

OVERVIEW  
CHILD  
SUPPORT  
ENFORCE.  
DIVISION

## Child Support Enforcement Division

Current Caseload..... 48,000 Cases

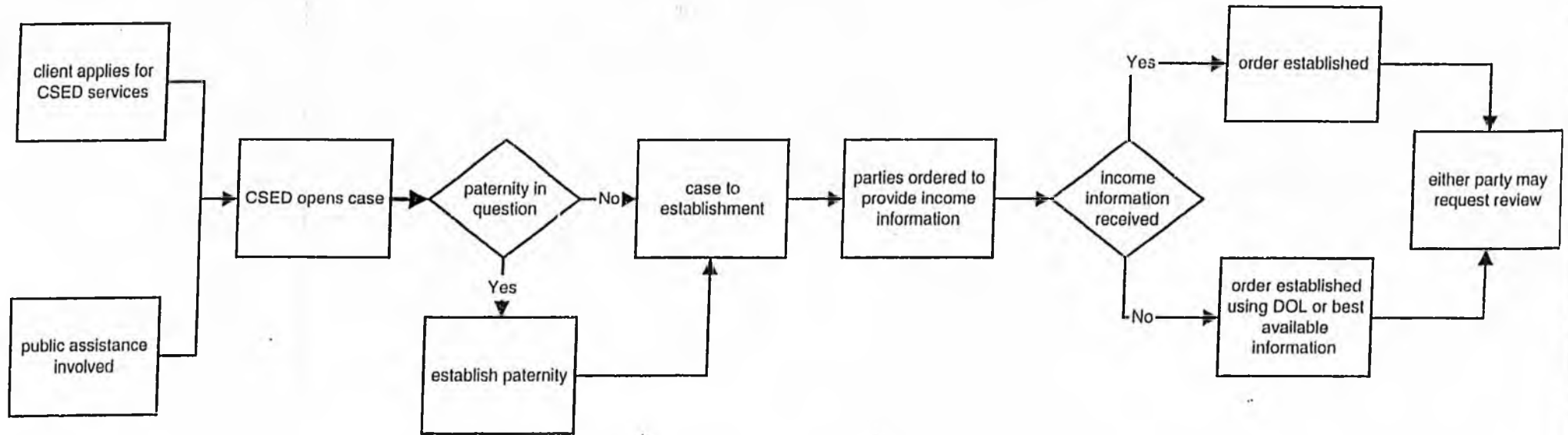
Existing Support Orders.....38,000 Cases (80%)

Orders to be Established.....10,000 Cases (more than  
half are with another state)

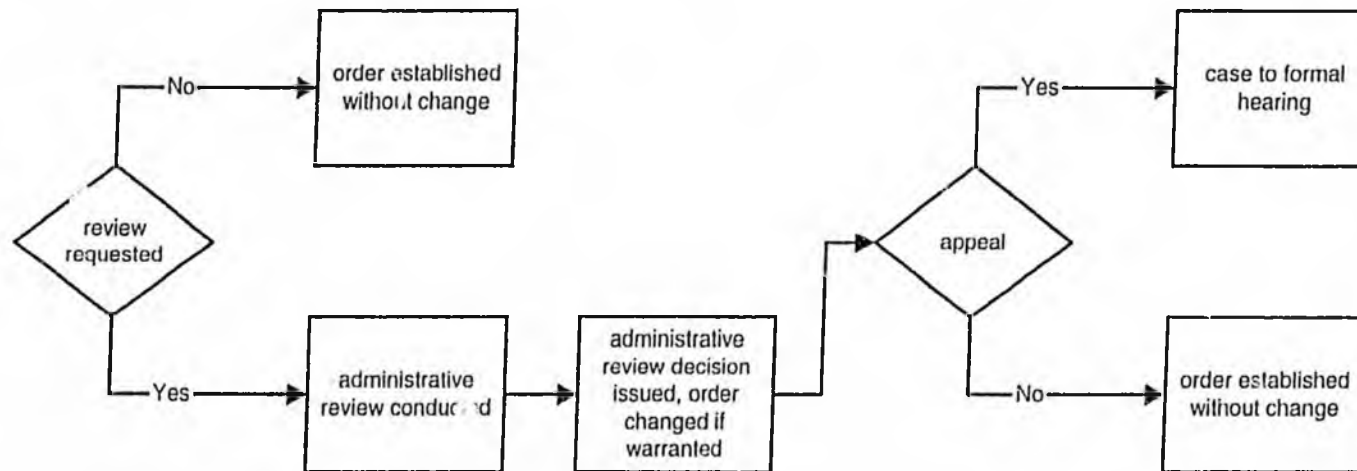
Locate parent

Establish paternity

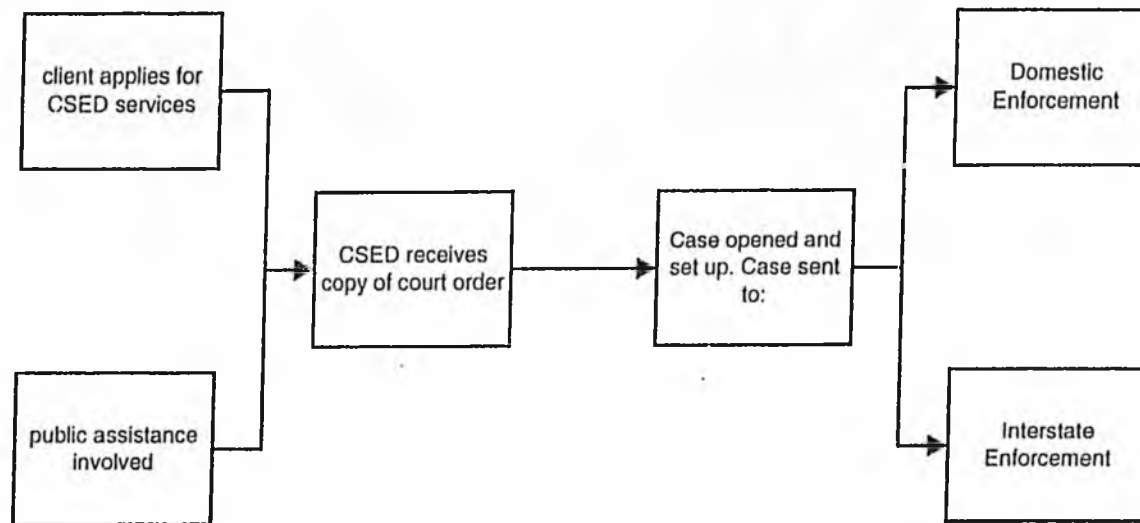
## Establishing administrative orders



## Appeal process



## Opening cases with court orders



## Domestic Enforcement

(The Non-custodial parent lives in Alaska)

### Enforcement Actions

- Income withholding
- Bank account attachment
- IRS refunds, PFD's and Native dividends intercepted
- Credit bureau reporting
- Licenses revoked

### Case Reviews

- Credit for visitation
- Credit for medical insurance
- Consideration for hardships
- Review of appeals on actions
  - ✓ Withholding orders
  - ✓ Credit bureau reports
- Working with other states when non-custodial parent is not in Alaska

### Investigations

Civil and criminal sanctions

- Criminal non-support
- Defrauding creditors
- Fraudulent assets
- Perjury
- Aiding in non-payment of support

## **Interstate Cases**

15,322

Non-custodial parent lives in another State

### Initiate to another state

When no order is established or little information is available about the non-custodial parent

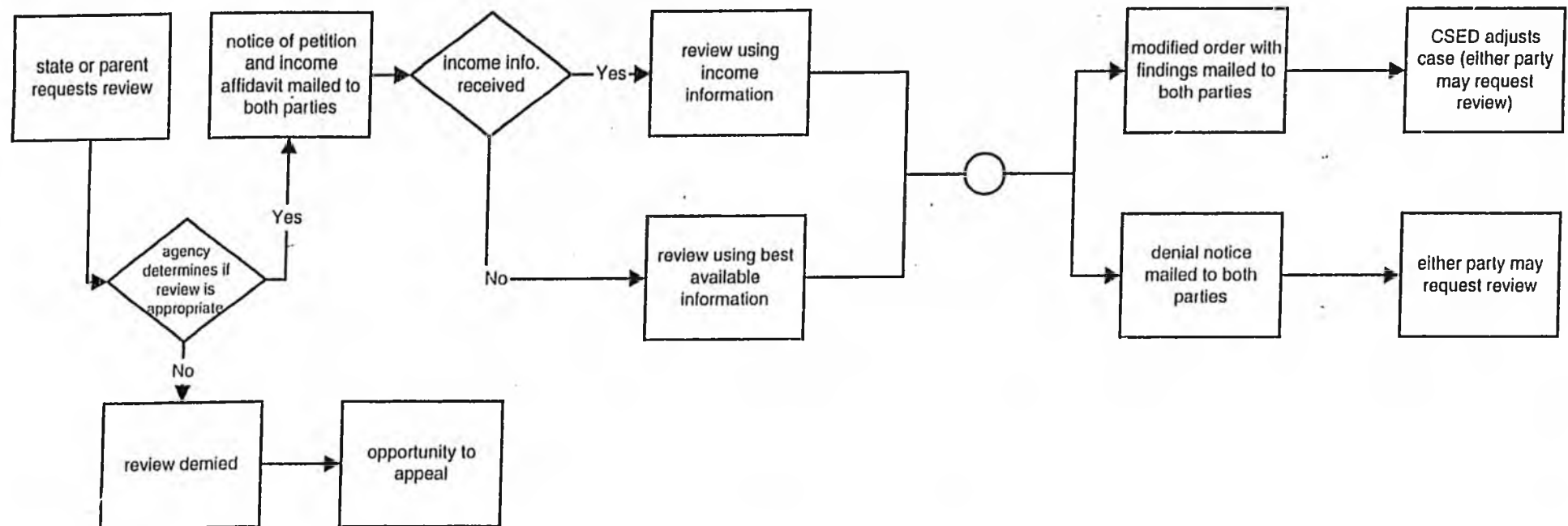
- Paternity
- Enforcement Actions

### Direct Actions

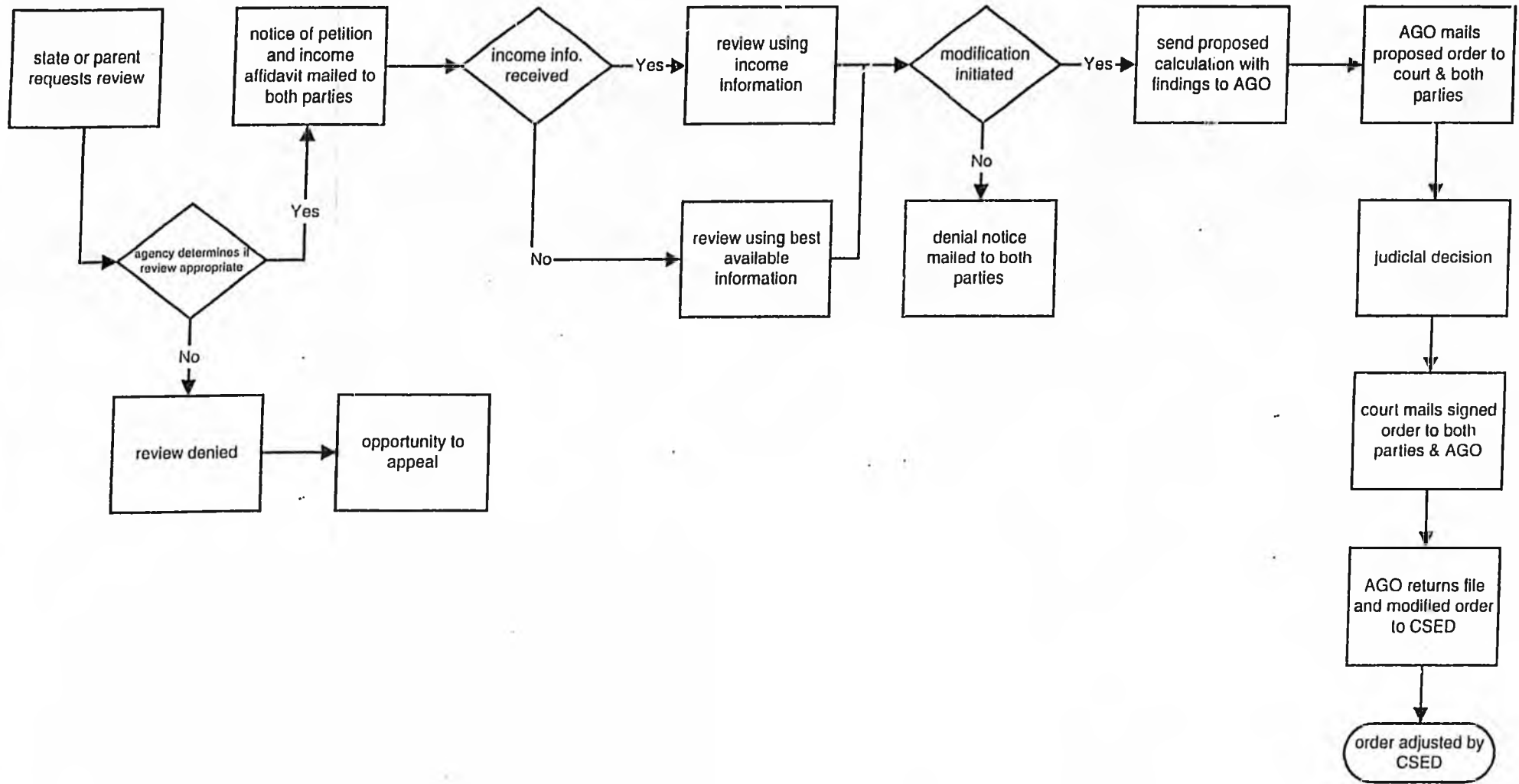
We have an order, and know the employer of the non-custodial parent, or other information

- Wage withholding
- Other state to assist w/single actions
  - ✓ Liens: financial and property
  - ✓ Service of process

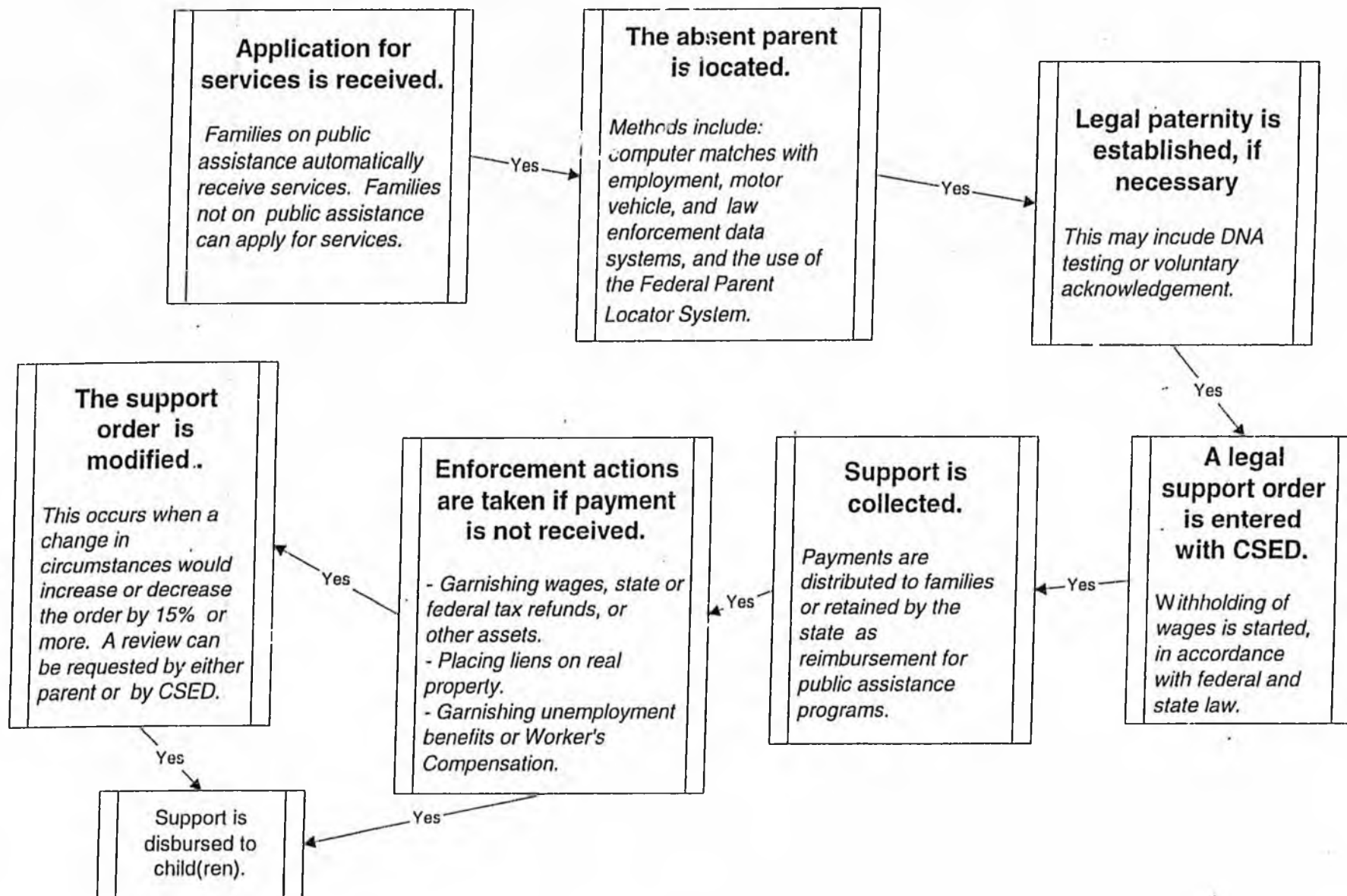
# CSED review for modification of administrative order



# CSED review for modification of court orders



## How Child Support is Collected by CSED



## OUTLINE OF DUE PROCESS DISCUSSION

### A. Three Requirements of Due Process

- (1) Personal jurisdiction
- (2) Notice
- (3) Opportunity to be heard

### B. Personal Jurisdiction

- (1) residence in Alaska
- (2) sufficient connection to the State of Alaska

### C. Notice

- (1) Actual notice (Civil Rule 4): personal delivery or certified, registered, or insured mail, restricted delivery, return receipt requested
- (2) Notice by mail (Civil Rule 5): regular U.S. mail to last known address

### D. Meaningful opportunity to be heard

- (1) Notice of procedures and standards
- (2) Opportunity to present evidence and arguments
- (3) Appeal rights: administrative appeal and judicial appeal

### E. Examples of Due Process in Child Support Cases

- (1) Income Withholding
- (2) Paternity
- (3) Modifications
- (4) Credit Bureau Reporting
- (5) Licensing
- (6) Administrative Subpoenas

- Chairman Dyson and members of committee
- Diane Wendlandt, assistant attorney general with collections and support section

## INTRODUCTION

Start with a brief outline of what due process <sup>is</sup> requires and then discuss specific examples in the context of child support proceedings.

## DISCUSSION

### A. Three Requirements of Due Process

- (1) Jurisdiction over the person
- (2) Notice
- (3) A meaningful opportunity to be heard

In plain English, this means: If government is going to do something that affects your rights, <sup>(2)</sup> it has to tell you what it's doing and what the rules of the game are, <sup>(3)</sup> it has to give you a fair opportunity to object, and <sup>(1)</sup> you have to have enough of a connection with this state so that it's reasonable for this state to take the actions against you.

Guaranties a fair process, not necessarily a particular result

### B. Personal Jurisdiction

Personal jurisdiction: gives a government agency or a court the right to reach out and touch someone

- (1) Residence in Alaska – if you live here, you should reasonably expect your rights and responsibilities to be determined here in Alaska
- (2) Sufficient connection between you and the State of Alaska so that it's fair for you to expect to have your rights determined here.

*e.g.*, couple married in Alaska, live her for 10 years, have 2 children, parents separate, mother leaves Alaska, father stays here with the children and files for divorce. Alaska would have personal jurisdiction to handle divorce and child custody and support issues, even though mother no longer resides in Alaska

*e.g.*, same couple, but married and live in Washington for 10 years, father moves to Alaska with the children and files for divorce, mother has never lived in Alaska or had any connection with Alaska – Alaska would not have

NOTE: interstate - if another state acts re At resident,  
contest held here

personal jurisdiction over the mother to determine her rights and responsibilities, *i.e.*, child support

C. Notice: in legal proceedings, usually referred to as service

Government has to tell you about the proceeding and what your rights and responsibilities are in connection with that proceeding

Two types of service:

- (1) Actual notice (Civil Rule 4 service): personal delivery or certified, registered, or insured mail, restricted delivery, return receipt requested – designed to ensure actual notice
- (2) Notice by mail (Rule 5 service): regular U.S. mail to last known address – service is complete upon mailing, regardless of whether you actually receive the papers

When used:

- (1) Actual notice: when there hasn't been any previous action – *i.e.*, the first notice or pleading that goes to the person
  - \* notice and finding of financial responsibility: starts the administrative order establishment proceeding
  - \* notice of paternity and financial responsibility: starts the administrative paternity establishment proceeding
- (2) Service by regular mail: when you already know about the action and are expected to keep the court or CSED informed of any address changes – CSED does have an obligation to make sure the address they use is the “last known address” – CSED does make an effort to locate last known address.
  - \* modification papers: notice of petition for modification, motion to modify

D. Meaningful opportunity to be heard

(1) Notice of procedures and standards

- (a) have to tell people what the rules of the game are beforehand – ~~needs to be clear standards so that government action isn't arbitrary~~

- ① what arguments or standards
- ② what procedures to raise arguments

(b) Forms and regulations are primary means of putting standards and procedures in writing

(2) Opportunity to present evidence and arguments

(a) Written submissions

*e.g.*, administrative review process – first level of review in most cases – not required by statute, but added by CSED by regulation to give people an additional opportunity to be heard – usually handled on paper – person can provide written arguments, documentation to support arguments; then caseworker reviews all information in the file and issues a decision

(b) In-person hearing

*e.g.*, formal hearing – if the person disagrees with the administrative review decision, can request a formal hearing in some cases – an in-person hearing is scheduled before a Department of Revenue formal hearing examiner – can submit written arguments and documents before the hearing, and also provide testimony and arguments at the hearing

(c) Appeal rights: administrative appeal followed by judicial appeal

C. Examples of Due Process in the Welfare Reform Context

(1) Income Withholding

Federal law was amended to specifically require that:

(a) state notify obligor that withholding has commenced and procedures to follow if noncustodial parent wants to contest the withholding;

~~(b) withholding order must go out without advanced notice to obligor.~~

Result: Income withholding regs (15 AAC 125.500 – 125.565):

(a) Notice and right to contest each time a withholding order is sent, not just when withholding is first commenced

(b) Procedures and standards for contesting a withholding order

(c) Clear explanation as to how the withholding amount is calculated, when one is exempt from withholding, and when and how a withholding order may be modified

(d) Procedures and standards for requesting a hardship exception

(2) Paternity

Voluntary acknowledgments: changed dramatically in light of welfare reform requirements –

- (a) acknowledgment must explain legal consequences, rights and responsibilities, and alternatives to signing form;
- (b) person has been informed that acknowledgment can't be rescinded after 60 days absent fraud, duress or material mistake of fact; and
- (c) person states that they have read and understood the form

Result: although voluntary acknowledgments are given more legal effect – same as a court order – people are given a lot more information and warnings before they sign

Paternity proceedings: increased emphasis on making sure that we have the right man: and to increase opportunities for people to be heard during the process

- (a) either party can request genetic testing order;
- (b) allowing parents to challenge paternity testing order prior to testing either because of best interests of child or because no reasonable basis for ordering testing;
- (c) allowing a putative father to request administrative paternity establishment;
- (d) allowing for second genetic test upon request;
- (e) judicial contempt proceeding for failure to comply with admin paternity testing order

Result: focus is on assuring that the correct father (*i.e.*, the biological father) is identified and established as the child's father for support purposes

(3) Modifications

Federal law requires that states give parents right to request a review at least once every 3 years.

(4) Credit Bureau Reporting

Procedures for credit bureau reporting must ensure that arrears are reported only after the parent "has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information." 42 U.S.C. § 666(a)(7).

CSED already had procedures in place to meet due process requirements for credit bureau reporting. (Former 15 AAC 125.155) New regulation did not substantially change the procedures for credit bureau reporting. (15 AAC 125.418)

(5) Licenses

States must have procedures by which licenses can be suspended. Federal law doesn't discuss due process requirements.

State law provides extensive notice and hearing provisions:

- (a) 60-day notice of arrears
  - (b) notice of intent to suspend
  - (c) right to administrative review
  - (d) right to expedited judicial review
  - (e) relief outside of statute (AS 25.27.210(e))
- } triggers 150-day review period
- } exception: hunting/fishing  
=> only through contempt or crim non-support

(6) Administrative Subpoenas

Must be able to subpoena financial or other information without obtaining an order from another tribunal and to impose penalties for noncompliance

\* enhanced service requirement - now must serve per Rule 4  
15 AAC 125.440:

- (a) created an administrative review procedure which allows a person to contest the administrative subpoena and explain why they shouldn't have to comply - this is done before we take them to court;
- (b) created an administrative procedure for imposing civil penalties for noncompliance

Result: Give people an opportunity to be heard, a chance to object to the subpoena, before we drag them into court - hopefully, we can avoid taking people to court except in cases of unexcused noncompliance

