

IMPROVING CHILD SUPPORT ENFORCEMENT IN INDIAN COUNTRY

Current Law

The Social Security Act currently allows Indian tribal governments to establish Child Support Enforcement Agencies under Title IV-D of the Social Security Act.¹ Currently, there are over 50 such child support enforcement agencies throughout Indian Country.²

However, while these tribal agencies provide important services, they do not have equal access to Parent Locator Databases like their State government counterparts, nor do they have authority under the Internal Revenue Code to withhold past due child support payments from the federal income tax returns of parents with past due child support obligations. These two enforcement mechanisms are critical to improving the services provided by tribal child support enforcement agencies.

Reasons for Change

Indian tribal governments are tasked with providing government services to their citizens within the borders of their reservation. As such, tribes need the same tools for enforcement which are available to their state counterparts. Child support agencies offer the following critical services to their citizens:

- They locate noncustodial parents;
- They determine paternity when necessary; and
- They establish and enforce orders for support.

Under current law, tribes operating their own child support agencies are hindered in providing two of the above listed services: (1) the ability to locate parents, and (2) the ability to enforce orders for support. These barriers to enforcement prevent the tribe from leveraging a potentially strong enforcement authority to come to a more amicable resolve.

Where states have exercised this authority, studies show that programs have evolved to become more successful in helping parents work together toward providing support for their children. No doubt, this framework is furthered by the state having the proper resources and enforcement mechanisms. Tribes need the same access to resources and enforcement mechanisms.

¹ 42 U.S.C. § 655(f).

² According to the Department of Health and Human Services, Administration for Children and Families' FY 2014 Budget Justification for the Appropriations Committee, there are currently 47 tribal child support program grantees and 11 tribes receiving two-year start-up funding (Pp. 252).

Proposal

We propose amendments to the Social Security Act and the Internal Revenue Code that permit tribal child support enforcement agencies to offset tax refunds for past due payments if necessary, and to access the same parent locator database available to State child support agencies. In doing so, Section 6402(c) of the Internal Revenue Code would be amended to permit Indian tribes, or tribal organizations receiving funding as child support enforcement agencies, to participate in the Federal income tax refund offset program.

Also, a parallel amendment is recommended to Section 464 of the SSA, as well as an amendment to Section 453 of the SSA to include tribal child support enforcement agencies in the definition of an "authorized agent" so that such agencies may directly access the Federal Parent Locator Service.

Suggested Language

SEC. XX. IMPROVING EFFECTIVENESS OF TRIBAL CHILD SUPPORT ENFORCEMENT AGENCIES BY PARITY OF ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE AND FEDERAL TAX REFUND OFFSETS

(a) ACCESS TO FEDERAL PARENT LOCATOR SERVICE. Section 453(c) of the Social Security Act (42 U.S.C. 653(c)) is amended—

- (1) by striking “and” at the end of paragraph (3);
- (2) by striking the period at the end of paragraph (4) and inserting “; and” ; and
- (3) by adding at the end the following:

“(5) the child support enforcement agency of an Indian tribe or tribal organization that is eligible for a grant under section 455(f).”.

(b) IMPROVING THE COLLECTION OF PAST-DUE CHILD SUPPORT FROM FEDERAL TAX REFUNDS.

- (1) Amendment to the Social Security Act.— Section 464 of the Social Security Act (42 U.S.C. 664) is amended by adding at the end the following:

“(d) APPLICABILITY TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS ELIGIBLE FOR A GRANT UNDER THIS PART.— This section, except for the requirement to distribute amounts in accordance with section 457, shall apply to an Indian tribe or tribal

organization eligible for a grant under section 455(f) in the same manner in which it applies to a State with a plan approved under this part.”.

(2) Amendment to the Internal Revenue Code.—Subsection (c) of section 6402 of the Internal Revenue Code of 1986 is amended by adding at the end the following: “For purposes of this subsection, any reference to a State shall include a reference to any Indian tribe or tribal organization described in section 464(d) of the Social Security Act.”