

Overview of Child Support Enforcement Access to Taxpayer Data and the Tribal Child Support Enforcement Act (S. 534)

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The Tribal Child Support Enforcement Act (S. 534), which passed the Senate on July 13, 2021, would allow greater data sharing that could provide [tribal Child Support Enforcement \(CSE\) programs](#) with comparable access to taxpayer data currently provided to state and local CSE programs for location, establishment, and enforcement efforts. The bill would also allow *contractors* of state, local, and tribal child support agencies to have comparable access to tax data that employees of these agencies have for child support purposes.

This Insight provides background on the CSE program and summarizes the changes that would be made by S. 534.

CSE Program Overview

All 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and 60 tribal nations [operate CSE programs](#) pursuant to [Title IV-D of the Social Security Act \(SSA\)](#). The program is federally administered by the Office of Child Support Enforcement (OCSE) in the [Administration for Children and Families](#) ([Department of Health and Human Services](#)). The program services include [parent location](#), the initial [establishment](#) and [review and modification](#) of child support orders, the [collection and distribution](#) of child support payments, and the [establishment and enforcement of medical support](#). CSE is estimated to handle [the majority of all child support cases](#); the remaining cases are handled by private attorneys, by collection agencies, or through mutual agreements between parents. In FY2020, the program was estimated to serve [13.8 million children](#) (about 19% of children in the United States) and collected an estimated [\\$37 billion in child support](#), of which nearly [\\$11 billion](#) was for obligations that were past-due (*arrears*). The amount of arrears paid represents about 9% of the [\\$115 billion](#) in cumulative arrears owed to cases enforced by the program.

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CSE Access to and Use of Federal Tax Data under Current Law

Certain CSE services are supported via the exchange of federal tax data. For instance, such data are exchanged with state and local CSE agencies to locate noncustodial parents (via [external locate requests](#)) and to [verify annual wages earned](#), generally for the purposes of establishing or modifying a [support order](#). Tax data are also exchanged with state and local programs as part of the [Federal Tax Refund Offset Program](#) (FOP), which withholds past-due support from federal income tax refunds before they are issued. The FOP is authorized in [SSA Section 464](#), and [Internal Revenue Code \(IRC\) Section 6402\(c\)](#), and operates through a partnership between OCSE and the Department of the Treasury.

Under current law, the sharing of data used by FOP, and for other specified purposes, is generally governed by [IRC Section 6103](#). Under IRC Section 6103(l)(6), the IRS may disclose to federal, state, and local child enforcement agencies, if requested, specific tax data on any individual with respect to whom child support obligations are sought to be established or enforced, or any individual owed child support, for the specified use of establishing or collecting those child support obligations, or locating that individual. Information that may be disclosed includes social security numbers (SSNs), addresses, tax filing statuses, amounts and nature of income, and the number of dependents reported on returns filed by the person from whom child support obligations are sought, and returns filed with respect to such person or the person to whom the obligation is owed.

Under current law (IRC §6103(l)(10)), employees of federal, state, and local child support agencies also have access to the amount of offset under [IRC Section 6402\(c\)](#). Some of these data (i.e., SSNs, addresses, offset amount) may also be disclosed to *contractors* of federal, state, and local child support agencies for the purposes of child support enforcement.

In addition, under current law, certain tax data disclosed from the IRS to the Social Security Administration for administering social security programs may be re-disclosed to federal, state, and local child support enforcement agencies for child support enforcement purposes under IRC Section 6103(l)(8). This includes data on SSNs, net-earnings from self-employment, wages, and certain amounts of retirement income.

Failure to follow the law regarding the disclosure of taxpayer information may subject employees and contractors of state and local child support agencies to penalties. (Security guidelines for federal, state, and local agencies using these data can be found in [IRS Publication 1075](#).)

Summary of S. 534

Tribal child support programs were not explicitly included in the law that allowed state and local CSE programs to have access to this information. Instead, these tribal programs [must contract with a state IV-D entity](#) to have limited data re-disclosed to them. This difference in access has raised [longstanding parity concerns amongst stakeholders](#). In addition, the [child support community also has expressed concern](#) that the categories of taxpayer data that IV-D agency contractors may access specified in [IRC Section 6103\(l\)\(6\)](#) are overly limited and may hamper program effectiveness. At the same time, expanding data access may cause others to raise [concerns about the security of taxpayer information](#).

S. 534 would amend SSA Section 464 to explicitly provide that the FOP authorities apply to tribal IV-D programs. (A related technical amendment to [SSA Section 453\(g\)](#) would allow federal reimbursement to tribal programs for the costs of the information exchange.) It also would amend IRC Sections 6103 and 6402(c) to allow tribal IV-D programs access to taxpayer data governed by those sections on par with the access given to federal, state, and local child support agencies. And it would remove from IRC Section 6103(l)(6)(B) the enumerated categories of taxpayer data that may be disclosed to IV-D agency contractors. This would effectively allow contractors of all IV-D agencies to have the same access to data as employees of these agencies.

If S. 534 were to be enacted, tribal programs would need to demonstrate their ability to comply with applicable federal safeguards on taxpayer data, described in IRC Section 6103(p)(4), in order to have direct access to the CSE locate, establishment, and enforcement tools that utilize that data. Failure to follow the law regarding the disclosure of taxpayer information may subject employees and contractors of tribal child support agencies to the same penalties as employees and contractors of state and local child support agencies.

Author Information

Jessica Tollestrup
Specialist in Social Policy

Margot L. Crandall-Hollick
Specialist in Public Finance

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