

Vacating a Default Child Support Order

Do you believe your child support order is higher than it should be?

*You should read this notice about a program that could help you if you have a
child support order issued by CSED!*

The Alaska Child Support Enforcement Division (**CSED**) may be able to **vacate** your present child support order and **replace** it with a new order in a different amount.

This program is available to you if CSED set your support order without having specific information about your income -- and if your actual earnings are generally lower than the average wages in Alaska.

*If you qualify for this program, your child support debt
and monthly payments could be reduced.*

If you believe you meet the requirements of this program, please read this material and complete the form in the back of this booklet.

*This material probably includes some unfamiliar terms.
Please turn to glossary on Page 5 to familiarize yourself with these terms.*

Background of the program

A child support order establishes the amount you pay or receive for child support. This amount should be based upon the paying parent's income and ability to pay. The paying parent usually provides income information such as tax records and pay stubs, and CSED uses a formula developed by the Supreme Court under Civil Rule 90.3 to determine the monthly child support amount.

We requested such information from you but, for whatever reason, you could not or would not provide sufficient proof of income. Under law, we had to complete a child support order quickly and established the order without full information on your income.

Despite the lack of information, the order, called a default order, is a legal order. Unfortunately, many default orders often don't have much to do with the paying parent's actual ability to pay. CSED knows when a default order exceeds the parent's ability to pay, the paying parent may decide to pay nothing or far less than the amount owed. As the debt grows larger, the likelihood of payment grows smaller. That's why we asked the legislature to pass a law to help parents with default orders. If parents have an order they can afford to pay, the chances are much better their children will receive the child support they need.

Why is CSED asking if I want to change my order?

We know you have had a default order at some time in your case. This means we set your support order without your income information. CSED wants you to know you have this opportunity to get an order based on actual earnings.

Alaska Statute 25.27.195 -- which became law on October 1, 1996 -- allows CSED to vacate its own default orders and replace them with new orders. The agency has the authority to go back and issue an order to reflect your ability to pay - but only if you formally ask us to vacate the default order and gives us enough information about your income.

*This means the total child support debt owed in the case
could be much smaller than it is today.*

How can a default order be changed?

You can request that CSED look at the original order to see if you qualify. If you do, CSED will send a **Motion to Vacate** packet to you. You will need to complete the motion to vacate and provide the information requested.

When CSED determines that we have enough information to work the motion, CSED will send a Notification of Request for Relief of a Default Administrative Child Support Order to you and the custodial parent by first class mail.

To oppose the request, the custodial parent must file their opposition to the motion, to CSED within 30 days. They must supply all documents and information in support of the opposition to the request. If they do not respond within 30 days; the request will be processed by the Child Support Officer.

When the Child Support Officer vacates the default order, a new order will be sent to you and the custodial parent.

Does everyone qualify for this program?

No! Alaska Statue 25.27.195 only allows CSED to vacate its own orders and replace them with a new order covering the same period of time. We can't vacate a court order or a support order issued by another state.

Even if we can vacate the default order, it's still up to you to provide enough information to establish a new order. If you fail to provide income information, the agency can cease our actions on your motion for a new order and the original order would remain in effect.

What to do if I want a new child support order

There is a form on Page 6 called **Motion to Vacate Default Order**. This must be completed by you or your legal representative to request the division vacate the existing support order and to replace it with a new order. You must complete this form and provide proof of earnings for each year of the child support order.

The quicker you submit the information, the quicker you'll see a result.

What you should do now

If you want CSED to change the amount of your child support order by vacating the default order and replacing it with a new order, please complete the form on Page 6 - **Motion to Vacate Default Order.**

Please write neatly or type your answers on the form. And please make sure the copies of your pay stubs, tax returns and other financial records are clear and legible.

Mail the form to the Alaska Child Support Enforcement Division with the affidavits requested and with your proof of earnings. We have included a reply envelope for your use.

*If you have any questions, and live outside of Anchorage, call a Child Support Representative at 1-800-478-3300, option 1 extension 6988.
In Anchorage, call 269-6988*

Glossary:

Arrears	Past due child support. Interest is charged on late payments at the rate of 6% per year.
Child Support Order	The legal document tells you how much child support you owe and how much you should pay each month. There are two kinds of child support orders: Court orders are established by a judge or other court official, and administrative orders are set by the child support enforcement division.
Default Order	A support order established without accurate information about the parent's actual income and ability to pay. Sometimes this is because the parent never provided the child support division with information about his or her income and/or failed to answer the division's letters. Many default orders may be too high for the parent to pay. <i>Default orders may be set by the child support division or by a court, but this program applies only to default orders issued by the division.</i>
Vacate an Order	Stop an order and make it void.
Custodial Parent	The parent who has primary custody of the children and who receives the child support payments on behalf of the children.
Paying Parent	The parent who does not have primary custody of the children. Sometimes if a judge orders shared custody, and the children live with each parent for part of the year, the parents take turns being the custodial and paying parent. More often, the children live mostly with one parent and visit the other.
Custodian	A court-approved caretaker who is responsible for the children. This is usually a relative such as a grandparent, aunt or uncle. The custodian can have temporary custody of the children or may have full legal custody. If the children are in foster care, the custodian may even be the State of Alaska or another state.

MOTION TO VACATE DEFAULT ORDER

I am requesting the child support order in this case be vacated and replaced with a more accurate order. This order was not based on my ability to pay because the Child Support Enforcement Division did not have good information on my income and earnings at the time it issued the order.

I am enclosing the documents checked below. I understand CSED will send a notice to both the custodial and paying parents when it has calculated the amount of the new order based on my actual income.

The following documents are enclosed as proof of my earnings:

- Completed Child Support Guidelines Affidavit(s) for years _____ to _____.
- (The affidavit form is enclosed with this packet.)*
- Pay stubs for years _____ to _____.
- Copies of signed tax returns - with all applicable schedules attached for the years in question.
- Documentation and verification of medical coverage for the children.
- Documentation verifying retirement plan contributions.
- If self-employed, your company tax returns reflecting your business income and expenses.
- Documentation concerning periodic benefits you receive (such as worker's compensation, unemployment compensation, Social Security benefits including Children's Insurance Benefits, veteran's benefits, Native or corporate and investment interest or dividends, insurance benefits, and any in-kind compensation or monetary benefits paid by any organization).
- Verification of union dues, if paid.
- Any other information you would like us to consider.

I understand that the child support division may deny this motion if I have not provided sufficient information to prove my income and ability to pay child support.

(Signature)

(Date)

Printed Name: _____

Child Support Case No.: _____ Social Security Number: _____

Names of Children: _____

Be sure to return this page to the address on the enclosed envelope. If you have any questions, call toll free in Alaska **1-800-478-3300 Option 1, extension 6988, in Anchorage call 269-6988.**

It's important that you call as soon as possible if there's anything you don't understand.