

[42 USCS § 659](#)

Current through PL 115-385, approved 12/21/18, with a gap of PL 115-334

*United States Code Service - Titles 1 through 54 > TITLE 42. THE PUBLIC HEALTH AND WELFARE > CHAPTER 7. SOCIAL SECURITY ACT > TITLE IV. GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES > PART D. CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY*

**§ 659. Consent by the United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations**

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**(a)**Consent to support enforcement. Notwithstanding any other provision of law (including section 207 of this Act [[42 USCS § 407](#)] and [section 5301 of title 38, United States Code](#)), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 [[42 USCS § 666\(a\)\(1\)](#), (b)] and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part [[42 USCS §§ 651](#) et seq.] or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

**(b)**Consent to requirements applicable to private person. With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466 [[42 USCS § 666\(a\)\(1\)](#) or (b)], or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

**(c)**Designation of agent; response to notice or process.

**(1)**Designation of agent. The head of each agency subject to this section shall--

**(A)**designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

**(B)**annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

**(2)**Response to notice or process. If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466 [[42 USCS § 666\(a\)\(1\)](#)] or (b)], or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall--

**(A)**as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

**(B)**within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466 [[42 USCS § 666](#)]; and

**(C)**within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, withhold available sums in response to the order or process, or answer the interrogatory.

**(d)**Priority of claims. If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person--

**(1)**support collection under section 466(b) [[42 USCS § 666\(b\)](#)] must be given priority over any other process, as provided in section 466(b)(7) [[42 USCS § 666\(b\)\(7\)](#)];

**(2)**allocation of moneys due or payable to an individual among claimants under section 466(b) [[42 USCS § 666\(b\)](#)] shall be governed by section 466(b) [[42 USCS § 666\(b\)](#)] and the regulations prescribed under such section; and

**(3)**such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

**(e)**No requirement to vary pay cycles. A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

**(f)**Relief from liability.

**(1)**Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

**(2)**No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on

account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

**(g)**Regulations. Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)--

**(1)**the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

**(2)**the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees),[,] and

**(3)**the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

**(h)**Moneys subject to process.

**(1)**In general. Subject to paragraph (2), moneys payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section--

**(A)**consist of--

**(i)**compensation payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

**(ii)**periodic benefits (including a periodic benefit as defined in section 228(h)(3) [42 USCS § 428(h)(3)]) or other payments--

**(I)**under the insurance system established by title II [42 USCS §§ 401 et seq.];

**(II)**under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

**(III)**as compensation for death under any Federal program;

**(IV)**under any Federal program established to provide "black lung" benefits;  
or

**(V)**by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation;

**(iii)**worker's compensation benefits paid or payable under Federal or State law;

**(iv)**benefits paid or payable under the Railroad Retirement System,[,] and

(v) special benefits for certain World War II veterans payable under title VIII [[42 USCS §§ 1001](#) et seq.]; but

**(B)** do not include any payment--

(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual;

(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code [[37 USCS §§ 401](#) et seq.], as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty; or

(iii) of periodic benefits under title 38, United States Code, except as provided in subparagraph (A)(ii)(V).

**(2)** Certain amounts excluded. In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which--

**(A)** are owed by the individual to the United States;

**(B)** are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

**(C)** are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to [section 3402\(i\) of the Internal Revenue Code of 1986](#) [[26 USCS § 3402\(i\)](#)] may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

**(D)** are deducted as health insurance premiums;

**(E)** are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

**(F)** are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

**(i)** Definitions. For purposes of this section--

**(1)** United States. The term "United States" includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission [Postal Regulatory Commission], any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

**(2)Child support.** The term "child support", when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

**(3)Alimony.**

**(A)**In general. The term "alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

**(B)**Exceptions. Such term does not include--

**(i)**any child support; or

**(ii)**any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

**(4)Private person.** The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

**(5)Legal process.** The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment--

**(A)**which is issued by--

**(i)**a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

**(ii)**a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

**(iii)**an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

**(B)**which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.

## History

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(Aug. 14, 1935, ch 531, Title IV, Part D, § 459, as added Jan. 4, 1975, [P.L. 93-647](#), Part B, § 101(a), [88 Stat. 2357](#); May 23, 1977, [P.L. 95-30](#), Title V, § 501(a), (b), [91 Stat. 157](#); April 20, 1983, [P.L. 98-21](#), Title III, Part C, § 335(b)(1), [97 Stat. 130](#); Aug. 22, 1996, [P.L. 104-193](#), Title III, Subtitle G, § 362(a), [110 Stat. 2242](#); Aug. 5, 1997, [P.L. 105-33](#), Title V, Subtitle F, Ch 3, § 5542(a), (b), [111 Stat. 631](#); Dec. 14, 1999, [P.L. 106-169](#), Title II, Subtitle B, § 251(b)(3), [113 Stat. 1855](#).)

Annotations

## Notes

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### Explanatory notes:

Bracketed semicolons have been inserted in subsecs. (g)(2) and (h)(1)(A)(iv) to indicate the punctuation probably intended by Congress.

"Postal Regulatory Commission" has been inserted in brackets in subsec. (i)(1) pursuant to § 604(f) of Act Dec. 20, 2006, [P.L. 109-435](#) ([39 USCS § 404](#) note), which provides that a reference in any provision of law to the Postal Rate Commission shall be considered a reference to the Postal Regulatory Commission.

### Effective date of section:

Act Jan. 4, 1975, [P.L. 93-647](#), Part B, § 101(f), [88 Stat. 2361](#), June 30, 1975, [P.L. 94-46](#), § 2, [89 Stat. 245](#), which appears as 42 USCS § 451 note, provided that this section is effective Jan. 1, 1975.

### Amendments:

**1977** . Act May 23, 1977, designated the existing material as subsec. (a) and, in such subsection as so designated, substituted "or the District of Columbia (including any agency, subdivision, or instrumentality thereof)" for "(including any agency or instrumentality thereof and any wholly owned Federal Corporation)", and inserted "or the District of Columbia"; and added subsecs. (b)-(f).

**1983** . Act April 20, 1983, in subsec. (a), inserted "(including section 207)".

**1996** . Act Aug. 22, 1996 (effective 6 months after enactment, as provided by § 362(d) of such Act, which appears as a note to this section, but subject to § 395(b) and (c) of such Act, which appear as [42 USCS § 654](#) note) substituted this section for one which read: