 Department of Children & Family Services <i>Building a Stronger Louisiana</i>	Division/Section	Family Support
	Chapter No./Name	9 – Child Support Enforcement (CSE)
	Part No./Name	K – Enforcement of Support
	Section No./Name	K-100 Enforcement of Support
	Document No./Name	K-160 Procedures to Credit Arrears in Child Support Cases
	Effective Date	September 1, 2023

I. STATEMENT OF POLICY

The affidavit to credit child support and/or spousal support arrears is a uniform tool which allows the obligee/custodial party (CP) to act on a child support debt solely owed to the CP. More specifically, these arrears are a vested property right due and payable to the CP and only the CP has the authority to credit them. This will not include any arrears that accrued while the CP was receiving assistance (FITAP/KCSP) * or any cash medical arrears owed to the Department of Health. The accrued arrears are reflected in the arrears columns on FISU, but caseworkers will have to use the LICD screen to determine the actual balance due on the MS/MD debt.

II. PROCEDURES

K-161 ARREARS OWED TO THE CUSTODIAL PARTY


When a custodial party requests credit of arrears, the arrears must be reviewed to determine what portion can be credited. The CP is able to credit Never Assigned (NAA) and the Unassigned During Assistance (UDA) arrears.

If another state issued ** the order ***, the laws of the issuing state controls how the arrears have to be credited. In interstate cases, the CP * needs to contact the order issuing state to credit any out of state arrears (OSA) owed. The arrears cannot be removed from the case until a transmittal or Child Support Enforcement Network (CSENet) is received from the order issuing state granting permission to do so. If the issuing state has closed its case, it may not be possible for the CP to request credit of the out of state arrears.

When the CP takes action to credit the arrears, the court maintains the authority to collect or enforce the expedited process fees (H.O. fees) assessed to the Noncustodial Parent (NCP) for those arrears [See [LA R.S. 46:236.5\(B\)\(1\)](#)]. These amounts will be due and payable by the NCP to the court directly as Child Support Enforcement (CSE) will no longer have the authority to collect on the courts behalf.

K-162 ARREARS OWED TO THE STATE

In some situations, past due child support will be owed to the state instead of the CP. The CP is not permitted to credit any arrears owed to the state that are reflected in these columns on FISU: PAA, IV-E, or OFC, any cash medical arrears owed to the DHH, or any MS/MD debt. The NCP will be required to reimburse the state for those arrears until paid in full. CSE will only discharge or remove state-owed arrears on a “case-by-case basis” if certain criteria are met. All actions to discharge or remove state-owed arrears, including CAA, must be submitted to DCFS-SES-Financial@la.gov for approval. (Refer to [E-910](#) ** for more information)

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* K-163 ARREARS OWED DUE TO FAILURE TO SUSPEND

When there is an ongoing support obligation, the state is to review the case for suspension after receiving notification that the NCP has been incarcerated for 180 days or more. If the case is eligible for suspension due to the noncustodial parent (NCP) being incarcerated, for 180 days or more, but the state fails to file the affidavit, CSE must inform the CP that a suspension did not take place. The CP may choose to credit the arrears that accrued during that time period.

However, the suspension cannot start before 08/01/2020, when the law went into effect. If the CP chooses to credit the arrears, follow the steps in K-164. If the CP chooses to not credit arrears in this situation, a modification of the order must be filed upon NCP's request. If the child is still a minor upon the NCP's release, the state must take the action to petition the court for the modification.

K-164 CREDITING ARREARS OWED TO THE CUSTODIAL PARTY


The CP may credit NAA or UDA arrears owed on the case at any time. The CP must execute two [CSE 132 Form](#) / [Instructions](#) (Affidavit to Credit Child Support Arrears) in the district office in the presence of a notary and two witnesses or request that the forms be mailed. If the forms are mailed, the CP must complete each form, **by having them notarized and returned** ***** to the district office or appropriate DA's office. Once each [CSE 132](#) is completed and notarized, the analyst ***** *must** remove the arrears from the case.

After the arrears have been removed from the case, the analyst must provide a copy to the CP, and **submit the** original notarized [CSE 132](#) to the legal staff responsible for judicial enforcement where the case is **located**. The legal staff will **file** the original affidavit **** ***** in the court record. Once ******* filed, the attorney will return *** two time-stamped copies **** to the District Office *******, one to be imaged *** and placed in the skinny file**. The second copy is to be ****** mailed to the NCP. The physical mailing address of the office should be included in case the form is returned undeliverable. ***** * If** the form returns undeliverable (i.e. the NCP cannot be located), the form must be returned to the analyst and placed in the skinny file **alongside** the original notarized copy (Refer to [T-210](#)).

If ** the CP credits the arrears in full, the income assignment order must be amended to collect on-going support only. The collection case must be reviewed for administrative enforcement actions to determine whether the actions are still appropriate (refer to policy [K-130](#)).

***** * The **** CP is not required to credit arrears in order to close a child support case. ***** * If** the CP wants to close the child support case instead of crediting the arrears, **they may do so, ** *** if** the case is eligible **for closure** (refer to policy [E-910](#)). **CSE should never encourage the CP to credit arrears as a requirement of case closure.**

Note: When arrears have been credited **or paid in full**, CSE will **complete the paperwork to release a** judicial mortgage or lien as part of the case closure process **when requested by the NCP. ** ***** To complete the release, the NCP must ******* pay any fees associated with the cancellation of the judicial mortgage or lien. (Refer to Policy [K-621](#))

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III. FORMS AND INSTRUCTIONS

There are no forms or instructions associated with this policy.

IV. REFERENCES

[Q-120 Debt Verification](#)

[X-2040 Update a Debt \(DEDU\)](#)

[CC 1833](#)

[LA R. S. 46:236.5](#)

[Moore v. Braddock, 391 So. 2d 908, 910](#)

[La. Const. Art. I § 4 \(A\)](#)