

# Supreme Court and Child Support

## How can we make the process easier for litigants?

Ensure consistent and timely transmission of information regarding Supreme Court orders for child support to the local Support Collection Unit (SCU) and to the State Case Registry.

## When will the Support Collection Unit (SCU) provide services?

For the SCU to build a child support case and begin enforcing the support order, the court **must** provide the following documentation to the SCU in the county where the party who has applied for services resides:

- **Support Collection Unit Information Sheet (Form UD-8a)**. Provides details regarding the parties and the support obligation necessary for the SCU to build a child support case.
- **Application/request for services**. Can be:
  - the completed [LDSS-5143, Application for Child Support Services](#); **or**
  - the completed [Short Form Application for Child Support Services in Connection with an Application for a Divorce](#); **or**
  - any other written application or motion to the Supreme Court (e.g., the [UD-6](#) or [UD-7](#)) if such application or motion includes a statement signed by the individual that clearly indicates such person is applying for and requesting child support services.

Any of the above qualify as an application for child support services, which is required to authorize the SCU to build a child support case and begin enforcing the order.

- **Copy of the court order.**

If this information is not provided by the court, the SCU cannot provide services (i.e., collecting support and enforcing the order).

## What must we send to the State Case Registry?

In addition to providing this information to the SCU, the court is required to complete and transmit the New York State Case Registry Filing Form. DRL §§ 236(9)(d); 240(5). This form must be used for child support orders and combined child and spousal support orders (whether original or modified) payable to other than a child support collection unit—i.e., non-IV-D orders.

## What is the difference between Income Execution and Income Deduction orders?

Although both have the same effect, the difference between income execution (also referred to as an “income withholding order”) and an income deduction order is set out in CPLR §§ 5241 and 5242, respectively.

### Income Execution

- **Issued by the SCU**, or by the sheriff, the clerk of court, or the attorney for the creditor as an officer of the court.
- Immediately issued by the SCU when the court orders that support be paid through the SCU, **and the party seeking or receiving support has applied for or is receiving child support services**.
- Uses the Income Withholding Order/Notice for Support (IWO) form for income withholding, promulgated by the New York State Office of Temporary and Disability Assistance (OTDA).
- Payable to the **NYS Child Support Processing Center (“SDU”)**.

### Income Deduction Order

- **Issued by the court**.
- Used by the court to withhold income for child support or combined child and spousal support when there has been **no application for child support services**, and therefore the order is **not payable through the SCU**.
- Uses the Non-IV-D IWO ([LDSS-5037](#)), promulgated by OTDA for this purpose.
- Payable to the **NYS Child Support Processing Center (“SDU”)**.

Note: To withhold income for spousal support only, the Spousal Support Only IWO ([LDSS-5038](#)) is **not required but is recommended** for use in New York State. Such IWOs are **payable to the obligee** and remitted directly to the obligee, **not** to the SCU or NYS Child Support Processing Center (“SDU”).

## What happens if a judge issues an order directing that support be paid through the SCU without an application for services?

Social Services Law § 111-g requires that individuals seeking child support services shall apply by completing and signing the LDSS-5143, *Application for Child Support Services*, or by filing a petition with the court, or applying to the court during a proceeding for the establishment of parentage or for the establishment, modification, or enforcement of a support obligation. **Such petition or application to the court must include a statement signed by the person requesting services clearly indicating that such person is applying for child support enforcement services pursuant to Title 6-A of the Social Services Law.** Therefore, the court cannot issue an original order directing payment through the SCU, or amend an order *sua sponte* to direct payment through the SCU, without a signed application for services or motion that includes a clear request for services. Note that if during the pendency of the divorce action a party wishes to have payment ordered through the SCU, the court may have the party complete the [Short Form Application for Child Support Services in Connection with an Application for a Divorce](#) to easily satisfy this requirement.

Once the court takes action (i.e., the order is amended, or the motion is granted), the court must provide the necessary documentation to the SCU in the county where the party who has applied for services resides. Alternatively, the party can go directly to the SCU in their county, with their original order, and apply for child support services. The SCU can then administratively process a change in payee to direct payments to the SCU and issue a new IWO to the noncustodial parent's employer noting this change.

If payments are ordered through the SCU but there is no associated application for child support services, the SCU **must** receive an application for child support services before it can take any further action. If the SCU does not receive an application for child support services, the SCU must notify the parties that services cannot be provided and support payments must be made directly to the custodial parent.

## What happens when the children are receiving public assistance?

Support rights for children receiving public assistance (i.e., TANF, Medicaid, Title IV-E foster care) are assigned to the social services district. The custodial parent of a child receiving public assistance is mandatorily referred to the Child Support Program and is required to cooperate in establishing parentage and securing support, unless the custodial parent applying for/receiving assistance is determined to have good cause for refusing to cooperate with the Child Support Program. Social Services Law § 111-b(2), 18 NYCRR § 369.7. Any child support ordered in such cases must be made payable through the SCU.

## Are there sample orders for payment of support and arrears through SCU?

The *Judgment of Divorce* ([Form UD-11](#)) is available on the New York State Unified Court System website, and includes fields for all required information related to the support order, such as the obligation amount(s), frequency, and other details for remittance. Additional forms, such as the *Support Collection Unit Information Sheet* (UD 8-a), and other resources are available in the Child Support Resources subsection of the Divorce section of the New York State Unified Court System website.

## How are payments credited when there are arrears/money judgments?

Any payments received by the SCU are applied to the account according to federal distribution rules. Such rules dictate that payments are first applied to current support before being applied to any arrears amount.

## Additional Citations and Resources

- Domestic Relations Law (DRL) §§236(7)(b), 236(9)(c), 240(1)(a) – provide required order language and information to be sent to SCU
- DRL §§ 236(9)(d); 240(5) – require submission of orders to the State Case Registry
- Civil Practice Law and Rules (CPLR) §§ 5241 and 5242 – define income execution and income deduction order
- Social Services Law (SSL) § 111-g – application requirement for child support services
- [Child Support Resources](#) subsection of the Divorce section of the New York State Unified Court System website (<http://ww2.nycourts.gov/divorce/childsupport/index.shtml>) – contains necessary forms and instructions