

**DESCRIPTION OF H.R. 7906, THE
“STRENGTHENING STATE AND TRIBAL CHILD SUPPORT
ENFORCEMENT ACT”**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
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Prepared by the Staff
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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for July 24, 2024, of H.R. 7906, the “Strengthening State and Tribal Child Support Enforcement Act.” This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of this bill.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 7906, the “Strengthening State and Tribal Child Support Enforcement Act”* (JCX-34-24), July 22, 2024. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

A. Improving the Effectiveness of Tribal Child Support Enforcement Agencies

Present Law

Section 6103 - Overview

Section 6103 provides that returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to the information except as provided in the Code.² A “return” is any tax or information return, declaration of estimated tax, or claim for refund required by, or permitted under, the Code, that is filed with the Secretary by, on behalf of, or with respect to any person.³ Return also includes any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

The definition of “return information” is very broad and includes any information gathered by the IRS with respect to a person’s liability or possible liability under the Code.⁴ “Taxpayer return information” is a subset of return information. Taxpayer return information is return information filed with or furnished to the IRS by, or on behalf of, the taxpayer to whom the information relates. For example, information submitted to the IRS by a taxpayer’s accountant on behalf of the taxpayer is taxpayer return information.

In addition to confidentiality, section 6103 imposes certain safeguard requirements as a condition of receiving confidential return information. IRS Publication 1075 sets forth the

² Sec. 6103(a).

³ Sec. 6103(b)(1).

⁴ Sec. 6103(b)(2). Return information is a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense,

- any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,
- any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement, and
- closing agreement under section 7121, and any similar agreement, and any background information related to such an agreement or request for such an agreement,

Return information does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

requirements for Federal, State, and local agencies receiving confidential returns and return information.⁵

Federal, State, and local child support enforcement

Section 6103 contains a number of exceptions to the general rule of confidentiality, which permit disclosure in specifically identified circumstances when certain conditions are satisfied.⁶ The IRS may disclose to Federal, State, and local child support enforcement agencies specified items of return information upon written request in connection with an individual's child support obligations to be established or enforced pursuant to the Social Security Act and with respect to the individual to whom such obligation is owing.⁷ These items are (for the person liable for child support and the person to whom support is owed): (1) social security account number (or numbers, if the individual involved has more than one such number), (2) address, (3) filing status, (4) amounts and nature of income, and (5) the number of dependents reported on any return filed by such persons, and if not reasonably available for another source - (6) return information relating to gross income as reflected on the returns filed by such persons, (7) the names and addresses of payors of such income, (8) the names of any dependents reported on such return.

The child support enforcement agency may redisclose to an agent authorized to carry out such programs only a limited amount of return information from what it receives: the address and social security number of such individual and the amount of any overpayments otherwise payable to such individual that have been withheld to offset past-due child support. The information obtained under this provision may be used only to the extent necessary in establishing and collecting child support obligations and locating individuals owing such obligations.

Separately, the Commissioner of Social Security can redisclose certain information it is authorized to receive directly to Federal, State, and local child support enforcement agencies: social security account numbers, net earnings from self-employment, wages, and payments of retirement income. Such redisclosure is to be made only for purposes of establishing and collecting child support obligations and locating individuals with such obligations.⁸

⁵ Internal Revenue Service, Publication 1075, *Tax Information Security Guidelines for Federal State and Local Agencies* (November 2021), available at <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.

⁶ Sec. 6103(c)-(o). Such exceptions include disclosures by consent of the taxpayer, disclosures to State tax officials, disclosures to the taxpayer and persons having a material interest, disclosures to Committees of Congress, disclosures to the President, disclosures to Federal employees for tax administration purposes, disclosures to Federal employees for nontax criminal law enforcement purposes and to the Government Accountability Office, disclosures for statistical purposes, disclosures for miscellaneous tax administration purposes, disclosures for purposes other than tax administration, disclosures of taxpayer identity information, disclosures to tax administration contractors and disclosures with respect to wagering excise taxes.

⁷ Sec. 6103(l)(6).

⁸ Sec. 6103(l)(8).

Refund offset

Section 6402(c) of the Code allows a taxpayer's refund to be offset for the collection of past-due support owed by that person, of which the Secretary has been notified by a State in accordance with section 464(c) of the Social Security Act. The IRS may, upon written request, disclose certain return information to officers and employees of any agency seeking an offset of a taxpayer's overpayment under section 6402(c) for child support.⁹ Disclosure of return information with respect to the taxpayer against whom such reduction was made or not made is limited to: (1) the taxpayer's identity information including any other person filing a joint return with such taxpayer, (2) whether or not a reduction has been made, (3) the amount of the reduction, (4) whether the taxpayer has filed a joint return and (5) the fact that a payment was made (and the amount) to the spouse of the taxpayer filing a joint return.

Tribal child support enforcement agencies

Tribal child support enforcement agencies do not have authority to receive confidential return information that State and local child support enforcement agencies do. Some tribal child support enforcement agencies rely on State child support enforcement agencies to assist in the collection of past-due child support or State child support enforcement agencies enter into contracts with the tribal child support enforcement agency, where the tribe is given limited access as a contractor of the State child support enforcement agency.¹⁰

Conflict in Federal law

In contrast to the flexibility in Federal law regarding the structure of child support programs, as noted above, the Code expressly lists only three pieces of return information that can be shared with child support contractors. Acknowledging the conflict between the laws governing child support enforcement and section 6103, for at least a decade or more, the IRS held in abeyance findings that State child support enforcement agencies were providing contractors with confidential return information beyond the three items provided for in statute (and did not require remedial action).¹¹ In February 2023, the IRS issued a Security and Privacy alert to all child support enforcement agencies requiring them to develop plans for mitigating unauthorized disclosures to child support enforcement contractors. The initial deadline was October 1, 2023, but a subsequent alert, issued in June 2023, extended the deadline to October 1, 2024.

⁹ Sec. 6103(l)(10).

¹⁰ Testimony of James Fleming, Director, Child Support, North Dakota Department of Health and Human Services at the *Joint Work and Welfare and Oversight Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes* (November 29, 2023) available at <https://gop-waysandmeans.house.gov/wp-content/uploads/2023/11/Fleming-Testimony.pdf>.

¹¹ *Ibid.*

Child support and the Social Security Act

The Child Support Enforcement (“CSE”) program was enacted into law in 1975.¹² All 50 States, the District of Columbia and 60 tribal nations operate child support enforcement programs pursuant to Title IV-D of the Social Security Act.¹³

CSE serves 12.8 million families and about 19 percent of all children in the United States.¹⁴ Among all families eligible for child support, 24 percent have income below the federal poverty line. Families who are required to enroll in the CSE program are those receiving cash assistance under the Temporary Assistance for Needy Families (“TANF”) program, Medicaid coverage, or, at state option, Supplemental Nutrition Assistance Program (“SNAP”) food assistance.¹⁵ The program is also available to non-assistance families if they choose to enroll.

The CSE program is administered at the Federal level by the Department of Health and Human Services (“HHS”), Office of Child Support Services (“OCSS”), which helps State and tribal CSE agencies develop, manage, and operate their programs effectively and according to Federal law. Most child support payments, 70 percent in FY 2023, are collected from noncustodial parents through income withholding. Among other tools, the Social Security Act also allows State child support enforcement agencies that receive a grant under section 455(f), payment to States, to collect past-due support from Federal tax refunds. In FY 2023, five percent or \$1.5 billion, was collected in this manner.¹⁶

To assist in the collection of child support payments, OCSS operates the Federal Parent Locator Service (“FPLS”). The FPLS assists States in locating noncustodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation.¹⁷ The Social Security Act allows State child support agencies to receive reimbursement for costs incurred in furnishing information requested by the Secretary for the FPLS.

¹² Pub. L. No. 93-647.

¹³ Jessica Tollestop, Congressional Research Service, *Overview of Child Support Enforcement (CSE) Access to Taxpayer Data and Recent Legislation (S.3154 and H.R. 7906)* (Insight IN11748) May 15, 2024, available at <https://www.crs.gov/Reports/IN11748?source=search>.

¹⁴ *Ibid.*

¹⁵ Congressional Research Service, *Child Support Enforcement: Program Basics* (Report RS22380), July 19, 2023, at page 2, available at <https://crsreports.congress.gov/product/pdf/RS/RS22380>.

¹⁶ Office of Child Support Services, *Preliminary Report FY 2023*, Table P-29 Total Collections Received by Method of Collection at page 35, available at https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2023_preliminary_report.pdf#page=35.

¹⁷ Congressional Research Service, *Child Support Enforcement: Program Basics* (Report RS22380), July 19, 2023, at page 4, available at <https://crsreports.congress.gov/product/pdf/RS/RS22380>.

The Social Security Act allows State child support enforcement agencies that receive a grant under section 455(f), payment to States, to collect past-due support from Federal tax refunds.

Description of Proposal

Amendments to the Code

The proposal amends the Code to grant child support enforcement agencies the ability to share all of the information they receive with their contractors, subject to the same confidentiality and safeguard provisions applicable to recipients of return information under present law. It also provides Tribal child support enforcement agencies that receive a grant under section 455(f) of the Social Security Act with the same access to the same return information as Federal, State, and local child support enforcement agencies, and amends section 6402(c) to include such Tribal child support enforcement agencies as agencies eligible to request an offset from a Federal tax refund.

Amendments to the Social Security Act

The proposal amends section 464 of the Social Security Act to explicitly provide that the Federal tax refund offset authorities apply to Indian tribes or tribal organizations that receive a grant under section 455(f) of the Social Security Act. The proposal also amends section 453(g) of the Social Security Act, outlining the Federal Parent Locator Service, allowing Indian tribes or tribal organizations to receive reimbursement for the costs of the information exchange.

Effective Date

The proposal is effective on the date of enactment.

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have a negligible effect on Federal fiscal year budget receipts.