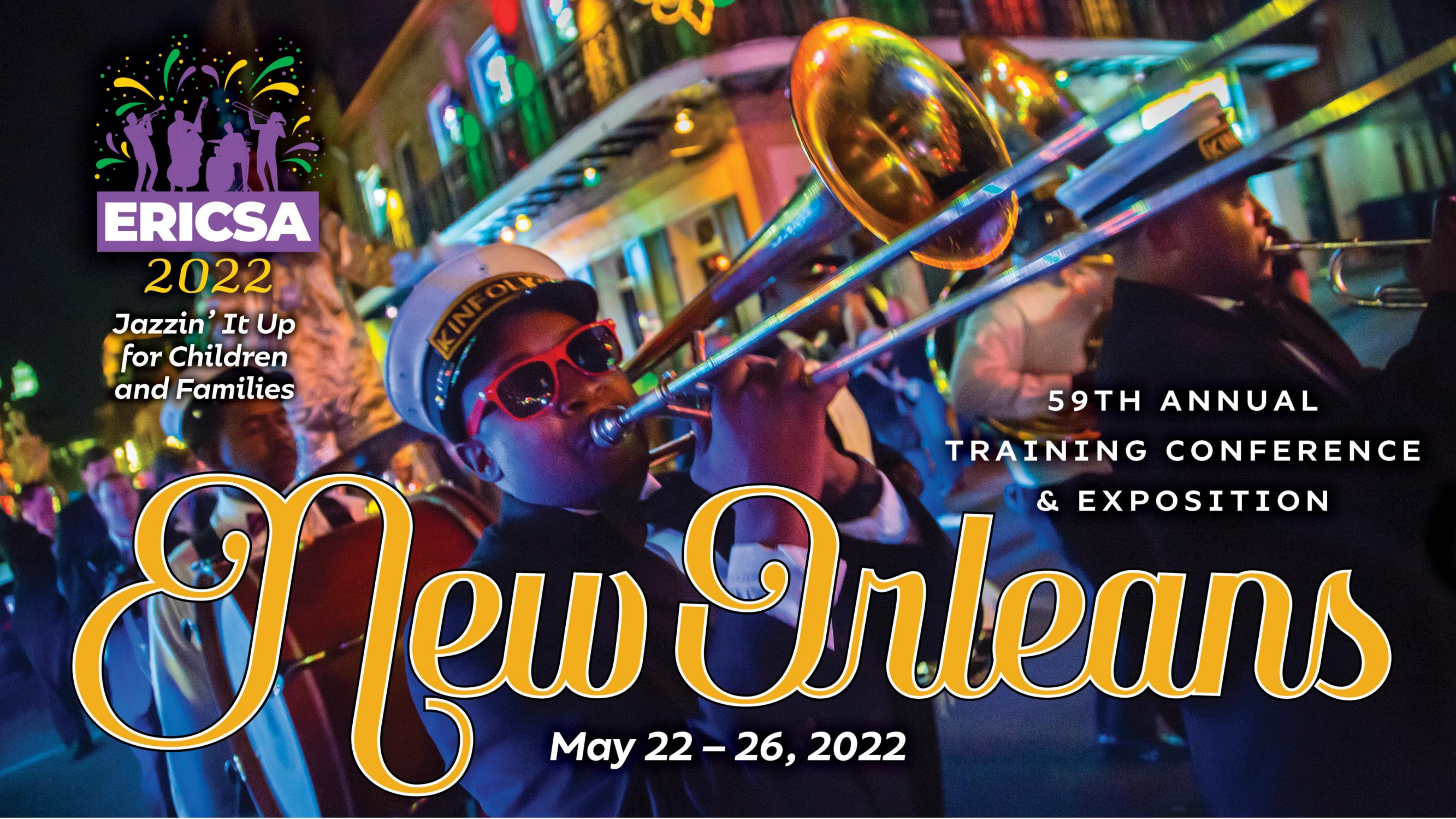

ERICSA

2022

Jazzin' It Up for Children and Families

59TH ANNUAL TRAINING CONFERENCE & EXPOSITION

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Lottery Winnings and Unclaimed Money: Income for Child Support Collection in New York?

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NYC Law Department-Interstate Child Support Unit

Defined as Income

- Income for determining a child support obligation includes lottery winnings.

- **New York Family Court Act (FCA) §413.1.(e)**

Lottery Winnings

Lottery winnings may be used to collect overdue child support.

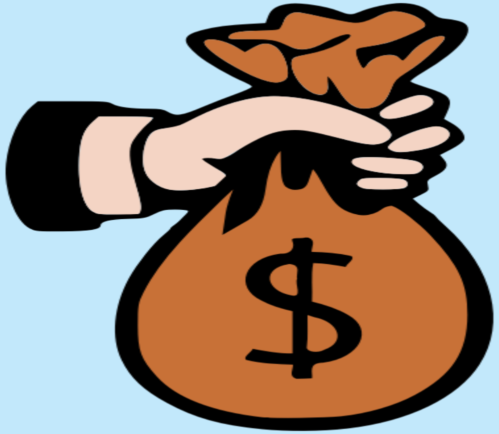
- A state's enforcement agency, for the purpose of collection overdue support, shall be authorized in accordance with all applicable provisions of law to secure assets otherwise due a support obligor by …
- Intercepting or seizing periodic or lump sum payments due such obligor from lottery winnings….
- Imposing liens against real and personal property owned by such obligors…

SSL §111-t

Lottery Winnings for the Collection of Child Support Payments

- The child support program in New York can legally collect child support arrears through a variety of administrative measures, including the interception of lottery winnings.
- The criteria which must be met:
  - The lottery winnings must be equal to or greater than $600.00
  - The amount of child support past due must be equal to or greater than $50.00.
  - There may be an exception to this rule if the noncustodial parent's annual income falls below the Self-Support Reserve (which is currently ($18,346.50) or if the noncustodial parent is in receipt of temporary assistance or SSI benefits.
  - OTDA; NY CLS Tax §1613-a

Collecting Lottery Winnings



"(a) Amounts certified to the division of the lottery ….for persons who are receiving services pursuant to this title may include:

- (i) amounts representing delinquencies which have accrued under a court order of support;
- (ii) with respect to any court order of support made which establishes an arrears amount, the entire amount of such arrears.
- SSL §111-b (11)

Collecting Lottery Winnings (continued)

- The director of the lottery, on behalf of the division of the lottery, shall enter into a written agreement with the commissioner of the office of temporary and disability assistance (OTDA)…which shall set forth the procedures for crediting any lottery prize of six hundred dollars ($600.00) or more awarded to an individual, estate or trust against past-due support owed by such individual, estate or trust of which the director of the lottery has been notified by the commissioner of the OTDA pursuant to the provisions of such agreement.
- NY CLS Tax §1613-a (1)

Collecting Lottery Winnings (continued)

- The director of the lottery, on behalf of the division of the lottery, shall enter into a written agreement with the commissioner of the OTDA…which shall set forth the procedures for crediting any lottery prize of six hundred dollars ($600.00) or more awarded to an individual against any and all public assistance benefits which were given to the director of the lottery has been notified by the commissioner of the OTDA provided that the credit shall not exceed 50% of any lottery prize.
- NY CLS Tax §1613-b; 18 NYCRR §396.1

Notifying the Division of the Lottery

- Prior to awarding any lottery prize of six hundred dollars ($600.00) or more, the division of the lottery shall review the notice of liability of past-due support provided by the state OTDA. For each lottery prize winner identified on such notice as an individual, estate or trust owing past-due support, the lottery division shall credit to the state OTDA such amount of the prize to satisfy the past-due support, and any remainder shall be awarded to the prize winner.
- In cases where the prize winner owes past-due support to more than one person or entity, and the total amount of past-due support provided in the notice of liability of past-due support to the division of the lottery by the state OTDA exceeds the balance remaining, each such person or entity shall receive a pro rata share of the balance remaining, such share to be based on the amount of past-due support owed to such person or entity as provided to the division of the lottery by such office pursuant to this section.

- NY CLS Tax §1613-a (4); 18 NYCRR §346.10

Notifying the Lottery Winner

- The division of the **lottery** and the OTDA shall notify the prize winner in writing of:
  - the total amount of the **lottery** prize winning to be credited against past-due support and the remainder of such prize winning to be awarded to the prize winner.
  - Such notice shall further advise the prize winner that the office of temporary and disability assistance shall provide separate notice, in writing, to the prize winner of the procedure for and time frame by which the prize winner may contest such crediting.

- NY CLS Tax §1613-a (6)

Recourse by the Lottery Winner for Overpayment or Interest

Upon receiving notice of the seizure of lottery winnings, the individual, estate or trustee may seek to recover any overpayment or interest that is greater than the amount of past due support owed by such individual, trust or estate.

.NY CLS Tax §1613-a (6)

Notifying the Lottery Winner

- Notice to respondents from the Support Collection Unit (SCU). Written notice must be given to each respondent whose lottery prize has been intercepted to satisfy a liability for past-due support. The notice must advise the respondent that any objection to the crediting of a lottery prize against past-due support must be made by requesting a case review within 30 days of the date of the notice and by following the procedure set forth in the notice. Such notice must include the following information:

.18 NYCRR §346.10

Notifying the Lottery Winner (continued)

- Notice must include:
  - The defenses that can be raised;
  - A statement that person identified as the lottery winner is overdue in making scheduled payments and/or has an unpaid balance on court-ordered support;
  - The amount of past-due support is collectible through the interception of lottery prizes;
  - The right to have the case reviewed administratively and judicially and the process for the administrative review;
  - The contact information for the Support Collection Unit, the exact amount of past-due support and the amount of the lottery prize to be credited against past-due support

18 NYCRR §346.10

Defense to the Interception of Lottery Prizes

- Defenses can be raised to the interception of **lottery** prizes and such defenses include, but are not limited to:
  - **(i)** The person receiving notice of the crediting of a **lottery** prize against past-due **support** is not the person identified as owing past-due **support**.
  - **(ii)** A court order of **support** does not exist or has been vacated by the court.
  - **(iii)** The amount claimed by the SCU to be past-due **support** is incorrect because a payment which was made was not credited, or the balance was not computed accurately, or the periodic amount due or arrears balance is incorrect or was changed as a result of a modification of the court order. .

18 NYCRR §346.10

Abandoned Property

- A state's enforcement agency, for the purpose of collection overdue support, shall be authorized in accordance with all applicable provisions of law to secure assets otherwise due a support obligor by …
- Imposing liens against real and personal property owned by such obligors…

SSL §111-t

Abandoned Property

- The SCU shall have a lien against real or personal property owned by a support obligor when such support obligor is or was under a court order to pay child support or combined child and spousal support to the SCU for a case filed under this Social Services Law and when the obligor has accumulated support arrears in an amount equal to or greater than the amount of support due pursuant to such order for a period of four (4) months.

SSL §111-u

Child Support Payments as Abandoned Property

Any amount representing child support or child and spousal support paid to a support collection unit and delivered to the state comptroller shall be deemed abandoned property.

NYC CLS Aban. Prop. §1318

Child Support Payments as Abandoned Property

In 2021, newly enacted laws instituted an administrative procedure for the annual transfer of unclaimed child or combined child and spousal support funds directly to the state comptroller, without the need for a court order.

The procedure makes distinctions among funds with sufficient identifying information, collections with insufficient identifying information and moneys owed to a deceased individual.

Funds with sufficient identifying information may be transferred after two years of diligent efforts to locate the person entitled to the funds

Where the person who is entitled to the funds is deceased, the funds may be transferred within two years

Funds with insufficient identifying information shall be transferred to the comptroller with additional information.

SSL §111-h (5-7)

Abandoned Property

Once funds are declared abandoned property, there is a specific statutory procedure set forth in Abandoned Property Law Sec. 1406 that must be followed for a child support money judgment to be satisfied with these funds.

A claim in the amount of ten thousand dollars ($10,000) or more for any abandoned property paid to the state comptroller may be established only on order of the court and upon due notice to said comptroller and all parties to the action or proceeding which resulted in the monies being paid into court. N.Y. Aban. Prop. Law §1406.2

For a claim of less than ten thousand dollars ($10,000) payment may be made by the state comptroller on sworn application of the claimant when the identity of the claimant as the person entitled to payment is established to the satisfaction of the state comptroller. When there is insufficient information to enable the state comptroller to make a determination of entitlement, the claim must be established by court order. N.Y. Aban. Prop. Law §1406.2

Upon notice to a claimant of the state comptroller's determination, the claimant has four (4) months to request a hearing and a redetermination of their claim.

N.Y. Aban. Prop. Law §1406.1.(b)

Takeways

- Lottery winnings are considered income for child support purposes and can be intercepted when the lottery winnings are equal to or greater than $600.00 and the child support owed is equal to greater than $50.00.
- Written notice regarding an intercept of lottery winnings is important and there are specific statutorily required items which must be included in the notice to the lottery winner.
- Abandoned monies from child support payments: May be transferred to the state comptroller after two years if there is identifying information for the obligee.
- Abandoned property
  - If the claim is for $10,000 or more, the determination of the claim may be established through a judicial process;
  - For a claim less than $10,000, the determination of the claim may be established administratively.

Contact Information

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Lottery, Gambling, Unclaimed Money: Enforcement Tools from Indiana

Susan Smith, Intergovernmental IV-D Program Liaison
Indiana State Child Support Bureau

LOTTERY

Indiana law requires the State lottery commission, prior to disbursing a lottery prize of more than $599 to verify whether the individual is delinquent in child support. (IC 4-30-11-11). If they are delinquent, the lottery commission forwards up to the amount of the arrearage to the Indiana Child Support Bureau (CSB).

LOTTERY (continued)

The lottery receives a file from the Indiana State Department of Revenue. This file includes all people that are eligible to be intercepted by our State Statutes for the lottery, including child support owed.

The State Lottery Commission will contact CSB to verify the amount is still due. If it is still due, they will start the process for sending the money. This process usually takes 3-4 weeks.

IN started receiving lottery funds in 2007.

GAMBLING GALORE

Indiana has three different sources of gambling* that are intercepted for child support arrears:

Casino Winnings

Sports Betting

Fantasy Sports

Indiana law does not allow for winnings from horse racing to be intercepted for delinquent child support.

CASINOS

Indiana law requires a casino, whenever they are required to file an IRS Form W-2G, to verify whether the individual is delinquent in child support. (IC 4-35-4-16). If they are delinquent, the casino forwards up to the amount of the arrearage to CSB. What this generally means is that the casino is required to check for child support delinquency when an individual wins $1,200 or more from a slot machine. W-2G's are rarely issued for table games, such as poker or blackjack. Therefore, most casino intercepts are from slot machine winnings.

CASINOS (continued)

Indiana started intercepting Casino money in September 2010. A system with the name of CSADR was contracted and brought on board. This system allows the Casino to verify if a winner owed child support at the time of trying to claim the winnings. If they owe child support, the Casino gives them a letter telling them that their winnings were intercepted for child support and who and how to contact CSB if they wish to dispute this.

CSB receives a list daily of funds that are intercepted. They are tracked to verify receipt from the Casino and that it is posted to the correct case.

In 2010 we started with 11 Casinos. In 2021, we now have 14.

SPORTS BETTING

Indiana law requires sports book that is dispursing a payout of $600 or more, to verify whether the individual is delinquent in child support. (IC 4-38-11-1). If they are delinquent, the sports book forwards up to the amount of the arrearage to CSB.

Indiana's IV-D agency specifically included a dollar amount, rather than an IRS form, as the trigger, as a W-2G form is rarely used for sports betting.

A last-minute addition to the statue limited the requirements to only those individuals who are "claiming the winning sports wager in person..." This has limited the effectiveness of intercepting winnings from sports betting, as most of the wagering occurs via apps, and Indiana law does not currently require an arrears check for those situations.

Sports Book wagering interceptions began here in September 2019.

FANTASY SPORTS

Indiana law requires a paid fantasy sports operator to, whenever they are required to issue an IRS Form 1099 as a result of fantasy sports winnings, to verify whether the individual is delinquent in child support. (IC 4-33-24-29), If they are delinquent, the fantasy sports operator forwards up to the amount of the arrearage to CSB.

Indiana's IV-D agency was not involved in the drafting of this statute. As fantasy sports are defined as "games of skills," rather than "gambling," 1099s are issued rather than a W-2G. The fantasy sports operators only issue a 1099 when the individual's net winnings for the calendar year are $600 or more. As most people who play paid fantasy sports lose money over the long-term, 1099s are rarely issued for paid fantasy sports.

Fantasy Sports came on-line in 2018.

UNCLAIMED PROPERTY

Indiana takes unclaimed property via Income Withholding Order, as it falls within the definition of "income," per IC 31-9-2-56.

Unclaimed Property is administered through the Attorney General's Office in Indiana.

UNCLAIMED PROPERTY HISTORY

In 2012, when IN started working to collect unclaimed property, we received a hand-written fax from the AG's Office of potential matches each week. Each line would have to be researched to see if names and SSNs could be matched up. An IWO would then be processed and faxed to the AG each week.

In 2015, CSB worked with the AG to receive a file twice a year. Technical staff at CSB would run a query against this file to get a list of potential matches. CSB would then process IWOs for these matches. The supervisor of the Centralized Enforcement Unit (CEU) would deliver 1-2 boxes full of IWOs each week. The first file was received and processed in July 2015.

In 2015 and 2016, all monies older than 3 years that could be matched to an individual owing support were cleared from the books, no matter the amount.

UNCLAIMED PROPERTY HISTORY (continued)

In May 2016, the AG's office started a web site that CSB could process a Claim form and place with our IWO.

In October 2018, we were finally able to upload an IWO to the AG's website that had been updated for this use.

LOTTERY STATISTICS

Year	# Intercepts	$ Intercepted		Year	# Intercepts	$ Intercepted
2007	82	$91,566.29		2015	64	$77,722.32
2008	60	$77,484.65		2016	72	$89,540.68
2009	39	$44,159.12		2017	64	$67,081.87
2010	44	$27,681.37		2018	66	$96,989.15
2011	48	$55,425.53		2019	79	$124,276.32
2012	61	$165,313.97		2020	73	$103,552.47
2013	48	$65,807.58		2021	89	$209,330.80
2014	48	$75,081.08		**TOTAL**	**937**	**$1,371,013.20**

*2021 is last year for statistics

CASINO STATISTICS (& FUN FACTS) For 2021

Dollar amount Intercepted by Casinos	$1,292,176.74
Total Intercepts	738
Searched Performed	374,894
Money Refund to Payors	$17,945.77
Average Intercept Amount	$1,750.92
How Many Children Helped	1,110
Cases Received Money	738
Payors Hit Multiple Times for Year	194
Cases Paid in Full	13
Cases Receiving First Payments	10
Highest Intercept Amount	$11,637.24
Money Paid on Current Support	$131,183.54
Money Paid Towards Arrears	$1,143,047.43

CASINO STATISTICS (& FUN FACTS) For 2021(continued)

Casino	Amount Collected to Date		Casino	Amount Collected to Date
Ameristar (East Chicago)	$54,568.71		Hoosier Park	$311,140.75
Belterra Casino Resort & Spa	$5,571.31		Horseshoe North	$29,173.76
Blue Chip Casino	$114,118.48		Horseshoe Southern Indiana	$51,493.73
Casino Aztar Evansville	$184.518.10		Majestic Star II	$7,382.67
Centaur Acquisition LLC	$313,988.93		Rising Star Casino – Resort	$10,085.85
French Lick	$39,024.07		Pokagon	$37,204.76
Hollywood Casino	$39,509.74		Spectacle/Hard Rock	

CASINO STATISTICS (& FUN FACTS)
Totals Through 2021

Dollar amount Intercepted by Casinos	$8,197,747.45
Total Intercepts	4,525
Searched Performed	2,825.468
Money Refund to Payors	$205,252.61
Average Intercept Amount	$1,811.66
How Many Children Helped	6,301
Cases Received Money	4,555
Payors Hit Multiple Times for Year	907
Cases Paid in Full	185
Cases Receiving First Payments	109
Highest Intercept Amount	$25,348.00
Money Paid on Current Support	$827,022.95
Money Paid Towards Arrears	$7,075,780.48

CASINO STATISTICS (& FUN FACTS) Through 2021

Multiple Life-Time Winnings by Individuals

# of Hits	# Persons		# of Hits	# Persons		# of Hits	# Persons
1	2202		12	48		23	1
2	862		13	13		24	0
3	447		14	14		25	1
4	324		15	0		26	1
5	235		16	1		27	0
6	132		17	0		28	4
7	70		18	0		29	0
8	72		19	1		30	0
9	54		20	0		31	1
10	40		21	0			
11	33		22	0			

SPORTS BOOK STATISTICS

Sports Book Wagering is processed through Casinos so their statistics are part of the Casino statistics.

FANTASY SPORTS STATISTICS

Fantasy Sports Statistics are dismal, at best, in Indiana. Due to the fact that these are based on a net gain over a calendar year, we usually only receive a few cents on these cases.

For the first time, we received a hit of over $100.00 in 2022.

This is a cautionary tale of how the wording of the statutes are so crucial.

UNCLAIMED PROPERTY STATISTICS

Year	IWO’s Sent	Dollars Received
2012*	175	$36,929.72
2013	753	$253,792.03
2014	840	$243,877.11
2015	8,785	$1,077,904.81
2016	17,990	$913,533.40
2017	5,913	$421,463.44
2018	5,184	$411,758.64
2019	5,024	$453,006.48
2020	7,274	$354,035.12
2021	7,204	$629,010.50
TOTALS	**59,142**	**$4,795,311.25**

* Statistics Started September 2012

Contact Information

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