ALABAMA DEPARTMENT OF HUMAN RESOURCES CHILD SUPPORT ENFORCEMENT DIVISION ADMINISTRATIVE CODE

CHAPTER 660-3-12 FINANCIAL INSTITUTION DATA MATCH

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660-3-12-.01 Definitions.

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

(a) "Account" - A demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(b) "Arrearage" - Past-due child support which accrues under an order for support. The child support debt owed by the noncustodial parent to the custodial parent or to the state; a delinquency. Statutory interest that accrues on the debt is included in past-due child support.

(c) "Data Match" - An automated process of matching specified information from the financial records of financial institutions with records of the Title IV-D agency.

(d) "Financial Institution" - A depository institution as defined in Section 3(c) of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813(c); an institution-affiliated party, as defined in Section 3(u) of 12 U.S.C. Section 1813(u); and any federal credit union, as defined in Section 101 of the Federal Credit Union Act, 12 U.S.C. Section 1752, including an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act 12 U.S.C. Section 1786(r); and any benefit association, insurance

company, safe deposit company, money market mutual fund, or similar entity authorized to do business in the state.

(e) "Financial Record" - As defined in Section 1101 of the Right to Financial Privacy Act of 1978, 12 U.S.C. Section 3401.

(f) "Noncustodial Parent" - A parent who does not have the child in his or her care and is responsible for paying support. The term includes an obligor.

(g) "Notice of Lien or Levy" - An official notice from the state Title IV-D agency of a judicial or administrative lien or levy against a noncustodial parent and requesting that funds of a noncustodial parent be surrendered or transferred to the state Title IV-D agency.

(h) "Obligor" - A person ordered by a court to make periodic payments for the benefit and support of another person or the parent or alleged parent named in a paternity action.

(i) "State Title IV-D Agency" - The state agency designated to administer the statewide child support program authorized under Title IV-D of the Social Security Act.

(j) "Support or Support Order" - Any order, decree or judgment for support of a child, or in the case of an order being enforced pursuant to the requirements of Title IV-D of the Social Security Act, a spouse or former spouse, issued by a court of this state or a court or agency of another state or jurisdiction, whether interlocutory or final, including orders issued for any of the following purposes:

1. Current support of a minor child.

2. Current medical support, which includes the cost of medical insurance of unreimbursed medical expenses.

3. Arrearage that has accrued due to unpaid child or medical support during the child's minority, including enforcement, post-majority of arrearages accrued during minority and interest that has accrued or continues to accrue on that arrearage.

4. Spousal Support when such spousal support is collected by the Department of Human Resources or the department's designee pursuant to the requirements of Title IV-D of the Social Security Act.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.

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660-3-12-.02 Purpose Of Financial Institution Data Match.

(1) The Child Support Enforcement Program and financial institutions doing business in the state are required to enter into agreements to secure information leading to the enforcement of child support orders. A data match system has been developed requiring financial institutions to provide quarterly, the name, Social Security number, address, telephone number, account numbers, and other identifying data for any person who maintains an account at the financial institution and who owes a child support arrearage.

(2) The purpose of Financial Institution Data Match is to identify accounts belonging to noncustodial parents who are delinquent in their child support obligations. Once identified these accounts are subject to liens and levies issued by the state IV-D agency. Financial Institution Data Match will also provide location information on noncustodial parents.

(3) Financial institutions are not liable for disclosure of information to the state child support agency or for any other action taken by the financial institution in good faith to comply with the requirements of the data match program.

(4) The Federal Office of Child Support Enforcement will assist the state IV-D agency and multistate financial institutions in reaching agreements regarding the receipt of information from and the transfer of data to the state agency.
Author: Janice Grubbs
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000.

660-3-12-.03 Data Match Criteria.

(1) For a case to qualify for submittal for the Financial Institution Data Match program, it must meet the following criteria:

(a) There must be a court order or an administrative order of support.

(b) The noncustodial parent's total arrearages from all cases, including interest, must be at least $500.00.

(c) The noncustodial parent's total arrearages from all cases, including interest, must be equal to at least three months current support obligation due under each case.

(d) The noncustodial parent's social security number must be verified.

(e) The case record must contain the payment record or the custodial parent's affidavit specifying payments not made by the noncustodial parent.

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

(g) The noncustodial parent is not a SSI recipient.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000. **Amended:** Filed September 11, 2014; effective October 16, 2014. **Amended:** Filed April 18, 2016; effective June 2, 2016.

660-3-12-.04 Implementation Of Administrative Lien.

(1) The state IV-D agency is authorized to file a notice of lien against the real and personal property of any noncustodial parent who resides or owns property in the state and owes past-due child support. Liens against personal property other than personal property subject to a certificate of title, shall be filed with the office of the Secretary of State. Upon the filing of the notice, a lien arises by operation of law.

(2) The Notice of Lien shall be sent by the state IV-D agency through electronic transmission to the Office of Secretary of State.

(3) A digital signature on the Notice of Lien shall authorize the filing of the lien.

(4) The lien shall be perpetual in nature.

(5) For a case to qualify for filing a lien with the Secretary of State, it must meet the following criteria:

(a) The noncustodial parent's total arrearages from all cases, including interest, must be at least $1000.00.

(b) The noncustodial parent's total arrearages from all cases, including interest, must be equal to at least three months current support obligation due under each case.

(c) The balance of the noncustodial parent's financial account(s) must be at least $5,000.00 as of the date of the financial institution data match.

(d) The custodial parent must not be involved in bankruptcy proceedings.

(e) The noncustodial parent is not a SSI recipient.

(6) The Secretary of State will record the information and issue an acknowledgment to the state IV-D agency that the lien has been filed.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
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660-3-12-.05 Implementation Of Administrative Levy.

(1) Upon acknowledgment from the Secretary of State that a lien has been filed, the state IV-D agency sends:

(a) An Obligor Notice of Lien to the noncustodial parent informing him/her that a lien has arisen by operation of law on any personal property belonging to him/her or acquired after the lien arises.

(b) A Request for Administrative Review form to the noncustodial parent that may be used to request a desk review of the action taken within fifteen (15) days of the date of the notice of lien.

(c) A Notice of Levy to the appropriate financial institution to place a freeze on the noncustodial parent's account(s) for 21 days and to surrender the amount named in the document after that period of time.

(2) For a case to qualify for filing a levy with a financial institution, it must meet the following criteria:

(a) The noncustodial parent's total arrearages from all cases, including interest, must be at least $1,000.00 as of the date of the financial institution data match.

(b) The noncustodial parent's total arrearages from all cases, including interest, must be equal to at least three months current support obligation due under each case.

(c) The balance of the noncustodial parent's financial account(s) must be at least $5,000.00.

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

(e) The noncustodial parent is not a SSI recipient.

Author: Clifford Smith
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000. **Amended:** Filed September 11, 2014; effective October 16, 2014. **Amended:** Filed April 18, 2016; effective June 2, 2016.

660-3-12-.06 Right To Contest Lien/Levy.

(1) The noncustodial parent has a right to an administrative desk review of the action taken to implement a lien and a levy against his/her assets. The request for review must be in writing within fifteen (15) calendar days of the date appearing on the Notice of Lien. The Obligor Notice of Lien instructs the noncustodial parent to mail the written request to the state IV-D agency.

(a) Reasons for contesting the lien/ levy:

1. Mistake of fact.

2. The child support debt is paid in full.

3. (S)He is receiving SSI or SSI money is in the financial account(s).

4. (S)He does not meet the qualifications for lien/levy.

5. (S)He is involved in bankruptcy proceedings.

6. (S)He is strictly on the account for fiduciary purposes, for example the management of the funds of an elderly parent or minor child.

7. The financial account contains SSI money received by another joint account holder or individual who is a SSI recipient.

8. (S)He or another joint account holder or individual is a former SSI recipient and SSI funds were deposited into the financial account.

9. The financial account is classified as a business account.

10. The financial account is a joint account and the funds do not belong to him/her.

(b) The noncustodial parent must provide proof, such as copies of:

1. Canceled checks or money orders.

2. Child Support orders or modifications to them.

3. Pay stubs that show child support withheld.

4. Letters from employers who have withheld wages.

5. Receipts for child support payments.

6. Court records documenting payment of child support.

7. Picture ID and Social Security Card to prove mistaken identity.

8. Documents showing that the levied funds do not belong to him/her (bank documents, etc.).

9. Any other applicable documents.

(c) If the noncustodial parent is on a joint account and claims the funds do not belong to him/her, (s)he must provide documentation that shows that his/her name is on the account strictly for fiduciary purposes. If documents indicate that the noncustodial parent is on the account for fiduciary purposes, the levy will be released.

(d) Where there is a joint account and the noncustodial parent is not on the account for fiduciary purposes, 50% of the account funds shall be released to the other joint account holder. Where there are more than two individuals listed on the account, the funds shall be released to the other joint account holders proportionately based on the number of individuals on the account. If the noncustodial parent claims that a different amount belongs to him/her, (s)he must provide documentation that shows the amount that belongs to him/her. The noncustodial parent's portion will continue to be levied in order to satisfy the outstanding child support obligation.

(e) A desk review will be conducted by the state IV-D agency within 30 days of receiving the request for an administrative review.

(2) If the issue cannot be resolved in an administrative desk review, the noncustodial parent has the right to request an administrative hearing. The non-custodial parent is advised in the Results of Administrative review document that the state IV-D

agency must receive a written request for an administrative hearing within thirty (30) days of the date on the document or the money will distribute as child support.

(a) An administrative hearing will be conducted by the State IV-D agency within 90 days of receiving the written request.

(3) If the noncustodial parent does not agree with the findings of the administrative hearing, (s)he has the right to request a judicial review by filing a notice of appeal, cost bond, and petition for review as required under the Alabama Administrative Procedure Act. The noncustodial parent is advised in the results of administrative hearing document that the state IV-D agency must receive notice of the court action within thirty (30) days of the date on the document, or the money will distribute as child support.

(4) A person whose name appears jointly on the account with the noncustodial parent has the same right as the noncustodial parent to contest the action to lien/levy the assets. If the joint account holder claims the funds belong to him/her and not the noncustodial parent, the joint account holder must provide documentation that shows that the noncustodial parent's name is on the account strictly for fiduciary purposes. Where there is a joint account and the noncustodial parent is not on the account for fiduciary purposes, 50% of the account funds shall be released to the joint account holder. Where there are more than two individuals listed on the account, the funds shall be released proportionately based on the number of individuals on the account. If a joint account holder claims that a different amount belongs to him/her, the joint account holder must provide documentation that shows the amount that belongs to him/her. The noncustodial parent's portion will continue to be levied in order to satisfy the outstanding child support obligation.

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.

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660-3-12-.07 Release Of Lien/Levy.

1. **A** Notice of Release of Lien/Levy shall be sent by the state IV-D agency when:

(a) The child support debt is paid in full;

(b) The Notice of Lien/Levy was filed in error;

(c) The noncustodial parent has filed bankruptcy;

(d) Documents indicate that the noncustodial parent's name is on the account strictly for fiduciary purposes, for example the management of the funds of an elderly parent or minor child.

(e) The noncustodial parent is a SSI recipient.

(f) The financial account contains SSI money received by another joint account holder or individual who is a SSI recipient.

(g) The noncustodial parent or another joint account holder or individual is a former SSI recipient and SSI funds were deposited into the financial account.

(h) The financial account is classified as a business account.

(2) Where there is a joint account and the noncustodial parent is not on the account for fiduciary purposes, a limited Notice to Release will be sent to the financial institution asking that the appropriate portion of the funds be released to the joint account holder(s).

Author: Clifford Smith

Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.

History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000. **Amended:** Filed September 11, 2014; effective October 16, 2014. **Amended:** Filed April 18, 2016; effective June 2, 2016. **Amended:** Filed August 5, 2019; effective September 19, 2019.

660-3-12-.08 Penalties To Financial Institutions.

(1) The state IV-D agency has the authority to impose penalties for failure to comply with the terms of Financial Institution Data Match. Failure of a financial institution to cooperate may take place at two stages in the Financial Institution Data Match Process:

(a) A financial institution may refuse to sign an agreement with the state IV-D agency to perform the actual data match against their accounts; or

(b) A financial institution may refuse to release the funds.

(2) In the event a financial institution refuses to enter into an agreement with the state IV-D agency to perform the automated data match, a motion may be filed with the court to compel the

financial institution doing business in the state to comply to the law.

(3) The financial institutions are apprised in the Notice of Levy document of the penalty for failing to honor a levy of the noncustodial parent's account(s). Failure or refusal to surrender the funds shall result in liability to the state IV-D agency in a sum equal to such levy and to a penalty equal to twenty-five percent (25%) of such amount.
Author: Janice Grubbs
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000.

660-3-12-.09 Interstate Liens/Levies.

(1) The state IV-D agency of another state may determine that a noncustodial parent holds assets in a financial institution doing business in the State of Alabama. Full faith and credit shall be given to liens arising from any judicial or administrative action in another state. That state IV-D agency may send the levy directly to the financial institution in Alabama asking that they surrender the funds directly to that state IV-D agency. If the financial institution refuses to do so, the state IV-D agency may then send the case to the Alabama IV-D agency for enforcement.

(2) If it is determined that the noncustodial parent in an Alabama case holds assets in a financial institution outside of Alabama, the Alabama IV-D agency may send the levy directly to the financial institution doing business in that state. A request shall be made that the funds be surrendered to the Alabama IV-D agency. However, if the financial institution refuses to remit the money, the case may be sent through the IV-D agency of that state for enforcement.
Author: Janice Grubbs
Statutory Authority: Code of Ala. 1975, §§30-3-191, 30-3-192, and 30-3-198, P.L. 104-193.
History: **Emergency rule** effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000.