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## FASTER. FRIENDLIER. EASIER.

### Private Child Support Collectors

The Georgia Legislature passed a law that became effective on July 1, 2009 that allows private child support collectors to operate legally within the state (O.C.G.A. §10-1-393.3 and §10-1-393.10). Custodial Parents (CP) can request the services of a private collection agency (PCA) to enforce their child support order. These agencies, which are not associated with any State government agency, contract with custodial parents to collect their child support in exchange for a fee, typically a percentage of the child support collected.

We want to help CPs make an informed choice, with full knowledge of the fees and other terms and conditions associated with contracting with a PCA. We also want to inform Non-Custodial Parents (NCP) about their rights and the responsibilities of PCAs while pursuing them to collect child support payments. This publication answers commonly asked questions about PCAs and provides CPs with a list of helpful hints to assist them in deciding whether a PCA is right for them.

### Frequently Asked Questions

#### 1. What is a Private Collection Agency?

A private collection agency (PCA) is a privately-owned, for-profit business that, for a fee, helps parents collect child support.

#### 2. Do PCAs work with or for the Georgia Division of Child Support Services?

No. PCAs do **not** work with or for the Georgia Division of Child Support Services (DCSS). The new law states that a PCA cannot solicit CPs using marketing materials, advertisements, or representations reasonably calculated to create a false impression or mislead a CP into believing the PCA is affiliated with DCSS or any other governmental entity. The law also states that a PCA cannot represent to an NCP that they are affiliated with DCSS or any other governmental entity authorized to enforce child support obligations. PCAs must include in any written correspondence to an NCP the statement that “This communication is from a private child support collector. The purpose of this communication is to collect a child support debt. Any information obtained will be used for that purpose.”

#### 3. What must a PCA do in order to provide child support collection services in Georgia?

Each PCA that wants to conduct business in Georgia must register and post a bond with the Secretary of State. They must also file a sample copy of any contract they use in the State of Georgia with the Governor’s Office of Consumer Affairs. All sample contracts must be approved by the Office of Consumer Affairs to ensure they are in compliance with the law.

#### 4. How will I know if a PCA is registered with the Secretary of State and if their sample contract has been approved by the Office of Consumer Affairs?

You can visit the Secretary of State’s website at [www.sos.georgia.gov](http://www.sos.georgia.gov). Click on the green tab at the top of the page that reads “Corporations”, and then select “Private Child Support Collection Agency” on the right side of the page under “Featured Content”.

You can visit the Office of Consumer Affairs website at [www.consumer.georgia.gov](http://www.consumer.georgia.gov). Select “Services for the Consumer” in the top, left corner of the page, then select “Subject of Your Complaint or Inquiry” on the left side of the page. Scroll down the page and select “Child Support Collection”.



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### 5. Can a CP hire a PCA even if they already receive services from DCSS?

Yes. CPs are entitled to receive services from DCSS even if they also have a contract with a PCA. CPs must comply with all applicable rules in order for their DCSS case to remain open while they have a contract with a PCA.

### 6. Can a CP hire a PCA if they are receiving Temporary Assistance for Needy Families (TANF) and/or Family Medicaid?

No. CPs who are currently receiving TANF and/or Family Medicaid **cannot** contract with a PCA. Contracting with a PCA while receiving TANF and/or Family Medicaid could result in the termination of benefits.

### 7. Can a CP hire a PCA if they previously received TANF and/or Family Medicaid?

Yes. CPs **may** contract with a PCA if they previously received TANF and/or Family Medicaid.

### 8. How much does a PCA cost and how does a CP pay?

Fee arrangements vary from agency to agency. Most PCAs are paid on a "contingency fee" basis. This means that a CP is not required to pay the PCA for its services in advance, but the PCA will take a percentage of the child support it receives on the CP's behalf after a contract is signed. Georgia law states that a PCA cannot charge more than one-third or 33% of the total amount of child support payments collected on the CP's behalf. These fees can only be charged on past due child support collected by the PCA and cannot be charged on child support collected by DCSS. If the PCA charges fees improperly to the CP, Georgia law requires that they refund these fees to the CP within seven business days after being notified, and the PCA will be held liable. PCAs may also charge application or processing fees or charge additional fees, for example, if they need to use a lawyer for your case.

**CPs should read the contract carefully to make sure that they understand how the PCA will be paid.**

### 9. When can a CP contract with a PCA and what will they be collecting for them?

A CP can contract with a PCA when the NCP has an arrears balance equal to three months of support payments. A PCA can only collect arrears that are owed to the CP and not arrears that are owed to the state. A PCA can also collect current support payments that are owed to the CP, but they cannot charge a fee to collect current support. The PCA cannot contract with a CP to collect an arrears balance that is more than the total amount allowed by law, including any interest owed to the CP as of the date the contract is effective. **Georgia law states that the PCA contract must include the following:**

1. An explanation of the nature of the services to be provided.
2. An explanation of the amount to be collected from the Non-Custodial Parent (NCP) and a statement of a sum certain of the total amount that is to be collected.
3. An explanation in dollar figures of the maximum amount of fees which could be collected under the contract and an example of how fees are calculated and deducted.
4. A statement that fees shall only be charged for collecting past due child support, although the contract may include provisions to collect current and past due child support.
5. The mailing address, telephone numbers, facsimile numbers, and e-mail address of the PCA.
6. A statement that the PCA is not a governmental entity and that the department provides child support enforcement services at little or no cost to the CP.



**10. How long is the PCA contract in force?**

The duration of the contract should be defined clearly in the contract. Many PCA contracts last until a stated, total dollar amount of child support is collected. Although there may be other cancellation or termination reasons in the contract, the new law states that a contract shall be cancelled under the following conditions:

1. The CP requests cancellation in writing within 30 days of signing the contract.
2. The CP requests cancellation in writing after any 12 consecutive months in which the private child support collector fails to make a collection.
3. The PCA breaches any term of the contract or violates any provision contained within this Code section.
4. The amount to be collected pursuant to the contract has been collected.

**11. Can a CP get out of the contract if they are unhappy with the service that they receive?**

Yes. The new law provides circumstances under which CP's can cancel or terminate their contract. Refer to the answer in question 10.

**Before they sign a contract, CPs must be sure that they understand how they can cancel the contract and any penalties or other liabilities that they may face.**

**12. What is a PCA not allowed to do when contacting an NCP about collecting payments for a CP who has contracted with them?**

The new law states that a PCA **cannot** do the following:

1. Use or threaten to use violence or other criminal means to cause harm to the NCP or their property;
2. Falsely accuse or threaten to falsely accuse the NCP of a violation of state or federal laws;
3. Take or threaten to take an enforcement action against an the NCP that is not authorized by law;
4. Represent to the NCP that the PCA is affiliated with DCSS or any other governmental entity authorized to enforce child support obligations or fail to include in any written correspondence to the NCP the statement that "This communication is from a private child support collector. The purpose of this communication is to collect a child support debt. Any information obtained will be used for that purpose;"
5. Communicate to the NCP's employer, or their agent, any information relating to your child support arrears other than through proper legal action, process, or proceeding;
6. Communicate with the NCP whenever it appears they are represented by an attorney and the attorney's name and address are known, or could be easily ascertained, unless the attorney fails to answer correspondences, return telephone calls, or discuss the obligation in question, or unless the attorney and the NCPL consent to direct communication.

**13. Is a CP required to close their case with DCSS to hire a PCA?**

No. The new law states that PCAs must include in their contract a statement that CPs may continue to use or pursue services through DCSS.



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### 14. Can DCSS send a CP's child support payments to a PCA?

Yes. DCSS will forward payments made payable to a CP to a PCA upon receiving a written request from the CP and authorization to do so. Be advised that a CP **must** provide a written request to DCSS to terminate forwarding payments to the PCA.

### 15. Can a CP request that DCSS send all correspondence to a PCA?

Yes. The new law states that DCSS shall provide any documents to a PCA that a CP would be entitled to request if a CP has signed a Power of Attorney. This means that the PCA can send a written request to DCSS to receive documents from your file. CPs should make sure that the PCA provides them with any and all notices and correspondence sent to them from DCSS.

### 16. Can a CP change their address to the PCA's?

Yes. If a CP changes their address by contacting DCSS by telephone, in writing or online through the Child Support Portal (CSP), all correspondence will be sent to the PCA including:

1. Copies of DCSS payment records;
2. *Photocopies* of support orders.  
**Note:** Certified copies must be provided by the custodian;
3. Status update letters;
4. Notices of court hearings;
5. Insurance cards;
6. Quarterly notices;
7. New or replacement debit cards;
8. Review and Modification documents.

**Be advised that CPs *must* provide a written request to DCSS to terminate forwarding correspondence to the PCA.**

### 17. Do I have to provide the PCA with my Child Support Portal (CSP) userid and password?

No. Your CSP userid and password are your personal information and should be kept confidential. You should not share this information with **anyone**. Doing so will allow access to your personal information including your address, employment and banking information, which can be changed on the portal.

### 18. What do I do if I have a complaint against a PCA?

If you have a complaint against any PCA you should contact the Governor's Office of Consumer Affairs (OCA) at 1-800-869-1123 or 404-651-8600 or online at [www.consumer.georgia.gov](http://www.consumer.georgia.gov).



## **Helpful Hints for Custodial Parents, Custodians and Non-Custodial Parents**

### **Considering Hiring a Private Collection Agency or Have Been Contacted by a PCA?**

- Read your contract carefully and make sure that you fully understand your rights and obligations under the contract before you sign. Make sure that the contract reflects your understanding in plain English.
- The Division of Child Support Services (DCSS) is not a party to any contract between you and the PCA.
- Do not take the name of the PCA for granted or assume that it is affiliated with a state agency. Some PCAs use names and letterheads that appear to have some official or public connotation. That a PCA refers to itself as a "child support enforcement agency" does not mean that it has any relationship to DCSS or any other state agency.
- Get as much information as you can about the PCA that you are considering. For example, find out if the PCA:
  - is required to have a collection license;
  - is authorized to do business in your state and on what terms;
  - charges an initial application fee and, if so, how much and if it is refundable if the PCA is unsuccessful;
  - collects fees on all money it receives on your behalf, even if DCSS collected the money, the money received is for current, rather than past due, support, or if you are already receiving regular payments;
  - charges any legal fees or costs, such as court costs, attorney fees, etc., in addition to the contingency fees otherwise taken;
  - allows you to cancel the contract and, if so, under what conditions and with what consequences;
  - has been sued by any current or past client. If so, ask for copies of those complaints and review them carefully. The Clerk of the Court in the county that the agency is located should be able to inform you of any law suits that have been filed against the PCA in that county and possibly in the State;
  - has been the subject of complaints with a Better Business Bureau, State Attorney General's office or Office of Consumer Affairs, or the Federal Trade Commission;
  - charges a fee in excess of the amount allowed by State law;
  - provides the collection services itself or merely refers you to a general collection agency;
  - provides you with an accounting of all amounts received and paid to you;
  - has a "fiduciary" bond that guarantees that you will receive any money that the PCA has handled on your behalf;
  - has operated under a different name in the past;
  - has a local office that you can visit to meet with a staff member in person if you have any questions or concerns about your case;
  - is incorporated and, if so, in what state(s); if the PCA is a corporation, the incorporating State's Secretary of State can inform you if the corporation is in good standing;
  - is a subsidiary of another company, such as a consumer collection agency; if so, you may want to find out more information about that company to ensure that it is in good standing;
  - uses independent marketing agents; if so, you should speak directly to the PCA to ensure that your questions are answered to your satisfaction;
  - initiates legal actions against the NCP and, if so, under what circumstances;
  - has written policies explaining when you will receive money the PCA receives on your behalf; and
  - requires you to close your case with DCSS.
- If you close your case with DCSS, you should be aware that the following collection services may no longer be available to you:
  - tracking changes in the NCP's employment and transferring wage withholding orders to the new employer if the NCP changes jobs;
  - charging interest on past due support owed to you;



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- intercepting federal and state tax refunds, lottery winnings, insurance settlements, workers' compensation or unemployment insurance benefits from the NCP to pay child support;
- levying and seizing the NCP's assets without a court order;
- denying the NCP a passport if he or she owes past due support;
- suspending professional, trade, motor vehicle, recreational and other licenses.
- You may not be able to close your case with DCSS if the NCP owes past due child support that has been assigned to the State for public assistance, foster care maintenance, Medicaid or if there are any other debts owed to the state.

Even if you close your case with DCSS, child support payments received through the withholding of the NCP's income **must** continue to be collected by the Family Support Registry (FSR), which is operated by DCSS pursuant to Georgia Law O.C.G.A. §19- 6-33.1(g)(1).

**Source:** U. S. Department of Health and Human Services / Administration for Children & Families  
Information Memorandum 02-09

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<http://www.acf.hhs.gov/programs/cse/pol/IM/2002/im-02-09a.htm>