This course will provide a brief overview of a child support case, and provide information on the operations of Milwaukee County Child Support Services.

The Child Support Program
Federal, State and Local Authority

- Title IV, Part D of the Social Security Act mandated the creation of the child support program. The purpose of the program is to ensure that children receive support from both parents.
- Wis. Stat. Sec. 49.22 authorizes Wisconsin’s child support program.
- Wisconsin has 71 county child support agencies and four tribal agencies.
- Milwaukee County’s agency manages over 125,000 IV-D cases.
IV-D Cases: Cases that Qualify for Child Support Services

A case qualifies for child support services in the following situations:

- When a family member receives state assistance such as W-2, caretakers supplement, child care, medical assistance, foster care payments, or kinship care payments;
- When a family member received state assistance in the past and the family has not requested IV-D case closure;
- When a family has never received state assistance but either the payer or the payee has applied for services. At this time, there is no fee to apply for IV-D services.

IV-D Services

IV-D Services include:

- Locating absent parents and their financial assets;
- Establishing paternity for non-marital children;
- Establishing financial orders (child support and medical support);
- Enforcement of Support Orders; and
- Periodic review and adjustment of support orders.

What are the stages of a child support case?

- Paternity Establishment: The process of adjudicating a father of a non-marital child, and rights and responsibilities that result. Wis. Stat. §§ 767.80 - 767.895
- Custody and Placement: Court orders that define the parent’s rights regarding decision making for the child and the periods of time a child spends in the care of a parent. Wis. Stat. §§ 767.41 - 767.471
- Setting Support: State guidelines and court procedures used to set support obligations. Wis. Stat. §§ 767.501 - 767.59
- Changing and Ending Support: Procedures and factors that govern the modification of support orders. The importance of modifying an order when there has been a change in circumstances. Wis. Stat. § 767.553
- Enforcement of Orders: The legal and administrative methods of enforcing a court order, and the actions a parent can take to respond. Wis. Stat. §§ 767.70 - 767.78
Why is it important to establish paternity?

- When legal fatherhood is established, the father has rights;
- The father's parental rights have to be considered before his baby can be placed for adoption. See Wis. Stat. §48.91(2);
- The father has the right to ask the court for custody (to make decisions about his child) and to care for his child (physical placement).

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Why is it important to establish paternity?

- The child obtains rights to child support and health insurance from the father;
- The child receives inheritance rights;
- The child can receive Social Security benefits should the father die or become disabled;
- The child can get access to the father's family medical history. This can be important as conditions such as diabetes and sickle cell run in families.

Starting a Paternity Case

- If an unmarried mother is receiving public benefits, the Child Support office will initiate a paternity case pursuant to Wis. Stat. §49.22
- Recipients of public benefits are required to cooperate with the Child Support Agency. See Wis. Stat. §49.19
- If the Child Support office has not initiated a case, a mother or an alleged father wishing to start a paternity action should call (414) 278-5200 to schedule an interview.
- Information to help locate the other parent should be brought to the interview, including: an address, date of birth, social security number, and place of employment
- There is no fee for this service.
How is paternity legally established?

1) Voluntary Paternity Acknowledgment (VPA)
Wis. Stat. § 767.805
- If the mother is not married when the child is born or conceived, and both the mother and the man are 18 or older and are sure that the man is the father, the easiest way to establish paternity is with the Voluntary Paternity Acknowledgment form. The father and the mother may sign a VPA form after their baby is born. Completing and mailing this form to Vital Records fully establishes paternity, and has the same effect as a judgment of paternity.
- If either parent wants genetic testing, the parents should not sign the form until they receive the test results. Parents should contact the Child Support office to arrange for genetic tests prior to signing the VPA. Once paternity is established by a VPA it is difficult to change.

How can a VPA be Rescinded?
- A VPA may be rescinded pursuant to Wis. Stat. § 69.15(3m). It must be rescinded within 60 days of signing and before a court makes orders in an action affecting the family.
- A VPA does not create rights regarding custody, placement, and support. An action needs to be filed pursuant to Wis. Stat. § 767.805(4) to request a court order regarding the parents rights and responsibilities.

How is paternity legally established?
2) Court Ruling
First Appearance in a Paternity Case. Wis. Stat. § 767.863
- At the first appearance the court advises the parties of their rights. These include the right to an attorney and the right to genetic tests. Wis. Stat. § 767.813(5g)
- It is strongly advised that genetic tests are requested at the first appearance.
- If tests are requested the parties and child are tested and a new court date is set for the results.
- If more than one man was sexually active with the mother at the time of the child's conception, the court will order mandatory tests.
- If the case is not a mandatory test case, and neither party wants a genetic test, the parties may sign an admission of paternity. The court will then enter a judgment and address custody, placement, support, and other issues.
How is paternity legally established?

2) Court Ruling continued...

If the man does not appear at the scheduled time and place, the court may still enter a default judgment and name the man as the father. A default paternity judgment is effective on the date the judgment of paternity is entered. Once the judgment is entered, the court may order child support. The court will also enter orders concerning custody, placement, birth expenses, and health insurance. *Wis. Stat. §767.893 (2)*

Reopening a Paternity Judgment

- A default judgment may be reopened within one year after the entry of a judgment, or at anytime upon a motion or petition for good cause shown. *Wis. Stat. 767.893(3)*
- A default judgment may also be reopened by a motion pursuant to *Wis. Stat. §806.07*
- A VPA may be voided by a motion or petition at any time pursuant to *Wis. Stat. §767.805(5)* if a party can demonstrate facts that show fraud, duress, or a mistake of fact

Custody = Decision Making

Custody is the authority given to one or both parents by the court to make major decisions regarding the child. Major decisions include, but are not limited to:
- Choice of religion
- Choice of schools
- Consent to marry
- Consent to join the military
- Consent to obtain a driver’s license
- Authorization for non-emergency health care

*Wis. Stat. §767.41, Wis. Stat. ch. 822*
Custody

- Joint custody means both parents are involved in making major decisions for the child. Courts presume that it is in the best interest of the child to order joint custody.
- If there has been domestic violence in the parent’s relationship or one of the parents has substance abuse problems, the court may order sole custody.

Wis. Stat. §767.41(2)

Physical placement are periods of time a child spends in the care of a parent.

- Primary placement is where the child lives most of the time.
- Shared placement means the child lives with each parent at least 25% of the time (92 overnights per year). Both parents assume all costs in proportion to the number of days he or she cares for the child. The time with each parent may or may not be equal.

Wis. Stat. §767.41

The Percentages of Income Standard

- 17% of income for 1 child
- 25% of income for 2 children
- 29% of income for 3 children
- 31% of income for 4 children
- 34% of income for 5 or more children

The support amount must be expressed as a fixed dollar amount if the case is an IVD case.

Wis. Stat. §767.511, Wis. Admin. Code DCF §150.03
Serial Family Parents

If a parent supports more than one family, the court may adjust the parent’s income for later child support orders. See Wis. Admin. Code DCF §150.04(1)

Example: A father has two children each with two mothers and has a monthly income of $2000.00.
- The Percentage of Income Standard would dictate the order for the first family be set at $500.00/month (25% of $2000.00).
- The order for the second family would then be set at $375.00/month (25% of $1500.00 – the new gross income after the first order is deducted).

Low-Income Payers

- If the paying parent’s income is between 75% and 150% of the federal poverty level, the court may use the low-income payer guidelines.
- Support amounts vary with parent’s monthly income and number of children.
  Wis. Admin. Code DCF §150.04(4)

Shared Placement Formula

- The formula for calculating child support in shared placement cases takes into account the income of both parents, the number of children the parents have, and the amount of time each parent spends with the child.
  Wis. Admin. Code DCF §150.04(2)
Health Insurance

The court may order either parent to include the child in a health insurance policy if:
- the cost of adding the children to an existing policy is not more than 5% of the parent’s income, or
- the difference between the self-only and family plan is not more than 5% of the parent’s gross monthly income.

The court may adjust the amount of child support ordered based upon a parties contribution toward private health insurance.

Wis. Stat. §767.513, Wis. Admin. Code DCF §150.05(1)

Health Insurance

If the court order requires a parent to provide health insurance for the child, and the parent is eligible for family coverage, state law requires insurance companies and self-insured employers to insure the child even if:
- The parents were never married.
- The parent applies for the insurance outside of the plan’s open enrollment period.
- The application for insurance is submitted by the other parent or the child support agency.

Wis. Stat. §767.513(4)

Birth Costs

If the Medicaid, Healthy Start, or BadgerCare Plus program paid a child’s birth expenses, the court may order the father to repay a portion of these costs.

Wis. Stat. §767.89(3)
Changing a Child Support Order

If the parent's income or the child's living arrangements change, child support orders can change. The ordered amount might increase or decrease. Before an order is changed, it will be reviewed by the court. Both parents will be asked to provide current financial information.

*Wis. Stat. § 767.59*

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Child Support Order Modification

- If a child support order is modified by the court pursuant to *Wis. Stat. § 767.59*, the modification may not be applied retroactively, unless:
  - The payer made payments directly to the payee
  - The child received social security benefits as a result of the payer's disability
  - The child was residing with the payer
  - The parties were residing together with the child

*Wis. Stat. § 767.59(1r)*

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What happens when support is not paid?

- The following enforcement tools are available on IV-D cases:
  - Tax Intercept
  - Lottery Intercept
  - Passport Denial
  - Lien Docket
  - Contempt
  - Administrative Enforcement
  - Account Seizure
  - License Suspension
  - Real or personal property levy
**Interest Charges**

- Wisconsin law requires interest charges of 1% per month (12% per year) on past-due support.
- Interest on past-due support owed to a parent is owed to that parent.
- Interest due on state-owed past-due support is owed to the state. Interest is not charged on unpaid birth costs.  
  *Wis. Stat. § 767.511(6)*

**Court Actions**

- Courts may take action against parents who fail to pay child support. Charges such as contempt of court or criminal nonsupport may be filed. If convicted, the court may fine and/or jail offenders for not paying support.
- If the court finds that the parent could have paid child support but did not, the court can find the parent who owes support in contempt of court. The court may order a jail sentence but must also set purge conditions. Purge conditions are an amount of money that the parent must pay or actions that the parent must take to avoid serving the jail sentence.  
  *Wis. Stat. § 767.78, Wis. Stat. ch. 785*
- Criminal nonsupport is a crime prosecuted by the district attorney. The parent who is owed support may file a complaint directly with the district attorney. The district attorney decides whether or not to take the case, usually after talking with the child support office.  
  *Wis. Stat. § 948.22*

**Tax Refund Intercept**

- The Child Support program uses intercepted tax refunds to collect:
  - Past-due child support
  - Family support
  - Medical support
  - Interest
  - Fees
  - Other debts such as birth expenses paid by the Medicaid and BadgerCare Plus programs.  
  *Wis. Stat. § 49.855, 42 USC 664*
Federal Enforcement Actions

The Wisconsin Child Support Program is required to report the amount of unpaid support for its cases to federal offices. When a parent does not pay his or her child support, that parent cannot receive certain services from the federal government. These actions are taken without a court hearing.

Loans & Grants

When the past-due amounts reach a certain level, the parent will not be able to receive some college grants or small business loans. A payment plan may help the parent get the loan or grant.

*31 USC §3720B, 31 C.F.R. §285.13(c)(1)*

Passports

The U.S. State Department will not issue or renew a passport if the support debt certified by tax intercept reaches $2,500 or more. The debt includes all unpaid support, fees, costs, and interest.

*42 USC §652(k)*
Passports

If a parent was ever certified for tax refund intercept with a debt of $2,500 or more and has not paid the debt in full, the State Department will not issue or renew the parent’s passport.

Example:

• A few years ago, a parent received a letter telling the parent that he or she was certified for tax intercept. The letter stated that the parent owed $6,000.
• The parent began to pay the debt, but still owes $2,000.
• Because the parent did not pay off the entire $6,000, the State Department will deny the passport request.

Passports

If the State Department denies your passport, contact your local child support agency. With very few exceptions, you will be expected to pay at least $2,500 before your passport will be granted or renewed. The exceptions are:

1. A mistake in identity or mistake of fact – you are not the person certified for tax intercept or you do not owe past-due support.
2. A matter of life or death involving someone in your immediate family. Examples are imminent death or funeral, serious illness, or dangerous operation. Your immediate family includes a parent, guardian, or step-parent; child (natural or adopted), step-child; grandparent, sibling or step-sibling; aunt, uncle, or spouse. You must give the child support agency a letter from a doctor or the Red Cross to verify the life or death matter.

Payments must be made by a money order or a cashier’s check. If you are not able to pay the debt in full, contact your child support agency.

Child Support Liens

A Child Support Lien is a hold placed on real and personal property. These liens are placed administratively, meaning without a court hearing.

Wis. Stat. § 49.854
If you are listed on the Child Support Lien Docket:

The child support agency may also take these administrative enforcement actions:

- Request the suspension or denial of your professional, occupational, driver’s, and recreational licenses. *Wis. Stat. § 49.857*
- Intercept lump-sum pension payments. *Wis. Stat. § 49.852*
- Intercept your judgments or settlements, such as a car accident or personal injury settlement. *Wis. Stat. § 49.856*
- Seize bank accounts including your checking and savings. *Wis. Stat. § 49.854(5)*

Upon receipt of a Notice of Lien a parent should contact the child support agency, within 20 days, to discuss a payment plan.

- A payment plan will not stop your name from being placed on the lien docket, but it will stop further administrative enforcement actions. A payment plan may be a lump-sum payment or an increased amount to go towards your past-due amount, or both.

How can enforcement measures be prevented?

- Keep your address and phone number updated to ensure receipt of notices
- Inform the Child Support office of income changes (reduced hours or loss of a job)
- Notify the Child Support office if the living arrangements of the child have changed
- If support is not being deducted from your paycheck, make payments to the Wisconsin Support Collection Trust Fund
What can be done once enforcement actions are taken?

- Milwaukee County Child Support Services is available to provide services to parents to address various enforcement actions.
- Services include help in modifying an order, and the negotiation of payment plans to address outstanding balances.
- Milwaukee County Child Support also has various partnerships with community organizations to assist with employment.

Pathways to Responsible Fatherhood

The Milwaukee County Pathways to Responsible Fatherhood Project is a new program that provides needed education and services specifically for Milwaukee County’s fathers because kids need their dads.

The purpose of the project is to provide fathers with the support and resources they need in order to make a positive impact in their children’s lives.

The Milwaukee County Pathways to Responsible Fatherhood Project provides the following services to fathers:

- Parenting education
- Employment assistance
- Child support resources and services
- GED/Adult Basic Literacy and vocational skills training
- Marriage preparation education
- Substance abuse and mental health services
- Driver’s license recovery
- Housing resources and assistance
- Veterans’ benefits assistance
Milwaukee County Child Support Prison Project

- The prison project is an effort to aid prisoners as they reenter the community following incarceration.
- By seeking to suspend child support orders from running during periods of incarceration, the project stops debt from accumulating.
- If debt continues to grow, it can lead to enforcement measures, which are an impediment to successful reentry, i.e., license suspension, account seizure, etc.

Milwaukee County Child Support Prison Project

- In order to qualify for the project, a prisoner must be facing at least a three-month sentence, and cannot be incarcerated for failure to pay support, or as the result of domestic violence involving the mother or child in the case. In addition, the case must be a Milwaukee County case; we have no authority to work on cases from other counties.
- If a case meets these criteria, a prisoner signs a form requesting that the order be suspended. A letter is then sent to the other parent asking if they agree to suspend support. If the other parent agrees, the matter can be resolved without a court hearing.

Milwaukee County Child Support Prison Project

- If the custodial parent does not agree, or respond to the letter, a court hearing is scheduled.
- The inmate will have the opportunity to appear telephonically.
- At the hearing, if the custodial parent does not appear, or appears and does not object, the order will be suspended.
- If the custodial parent appears and objects to a suspension of support, the order will continue to run pursuant to Wisconsin law.
Child Support Online Services

The State Bureau of Child Support maintains the Child Support Online Services (CSOS) website. The website offers many services not previously available to parties, including:

- View and update address & phone number(s),
- View and print payment information,
- View balance information,
- Print payment coupons, and balance/payment information,
- View Case Activity Information, and
- View real-time data from the KIDS database

www.childsupport.wisconsin.gov

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