



# EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION

## OFFICERS

CYNTHIA LUCAS  
President  
30 E. Broad Street, 31<sup>st</sup> Floor  
Columbus, OH 43215-3414

DIANE JORDAN  
President-Elect  
903 Gateway Blvd., Suite 110  
Hampton, VA 23666

COESSA KENNEY  
First Vice President  
161 E. Michigan Avenue  
Battle Creek, MI 49014

JIM DINGELDINE  
Second Vice President  
409 Ravenel Street  
Columbia, SC 29205

DIANE FRAY  
Secretary  
25 Sigoumey Street  
Hartford, CT 06106

DORIS RYANS  
Treasurer  
645 Griswold  
Detroit, MI 48226

JEFF BALL  
Immediate Past President  
311 Caprice Court  
Loveland, OH 45140

## BOARD OF DIRECTORS

JESSICA BULLA 2006-2007  
P.O. Box 791  
Graham, NC 27253

PATTERSON CALHOUN 2006-2008  
62 Wythe Court  
Crawfordville, FL 32327

BILL DUFFEY 2005-2007  
400 Deaderick St.  
Nashville, TN 37219

CHRISTINE JENNINGS 2005-2007  
15010 Conference Cir Dr  
Chantilly, VA 20151

RON HARRIS 2006-2008  
1504 Santa Rosa Rd  
Richmond, VA 23229

JARNICE JOHNSON 2005-2007  
100 East All Saints Street  
Frederick, MD 21705

GRAIG KELLY 2006-2008  
5525 Mounes Street, Suite 101  
New Orleans, LA 70123

ROBYN LARGE 2005-2007  
1075 Piccadilly Lane  
Rock Hill, SC 29732

JOHN MACKLIN 2006-2007  
22376 Pine Haven Road  
Lincoln, DE 19960

ELAINE POOLE 2006-2008  
14 Executive Park Drive, Suite 1402  
Atlanta, GA 30329

AMY KEYS SHAW 2005-2007  
P.O. Box 716  
Trenton, NJ 08625

SUSAN K. SCHROEDER 2006-2008  
602 S. Calhoun St.  
Fort Wayne, IN 46725

ELAINE TUTTLE 2005-2007  
730 Church Road  
York, PA 17404

ROBERT VECOFF 2005-2007  
40 N. Pearl St., #13A  
Albany, NY 12243

LARA B. WEBB 2006-2008  
1010 Boonville  
Springfield, MO 65802

## HONORARY BOARD MEMBERS

RUTH BELL CLARK  
155 Fleet Street  
Portsmouth, NH 03801

NANCY CRAWFORD  
3955 Pender Drive, Suite 100  
Fairfax, VA 22030

VERNON DREW  
1107 Spring Street 2C  
Silver Spring, MD 20901

JOHN GRAHAM  
2 North Main Street, 3<sup>rd</sup> Floor  
Greensburg, PA 15601

MARGARET CAMPBELL HAYNES  
5320 37<sup>th</sup> St, N  
Arlington, VA 22207

SARA MCCOLLUM  
115 State Street  
Springfield, MA 01103

GORDON MOSELEY  
3131-D Lakewood Avenue  
Columbia, SC 29201

LEE SAPIENZA  
13-C 40 North Pearl Street  
Albany, NY 12243

March 26, 2007

Office of Child Support Enforcement  
Administration for Children and Families  
370 L'Enfant Promenade, SW., 4<sup>th</sup> Floor  
Washington, DC 20447  
Attention: Director, Policy Division  
Mail Stop: OCSE/DP

RE: **COMMENTS ON DRA OF 2005 NPRM**  
**January 24, 2007 Federal Register, Page 3093**

Dear Sir/Madam:

The Eastern Regional Interstate Child Support Association (ERICSA) is a non-profit organization that for 34 years has brought together judges and other decision-makers, public and private attorneys, and child support professionals, predominately from the eastern half of the United States. ERICSA's mission is to build a stronger interstate child support community by developing and advocating effective policy, facilitating communication, and delivering innovative professional training in order to enhance the well-being of families. We have engaged federal and state legislators in the creation, evolution and expansion of a program that provides critical financial support to over 16 million families. A large number of the 16 million families have moved from welfare to self-sufficiency due in significant part to the child and medical support established and enforced through the IV-D program.

On behalf of the ERICSA, and the child support community as a whole, I have requested that Congress restore the funding to the child support program that was cut by Deficit Reduction Act of 2005 (DRA) As you are aware, this legislation dramatically reduced the federal government's commitment to the national child support enforcement program. Most states are having difficulty finding other sources of funding to replace the amount that was cut by the DRA.

One of the unique features of the child support enforcement program is that unlike government public assistance programs, it has a major interstate component, and requires close collaboration among the states to provide services on behalf of children whose parents live in different states. Failure to restore the full funding for the program will have widespread implications in all states, not just the state which cannot restore the funding, and will especially adversely impact low-income families. ERICSA would appreciate any actions you can take to facilitate the restoration of this funding to ensure the continuance of a strong child support program.



Congress' 2006 passage of the DRA provided important new tools to assist state and local government agencies improve their collection rate, such as lowering the passport denial threshold, adding tax offsets for older children, simplifying distribution of support, and expanding medical support options. ERICSA is pleased to have these new tools available as it will improve the ability of the child support community to serve families across the nation.

In regard to the Notice of Proposed Rulemaking for the Child Support Enforcement Program to implement the Deficit Reduction Act, which was published in the January 24, 2007 *Federal Register*, ERICSA has the following comments:

In Section 301.1, General Definitions, we support the proposed regulation change to allow offset of a noncustodial parent's federal tax income tax refund for collection of past-due support owed on behalf of children who are no longer minors. This provision is family-friendly, since it will allow the child support program to forward to non-assistance families more past-due child support from the federal income tax refunds of noncustodial parents. The revised federal law now allows a consistent use of this enforcement tool for all child support debt, regardless of the age of the children and the party to whom it is owed. However, we have several questions regarding this definition. (1) On page 3094, please confirm that it is a correct interpretation that there is no requirement to distinguish separately cases that qualified under rules prior to and after October 1, 2007. (2) Also we query if this definition should be interpreted to mean that persons owed child support for non-minor children may apply for non-TANF services to gain access to Federal tax refund offset without having received non-TANF child support services when the child was a qualified child. It appears that the definition can be read to support the latter interpretation.

Next, we support the selection of the Federal fiscal year as the fixed period for imposing and reporting the annual \$25 fee under §302.33(e). If the federal fiscal year is not selected, then ERICSA urges that all states be required to use the same reporting year. Use of the same reporting year will ensure that the fee is implemented consistently among the States, and avoid imposition of the fee by more than one State for the same period.

Similarly, we agree with the selection of the initiating State as the one to impose and report the annual fee in interstate IV-D cases, as proposed in §303.7(e). There must be a consistent Federal standard, and the initiating State is in the best position to determine when it is appropriate to impose the fee.

We urge clarification of the discussion on page 3095 toward the end of the second paragraph under "When the \$500 of Support Threshold Is Reached". In particular, the following statement should be explained in more detail: "If \$500 in support is collected in one year but not disbursed until the next year, the fee would be imposed in the year in which the collection was actually disbursed to the family." It is clear from this statement that if a single (and the only) \$500 collection is received in one year but not disbursed until the following year, the fee would apply in the following year, because \$500 is disbursed in that year. However, the statement could be read (although we do not think it should be) to require imposition of a fee in the following year when \$500 total support is collected in one year, but only \$450 is disbursed in that year, and \$50 disbursed in the following year. It is clear to us that a fee should not be imposed in these circumstances, but the language of the referenced statement could imply to someone that a fee should be imposed in such a case.



We also think it would be helpful to clarify in the preamble to the regulations whether or not to impose an annual fee in a case in which the individual never received assistance prior to disbursement of \$500 support within the year, but begins receiving assistance during the year, but after disbursement of the \$500.

For states that require legislation to adopt the fee and such legislation will not be implemented at the beginning of the federal fiscal year, we request specific clarification about whether the imposition of the fee would apply to all cases retroactively to the beginning of the federal fiscal year, or only to those cases in which \$500 is disbursed after the effective date of the state law. The regulations are not clear as to the particulars of when each state must begin reporting the fee. How would the fee be implemented, for example, where the effective date of the law will be April 1, 2008? Would the fee be required to be applied for all cases for the full fiscal year when only 6 months of the year (April - Sept) has transpired since the state will have had authority to charge the fee? ERICSA strongly recommends that the state should not be required to impose the fee retroactively for any disbursements that occurred prior to the effective date of the state law.

In the conference call on March 21, 2007 with OCSE, a question was raised regarding the reporting requirements for the OCSE 34A in the situation in which the fee is taken from the next disbursement after the first \$500. Since the NPRM is clear that the NCP must be given credit for such collection, should the fee show as a disbursement, even though it will be retained by the state? For example, would a state who collects the fee from the custodial parent continue to count the collection on the OCSE 34A as distributed to the family? Explicit guidance is necessary on how the fee should be accounted for and reconciled with all relevant Federal reporting forms.

Our last comment with regard to the annual fee is in response to the specific request toward the top of the first column on page 3097 for “ways to effectively ensure timely collection of the annual fee.” It is clear to us that billing the custodial party or the noncustodial parent for the fee will be administratively impractical. If they do not pay, the State will have to resort to retaining the fee from collected support or paying it from its own funds. Therefore, it seems most effective and efficient to simply plan at the outset on collecting the fee in one of these latter ways, rather than attempting to get it from either party.

Under Section 303.72(h)(3)(ii), the proposed regulations indicate States must inform CPs if the state is going to continue to apply IRS offset collections to assigned support arrears first, before they are applied to non-assigned arrears. Why would this be required if there is no change in how the state chooses to distribute IRS offset collections? A notice should only be required if the state opts to make a change from what the current distribution regulations require for IRS offset collections. If there is no change, a notice should not be required. This proposed requirement is not addressed in the DRA and should not be imposed on states.

Our final specific comment concerns the three-year order review under proposed §303.8(b)(1). We request clarification as to when the three-year period begins. Does the three-year cycle begin on the date of the IV-A assignment or the date of the most recent order, modification, or review?



ERICSA urges OCSE to provide guidance as soon as possible regarding the remaining DRA provisions. For example, Section 7301 of DRA which addresses Assignment and Distribution of Child Support Collections has many aspects that states need Federal guidance on as soon as possible, as states need to make budget recommendations one to two years prior to the actual implementation of such changes. ERICSA is aware that there is a workgroup that is concentrating on the Distribution changes, and therefore we urge OCSE to share with states the issues, concerns and questions that have been raised to date, even if resolutions have not yet been determined.

Thank you for the opportunity to comment.

Sincerely,

---

Diane Jordan  
President Elect  
ERICSA

