



ERICSA

2022

**Jazzin' It Up
for Children
and Families**

New Orleans

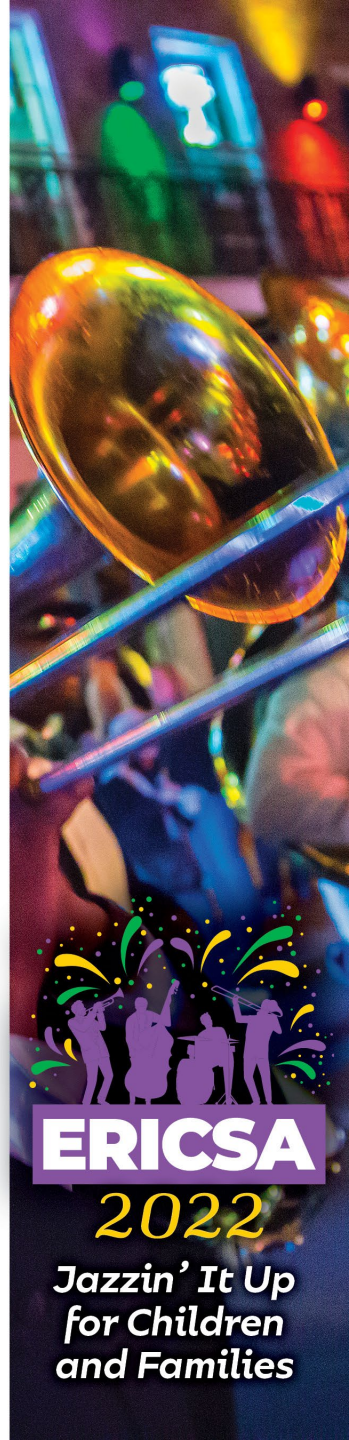
May 22 – 26, 2022

**59TH ANNUAL
TRAINING CONFERENCE
& EXPOSITION**

Enforcement Remedies: From DLS to Contempt Alternatives, Revamped

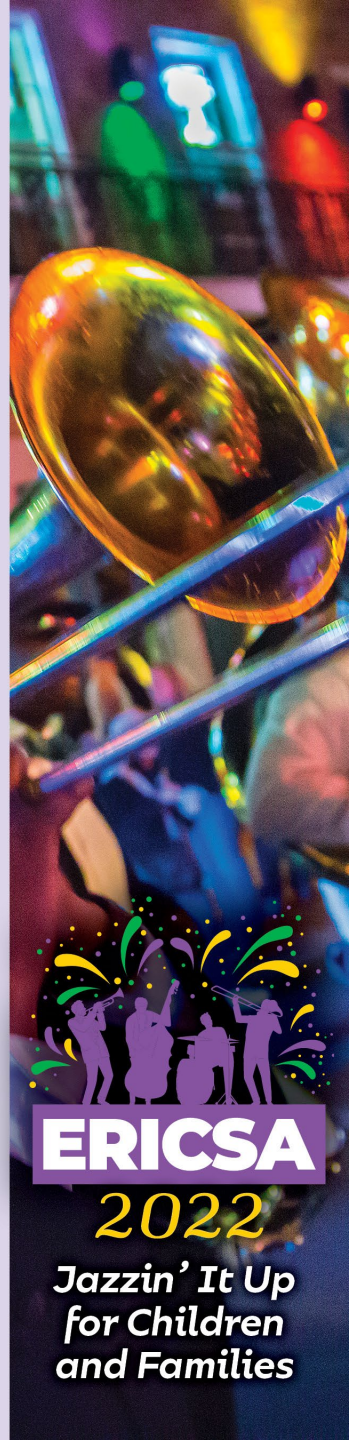
Shanika Alston, Assistant County Attorney, Ramsey County, MN

Autumn L. Nelson, Assistant County Attorney, Ramsey County, MN



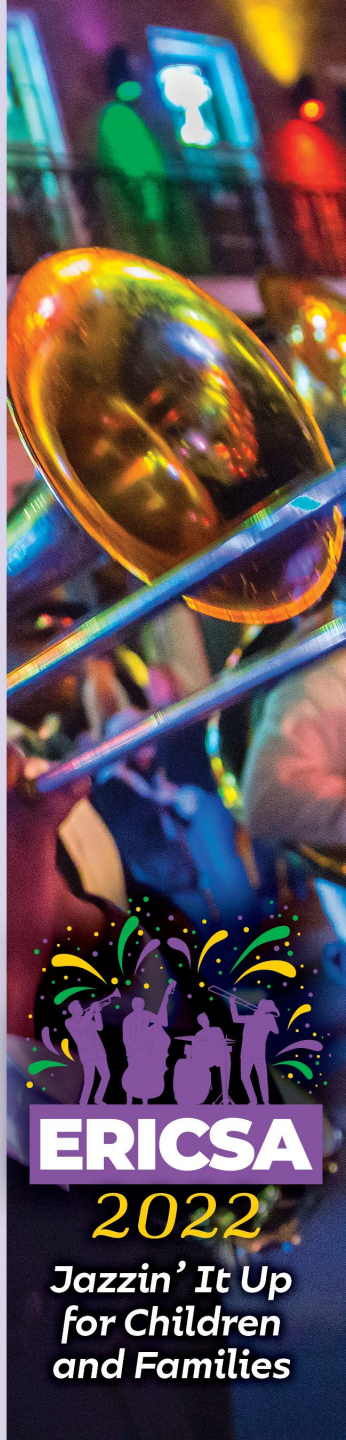
Road Map for Presentation

- Enforcement Remedies and the Pandemic
- Engagement with Parents
- Alternatives to Contempt
- Contempt Process Revamped
- Other Enforcement Remedy Changes



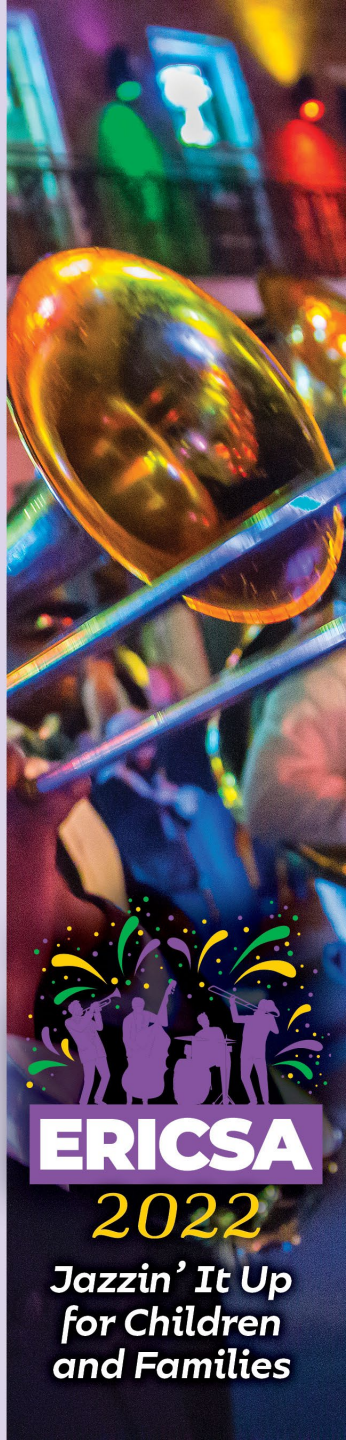
Enforcement Remedies and the Pandemic

- All enforcement remedies were paused, March 2020 through Summer 2021
- Slowly restarted, but extra review
 - FIDMs/Bank account holds
 - Tax refund intercepts
 - Private contempts



Enforcement Remedies and the Pandemic

- FIDM/Bank account holds - declined:
 - Federal pandemic loan funds?
 - Rent/housing or monthly expenses
 - Must show contact with obligated parent
- Upper Mgmt approval needed



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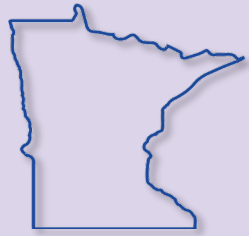
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Enforcement Remedies Revamp

Driver's License Innovation Pilot

Participants:

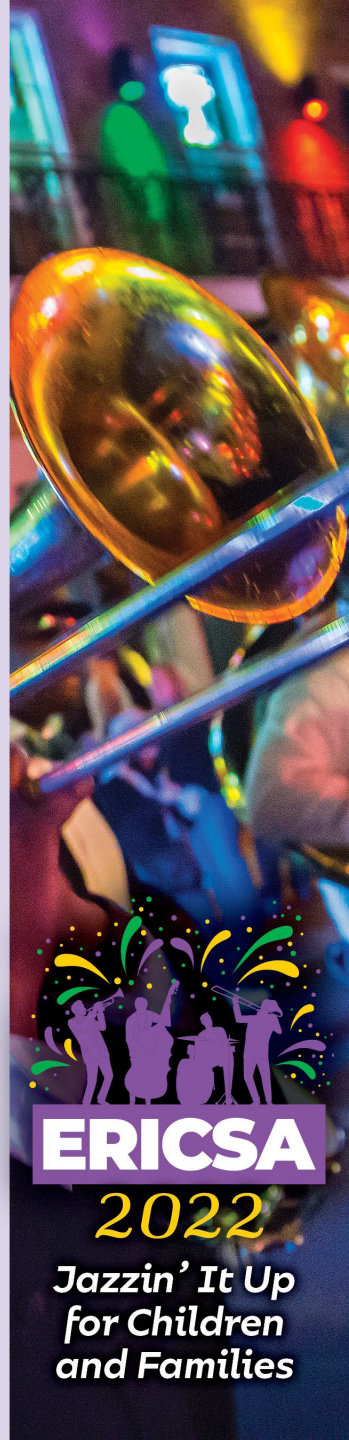


- Minnesota Department of Human Services selected 9 out of 87 counties to participate in a Driver's License Pilot
- Ramsey County is 1 of the 9 counties participating



Purpose:

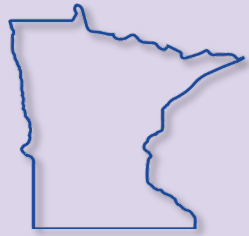
- Improve driver's license suspension under Federal requirements



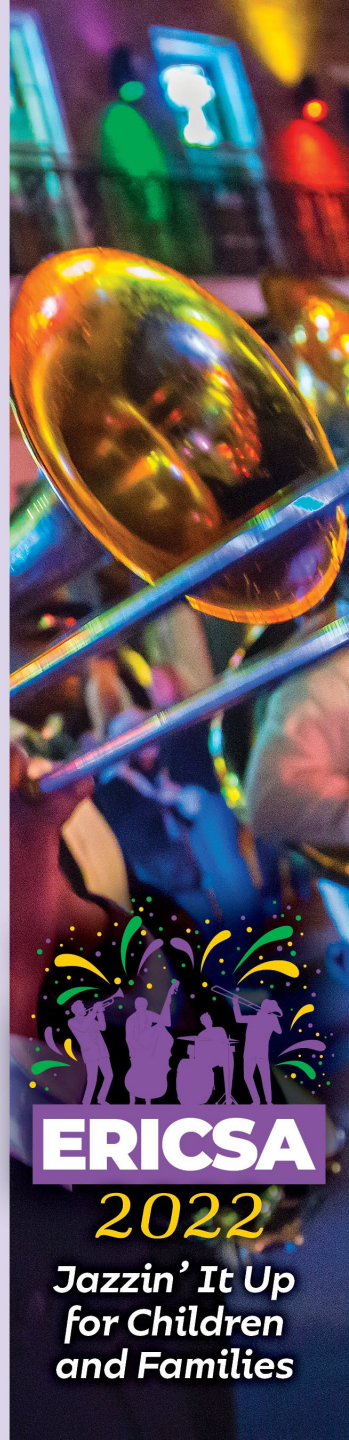
Enforcement Remedies Revamp

Driver's License Innovation Pilot

Goals:



- Improve DL suspension process so that it is fairer to obligors and more effective in collecting child support. Using procedural justice principles
 - Reduce racial disparities in DL outcomes
 - Improve payment agreement policies
- Improve communication with obligors
 - Engagement with phone calls, texting if consent, more helpful letters

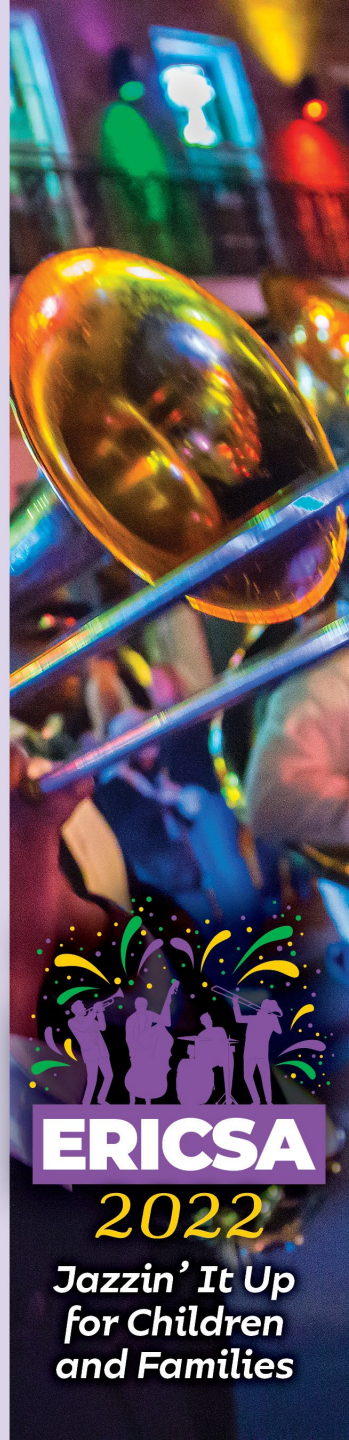


Enforcement Remedies Revamp

Driver's License Innovation Pilot

Procedural Justice principles:

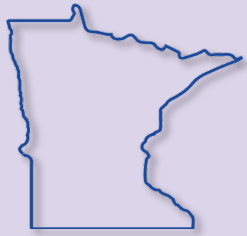
- Respect – treat all parents with dignity, listen and respond to their concerns
- Understanding – be helpful, informative and responsive to their questions
- Voice – chance for all parents to be heard and share their story
- Neutrality – impartial decision-making
- Helpfulness – provide assistance for their situation



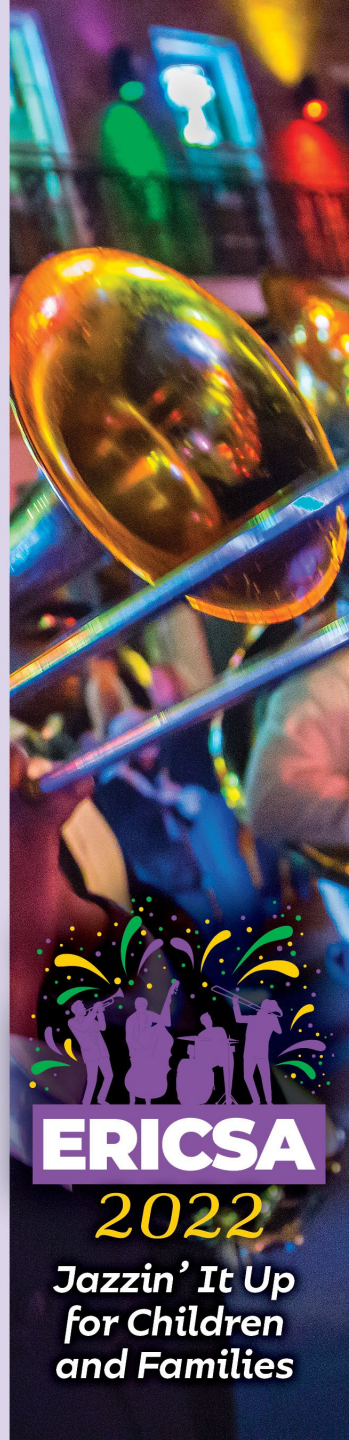
Enforcement Remedies Revamp

Driver's License Innovation Pilot

Minnesota DL law



- Minn. Stat. § 518A.65(b) – public authority shall direct DL to be suspended if the obligor is 3 months in arrears and not in compliance with a payment agreement.
- Notice and right to request a hearing



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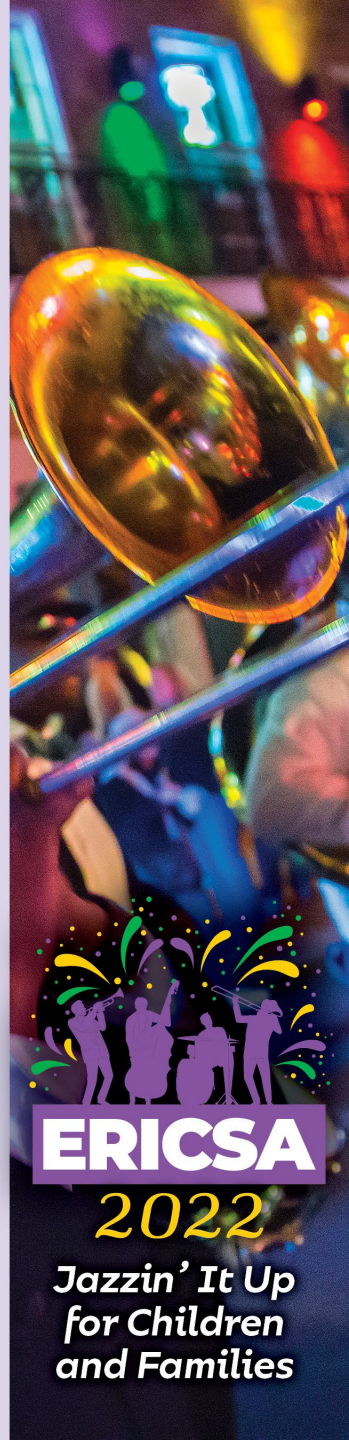
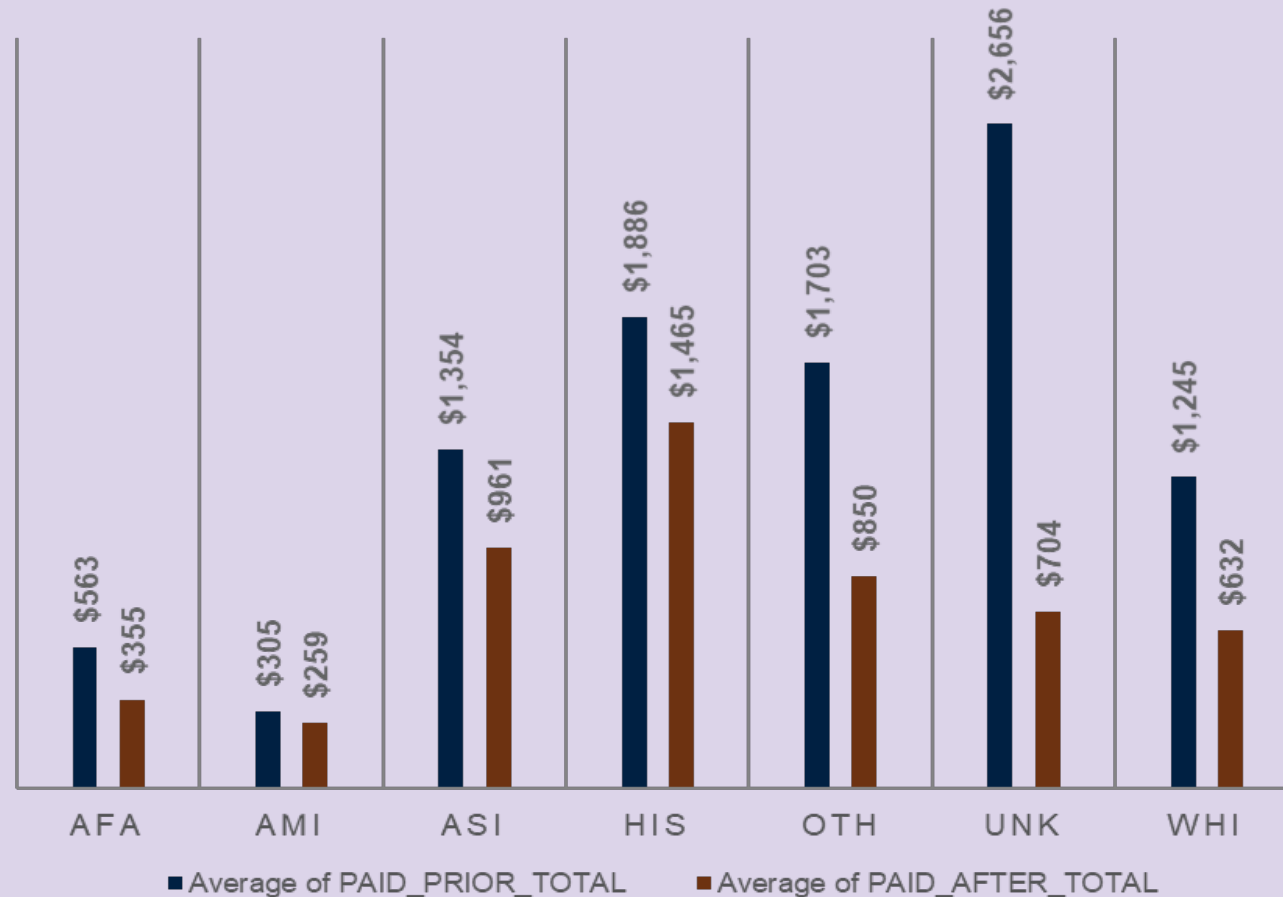
Enforcement Remedies Revamp

Driver's License Innovation Pilot

AVERAGE PAID 12 MONTHS
BEFORE/AFTER SELECTION- ACTIVE
SUSPENSIONS

Ramsey County Stats

Only 50% of
obligors paid more
after DLS suspended



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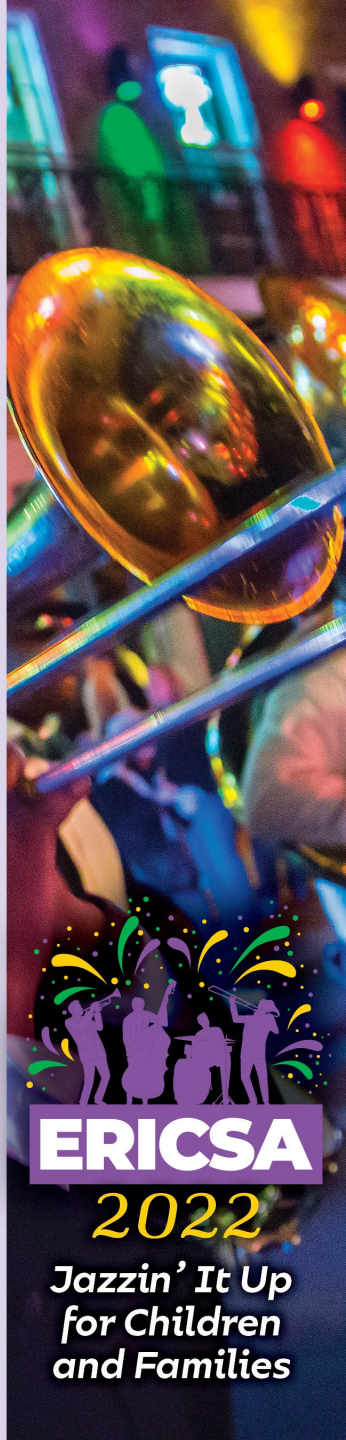
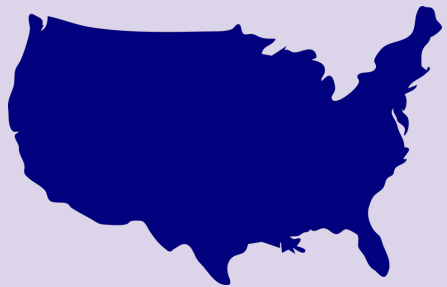
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Driver's License Innovation Pilot

Federal regulations

- Federal Code of Regulations 42 U.S.C.(a)(16) indicates that the states have the authority to implement procedures to suspend/restrict the use of driver's licenses, *in appropriate cases*.



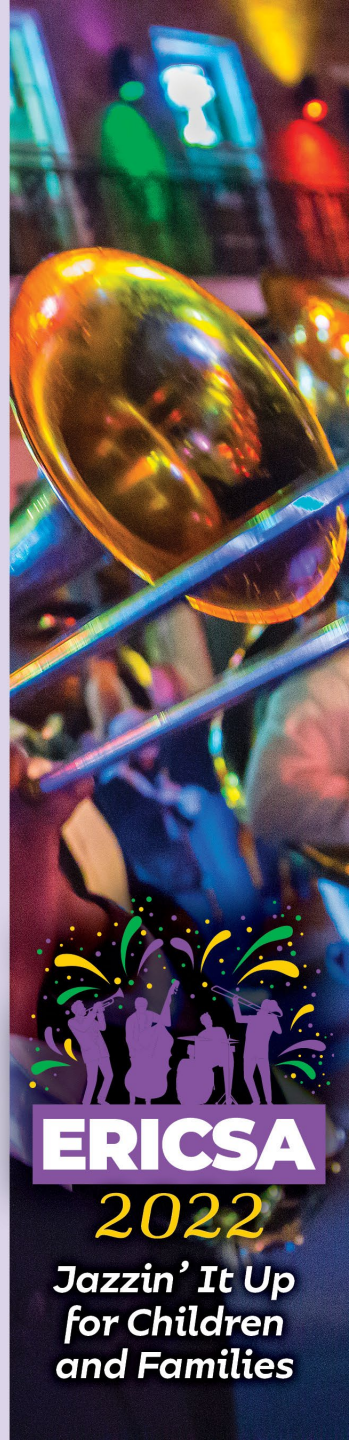
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Enforcement Remedies Revamp

Driver's License Procedural Justice Innovation Pilot



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Enforcement Remedies Revamp

Driver's License Innovation Pilot



Cases **selected** for potential driver's license suspension

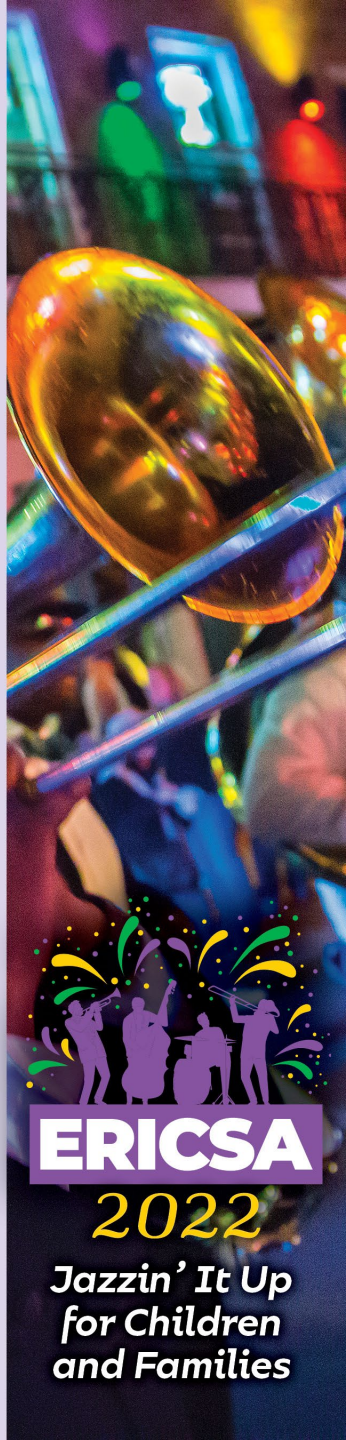


Workers will contact obligors about DL suspension



Depending on obligor's circumstances:

- Remedy may be suppressed
- Enter into a payment agreement



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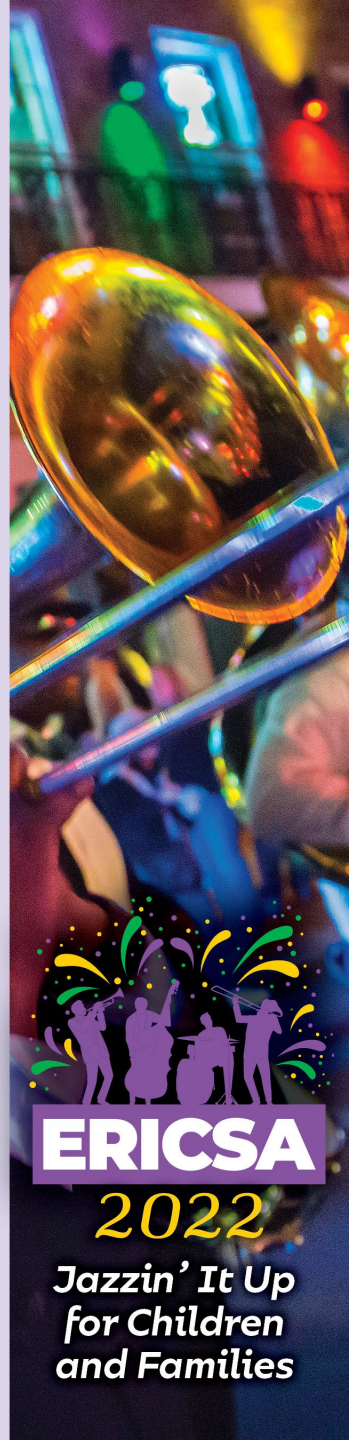
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Enforcement Remedies Revamp

Driver's License Innovation Pilot

Case Scenarios

Current Circumstances	Action Taken
Obligor is currently receiving MFIP, GA, SSI	• Suppress DL • Contact obligor to notify them about DL reinstatement and offer resources • Refer case for modification and/or closure



Enforcement Remedies Revamp

Driver's License Innovation Pilot

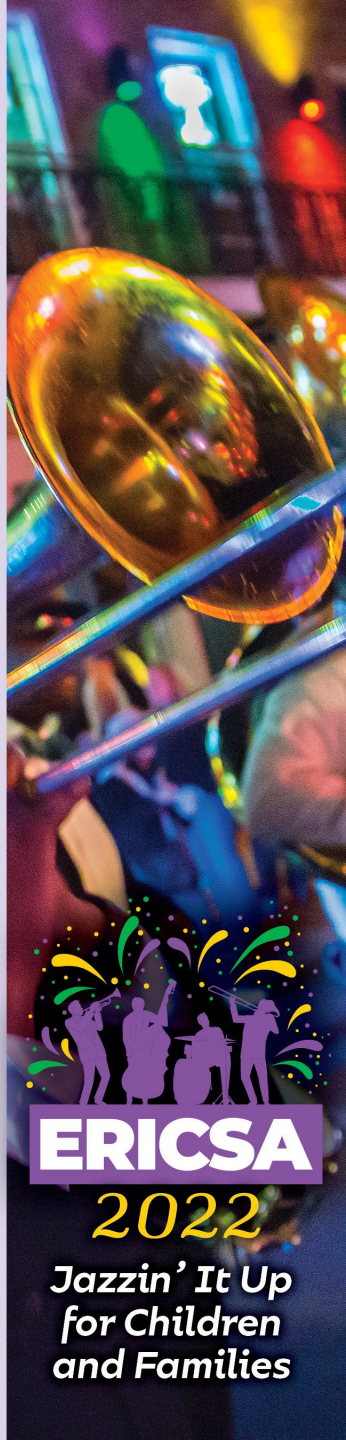
Case Scenarios

Current Circumstances

Action Taken

Obligor is paying 100% or the last 3 payments came in at the current IW amount per the employer's payment schedule.

- Suppress DL and inform obligor that DL hold is lifted



Enforcement Remedies Revamp

Driver's License Innovation Pilot

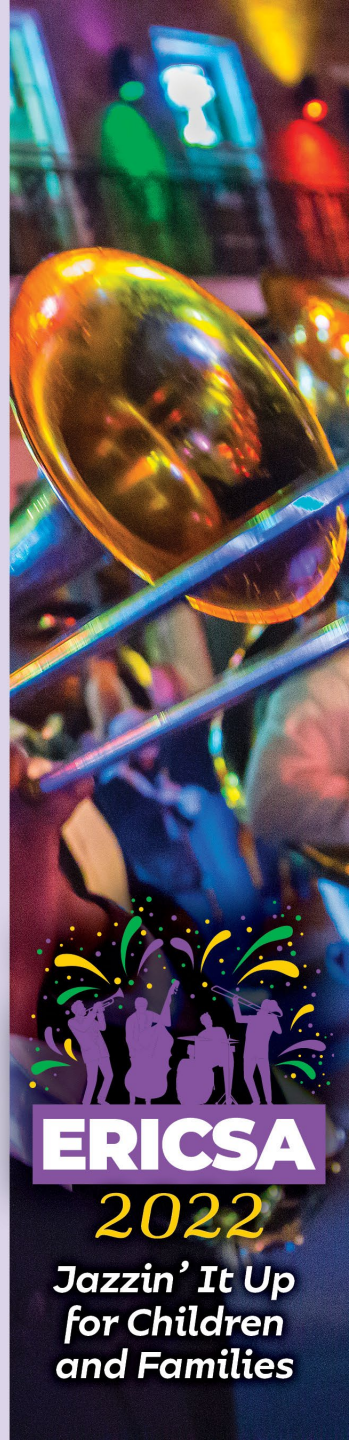
Case Scenarios

Current Circumstances	Action Taken
-----------------------	--------------

Obligor is paying 50-99% through IW, REI or regular payments.

Interview Obligor

- Develop case plan to address barriers to full payment
- If agree to case plan: no payment plan or good faith payment
- Suppress DL and monitor case



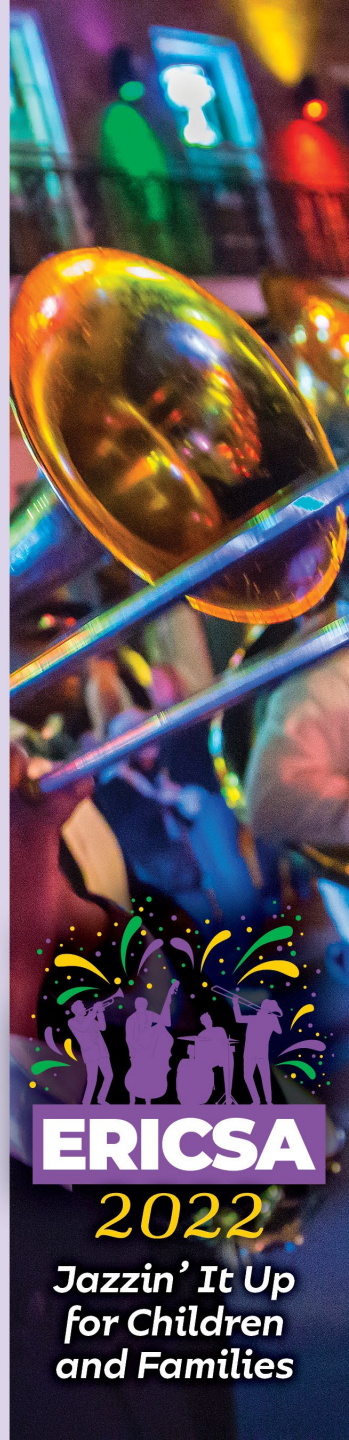
Enforcement Remedies Revamp

Driver's License Innovation Pilot

Case Scenarios

Current Circumstances	Action Taken
-----------------------	--------------

Obligor is paying more than \$0 but less than 50%	Interview Obligor: • Develop case plan to address barriers to full payment • Determine graduated payment agreement • \$0 good faith payment for someone with barriers who is willing to enter into a case plan • Suppress DL
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Enforcement Remedies Revamp

Driver's License Innovation Pilot

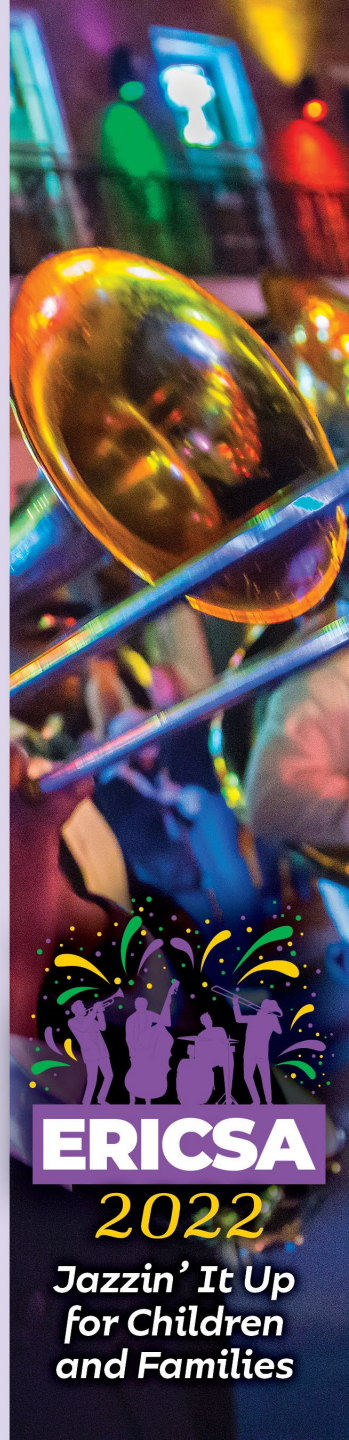
Case Scenarios

Current Circumstances	Action Taken
-----------------------	--------------

Obligor made no payment in prior 3 months

Interview Obligor

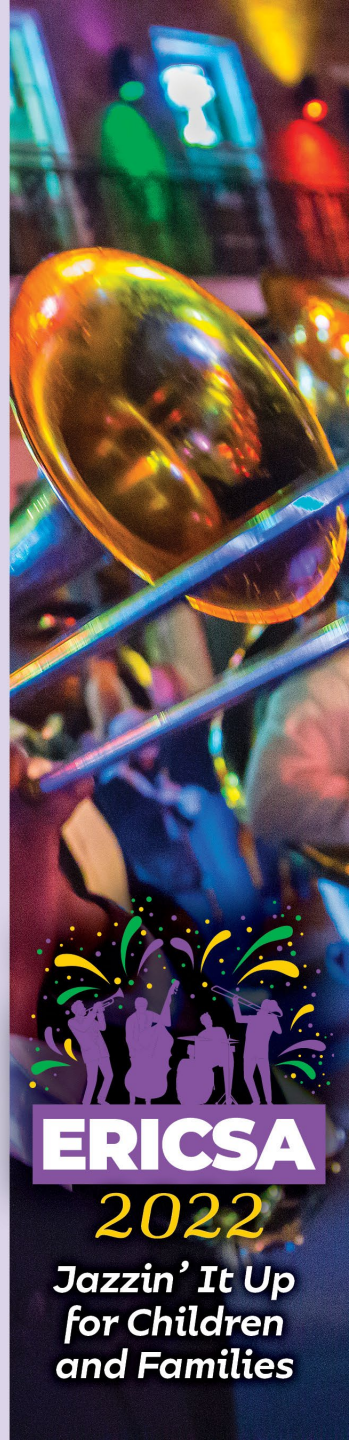
- Develop case plan to address barriers to full payment
- Enter a graduated payment plan based on the information gathered in interview
- No good faith payment needed if Obligor agrees to the case plan
- Suppress DL



Enforcement Remedies Revamp

Ramsey County Policy Changes

- Must call both parties and send 2-3 letters
- More suppression reasons
- Must do a full case review, including internal modification referral, if appropriate
- Graduated Payment Agreements for all cases selected for remedy
 - Based on payment history and will cover extended time period (9-12 months)



Engagement with Parents



Ask parents about the current circumstances.
Discuss payments.



Is the Obligor involved in the child's life?



Are they helping with daycare, transportation,
buying items for the child, parenting time?



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Engagement with Parents

Ask Obligor:

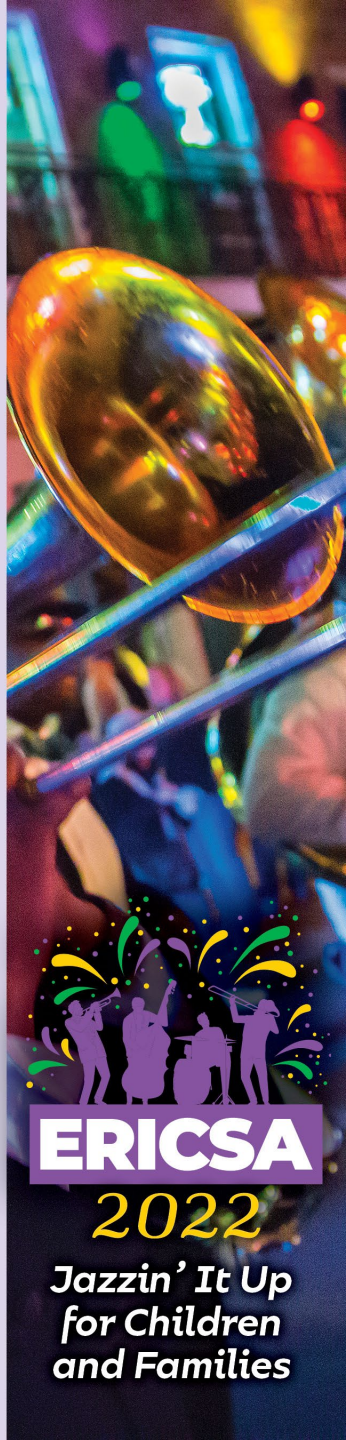
- Barriers?
- Job options?
- Contact with agencies to assist?

Possible barriers: health, job skills, employment history, age, criminal history, local job market, applications and responses from employers?

Ask Obligees:

- Obligor's circumstances
- What their thoughts are about the current amount, payments, impact on them, etc.

It is important to get Obligees' input also.



Engagement with Parents

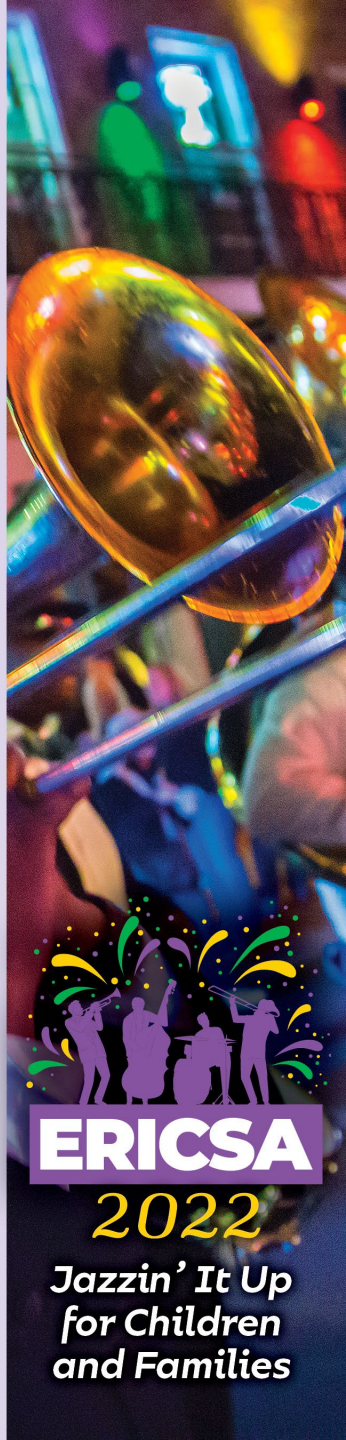
REMINDERS



- DL suspension is not a punishment tool for non-payment
- Civil contempt should not be used as a discovery tool
- The gathering of information should be done first.



A modification may be more appropriate than contempt or other enforcement tools.



Alternatives to Contempt

Offer Resources

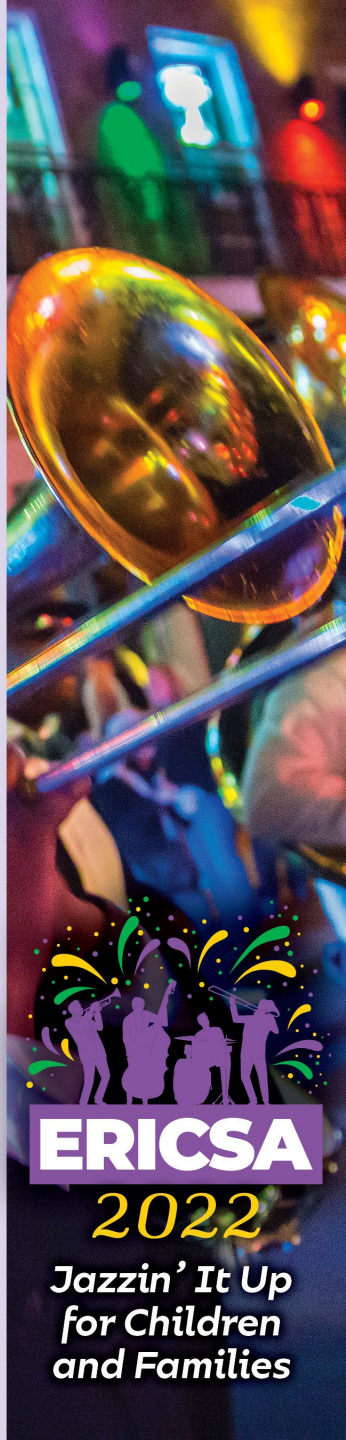
Resources



- County Workforce Solutions
- CareerForce MN & Minnesota Works – statewide
- Community Organizations and services



- Legal Services
- Court & Self Help Center info
- Free legal clinics & consults
- Programs in local law schools
- ROADS Workforce Partnership in Ramsey County



Alternatives to Contempt

R.O.A.D.S. Program

Reliable Opportunities Advance Dads Support



Employment and training program for fathers offered by Ramsey County Workforce Solutions in partnership with Ramsey County Child Support.

Dedicated Workforce counselor and some monetary benefits

Eligibility

- Child on MFIP cash benefit



Alternatives to Contempt

R.O.A.D.S. Program

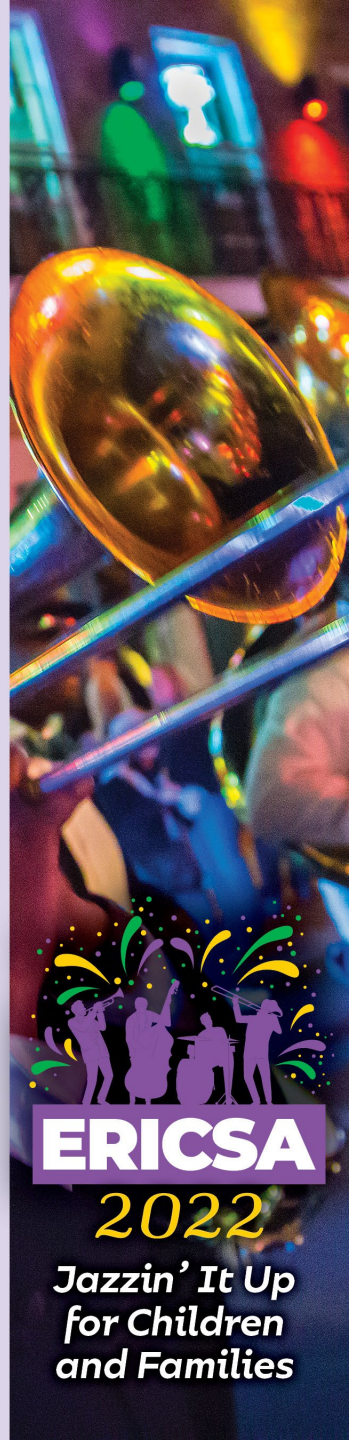
Reliable Opportunities Advance Dads Support

Program Offers

- Career coaching
- Education and training - Diploma or GED completion, college enrollment
- Child Support Assistance
- Referrals for housing, health services, and legal help
- Optional 40-hour parenting program

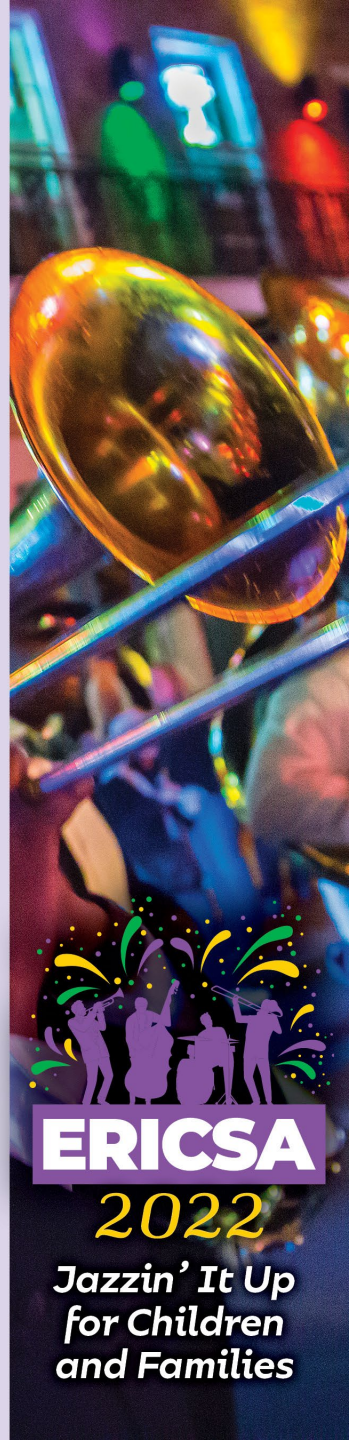
Program Benefits

- Reduce or suspend child support
- Release hold on driver's license
- Forgive PA arrears
- Avoid enforcement actions, such as civil contempt
- Designated child support worker and employment counselor
- Incentives for completing goals



Alternatives to Contempt Stipulations

If both parties agree to change the amount, even if temporary, the County should strongly consider drafting a Stipulation with the parties.



Alternatives to Contempt Stipulations

Benefits of Stipulations

When parties are engaged in their case and have input on the amount of support, parties may:

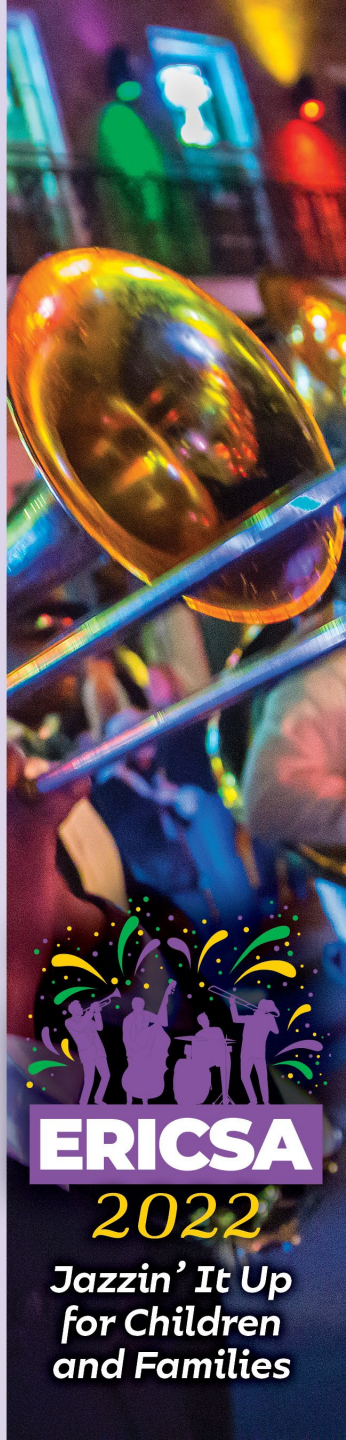
- Feel more involved and

- Have a better understanding of a complex legal system

When support is set based on the parties' current circumstances and with their involvement, it is easier for the County to collect and enforce the support.

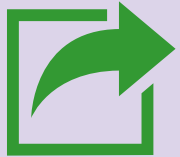
Children are more likely to receive timely and consistent payments, which is a good thing!

Quick and easy! Avoids a court hearing and the stress/time involved with filing a motion.



Alternatives to Contempt

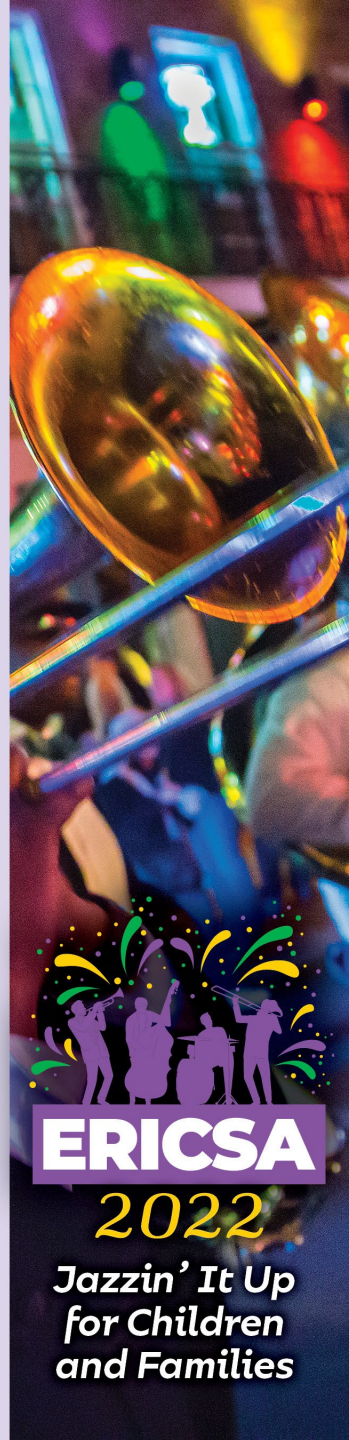
Stipulations



Consider a **deviation** – even a temporary one and even if public assistance is open.



If the parties can reach an agreement that includes a deviation from the guidelines, that may be in the best interest of the child(ren) to receive consistent and full payments....instead of nothing at all.



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Alternatives to Contempt

Stipulations

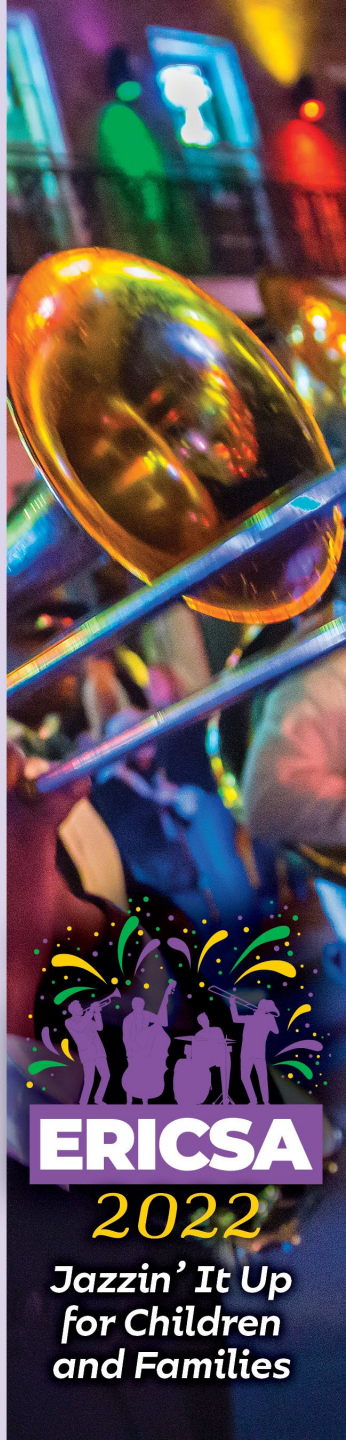
Ramsey County has been doing stipulations (and deviations) for 10+ years.

Types:

- Intact families
- Child with Obligor
- Reduce basic/medical/childcare support
- Incarcerated obligor
- Paternity/establishment

Stats:

- Average of **6** intact family/child with Obligor stips per month
- Average of **7** all other types of stips per month

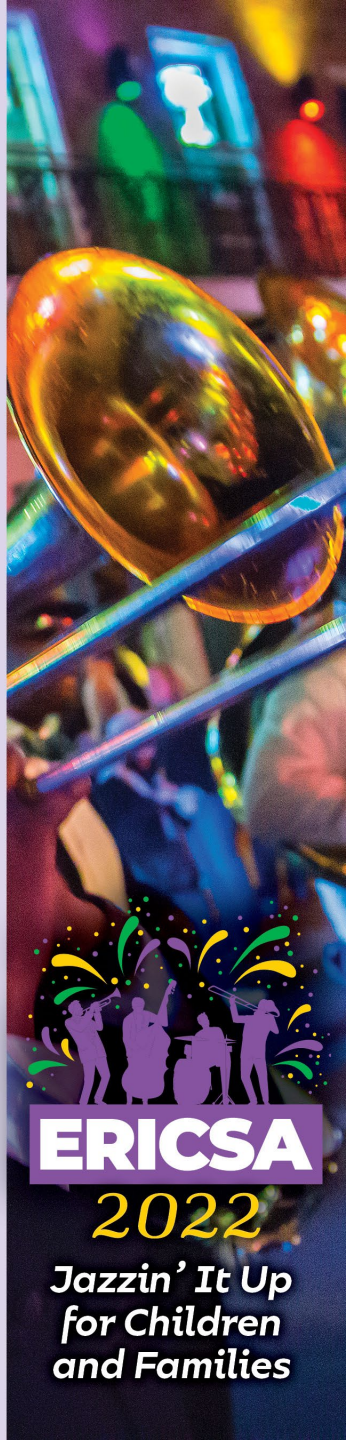


Alternatives to Contempt

County Initiated Modifications

“A successful strategy to encourage compliance and reduce the need for contempt is to provide **frequent review and adjustment**.... Because income often changes significantly over time, it is important to have policies and practices to **easily adjust orders** to reflect changes in income.”

-OCSE



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Alternatives to Contempt

County Initiated Modifications

Considerations for Modifications



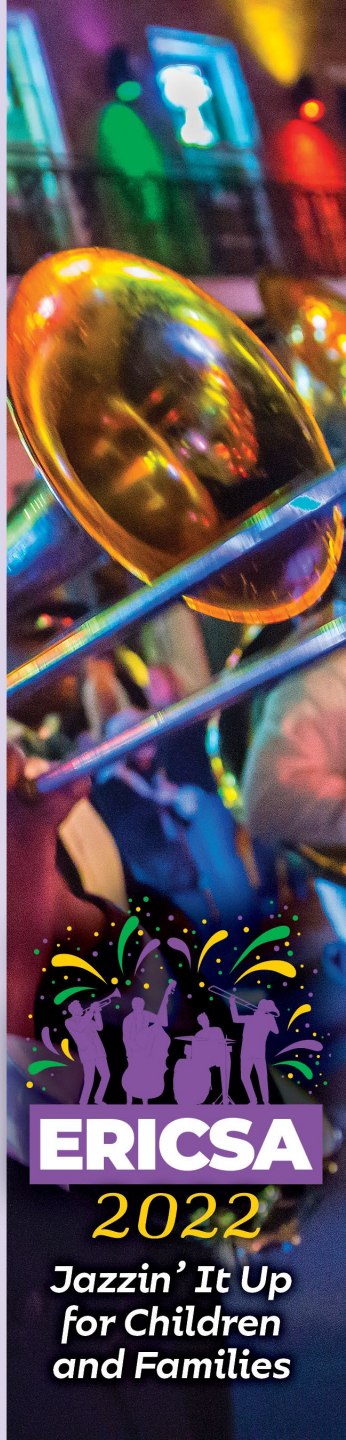
Has there been a change in circumstances?

- Decrease in income or decrease in ability to pay?
 - Health issues limiting the ability to work?
-



If the Obligor's wage history and payment history do not support the current child support amount, then the County will strongly consider initiating a motion to modify.

- Contact the parties about their situation



Alternatives to Contempt

County Initiated Modifications

Process



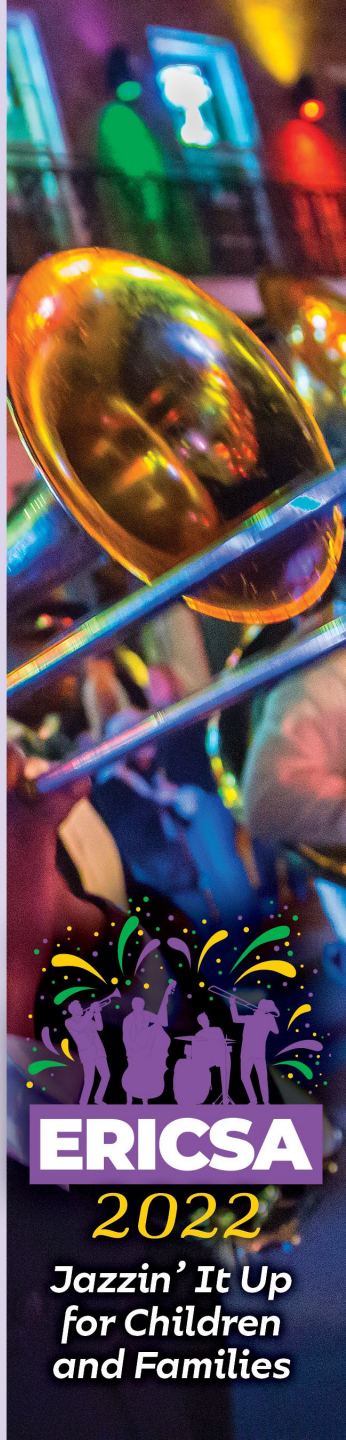
Set for a hearing to allow both parties to attend and discuss the current circumstances



Payments are more likely if support is set based on current circumstances and ability to pay



If the Obligor still doesn't pay, then the Court is more likely to approve a civil contempt action.



Alternatives to Contempt

Motions to Enforce

What is it?



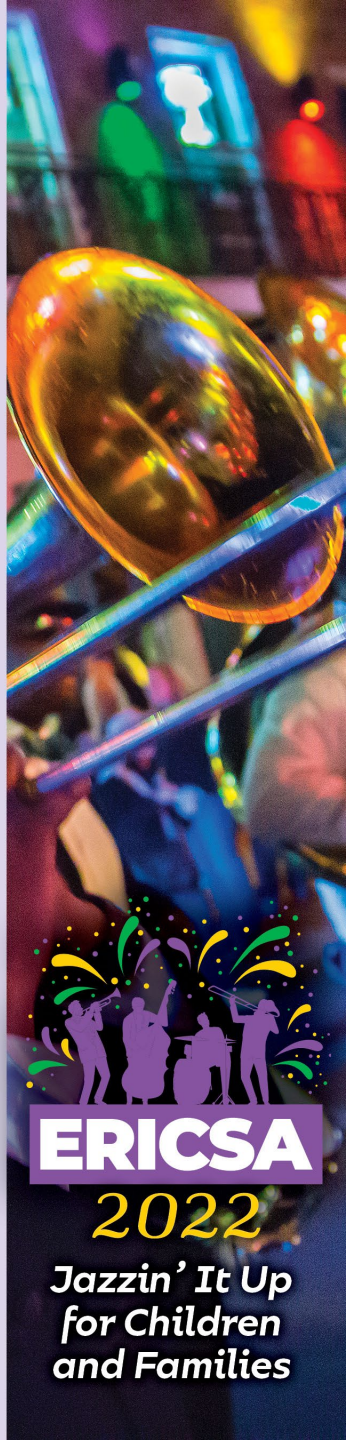
Alternative option to contempt to gain compliance. County personally serves motion with subpoena for the obligor to appear at court, and bring documents.

What is county looking for from obligor?



Huge benefit from the prehearing discussion on their circumstances.

Requesting job search; graduated payment plan; documentation of disability/earnings; etc.



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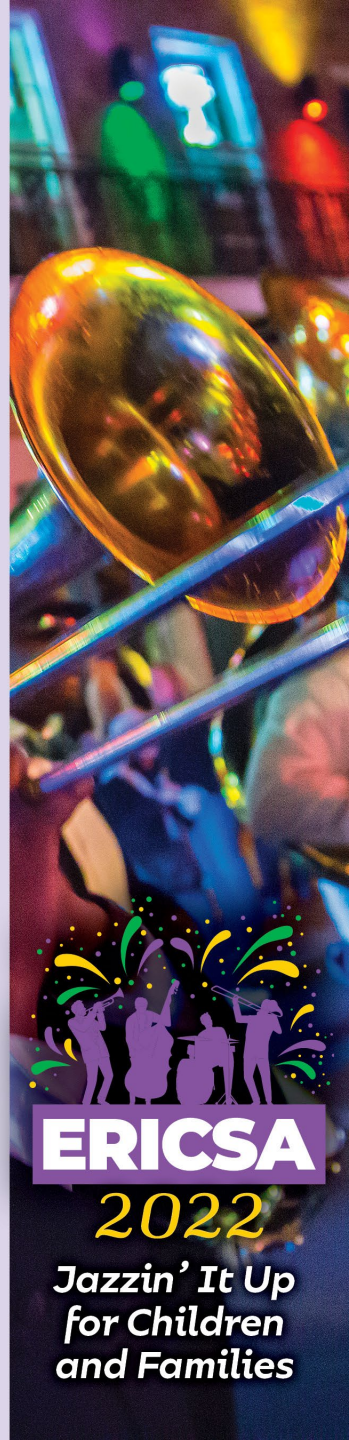
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Alternatives to Contempt

Motions to Enforce

Internal Procedure

- 1 Agent identifies case for possible motion to enforce
- 2 Case is reviewed by project team members
- 3 Team will decide if case should be referred for contempt, motion to enforce, or a county-initiated mod



Alternatives to Contempt

Motions to Enforce

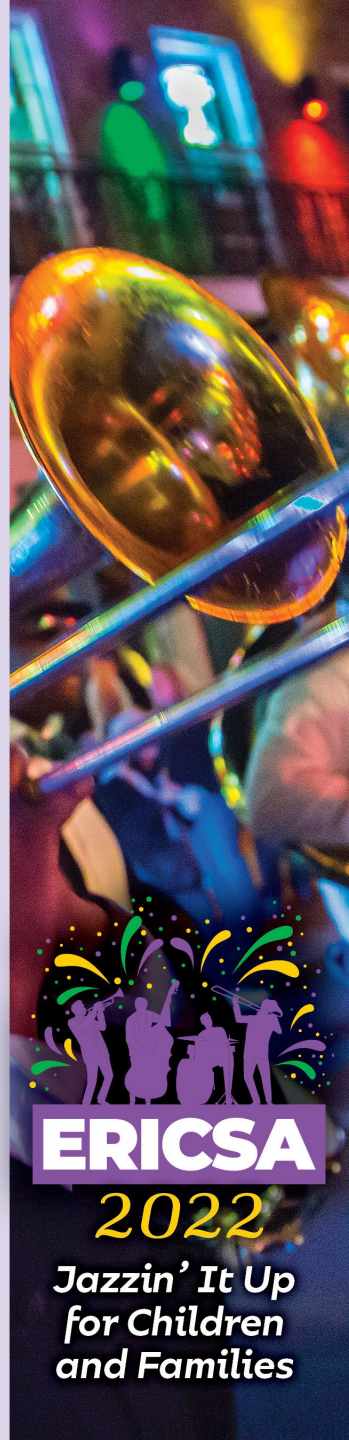
Motion Process

Set for hearing

Personally serve motion with subpoena (more likely to show-up)

Subpoena production of documents

Motion for job search (M.S. 518A.64)



Alternatives to Contempt

Motions to Enforce

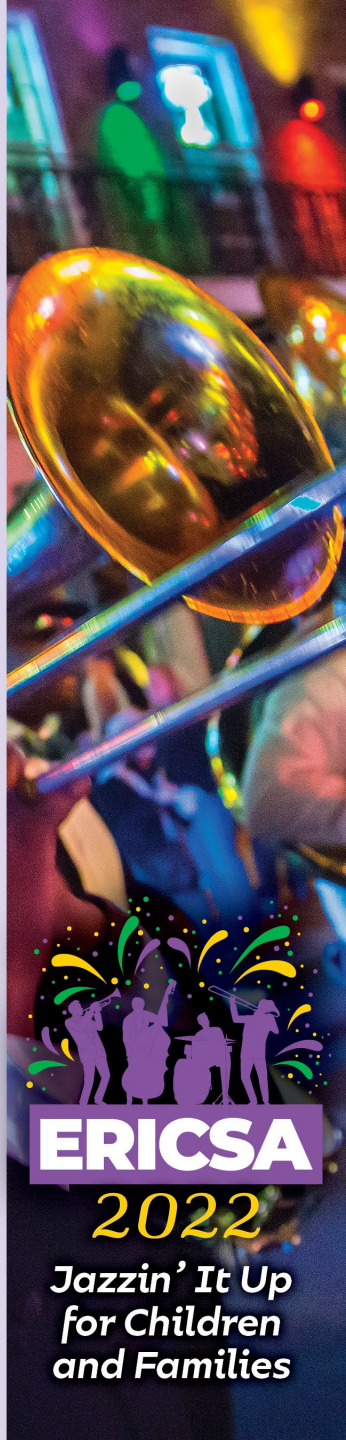
Possible Cases Scenarios

Nonpaying obligor with ability to pay

Nonpaying obligor with no ability to pay

Nonpaying obligor with some ability to pay but not to the level
of the child support order

Nonpaying obligor with unknown ability to pay



Alternatives to Contempt

Motions to Enforce

Initial hearing

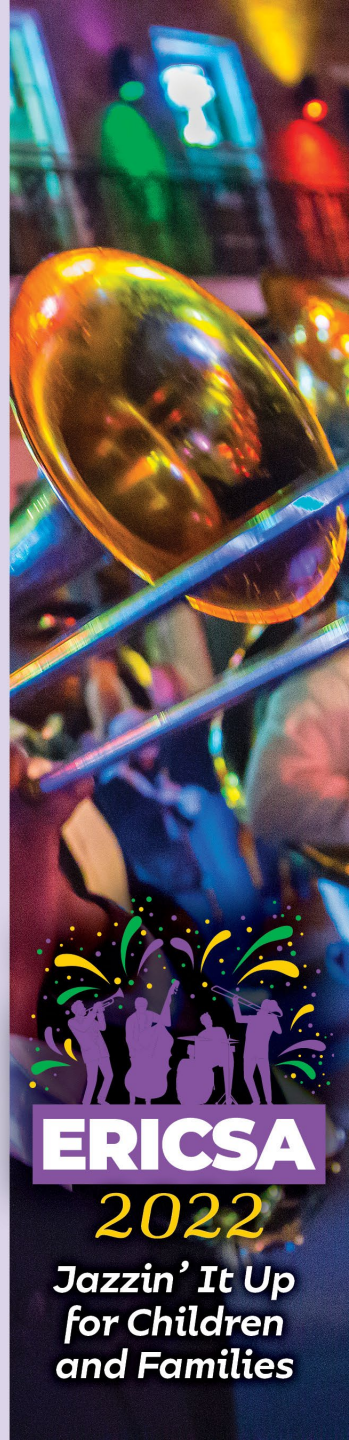
Request the Court order:

- Job search/reporting, provide documents
- Make payments, consistent with ability to pay
- Lump sum payment if an ability
- 3-month review hearing if requesting a job search order

Assess for county modification action

Review for referral to ROADS project;

No shows: issue a job seek order/reporting; providing documents under the subpoena; ask for 3-month review hearing.



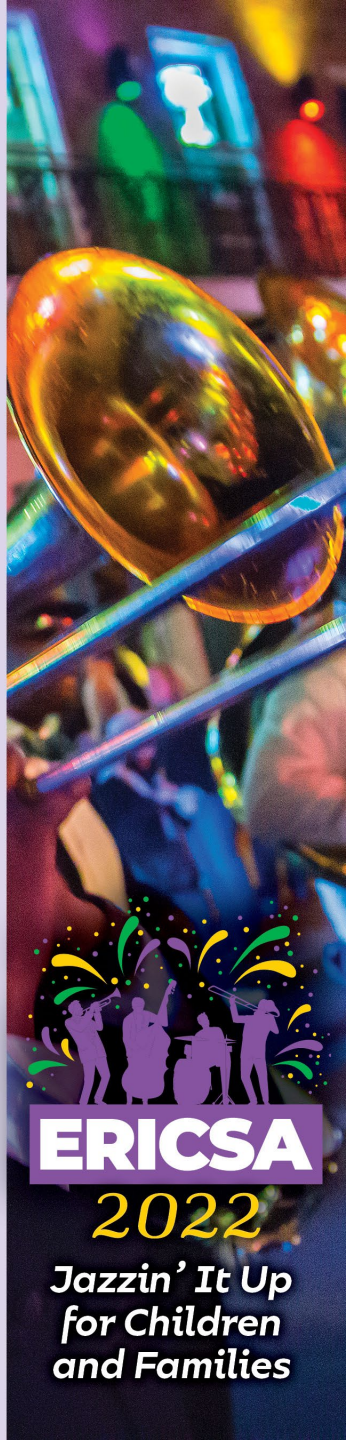
Alternatives to Contempt

Motions to Enforce

First Review hearing

Compliance with Motion to Enforce order

1. Set another review hearing
2. If obligor is not yet employed, request the court order job search and a second review hearing in 3 months.
3. If obligor is partially complying, ask for second review hearing in 6 months
 - If the obligor is complying with payments, the county will cancel the hearing.
 - County will review for modification



Alternatives to Contempt

Motions to Enforce

First Review hearing

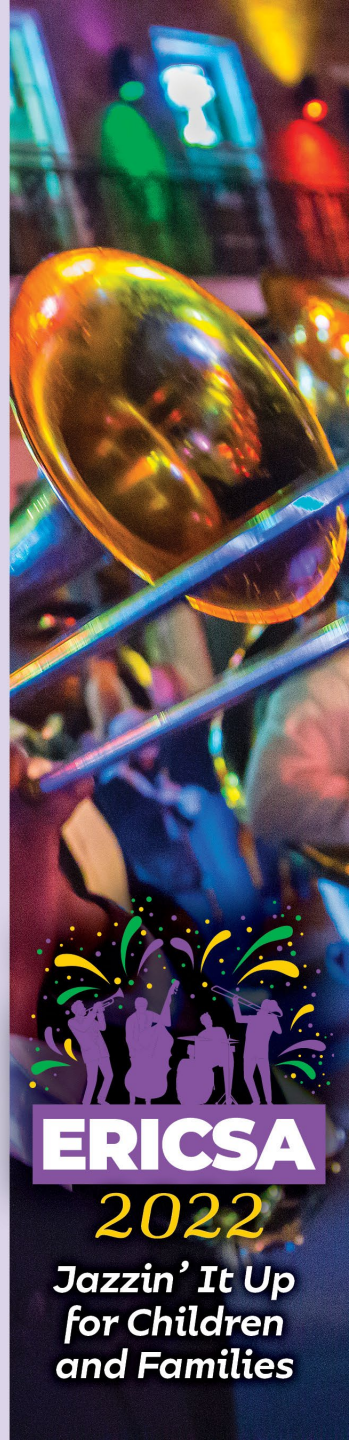
Non-Compliance with Motion to Enforce order

Obligor appears at review hearing

1. Move forward with contempt
 1. Make record of Obligor's failure to follow motion to enforce; ability to pay
 2. Serve Obligor with signed Order to Show Cause that same day
2. Don't move forward with contempt; request another review hearing

Obligor does not appear at review hearing

1. Request contempt hearing date due to failure to comply or appear and submit a proposed Order to Show Cause
2. Personally serve obligor with contempt motion and OSC after hearing

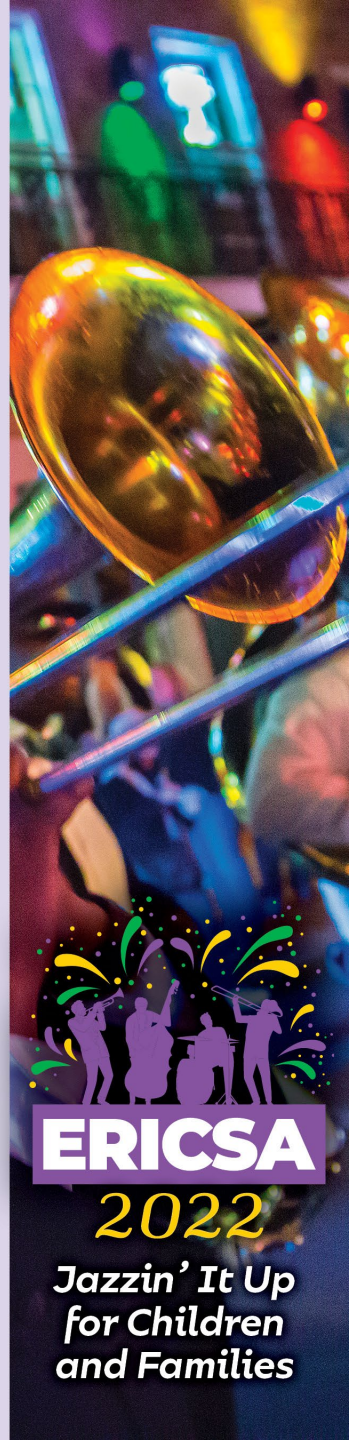


Alternatives to Contempt

Motions to Enforce

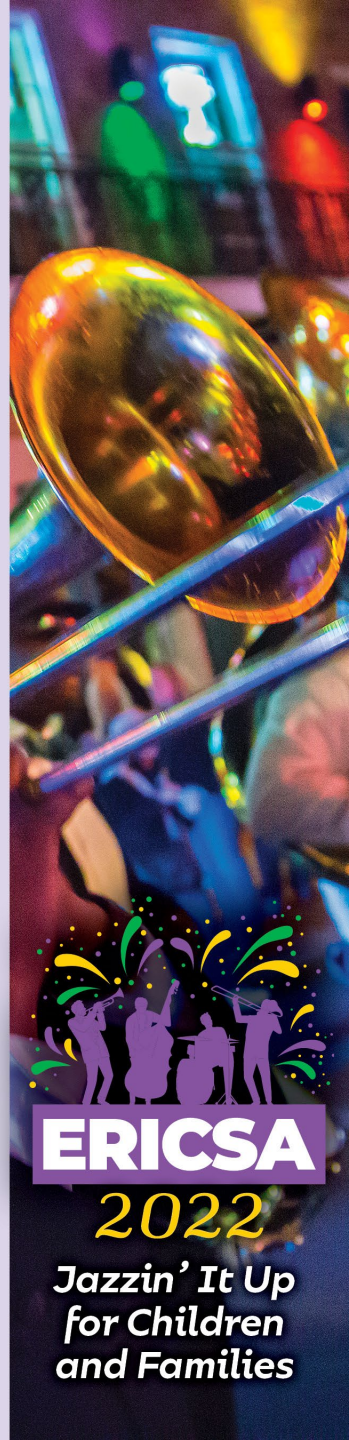
Second Review Hearing

1. Three weeks before the next review hearing, review for compliance with payments and the order.
2. If no payments are received or no compliance with last order, review for proceeding with contempt at the next hearing.



Contempt Process Revamped

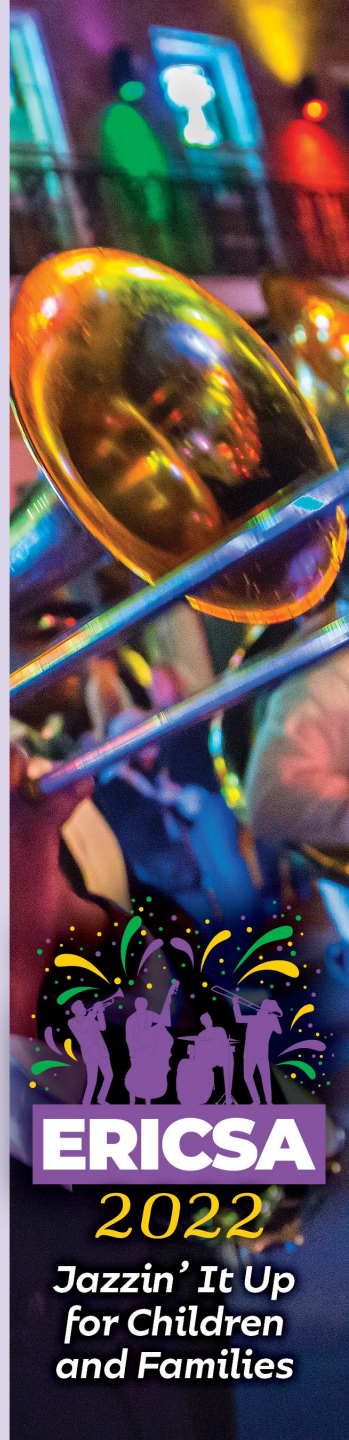
- Must attempt phone contact
- Improved letters
- Revamped Case Referral form
 - What is their ability to pay?
 - Circumstances – current and former
 - What are barriers to employment
- Ability to Pay Focus: “Able but unwilling to pay” and not “unable to pay”



Contempt Process Revamped

Considerations for Referral

- No full monthly payments in the last 12 months
- Obligor has an ability to pay, need verification
- Obligor has not entered into a payment agreement within the last 12 months
- Agent has spoken with obligor about the ability to pay within the last 12 months
- Current address for the obligor
- Not receiving public assistance



Federal Final Rule Reminder

Requires the following of county agencies:

1

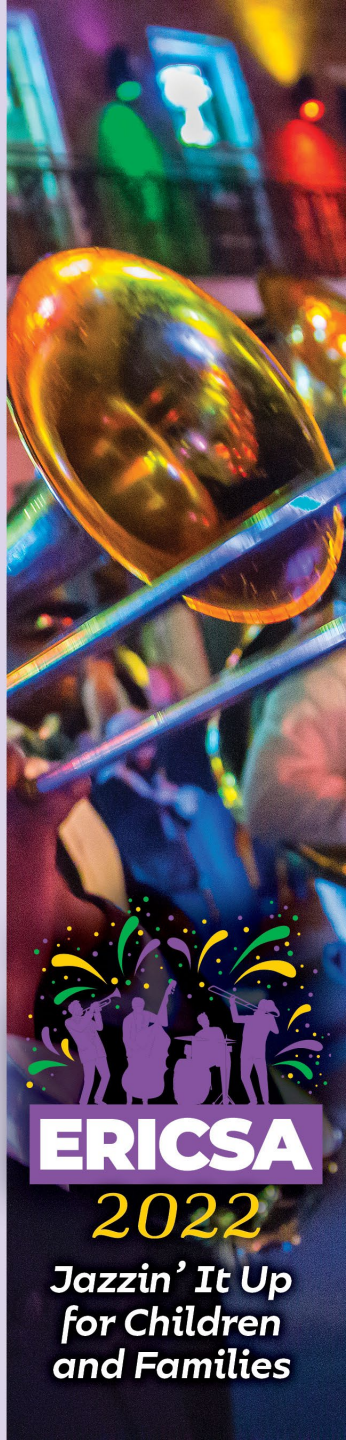
Review the Obligor's circumstances for "actual and present" ability to pay

2

Provide the court with information regarding the Obligor's ability to pay or otherwise comply with the order

3

Provide clear notice that "ability to pay" is critical question in the contempt



“Actual and Present” Ability to Pay?

Final Rule Factors to consider in this question:

Assets, or lack thereof

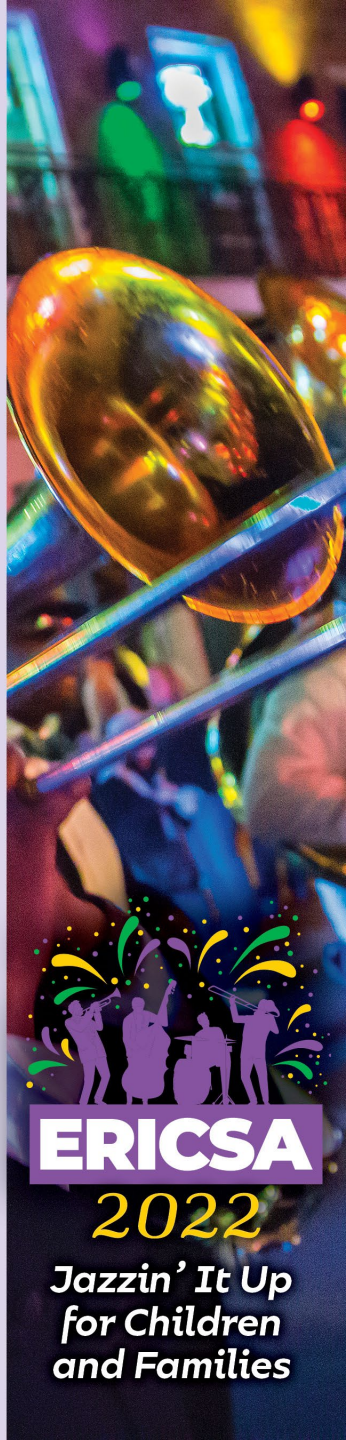
- Vehicles, house/property, savings accounts, retirement, other?

Residence,

- multiple addresses in recent years? No current residential address – more than just getting mail somewhere

Educational attainment,

- High school diploma or GED?
- Technical, vocational or community college?
- Degrees?

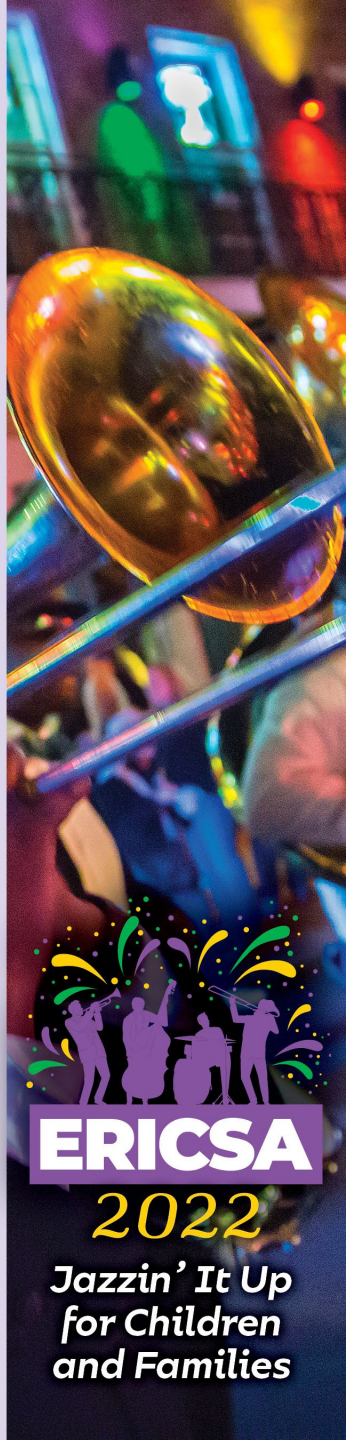


“Actual and Present” Ability to Pay?

Final Rule Factors to consider in this question:

Employment and earnings history

- Limited? Sporadic? Part-time? Seasonal? Temporary?
- DEED wages show a history of earnings lower than the income in the order?
- CCPA payments only?
- Higher income before, but something changed?
- Willful non-payer VS. Not able to pay/Not able to maintain consistent employment?



“Actual and Present” Ability to Pay?

Final Rule Factors to consider in this question:

Job Skills

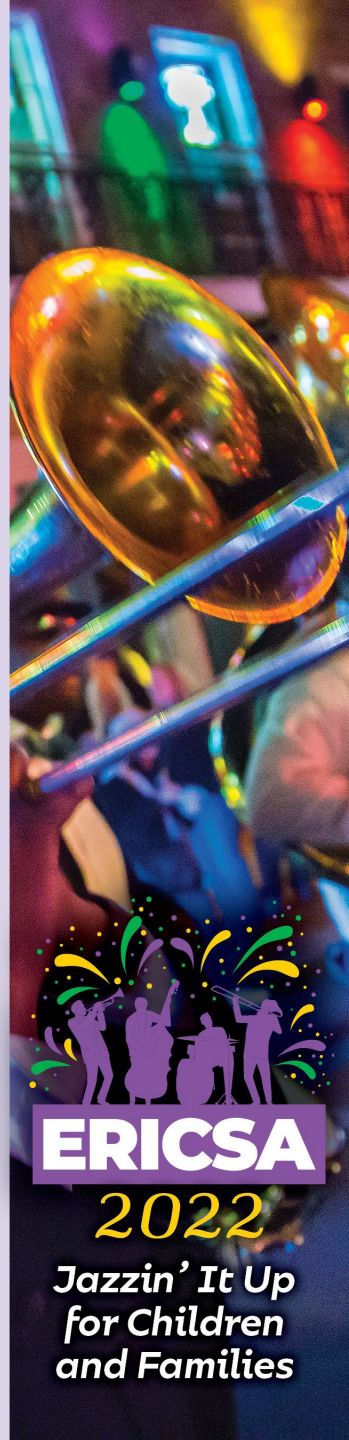
- Technical, vocational or community college?
- Prior work experience?

Literacy

- Limited or no ability to read and/or write?

Age

- Depending on the type of jobs, age may, unfairly, reduce their employment options

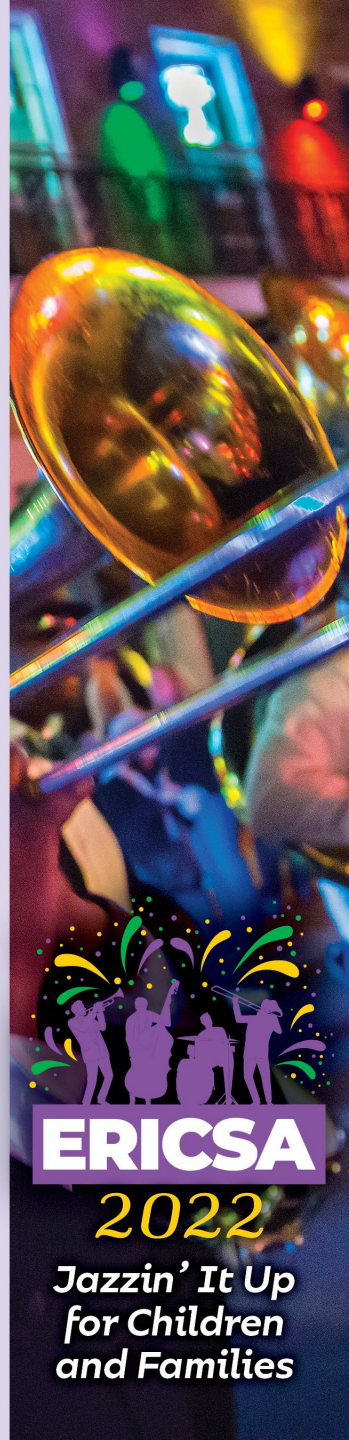


“Actual and Present” Ability to Pay?

Final Rule Factors to consider in this question:

Health, physical, mental, emotional

- Self-reported health concerns?
- Documented medical diagnosis and treatment?
- Chemical dependency and mental health concerns can be difficult to obtain treatment for.
- The health concerns may also prevent the individual from gathering documents, following-through and navigating complex legal system.
- Significant issue nationwide



“Actual and Present” Ability to Pay?

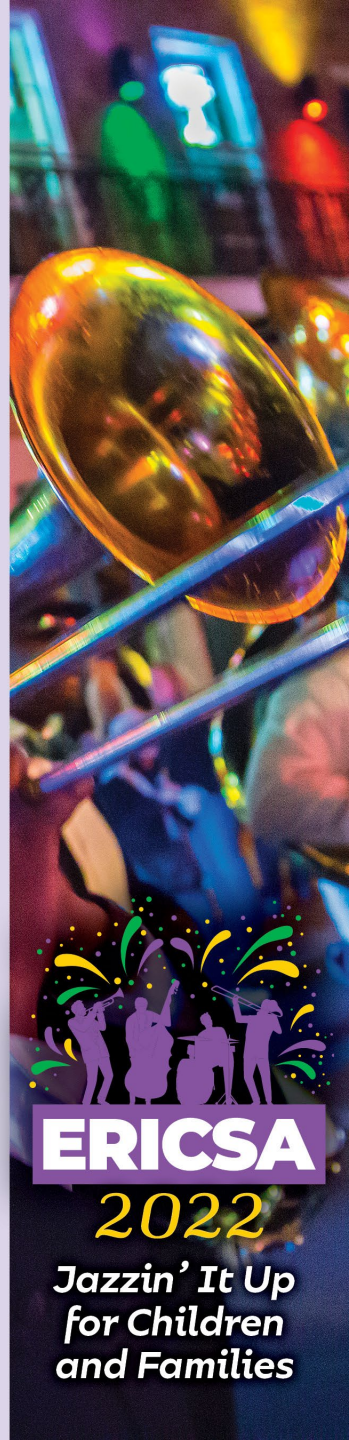
Final Rule Factors to consider in this question:

Criminal record

- Felony record will limit their ability to obtain employment
- Multiple other convictions may also limit
- Many requirements for probation and re-entry, and almost impossible to navigate in addition to employment
- Employers that will hire felons are limited

Prevailing earnings level in the local community

- Depends on the current circumstances and wage levels in their community



ERICSA

2022

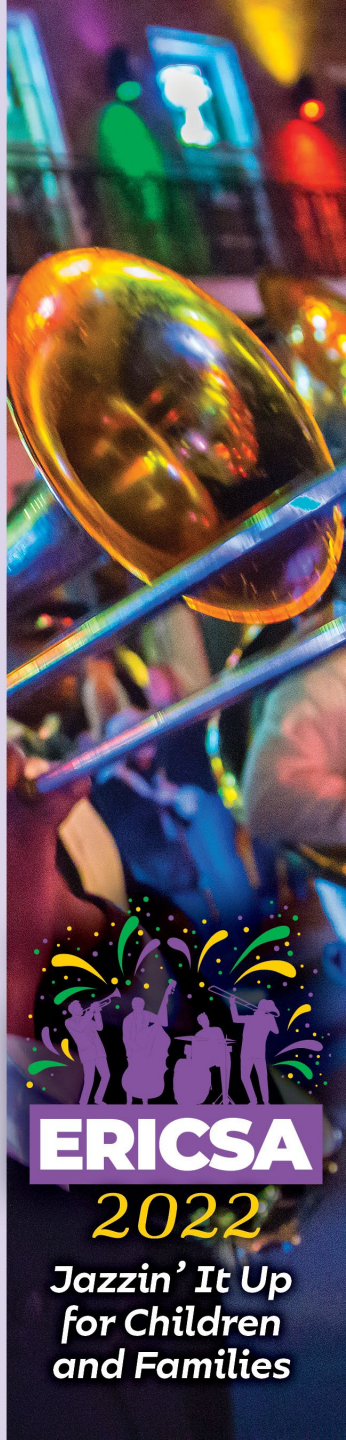
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“Actual and Present” Ability to Pay?

Final Rule Factors to consider in this question:

Local job market and employers willing to hire Obligor

- Low “nationwide” unemployment right now: 3.9% in August 2018 compared to 9.6% in August 2009
- However, the denominator reduced (labor force participation rate dropped, baby boomers?) – shrinking work force instead.
- Also, differences by demographics (per U.S. Bureau of Labor Statistics):
 - African American unemployment: 6.3%
 - Latino/Hispanic unemployment: 4.7%
 - Asian unemployment: 3.0%
- Immigration status



Other Enforcement Remedies

Credit Bureau Reporting

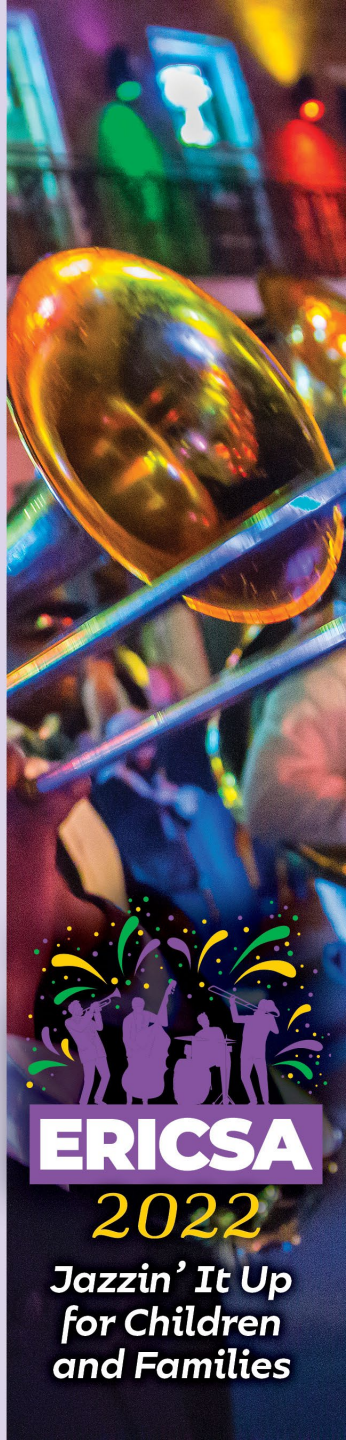
 Minnesota passed legislation that allows for discretion in reporting cases to the consumer reporting agency

Current

- Developing policy on credit bureau reporting
- Keep suppressions on cases that were suppressed during Peacetime Emergency and continue reviewing cases for suppressions

January 1, 2023

- Credit bureau reporting discretion goes into effect
- After written notice of intent to report, obligor may enter into payment agreements to prevent new credit bureau reporting



Other Enforcement Remedies

Interest



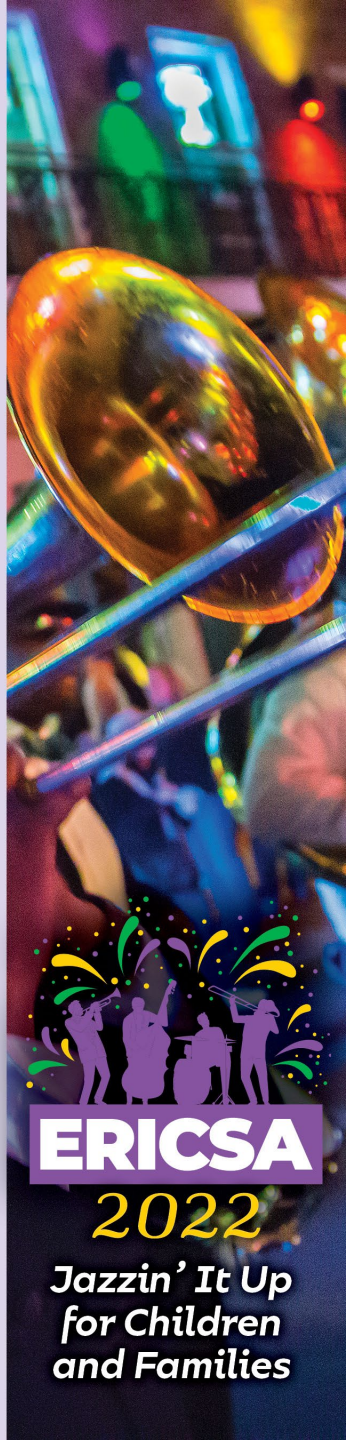
Minnesota passed legislation that stops the requirement for IV-D child support agency to collect interest on arrears

Now

- Collecting interest rate on child support arrears balances.

August 1, 2022

- IV-D agency will no longer be collecting interest. It can still be “charged” but the party would have to file a motion in court to collect it, separately.
- Prior interest charged before 8/1/22 will be collected.



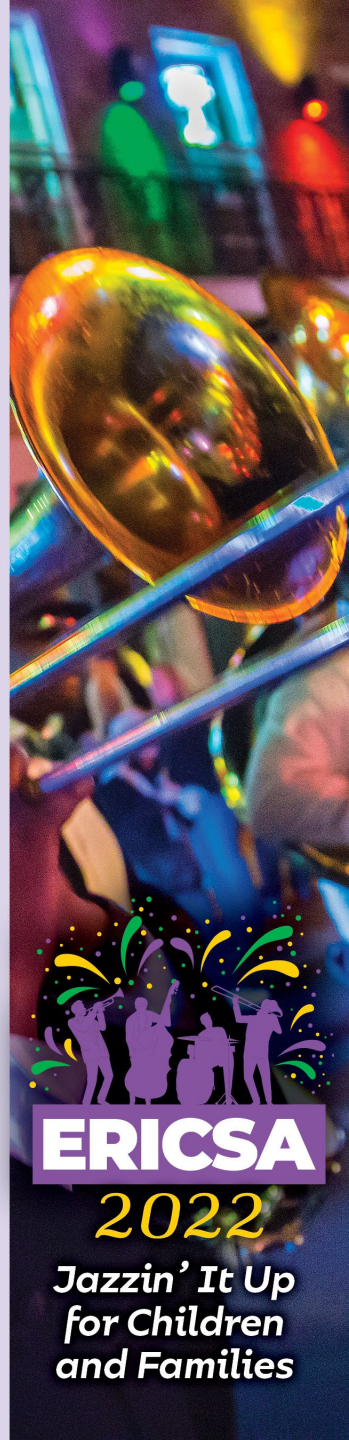
Questions?

Thank you!

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2022

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