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**IDAPA 16
TITLE 03
Chapter 03**

16.03.03 - SUPPORT ENFORCEMENT MANUAL

000. AUTHORITY.

The Department of Health and Welfare of the state of Idaho, through the Bureau of Child Support Enforcement (Agency), establishes the following provisions as the manual for child support enforcement pursuant to Title IV-D of the Social Security Act. (12-31-91)

001. TITLE AND SCOPE.

These rules contain the official requirements governing the enforcement of child support under Title IV of the Social Security Act by the Idaho Department of Health and Welfare and are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 03, "Support Enforcement Manual." This chapter are a continuation of Idaho Department of Health and Welfare Rules, "Support Enforcement Manual," adopted May 5, 1977. (12-31-91)

002. INCORPORATION BY REFERENCE.

Any reference in these rules to requirements, procedures, or specific forms contained within the "Idaho Child Support Guidelines," as published by the Idaho State Bar in The Advocate, Volume 33, Number 7, effective July 1, 1990, shall constitute the full adoption by reference of that document, including any notes and appendices therein, unless expressly provided otherwise in these rules. Copies of the referenced documents incorporated by reference throughout these rules are available in the following locations: (5-25-91)

01. Custodian of the Record. The Administrative Procedure Section, Idaho Department of Health and Welfare -- Central Office, 450 W. State Street, Boise, Idaho 83702. (12-31-91)

02. Supreme Court Law Library. The Supreme Court Law Library, 451 W. State Street, Boise, Idaho 83720. (12-31-91)

003. POLICY/PURPOSES.

In order to provide benefits under Title IV-A or Title IV-E of the act, the state must provide support enforcement services under Title IV-D of the act. Title IV-D establishes various requirements which the state must follow in the provision of support enforcement services. These rules are established for the purpose of meeting the requirements of Title IV-D of the act. (5-25-91)

004. DEFINITIONS.

01. Absent Parent. That person who: (5-25-91)

a. Is not the physical custodian of the child; and (5-25-91)

b. Is a natural or adoptive parent or other person who owes a legal duty to support said child on whose behalf application has been made for payment of public assistance or application has been made for support enforcement services, or owes a support obligation for the applicant or child. (5-25-91)

02. Act. The Social Security Act. (5-25-91)

03. Agency. The Bureau of Child Support Enforcement of the Department of Health and Welfare of the state of Idaho. (5-25-91)

04. Applicant/Recipient. A person on whose behalf support enforcement services are being provided by the agency as a result of either the payment of public assistance or an application for support enforcement services through the IV-D agency of any state. (5-25-91)

05. Board. The Idaho Board of Health and Welfare. (5-25-91)

06. Child Support. A judgment, decree, order, or administrative ruling directing a person or persons to

provide for the support, including medical support, of a child or children. (3-9-93)

07. Computerized Support Enforcement System. A system of software and hardware which: (5-25-91)
 - a. Introduces, processes, accounts for and monitors data used by the Agency in carrying out activities under the Title IV-D plan; and (5-25-91)
 - b. Produces utilization and management information about support enforcement services as required by the Agency and federal government for program administration and audit purposes. (5-25-91)
08. Consumer Reporting Agency. Any person which for monetary fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (5-25-91)
09. Cooperative Agreement. The cooperative agreement between the state IV-D Agency and the law enforcement officials of the state. (5-25-91)
10. Custodian. The individual who is the physical and legal custodian of any person on whose behalf support enforcement services are being provided by the IV-D Agency. (5-25-91)
11. Department. The Department of Health and Welfare of the state of Idaho in which the IV-D Agency is housed. (5-25-91)
12. Direct Payment. An assigned support payment from an absent parent which is received directly by an applicant/recipient. (3-9-93)
13. Fees. Charges made to the nonwelfare person who applies to the IV-D Agency for support enforcement services. (5-25-91)
14. FPLS. The Federal Parent Locator Service. (5-25-91)
15. Incentive Payments. Payments distributed pursuant to Public Law 93-647 to the state on the basis of enforcement and collection of support payments. (5-25-91)
16. Legal Process. For purposes of withholding of unemployment compensation, "legal process" means a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to state or local law. (5-25-91)
17. Location. Information concerning the physical whereabouts of the absent parent, or the absent parent's employer, other sources of income or assets, as appropriate, which is sufficient and necessary to take the next appropriate action in a case. (5-25-91)
18. Medicaid. Medical assistance provided under a state plan approved under Title XIX of the Social Security Act. (5-25-91)
19. Medicaid Agency. The single state Agency that has the responsibility for the administration of, or supervising the administration of, the state plan under Title XIX of the Social Security Act. (5-25-91)
20. Political Subdivision. A legal entity of the state which may also include the Prosecutor of any county within the state. (5-25-91)
21. Public Assistance. Includes general assistance, aid to dependent children, and medical assistance as those terms are defined in Section 56-201, Idaho Code. (3-9-93)
22. Putative Father. Any and all men who may possibly be the father of the child on whose behalf an

application for assistance or support enforcement services may be made. (5-25-91)

23. Spousal Support. A legally enforceable obligation assessed against an individual for the support, including medical support, of a spouse or former spouse who is living with a child or children for whom the individual also owes support. (3-9-93)

24. Support Enforcement Services. Activities by the IV-D Agency and cooperating officials on behalf of the state or private persons to establish, enforce, collect or modify support obligations. (5-25-91)

25. SPLS. The State Parent Locator Service. (5-25-91)

26. Support Order. A judgment, decree, order or administrative ruling directing a person or persons to provide child support or child and spousal support, as herein defined. A support order shall also include a judgment, decree, order or administrative ruling directing the payment of fees and/or costs associated with the establishment, enforcement or modification of the obligation. (3-9-93)

27. Title IV-D. That part of the Social Security Act established under Title XX of the Social Security Amendments and as incorporated in 42 USC 602. (5-25-91)

28. Title IV-D Plan. The plan established under the conditions of Title IV-D approved by the Secretary, Department of Health and Human Services and adopted by the state of Idaho. (5-25-91)

005. -- 099. (RESERVED).

100. ORGANIZATION AND RESPONSIBILITIES.

The organization and responsibilities of the Agency are as follows. (12-31-91)

101. SINGLE AND SEPARATE ORGANIZATIONAL UNIT.

The Agency is designated and established as the single and separate organizational unit within the state of Idaho to administer the Title IV-D plan which shall be in effect in all political subdivisions of the state of Idaho. (12-31-91)

102. TITLE IV-D AGENCY.

The Agency is the operating agency referred to in federal rules and regulations as the Title IV-D Agency. This agency must assume any and all responsibilities assigned the Title IV-D Agency including, but not limited to, the following: (12-31-91)

01. Cooperative Agreements. Entering into agreements as required with states and the Secretary, Department of Health and Human Services: (5-25-91)

a. To contract with other states for the referral of cases under the Uniform Reciprocal Enforcement of Support Act and other cases where enforcement or collection of support, location of absent parents, or establishment of paternity are appropriate. Include in such agreements the procedures for making referrals, assigning debt, distributing incentive payments, and reporting actions and activities on the part of this state for another, or another state for this state and coordination of activities pursuant to and insuring compliance with the Uniform Reciprocal Enforcement of Support Act. (5-25-91)

b. To contract with the Secretary, Department of Health and Human Services and maintain liaison for: (5-25-91)

i. Referral to parent locator service and collection services. (5-25-91)

ii. Certification and referral of cases as appropriate for the collection of support delinquencies by the Secretary of the Treasury. (5-25-91)

iii. Certification and referral of cases as appropriate for utilization of the U.S. District Courts. (5-25-91)

02. IV-D Agency Responsibilities. The Agency is responsible for the administration and complete programmatic control under the Title IV-D plan including supervisory authority for any and all activities necessary to meet the standards for an efficient and effective program including formal evaluation of the quality, efficiency, effectiveness, and scope of services provided under the plan. (5-25-91)

a. The Agency will take necessary measures to meet federal and state requirements for accounting and fiscal control, recordkeeping, distribution of payments, and a computerized support enforcement system. (5-25-91)

b. The agency shall insure that location; establishment of paternity; fraud detections related to support and paternity; and establishment, enforcement, collection, review and modification of support functions are carried out effectively and efficiently. (5-25-91)

c. The Agency shall also assure that referrals and other communications with the Title IV-A Agency meet the requirements of the Title IV-D and Title IV-A state plans. (5-25-91)

103. -- 199. (RESERVED).

200. PUBLIC ASSISTANCE CASES.

Sections 200 through 299 deal with those cases where the individual for whom support is sought is receiving or has applied for public assistance. (12-31-91)

201. CONFIDENTIALITY.

The Department shall not provide any information to the absent parent concerning the recipient in the conduct of activities associated with this chapter except as provided in Subsections 201.01 through 201.03. (12-31-91)

01. Social Security Act. Information will be provided if the activities are related to the administration of the plan in parts A, B, C or D of Title IV; Titles II, X, XIV, XVI, XIX or XX; or the supplemental security income program established in Title XVI of the Social Security Act. (5-25-91)

02. Investigations, Prosecutions or Court Proceedings. Information will be provided if the activities are related to investigations, prosecutions or criminal or civil proceedings conducted in connection with the administration of any such plan or program. (5-25-91)

03. Federal or Federally Assisted Programs. Information will be provided if the activities are related to the administration of any other federal or federally assisted program which provides assistance, in cash or in kind, or services directly to individuals on the basis of need. (5-25-91)

202. ABSENT PARENT'S RESPONSIBILITY; LIABILITY.

The amount of support which must be provided by an absent parent to meet the support obligation is: (5-25-91)

01. Support. The amount of support required by a support order. If there is no support order, the amount determined pursuant to the Idaho Child Support Guidelines or the public assistance grant amount according to applicable law. (5-25-91)

02. Arrearage. Payment of an arrearage may be made on a mutually agreed schedule adequate to satisfy said arrears prior to expiration of the statute of limitations. When no court order exists, the amount of support obligation arrearage and the amount to be paid periodically on said arrearage will be determined by application of the child support guidelines. (5-25-91)

03. Application. Section 202 shall also apply to those cases where the individual for whom support is sought is not receiving public assistance. (12-31-91)

203. ELIGIBILITY FOR AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 203 establishes the initial and continuing requirements which affect eligibility for aid to families with dependent children. These requirements are in addition to any other requirements which affect eligibility for Medicaid. (3-9-93)

01. Assignment of Support Rights. Each applicant shall make assignment to the Agency of any and all rights, title, and interest in any support the applicant or any other family member the applicant is applying for or receiving financial assistance for, including rights to support which have accrued at the time such assignment is executed. (3-9-93)

a. Each ongoing applicant after August 1, 1975, must make this new assignment. Assignments will be necessary as a condition of continued aid due no later than the date of the next eligibility review. (5-25-91)

02. Cooperation with IV-D Agency. When Subsection 203.01 is satisfied, cooperation is further required as a continuing condition of eligibility for assistance. Cooperation includes identifying and locating absent parents, including all possible putative fathers, and in establishing the paternity of a child, and in obtaining support payments or any other payments or property due the applicant or child as further provided below: (12-31-91)

a. Each applicant for or recipient of assistance will be required to cooperate with the Agency in: (12-31-91)

i. Identifying and locating the parent of a child with respect to whom aid is claimed; (5-25-91)

ii. Establishing the paternity of a child born out of wedlock with respect to whom aid is claimed except in instances described in Subsection 203.02.d. (12-31-91)

iii. Obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed; (5-25-91)

iv. Obtaining any other payments or property due such applicant or recipient of such child. (5-25-91)

b. Cooperation includes the following: (5-25-91)

i. Appearing at the offices of the state, county, or the Agency as necessary to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtainable by him or her that is relevant to achieving the objectives of Subsection 203.02.a.; (12-31-91)

ii. Appearing as a witness at court or other hearing proceedings necessary to achieving the objectives of Subsection 203.02.a.; (12-31-91)

iii. Providing information or attesting to lack of information under penalty of perjury; and (5-25-91)

iv. After an assignment under Subsection 203.01 has been made, paying to the support enforcement agency any child support payments received from the absent parent which are covered by such assignment. (12-31-91)

c. When an applicant fails to cooperate, the Agency shall notify the proper IV-A worker that there is evidence of failure to cooperate and that worker shall act upon such information in order to enforce the eligibility requirements of 45 CFR 232.12. (12-31-91)

d. The Agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV-A or IV-E Agency that there has been a finding of good cause pursuant to 45 CFR Part 232 unless there has been a determination by the state or local IV-A or IV-E Agency that the Agency may proceed without the participation of the caretaker or other relative. If there has been such a determination, the Agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking. (3-9-93)

e. Federal regulations and rules concerning cooperation will be followed. When they conflict with this manual, federal rules will prevail. (5-25-91)

03. Effect of Noncooperation. (3-9-93)

a. If the applicant fails to cooperate as defined above, the applicant shall be ineligible to receive assistance and any assistance for which the child may be eligible shall be provided by protective payment; the determination of requirements for the child shall be computed without regard to the requirements of the applicant. (5-25-91)

b. In the event of failure to cooperate under the requirements of IDAPA 16.03.01, Subsection 203.02, "Rules Governing Eligibility for Medicaid for Families and Children" does not mean payments with respect to a parent or other individual whose needs should be considered in determining the need of the child or relative claiming aid to a child. Nothing in these rules shall be construed to make an otherwise eligible child ineligible for protective payments because of failure of such parent or other individual to cooperate or make assignment. (3-9-93)

204. ELIGIBILITY FOR MEDICAID.

This section establishes the initial and continuing requirements which affect eligibility for Medicaid. These requirements are in addition to any other requirements which affect eligibility for Medicaid. (3-9-93)

01. Assignment of Medical Support Rights. Each applicant shall make assignment to the Agency of any and all rights to any medical care support available under an order of a court or an administrative agency, and any third party payments for medical care that the applicant or any other family member the applicant is applying for or receiving medical assistance for, including rights to medical support which have accrued at the time such assignment is executed. The applicant shall not be required to assign rights to Medicare benefits. (3-9-93)

02. Cooperation with IV-D Agency. When Subsection 204.01 is satisfied, cooperation is further required as a continuing condition of eligibility for medical assistance. (3-9-93)

a. Cooperation includes establishing paternity of a child born out of wedlock for whom the applicant can legally assign rights; obtaining medical care support and payments for himself and any other person for whom the individual can legally assign rights; and identifying and providing information to assist the state in pursuing any liable third party. (3-9-93)

b. As part of a cooperation, the Agency may require the applicant to: (3-9-93)

i. Appear at a state of local office designated by the Agency to provide information or evidence relevant to the case; (3-9-93)

ii. Appear as a witness at a court or other proceeding; (3-9-93)

iii. Provide information, or attest to lack of information, under penalty of perjury; (3-9-93)

iv. Pay, to the Agency, any medical support or medical care funds received that are covered by the assignment of rights; and (3-9-93)

v. Take any other reasonable steps to assist in establishing paternity and securing medical support and payments, and in identifying and providing information to assist the Agency in pursuing any liable third party. (3-9-93)

c. When the applicant fails to cooperate, the Agency shall notify the medicaid agency that there is evidence of failure to cooperate and that the worker shall act upon such information in order to enforce the eligibility requirements of 45 CFR Part 232. (3-9-93)

d. The Agency will not undertake to establish paternity or secure support in any case for which it has received notice from the Title XIX Agency that there has been a finding of good cause pursuant to 45 CFR Part 232, unless there has been a determination by the state or local Title XIX Agency that the Agency may proceed without the participation of the caretaker or other relative. If there has been such a determination, the Agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking. (3-9-93)

03. Effect of Noncooperation. The Title XIX agency must deny or terminate eligibility for any

applicant or recipient who: (3-9-93)

a. Refuses to assign his own rights or those of any other individual for whom the applicant can legally make an assignment; or (3-9-93)

b. Refuses to cooperate as required above unless cooperation has been waived pursuant to 45 CFR Part 232. (3-9-93)

205. SUPPORT PAYMENTS TO IV-D AGENCY.

01. All Support Payments. All support payments on behalf of a child for whom public assistance is being paid shall be made through the Agency. Any and all support payments routed directly to a recipient of public assistance, or to another for the benefit of a recipient on public assistance by any person or agency other than the Agency defined herein shall be immediately remitted or reported by the recipient to the Agency and failure to remit or report such monies within ten (10) days of the receipt thereof shall constitute noncooperation. (12-31-91)

02. Direct Payments. Direct payments to the recipient will be recovered by the Agency. Prior to establishing a repayment agreement with a recipient of AFDC or Medicaid, the Agency will: (3-9-93)

a. Document that the recipient has, in fact, received and retained direct payments, and the amounts; (5-25-91)

b. Provide written notice of intent to recover the payments to the recipient that includes the following: (5-25-91)

i. An explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for AFDC or Medicaid, and the sanction for failure to cooperate; (3-9-93)

ii. A detailed list of the direct payments which have been retained by the recipient, as documented by the Agency, including the dates and amounts of these payments as well as a description of any documentary evidence which the Agency possesses; (5-25-91)

iii. A proposal for a repayment plan between the recipient and the Agency; (5-25-91)

iv. An explanation that repaying retained direct payments to the Agency according to a signed repayment plan is a condition of cooperation for purposes of receipt of public assistance under the IV-A plan or Title XIX plan; (3-9-93)

c. Provide the recipient with an opportunity for an informal meeting to clarify the recipient's responsibilities and to resolve any differences regarding repayment of the directly received support by the recipient. (5-25-91)

03. Repayment Agreement. (5-25-91)

a. If support monies are not promptly remitted, the Agency may enter into a written agreement with the applicant for satisfaction of the obligation of remittance of support payments by monthly installment payments to the Agency. The repayment agreement between the Agency and the recipient who has received and retained direct payments shall be reasonably related to: (5-25-91)

i. The recipient's income and resources including the AFDC grant; and (5-25-91)

ii. The total amount of retained support. (5-25-91)

b. If an applicant makes such an agreement for satisfaction and is restored to grant status and fails to make the required monthly payments and again fails to promptly remit support monies received directly, said recipient thereafter may establish cooperation under Subsection 204.03 only by remittance to the Agency of the full amount of support monies received. (12-31-91)

04. Referral to IV-A Agency. The Agency shall refer a case to the IV-A agency with evidence of failure to cooperate if: (5-25-91)

- a. The recipient refuses to sign a repayment agreement; (5-25-91)
- b. The recipient enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement. (5-25-91)

05. Subsequent Notification. The Agency shall provide subsequent notification to the IV-A Agency as required: (5-25-91)

- a. If the recipient who refused to enter into a repayment agreement, consents to do so and signs the agreement; or (5-25-91)
- b. The recipient who defaulted on an agreement begins making regularly scheduled payments according to the agreement. For this purpose, a regularly scheduled payment is a payment made in the current month for the amount specified in the initial repayment agreement between the agency and the recipient. The resumption of regularly scheduled payments shall not be interpreted to mean payment of amounts which were not paid during the period of default, nor amounts which could be categorized as balloon payments or which would be due as a result of an acceleration clause. To recover amounts due from any period of default, the agency must extend the duration of the repayment agreement. (5-25-91)

06. Notice. The Agency shall, at least quarterly, provide a notice of the support payment collected during the past year to individuals who have assigned rights to support. The notice shall list separately payments collected from each absent parent when more than one (1) absent parent owes support to the family and must indicate the amount of support collected which was paid to the family. (3-9-93)

206. PAYMENTS TO THE FAMILY.

Any payments required by law to be made to a family will be made to the resident parent, legal guardian, caretaker relative, or protective payee having custody of or responsibility for the child. No payments shall be made to said parent, guardian, or caretaker relative if they have failed or refused to meet the eligibility requirements for cooperation in identifying and locating the absent parent, establishing paternity, establishing or obtaining support payments, including prompt remittance of support payments received directly or assigning support rights. (5-25-91)

207. REFERRALS FROM OTHER STATES.

When another state reassigns to the Agency of the state of Idaho, a debt previously assigned to that other state under 45 CFR 232.11, collection action may be taken by the Agency to satisfy the requirements to enforce obligations of the other states accrued and accruing pursuant to an order of the district court of the state of Idaho, an order of a court of another state comparable in jurisdiction to the district court of state of Idaho or an administrative order of the state of Idaho or another state. Support payments so collected by the state of Idaho are remitted, in the total amount received, to the other state. (5-25-91)

208. DISTRIBUTION OF SUPPORT PAYMENTS.

01. Reporting of Collections. All payments will be reported in exact amounts without rounding. The date of collection shall be the date on which the payment is received by the Agency or the legal entity of any state or political subdivision actually making the collection, whichever is earliest. For interstate collections, the date of collection shall be the date on which the payment is received by the IV-D Agency of the state in which the family is receiving aid. (5-25-91)

02. Monthly Application. The amounts collected as support shall, for the purposes of this distribution section, be treated first as payments on the required support obligation for the month in which support was collected. If any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months. The current month's support obligation is defined as the amount of support required by a support order, the public assistance grant amount as outlined in Section 56-203B, Idaho Code, to the dependent family, or an amount determined pursuant to the Idaho

Child Support Guidelines.

(5-25-91)

03. Date of Collection. For purposes of distribution of support collections in a IV-D case, other than as specified in Subsection 208.04, the date of collection shall be the date on which the payment is received by the IV-D agency or the legal entity of any state or political subdivision actually making the collection, whichever is earliest.

(3-9-93)

04. Date of Collection of Payments Made Through Income Withholding. The date of collection for distribution of payments made through income withholding in all IV-D cases shall be the date the wages or other income are withheld. If the employer fails to report the date of withholding, the date of withholding will be determined by the Agency by contacting the employer or comparing actual amounts collected with the pay schedule specified in the support order.

(3-9-93)

05. Distribution of Amounts Collected Through Federal and State Income Tax Refund Offset. Amounts collected through federal and state income tax refund offset shall be distributed as payment on support arrearages.

(3-9-93)

06. Consolidation of Payments. Amounts collected which are paid in frequencies other than monthly shall be converted to an amount which represents payment on the required support obligation for the current month.

(5-25-91)

07. Exempt Payments. Any amount distributed to the family will be reported to the local Agency office. The local Agency office shall identify whether the payment is exempt or nonexempt.

(12-31-91)

08. Limitations of Application. Any amounts collected which represent support shall be used to reduce dollar-for-dollar the amount of the support obligation. No distribution may be made under Subsection 208.09 infra, unless a current assignment exists.

(3-9-93)

09. Support Collected When Assignment In Effect. The amounts collected as support by the IV-D Agency pursuant to the state plan for children who are current recipients of aid under the state Title IV-A Plan by the Agency and for whom an assignment is effective shall be distributed as follows:

(3-9-93)

a. Incentive payments. Any amount that is collected in a month which represents payment on the required support obligation for that month shall be retained by the state to reimburse in whole or in part, the assistance payment for the month in which the child support was collected or the next month. Of the amount retained by the state as reimbursement for that month's assistance payment, the Agency shall determine the federal government's share of the amount so retained to reimburse the federal government to the extent of its participation in the financing of the assistance payment. From the federal government's share, the Agency shall deduct and pay the incentive payment if any.

(11-1-96)T

b. Excess amount to family. If the amount collected is in excess of the amount required to be distributed under Subsection 208.09.a., the family shall be paid such excess up to the difference between the assistance payment for the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the state Title IV-A plan and the court-ordered amount for that month. If such court-ordered amount is less than such assistance payment, no amount shall be paid to the family under this subdivision. In cases in which there is no court order, the family shall not be paid any amount under this Subsection.

(11-1-96)T

c. Excess amount to state. If the amount collected is in excess of the amounts required to be distributed under Subsections 208.09.a. and 208.09.b., any such excess shall be retained by the state as reimbursement for past assistance payments made to the family for which the state has not been reimbursed. The state may apply the amount retained to any sequence of months for which it has not yet been reimbursed. Of the amount retained by the state as reimbursement of past assistance payments, the Agency shall determine the federal government's share of the amount so retained to reimburse the federal government to the extent of its participation in the financing of the assistance payments. From the federal government's share, the Agency shall deduct and pay the incentive payment if any. If past assistance payments are greater than the total support obligation owed, the maximum amount the state may retain as reimbursement for such assistance payments is the amount of such obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the

family received assistance under the state's Title IV-A Plan; in which case, such amounts shall be retained by the state to reimburse the difference between such support obligation and such assistance payments. (11-1-96)T

d. Excess amount to family. If the amount collected is in excess of the amounts required to be distributed in Subsections 208.09.a. through 208.09.c., such excess shall be paid to the family. (11-1-96)T

10. Support Payments For Future Months. If an amount collected as child support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amount shall be applied to future months unless amounts have been collected which fully satisfy the support obligation for the current month and all past months. (5-25-91)

11. Identification Of Assistance Payments. Any amount paid under Subsection 208.09.b. or 208.09.d. shall be identified as not being an assistance payment. (11-1-96)T

12. Distribution of Assigned Medical Support. (3-9-93)

a. Any amounts collected by the Agency which represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the state shall be forwarded to the Medicaid agency for distribution. (3-9-93)

b. When a family ceases receiving assistance under the state's Medicaid program, the assignment of medical support rights terminates, except for the amount of any unpaid medical support obligation that has accrued under such assignment. The agency shall attempt to collect any unpaid specific dollar amounts designated in the support order for medical purposes. Any medical support collection made under this Subsection shall be forwarded to the Medicaid agency for distribution. (3-9-93)

13. Distribution Upon Termination of Public Assistance. When a family ceases receiving assistance under the state's Aid to Families with Dependent Children program, the assignment of support rights terminates, except with respect to the amount of any unpaid support obligation that has accrued under such assignment. From this accrued amount, the Agency shall attempt to collect such unpaid obligation. Under this requirement: (3-9-93)

a. Such collections shall be used to reimburse any amounts of past assistance which have not been reimbursed under Subsection 208.09.c. (11-1-96)T

b. Of the amount collected, the Agency shall determine the federal government's share of the collection so the IV-A Agency may reimburse the federal government to the extent of its participation in the financing of the assistance payments. From the federal government's share the Agency or political subdivision of the state pursuant to the Title IV-D plan shall deduct and pay the incentive payment, if any. (5-25-91)

c. Only amounts collected pursuant to Subsection 208.13 which exceed the amount of unreimbursed past assistance shall be paid to the family. (3-9-93)

d. For those cases in which support enforcement services continue after termination of public assistance, priority shall be given to collection of current support. (3-9-93)

209. DISTRIBUTION OF SUPPORT COLLECTED IN TITLE IV-E FOSTER CARE MAINTENANCE CASES.

For purposes of distribution under Section 209, amounts collected in foster care maintenance cases shall be treated in accordance with Subsection 208.01 through 208.04. The amounts collected as support by the Agency under the Title IV-D plan on behalf of children for whom the state is making foster care maintenance payments under the Title IV-E state plan and for whom an assignment under Section 471 (a)(17) of the Act is effective shall be distributed as follows: (3-9-93)

01. Payment of Support Obligation. Any amount that is collected in a month which represents payment on the required obligation for that month shall be retained by the state to reimburse itself for foster care maintenance payments. Of that amount retained by the state as reimbursement for that month's foster care maintenance payment, the state IV-D Agency shall determine the federal government's share so that the state may reimburse the federal

government to the extent of its participation in financing of the foster care maintenance payment. (5-25-91)

02. Excess Payment. If the amount collected is in excess of the monthly amount of the foster care maintenance payment but not more than the monthly support obligation, the state must pay the excess to the state Agency responsible for supervising the child's placement and care under Section 471 (a)(2) of the Act. The state Agency must use the money in the manner it determines will serve the best interests of the child including. (5-25-91)

- a. Setting aside amounts for the child's future needs; or (5-25-91)
- b. Making all or part of the amount available to the person responsible for meeting the child's daily needs to be used for the child's benefit. (5-25-91)

03. Payment of Unreimbursed Assistance. If the amount collected exceeds the amount required to be distributed in Subsections 209.01 and 209.02, but not the total unreimbursed foster care maintenance payments provided under Title IV-E or unreimbursed assistance payments provided under Title IV-A, the state shall retain the excess to reimburse itself for these payments. If past assistance or foster care maintenance payments are greater than the total support obligation owed, the maximum amount the state may retain as reimbursement for such payments is the amount of such obligation. If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the state's Title IV-E plan, such amounts may be retained by the state to reimburse the difference between such support obligation and such payments. Of the amounts retained by the state, the state IV-D Agency shall determine the federal government's share of the amount so that the state may reimburse the federal government to the extent of its participation in financing the assistance payments and foster care maintenance payments. (3-9-93)

04. Balance. Any balance shall be paid to the state Agency responsible for supervising the child's placement and care and shall be used to serve the best interests of the child as specified in Subsection 209.02. (3-9-93)

05. Payment for Future Month Support. If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to those future months. However, no amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned in Title 45, Section 232.11 of the Code of Federal Regulations and Section 471(a)(17) of the Act for the current month and all past months. (5-25-91)

06. Termination of Foster Care Payments. When a state ceases making foster care maintenance payments under the state's Title IV-E state plan, the assignment of support rights in Section 471 (a)(17) of the Act terminates except for the amount of any unpaid support that has accrued under the assignment. The IV-D Agency shall attempt to collect such unpaid support. Under this requirement, any collection made by the state according to the guidelines of Section 208 must be distributed with Subsection 208.03. (12-31-91)

210. -- 299. (RESERVED).

300. NON-PUBLIC ASSISTANCE CASES.

Sections 300 through 399 deal with those cases where the individual for whom support is sought is not receiving or has not applied for public assistance. (12-31-91)

301. SUPPORT ENFORCEMENT SERVICES FOR CHILDREN NOT RECEIVING PUBLIC ASSISTANCE - STATUTORY BASIS.

The Department, through the Agency, shall provide support enforcement services to persons not receiving public assistance as provided herein. (5-25-91)

302. PERSONS ELIGIBLE.

01. Normal Collection Services. Any person who is not a recipient of public assistance may apply for support enforcement services except as stated below, and provided that the Agency may also act to establish paternity where it is a necessary part of establishing a support obligation. When the person owing the duty to pay support is deceased, and no claim may be made against the estate, or is eligible for or receiving old age or disability insurance

benefits, the application cannot be accepted. (5-25-91)

02. Services Upon Termination of Public Assistance. Whenever a family ceases to receive assistance under the Title IV-A state plan, the agency must: (5-25-91)

a. Continue to provide all appropriate Title IV-D services until the Agency has received written notice from the applicant/recipient requesting termination of support enforcement services.; (3-9-93)

b. Notify the family before the end of the period specified in Subsection 302.02.a. of the consequences of continuing to receive IV-D services and the state's fees, cost recovery and distribution policies. The notice must inform the family that services will be continued unless the agency is notified to the contrary; (12-31-91)

c. At the end of the period referred to in Subsection 302.02.a., if the Agency is authorized to do so by the individual on whose behalf the services will be rendered, continue to provide all appropriate Title IV-D services and pay any amounts collected which represent monthly support collections to the family in accordance with the requirements of 45 CFR 302.33. However, the Agency may not require any formal application or impose any application fee; (12-31-91)

d. Report collections in Section 302, as non-AFDC collections. (12-31-91)

303. APPLICATION.

01. Application Forms. A person desiring support enforcement services shall complete the appropriate forms applying for the services and granting limited power of attorney to the Agency. The necessary forms must be completed in full, dated, signed, and forwarded to the field offices of the Agency. Copies of divorce or dissolution decrees, support orders and modification thereof, and any related documents which reflect the material facts and support status, shall be supplied by the applicant. The appropriate forms for making application will be available at any local office of the Agency. The forms may be requested by telephone, mail, or obtained personally, or by agent. (12-31-91)

02. Arrearage. The applicant shall also include or attach a statement of the amount of accrued arrearage and the method of computation used and list by date and amount all support payments received during the period of time when the arrears accrued. The Agency may require this statement to be by affidavit and where controversy exists, the Agency may require a judgment determining all accrued arrears owed under a continuing order of support before proceeding further with collection efforts. The Agency may also require a certified copy of any payment record of any court maintaining a record of payments in that case. Applications on which statements are incomplete, unclear, or inconsistent will be returned to the applicant and no service will be provided until such time as the application is presented in acceptable form. (5-25-91)

304. APPLICANT'S ASSIGNMENT OF RIGHTS.

01. Optional Assignment. The applicant may assign, for collection purposes only, all rights to support accruing pursuant to a court order for support or otherwise. (5-25-91)

02. Mandatory Assignment. The applicant shall give consent to the Agency to take an assignment of earnings from the person owing a duty for support; agree to promptly remit to the Agency all monies received directly from the person owing a duty to pay support during the period of time support enforcement services are maintained; report the receipt of such monies if directed to do so; or give the Agency the power of attorney to endorse checks, drafts, and money orders representing support payable to said applicant. (5-25-91)

03. Forwarding of Payments. The applicant, during the time support enforcement services are in effect, must send or deliver all support income received from the person owing a duty to pay support to the Agency and direct any payor or forwarding agent of these monies to remit them directly to the Agency. In the event the applicant fails to forward such payments or to direct any payor or forwarding agent, the Agency may discontinue providing support enforcement services. The absent parent shall make any support payments due during the time the Agency is providing support enforcement services directly to the Agency pursuant to Section 32-710A, Idaho Code. (5-25-91)

04. Termination of Public Assistance. When a family ceases receiving assistance under the state's Title IV-A plan, the assignment of support rights terminates, except with respect to the amount of any unpaid support obligation that has accrued under such assignment. (5-25-91)

305. FEES.

01. Application Fee. Any person may make an application to the regional Agency office for support enforcement services which are offered to the AFDC client under this child support program. At the time of application for the child support services, a written application must be completed and a fee not to exceed twenty-five dollars (\$25) must be paid. The fee must be paid in advance of any services to be provided and shall be nonrefundable. No application fee shall be required from an applicant/recipient who has received assistance under the AFDC, IV-E foster care or Medicaid program, unless the applicant/recipient has provided the Agency with a written request for termination of support enforcement services and subsequently requests such services. (3-9-93)

02. Income Tax Offset Fees. The Agency may charge an applicant/recipient who is not receiving public assistance fee of twenty-five dollars (\$25) per occasion in which an offset is received from either federal or state income tax refunds for services provided in the collection of a support obligation through the offset of federal or state income tax refunds. In addition, the Agency may charge a fee of one hundred and twenty-two dollars and fifty cents (\$122.50) for referral to the Internal Revenue Service for full collection of the child support obligation. The Agency shall notify the applicant of such fees at the time of application. (3-9-93)

03. Locate Fees. The Agency may charge a fee of ten dollars (\$10) for referral to FPLS for location of an absent parent when no other support enforcement services are being provided by the agency. The Agency may also charge a fee of four dollars (\$4) for referral to the FPLS for a social security number search. The Agency shall notify the applicant of such fees at the time of application. The Agency may charge a fee of seventy cents (\$.70) for referral to FPLS for location of an absent parent to an applicant/recipient who is not receiving public assistance. (3-9-93)

04. Services Dependent Upon Fees. The non-AFDC applicant must be aware that the regional Agency office can neither provide a service for which a fee has not been paid when one (1) is required by the Board or reestablish a service when the non-AFDC client has requested the service terminate and such case has been inactive for one (1) month, unless the fee is paid when required as if it were a new case. (12-31-91)

05. Waiver or Deferment. A fee may be waived at the discretion of the Agency on a case-by-case basis when the applicant is a poor person and cannot obtain the fee amount. In such cases, it is necessary for the applicant to execute a notarized affidavit of impecuniosity as provided by the Agency. Such fees will then be deducted from the support monies collected from the obligor. Fees may also be waived by the Department upon a showing of necessity for the good of the state of Idaho. (5-25-91)

06. Collection Upon Termination of Public Assistance. No fees may be charged for the three (3) month period following the termination of public assistance when support collection activities initiated on the basis of receipt of public assistance have been continued by the Agency as provided by law and regulation. (5-25-91)

07. Fee Changes. In the event nonassistance support enforcement services are increased, such an increase shall be effective upon future applicants. All other fees shall become effective upon all applicants upon their adoption. (5-25-91)

306. COSTS REIMBURSEMENT.

01. Deduction from Collections. An applicant/recipient not receiving assistance under the IV-E foster care, AFDC or Medicaid program must also be made aware by the Agency or its representatives that costs incurred by the Agency or its representatives which are in excess of the application fee will be deducted from any child support collected as a reimbursement to the state. The non-AFDC recipient can voluntarily assign these child support collections to the state. The Agency will deduct those costs from any recovered child support and forward the remaining child support directly to the non-AFDC recipient. The non-AFDC applicant shall be kept aware of the costs being incurred during the regional Agency's investigation and shall be made aware that once current child support is recovered, these costs shall be withheld until fully reimbursed. Said costs must be deducted over a period of time to prevent a hardship on the applicant. The Agency will attempt to obtain an order against the absent parent in

favor of the applicant/recipient for reimbursement of all costs for which the Agency seeks reimbursement. The costs which must be reimbursed include the following: (3-9-93)

- a. Establishment of paternity and/or support order entered by default judgment. (3-9-93)
 - b. Establishment of paternity and/or support order after commencement of legal action but prior to trial. (3-9-93)
 - c. Establishment of a support order resulting from a trial. (3-9-93)
 - d. Establishment of paternity and a support order resulting from trial. (3-9-93)
 - e. An initial order entered to enforce the previously entered support order. (3-9-93)
 - f. Each subsequent order entered within six months of an initial enforcement which is the result of the obligor's noncompliance. (3-9-93)
 - g. Each order entered to enforce an existing order and/or to modify the order. (3-9-93)
 - h. Other legal proceedings necessary in the case that are not categorized under the above services. The Department shall set forth the costs of such proceedings in a memorandum of fees (3-9-93)
02. Limitation of Deduction. No more than twenty percent (20%) of any collection will be deducted for reimbursement of these costs. (5-25-91)
03. Distribution of Costs Collected. The Agency will distribute the costs between the state, the federal government, and contracting agencies, and legal subdivisions of the state as appropriate. (5-25-91)
04. Determination of Costs. Costs to be deducted are those actual costs of the federal government, state of Idaho, and other participating states, and the contracting agencies and legal subdivisions of Idaho. They include all costs outlined in Title IV-D, federal regulations, and the Title IV-D state plan. The Agency shall be the authority for the determination of costs. (5-25-91)

307. DISTRIBUTION OF SUPPORT PAYMENTS.

01. Upon Termination of Public Assistance. The Agency must continue to provide all appropriate Title IV-D services after the family ceased to receive assistance under the Title IV-A state plan until notified otherwise in writing by the family. (3-9-93)
02. Debts Due to the IV-D Agency. Nothing herein shall be construed to obligate the Agency to remit to the applicant monies paid in satisfaction of a debt owed to the Agency. The total amount of any obligation that has accrued under the IV-D assignment prior to termination of assistance is collectible by the Agency subsequent to termination of assistance to reimburse for public assistance paid prior to termination. (5-25-91)

308. TERMINATION OF SERVICES.

01. Termination by Applicant Not Receiving Public Assistance. Support enforcement services may be terminated by the applicant: (5-25-91)
- a. An applicant who is not currently receiving public assistance payments, may terminate support enforcement services by written notice to the Agency. The Agency's rights and responsibilities toward the applicant shall continue in effect until written notification is received. (5-25-91)
 - b. Upon receipt of the applicant's request for termination of support enforcement services, the Agency will discontinue such service. Any support monies received which are owing to the applicant after the receipt of notice shall be returned to the payor with the instructions to send all support monies directly to the applicant or forwarding agent as appropriate. (5-25-91)

- c. When an applicant terminates services before the costs of collection have been reimbursed, payment shall continue to be made through the Agency or until the Agency has been reimbursed in full for all costs of collection. (5-25-91)
- d. When an applicant terminates services before the state has been reimbursed in full for all payments of public assistance, payment shall continue to be made through the Agency until the state has been reimbursed in full for all payments of public assistance. (5-25-91)
02. Termination by the Agency. (5-25-91)
- a. Support enforcement services may be terminated by the Agency when: (5-25-91)
- i. The child has reached the age of majority, there is no current support order and arrearages are under five hundred dollars (\$500) or unenforceable under state law; (5-25-91)
- ii. The child has not reached the age of majority, there is no longer a current support order and arrearages are under five hundred dollars (\$500) or unenforceable under state law; (5-25-91)
- iii. The absent parent or putative father is deceased and no further action, including a levy against the estate, can be taken; (5-25-91)
- iv. Paternity cannot be established because: (5-25-91)
- (1) The child is at least eighteen (18) years old and action to establish paternity is barred by a statute of limitations; (5-25-91)
- (2) A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or (5-25-91)
- (3) The IV-D agency has determined, in accordance with 45 CFR 303.5, that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape or in any case where legal proceedings for adoption are pending; (5-25-91)
- v. The absent parent's location is unknown, and the state has made regular attempts using multiple sources to locate the absent parent over a three (3) year period, all of which have been unsuccessful; (5-25-91)
- vi. The absent parent can not pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The state must also determine that no income or assets are available to the absent parent which could be levied or attached for support; (5-25-91)
- vii. The absent parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters in the United States, and has no reachable domestic income or assets; and the state has been unable to establish reciprocity with the country; (5-25-91)
- viii. The IV-D agency has provided location-only services as requested; (5-25-91)
- ix. The non-AFDC custodial parent requests closure of a case and there is no assignment to the state of arrearages which accrued under a support order; (5-25-91)
- x. There has been a finding of good cause as set forth in 45 CFR Section 302.31 and Subsections 232.40 through 232.49 or the IV-E agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative; (5-25-91)
- xi. In a non-AFDC case, the IV-D agency is unable to contact the custodial parent within a thirty (30) calendar day period despite attempts by both phone and at least one (1) certified or registered letter; or (5-25-91)

xii. In a non-AFDC case, the IV-D agency documents the circumstances of the custodial parent's noncooperation and an action by the custodial parent is essential for the next step in providing IV-D services.

(5-25-91)

b. When the Agency terminates service, the applicant must be notified in writing that the Agency will no longer provide support enforcement services. Notification shall be by personal service or certified mail, return receipt requested. Notice of termination of services shall be addressed to the applicant's last known address. The notice of termination of services must include the reason for discontinuation of services. Notice is considered complete upon depositing the notice in the United States mail.

(5-25-91)

c. Any support monies received after a notice of decision by the Agency to discontinue support enforcement services has been mailed, shall be returned to the payor with instructions to send all support monies directly to the applicant, other forwarding agents, or court as appropriate.

(5-25-91)

309. -- 399. (RESERVED).

400. LOCATION OF ABSENT PARENTS.

In compliance with federal requirements, the state of Idaho has established a location unit within the Agency under the following guidelines.

(12-31-91)

401. STATE LOCATION UNIT.

The Agency shall maintain a service to locate absent parents utilizing all sources of information and available records in this state, in other states, and in the Federal Parent Locator Service.

(5-25-91)

402. APPLICATIONS FOR SERVICES.

The central location unit of the Agency will receive applications to undertake location activities for:

(5-25-91)

01. Recipients. Persons receiving public assistance in the state of Idaho for the benefit of dependent children.

(5-25-91)

02. Other Persons or Entities. Upon application and payment of proper fees, the Agency shall undertake location activities for:

(5-25-91)

a. Any state or local agency or official seeking to collect child and spousal support obligations under the state Title IV-D plan, or medical obligations if an agreement is in effect with the Medicaid agency;

(5-25-91)

b. A court which has authority to issue an order against an absent parent for the support and maintenance of a child;

(5-25-91)

c. The resident parent, legal guardian, attorney or agent of a child who is not receiving public assistance in the state of Idaho upon application to use the Federal Parent Locator Service and payment of the proper fees;

(5-25-91)

d. Any agent or attorney of any state having an agreement to use the FPLS in parental kidnapping and child custody cases, who has the duty or authority under the laws of the state to enforce a child custody determination;

(5-25-91)

e. Any court having jurisdiction to make or enforce a child custody determination, or any agent of the court;

(5-25-91)

f. Any agent or attorney of the United States, or of a state having an agreement to use the FPLS, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

(5-25-91)

03. Other States. The IV-D Agency of another state to locate an absent parent who is believed to be in the state of Idaho.

(5-25-91)

403. REFERRAL REQUIREMENTS.

Referrals at a minimum must include the absent parent's name, the absent parent's social security number, if known; whether the absent parent is or has been a member of the armed services, if known; whether the absent parent is receiving or has received any federal compensation or benefits, if known; and any other information which might assist in location activities. In addition, the referral must include a request to be transmitted to the Federal Parent Locator Service, which request must be countersigned by the supervisor of the Agency or his designee, the information attesting that: (5-25-91)

01. Purpose of Request. The request is being made to locate an individual for the purpose of establishing paternity or securing support, or in connection with a parental kidnapping or child custody case and for no other purpose. (5-25-91)

02. Confidentiality. That any information obtained from the Parent Locator Service shall be treated as confidential, and that the certifying agency will take protective measures to safeguard personal information received from the Parent Locator Service. (5-25-91)

404. FEDERAL PARENT LOCATION REFERRALS.

Locate requests to the Parent Locator Service of the state of Idaho by a IV-D Agency of another state pursuant to Subsection 501.02, infra, shall, after unsuccessful but diligent and reasonable efforts to locate, be returned to the IV-D Agency of origin for action as appropriate including referral to the Federal Parent Locator Service. (12-31-91)

405. FEES.

The Agency may charge such fees as stated in Section 306 for the performance of locate requests and use of the FPLS as it shall determine from time to time. (3-9-93)

406. COOPERATIVE AGREEMENTS.

The Agency is authorized to enter into arrangements and otherwise cooperate with the Secretary, Department of Health and Human Services in carrying out the purposes of 42 USC 653, including collection of fees for utilizing the Federal Parent Locator Service. (5-25-91)

407. -- 499. (RESERVED).

500. COOPERATION WITH STATES, AGENCIES, AND SUBDIVISIONS.

In compliance with federal requirements, the state of Idaho will cooperate with all other states, agencies, and subdivisions. (5-25-91)

501. AREAS OF COOPERATION WITH STATES, AGENCIES, AND SUBDIVISIONS.

The Agency will, in accordance with standards prescribed by the Secretary, Department of Health and Human Services, cooperate with any other state in: (5-25-91)

01. Paternity. Establishing paternity if necessary. (5-25-91)

02. Location. Locating an absent parent residing in this state. (5-25-91)

03. Court Action. Securing compliance by an absent parent who is present in this state with a support order against said parent for the support and maintenance of a child or children or of the spouse or former spouse who is living with the child or children who is receiving services under a Title IV-D Plan in another state. (5-25-91)

04. Other Functions. Carrying out other functions required under Title IV-D Plan. The Agency will comply with such other requirements and standards as the Secretary, Department of Health and Human Services determines to be necessary to the establishment of an effective program for locating absent or noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments. (5-25-91)

502. REASSIGNMENT BY STATE ADMINISTERING AN APPROVED PLAN.

A state administering a plan approved under Title IV-D of the Social Security Act may, on behalf of a resident of that state, reassign to the Agency those support rights assigned to that state pursuant to 42 USC 602 (26) (a) when those

rights have accrued under a support order.

(5-25-91)

503. COOPERATIVE ARRANGEMENTS WITH COURTS AND LAW ENFORCEMENT OFFICIALS.

The Agency is herewith authorized to enter into cooperative arrangements and written agreements including financial arrangements with appropriate courts and law enforcement officials to assist the Agency in administering the state Title IV-D plan in order to assure optimum results under such a program. The cooperative arrangements and written agreements may also include financial arrangements or agreements with such agencies and officials to provide for the investigation and prosecution of fraud directly related to paternity, child support, and other matters of common concern. The Agency is herewith authorized to enter into cooperative arrangements and written agreements with courts for the purpose of appointing attorneys to represent dependent children, to establish support obligations, and take other related collection, modification and enforcement action pursuant to state and federal law.

(5-25-91)

504. DISTRIBUTION OF FUNDS AND PAYMENTS.

The Agency shall receive and distribute funds made available as payments to states to administer this plan. The Agency shall also administer and distribute incentive payments to political subdivisions. No payment may be made to any political subdivision, court, or law enforcement official of the state of Idaho under these provisions except in compliance with the requirements of agreements made between the Agency and the political subdivision, court, or law enforcement official pursuant to Section 504. No incentive payments to political subdivisions may be made except for enforcement and collection of support rights assigned to the state of Idaho.

(12-31-91)

505. REFERRAL OF CASES IS NECESSARY.

In order to qualify for payments to states or incentive payments to localities, a political subdivision, court, or law enforcement official of the state of Idaho must obtain referral of the case or cases involved from the Agency and all support payments made subsequent to the referral shall be paid to the Agency. In the case of actions under the Uniform Reciprocal Enforcement of Support Act initiated in another state, a political subdivision or law enforcement official of the state of Idaho may obtain referral status by submitting documents as determined by agreement to the Agency for acceptance under this plan.

(5-25-91)

506. -- 599. (RESERVED).

600. ENFORCEMENT OF SUPPORT OBLIGATIONS.

The Agency establishes the following rules with respect to the enforcement of support obligations.

(5-25-91)

601. SECURING MEDICAL SUPPORT INFORMATION AND SECURING AND ENFORCING MEDICAL SUPPORT.

01. Obtaining Information. The Agency shall obtain the following information in any IV-D case for which an assignment of support rights is in effect or in any other IV-D case with the consent of the applicant/recipient. The Agency shall provide the following information to the applicant/recipient if the information is available or can be obtained. The Agency shall also, in any case where the applicant/recipient has assigned rights to medical support, provide the following information to the Medicaid agency in a timely manner if the IV-A or IV-E agency does not provide the information to the Medicaid agency and if the information is available or can be obtained:

(5-25-91)

- a. AFDC case number, Title IV-E foster care case number, Medicaid number or the individual's social security number; (5-25-91)
- b. Name of the absent parent; (5-25-91)
- c. Social security number of absent parent; (5-25-91)
- d. Name(s) and social security number(s) of child(ren); (5-25-91)
- e. Home address of absent parent; (5-25-91)
- f. Name and address of absent parent's place of employment; (5-25-91)

g. Whether the absent parent has a health insurance policy and, if so, the policy name(s) and number(s) and name(s) of person(s) covered. (5-25-91)

02. Securing and Enforcing Medical Support Obligations. The Agency shall provide the following medical support enforcement services in any IV-D case for which an assignment of support rights is in effect or in any other IV-D case with the consent of the applicant/recipient: (12-31-91)

a. Petition the court to include health insurance that is available to the absent parent at reasonable cost in new or modified court orders for support unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid. Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism; (5-25-91)

b. Take necessary action to ensure that the obligor secures and maintains medical insurance required by the support order. (5-25-91)

602. REVIEW AND MODIFICATION OF SUPPORT ORDERS.

01. Notice. The Agency shall notify each parent subject to a child support order in effect in the state that is being enforced by the Agency: (5-25-91)

a. Of a review at least thirty (30) days before the commencement of such review; and (5-25-91)

b. Of the right of such parent to request the Agency to review such order; and (5-25-91)

c. Of a proposed adjustment or determination that there should be no change in the child support award amount. (5-25-91)

02. Review. The Agency shall review a support order being enforced by the Agency at the request of either parent subject to the order, or of a state child support enforcement agency, and adjust such order, as appropriate, according to applicable law and in accordance with the applicable child support guidelines. The Agency shall not review or adjust a support order more frequently than once every thirty-six (36) months unless extraordinary circumstances exist. (5-25-91)

03. Adjustment. The Agency shall not seek to adjust the support order with respect to payments which are past due at the time such action to adjust the support order is commenced. The Agency shall seek a modification of the support order only upon a showing of substantial and material change in circumstances. The following criteria shall be applied by the Agency to determine whether there has been a substantial and material change of circumstances: (5-25-91)

a. Whether there has been an increase or decrease in the income, as the term is defined in the Idaho Child Support Guidelines, of either parent or other person legally obligated for the support of a child, resulting in an obligation under the child support guidelines which differs from the existing order by at least fifteen percent (15%), but not less than fifty dollars (\$50) per month; (3-9-93)

b. Whether there has been a substantial increase or decrease in the assets of either parent or other person legally obligated for the support of a child; (5-25-91)

c. Whether there has been a substantial change in the needs of the child; (5-25-91)

d. Whether there has been a change in the custody or visitation rights of the absent parent; and (5-25-91)

e. Whether other factors exist indicating a substantial and material change in circumstances since the entry or modification of the support order. (5-25-91)

603. INCOME WITHHOLDING.

01. Automatic and Immediate Income Withholding. The income of an absent parent shall be subject to withholding, regardless of whether support payments are in arrears, in the case of a support order issued or modified at the request of the Agency on or after July 1, 1990, or on the effective date of the order. The income of an absent parent shall be subject to withholding regardless of whether support payments are in arrears, in case of any support order issued or modified on or after January 1, 1994, or on the effective date of the order. The agency shall comply with all applicable procedural and other requirements set forth in Sections 32-1201, et seq., Idaho Code, or Sections 7-1201, et seq., Idaho Code. However, such wages shall not be subject to such withholding in any case where:

(3-9-93)

a. One of the parties demonstrates, and the court or administrative process finds, that there is good cause not to require immediate income withholding; or (5-25-91)

b. A written agreement is reached between both parties which provides for an alternative arrangement. (5-25-91)

02. Income Withholding Where Arrearage Equal to One (1) Month Support Obligation Has Accrued. The income of an absent parent shall become subject to withholding, in the case of income not subject to immediate withholding, on the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one (1) month. (5-25-91)

03. Income Withholding Without Regard to an Arrearage. The income of an absent parent shall become subject to withholding, in the case of income not subject to immediate withholding, and without regard to whether there is an arrearage, the earliest of: (5-25-91)

a. The date as of which the absent parent requests that such withholding begin; (5-25-91)

b. The date as of which the custodial parent requests that such withholding begin, if the Agency determines that the request should be approved. (5-25-91)

04. Approval of a Request for Income Withholding Without Regard to an Arrearage. In the case of Income not subject to immediate withholding, approval of a request for income withholding earlier than the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one (1) month shall be based on the following criteria: (3-9-93)

a. That there is good cause to require immediate income withholding; and (5-25-91)

b. No written agreement has been reached by both parties which provides for an alternative arrangement. (5-25-91)

05. Withholding of Income Without Regard to an Arrearage. Withholding of income shall be in accordance with the following procedures: (3-9-93)

a. The Agency shall give notice to the obligor by certified mail that an application has been made to withhold from the obligor's income any delinquency and/or current support due and owing to the obligee. Such notice shall inform the obligor that if the notice contains a mistake of fact, which shall be defined as an error in the amount of current or delinquent support or the identity of an alleged absent parent, he has fourteen (14) days from the day the notice was mailed to make a written request for a hearing before the Department to resolve that mistake of fact. No issues may be considered at that hearing that have been litigated previously; Such notice shall also inform the absent parent: (3-9-93)

i. Of the amount of overdue support that is owed, if any, and the amount of wages that will be withheld; (3-9-93)

ii. That the provision for withholding applies to any current or subsequent employer or period of employment; (3-9-93)

iii. Of the procedures available for contesting the withholding and that the only basis for contesting the

withholding is a mistake of fact; (3-9-93)

iv. Of the period within which the absent parent must contact the State in order to contest the withholding and that failure to contact the State within the specified time limit will result in the State notifying the employer to begin withholding; and (3-9-93)

v. Of the actions the State will take if the individual contests the withholding. (3-9-93)

b. If the obligor requests a hearing, in writing, postmarked or received by the Agency within fourteen (14) days after such notice has been mailed (not to include Saturday, Sunday or holidays as the 14th day) to protest the withholding of income for the benefit of the obligee, and the basis for contesting the withholding is a mistake of fact as defined in Subsection 603.05.a., the Agency shall hold a hearing within thirty-five (35) days after the initial notice to the obligor. Additionally, the Department shall immediately notify the obligee of the date, time and place of hearing and of the obligee's right to attend the hearing. The issues to be considered at the hearing shall be limited to mistakes of fact as defined in Subsection 603.05.a. The Agency shall issue its decision within forty-five (45) days of the initial notice. The decision may confirm, modify or deny the amount of any current and/or delinquent support to be withheld; (12-31-91)

c. If the obligor files no timely protest, or after a hearing is held and a decision is entered, the obligor is found to owe current support and/or a delinquency in child or spousal support payment, the Agency shall send an order by certified mail to the employer of the obligor. The employer shall begin withholding the sum specified in the order from the obligor's income no later than the just pay period that occurs after fourteen (14) working days following the date the notice was mailed and shall remit the amount withheld to the entity designated on the notice within ten (10) working days of the date the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the Agency. (3-9-93)

06. Notice to Employer. The Agency shall in every case where the wages of the of the obligor are to be withheld send the absent parent's employer a notice which includes the following: (3-9-93)

a. The amount to be withheld from the absent parent's wages, and a statement that the amount actually withheld for support and other purposes, including the fee, if any, which the employer may charge; (3-9-93)

b. That the employer must send the amount to the State (or other individual or entity as the State may direct) within ten (10) working days of the date the absent parent is paid, and must report to the State (or to such other individual or entity as the State may direct) the date on which the amount was withheld from the absent parent's wages; (3-9-93)

c. That, in addition to the amount withheld for support, the employer may deduct a fee, if any, established by the Department for administrative costs incurred for each withholding; (3-9-93)

d. That the withholding is binding on the employer until further notice by the State; (3-9-93)

e. That the employer is subject to a fine to be determined under State law for discharging an absent parent from employment, refusing to employ, or taking disciplinary action against any absent parent because of the withholding; (3-9-93)

f. That, if the employer fails to withhold wages in accordance with the provisions of the notice, the employer is liable for the accumulated amount the employer should have withheld from the absent parent's wages; (3-9-93)

g. That the withholding under this section shall have priority over any other legal process under State law against the same wages; (3-9-93)

h. That the employer may combine withheld amounts from absent parents' wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual absent parent; (3-9-93)

i. That the employer must implement withholding no later than the first pay period that occurs after fourteen (14) working days following the date the notice was mailed; and (3-9-93)

j. That the employer must notify the State promptly when the absent parent terminates employment and provide the absent parent's last known address and the name and address of the absent parent's new employer, if known. (3-9-93)

604. AVAILABLE REMEDIES.

In addition to other remedies available to the Agency or obligee, collection of any overdue support from an obligor on behalf of an obligee may be accomplished through any of the following means: (12-31-91)

01. Offset of State and Federal Income Tax Returns. The Agency shall, when appropriate, intercept and withhold tax refunds to satisfy child support obligations pursuant to Section 56-203D, Idaho Code, and in full compliance with the procedural due process requirements of state and federal law: (5-25-91)

a. The Agency shall verify the amount of past due support which is subject to the tax offset. (5-25-91)

b. The Agency shall provide advance notice to the custodial parent who has applied for support enforcement services and is not receiving public assistance if it will first use any offset amount to satisfy any unreimbursed AFDC and foster care maintenance payments which have been provided to the family. (5-25-91)

c. The Agency shall also provide advance notice to an absent parent of the referral for state income tax refund offset, the opportunity to contest the referral and the procedures by which the absent parent may contest the referral. (5-25-91)

d. The Agency shall notify the absent parent, in the event of a joint return, of the procedures for applying for a share of the refund, if appropriate. (5-25-91)

02. Unemployment Benefits. The Agency shall, when appropriate, intercept and withhold a portion of any unemployment benefit payable to an obligor pursuant to Section 72-1365, Idaho Code. (5-25-91)

03. Veterans' Benefits. The Agency shall, when appropriate, attach, garnish, or intercept and withhold a portion of any Veteran's benefits which are payable to an obligor. (5-25-91)

04. Workmen's Compensation Benefits. The Agency shall, when appropriate, attach, garnish, or intercept and withhold a portion of any workmen's compensation benefits which are payable to an obligor pursuant to Title 72, Idaho Code. (5-25-91)

05. Consumer Reporting Agency. The Agency shall, when appropriate, make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by an absent parent in cases in which the amount of overdue support exceeds one hundred dollars (\$100). The Agency shall, prior to making such information available to consumer reporting agencies, provide notice to the absent parent concerning the proposed release of the information and shall inform the absent parent of the methods available for contesting the accuracy of the information. (5-25-91)

06. Liens. The Agency shall, when appropriate, impose liens against real and personal property of an absent parent who owes overdue support and who resides or owns property in the state and shall comply with all state and federal laws regarding the imposition of said liens. (5-25-91)

07. Security, Bond or Other Guarantee. The Agency shall, when appropriate, require that absent parents post security, bond or give some other guarantee to secure payment of overdue support. The Agency shall provide advance notice to the absent parent that support payment and the requirement of posting security, bond or guarantee, and inform the absent parent of his or her rights and the methods available for contesting the impending action, in full compliance with state and federal procedural due process requirements. (5-25-91)

08. Collection by Secretary of the Treasury. The Agency shall, when appropriate, request the Secretary of Health and Human Services to refer a case to the Secretary of the Treasury for collection under Section 6305 of the

Internal Revenue code of 1954. For a case to be eligible for certification to the Secretary of the Treasury: (5-25-91)

- a. There shall be a court or administrative order for support; (5-25-91)
- b. The amount to be collected under the support order shall be at least seven hundred and fifty dollars (\$750) in arrears; (5-25-91)
- c. At least six (6) months shall have elapsed since the last request for referral of the case to the Secretary of the Treasury; (5-25-91)
- d. The Agency, the client, or the client's representative shall have made reasonable efforts to collect the support through the state's own collection mechanisms. The Agency need not repeat actions taken by the client or the client's representative that the Agency determines to be comparable to the state's collection mechanisms; and (5-25-91)
- e. Only the state that has taken an assignment or an application may request IRS collection services on behalf of a given case. (5-25-91)

09. Offset of Lottery Prizes. The Agency shall, when appropriate, offset a lottery prize of any prize winner to collect any support delinquency according to the procedures and criteria set forth in Section 56-203E, Idaho Code. (5-25-91)

605. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definition. "Person" means an individual. (1-1-97)T
02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (1-1-97)T
03. Good Cause. A license suspension shall be denied or stayed if the obligor proves that one (1) of the following has resulted in a current inability to pay the child support obligation: (1-1-97)T
 - a. The obligor is physically disabled; (1-1-97)T
 - b. The obligor is experiencing the effects of an extended illness or accident; (1-1-97)T
 - c. The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; or (1-1-97)T
 - d. The obligor is incarcerated in any county or state facility, and proves that he or she has no assets. (1-1-97)T
04. Not Good Cause. Any factor not defined as good cause in Subsection 650.03 is not good cause for a denial or stay of a license suspension, including but not limited to the following: (1-1-97)T
 - a. The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (1-1-97)T
 - b. The obligor is disabled but has not applied for disability or other benefits, or has been refused benefits; (1-1-97)T
 - c. The obligor asserts that the child support obligation is too high; (1-1-97)T
 - d. The obligor has been denied full visitation with the child or children; or (1-1-97)T
 - e. The obligor alleges the obligee misuses the child support. (1-1-97)T

606. -- 699. (RESERVED).

700. ESTABLISHMENT OF PATERNITY.

The Agency establishes the following rules regarding the establishment of paternity. (5-25-91)

701. ESTABLISHMENT OF PATERNITY FOR A CHILD UNDER THE AGE OF EIGHTEEN.

The Agency shall attempt to establish paternity for any child under the age of eighteen (18) for whom paternity has not been established and for whom the Agency is providing support enforcement services. Except that, the Agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the opinion of the Agency, it would not be in the best interests of the child to establish paternity. The Agency shall not undertake to establish paternity or secure support in any case for which it has received notice from the IV-A or IV-E agency that there has been a finding of good cause pursuant to 45 CFR Section 232.40 through Section 232.49, unless there has been a determination by the state or local IV-A or IV-E agency that the Agency may proceed without the participation of the caretaker or other relative. If there has been such a determination, the Agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking. (5-25-91)

702. REQUESTS FOR GENETIC TESTS.

The child, mother, putative father, or any male witness who testifies or will testify about his sexual relation with the mother at a possible time of conception may be required to submit to genetic tests. The tests shall be performed by an expert qualified as an examiner of genetic markers present on blood cells and components. Verified documentation of the chain of custody of the blood is competent evidence to establish chain of custody. Verified experts' reports shall be admitted at trial unless a challenge to the testing procedures or the blood analysis has been made twenty (20) days before trial. The Agency shall not attempt to establish paternity against a putative father if the results of the genetic tests exclude that putative father from possible paternity. (5-25-91)

703. PAYMENT OF COST OF GENETIC TESTS.

The putative father may be required to pay the cost of genetic tests if paternity is established against him. (5-25-91)

704. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings." (12-31-91)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records." (5-25-91)

998. INCLUSIVE GENDER AND NUMBER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (5-25-91)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 03, are severable. If any rule or regulation, or part thereof, or the application of such rule or regulation to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (5-25-91)