates activities to identify and locate noncustodial parents.

State plan - the state plan for child support enforcement submitted by the office under Title IV-D of the Social Security Act.

Support obligation - a financial obligation of a person for child or spousal support, whether accrued, pending, or continuing, which is vested in the department by a recipient through an assignment or SDCL 28-7A-7 or is granted to the department by a nonrecipient through a power of attorney.

Support enforcement services - establishing and enforcing support obligations, locating support obligors, and establishing paternity under the Title IV-D state plan.

Title IV-D agency - the agency established by Part D of Title IV of the Social Security Act (42 U.S.C. §§ 651 to 667) for the purpose of administering the state's plan for establishing and enforcing support obligations, locating support obligors, and establishing paternity.

Visitation - the ability or opportunity for the non-custodial parent to spend time and see the child(ren). South Dakota's visitation guidelines are found in the Appendix to SDCL Chap. 25-4A.

Visitation Moderator or Mediator - an individual appointed by the court to recommend custody or visitation arrangements between parents.