

**ENFORCING A SUPPORT ORDER**  
**Utilization of Bonding for Future Payments**

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**CS 508.13**

**SUPERSEDES**

[New Section]

**REFERENCES**

45 CFR 303.104; MCA § 40-4-209

**General Rule**

When an individual becomes six months delinquent in child support payments the department may, if the circumstances warrant, petition the district court to order the obligor to post bond, give a mortgage, or provide other security in a value equal to the amount of support to be paid over a two-year period, as long as the arrearage exists. If the obligor should still fail to make support payments the person or public agency entitled to receive the payment may recover on the bond or other security. The amount recovered will first be applied toward arrearages, then toward current and future support. The department must have guidelines to be utilized in determining if the process carries out the purpose of enforcing child support or if the circumstances are appropriate to each case. Minimum circumstances to be considered are the payment record of the person and availability of other remedies. If the department determines that this procedure is not appropriate, it may not request an order.

**Procedures**

**Procedures for Caseworker**

1. Caseworker will review case and assess the obligor's prior payment history and ensure that the arrearage amount is greater than six months support obligation pursuant to court or administrative order. A decision will be made to determine if the arrearage has accrued despite the obligor's good faith attempt to keep current, or as a result of his/her willful lack of compliance with an existing order. If, and only if, the arrearage is determined to be due to willful noncompliance then:
2. A financial assessment will be made of the obligor's personal assets with the primary consideration being his/her ability to post bond or other security in an amount equal to two years support obligation. If the obligor has assets or the financial ability to post bond or security equal to the two years support amount then:
3. Review file to ensure all other collection remedies have been evaluated and/or attempted in the case. If all other remedies have been exhausted and all other requirements met, the case is presented to the regional supervisor with written justification and request that legal action be taken to establish the bond or other security.

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**Procedures for Supervisor**

4. Reviews the case file and justification to ensure the following:
  - a. A six-month arrearage exists
  - b. Current circumstances and historical payment practices warrant obtaining a bond
  - c. The obligor has the financial means to obtain a bond or has assets that could be used as security equal to two years support.
  - d. All other methods to collect ongoing support have been exhausted.

If all conditions have been met, refers case to the Office of Legal Affairs (OLA) for court action.

**Procedure for OLA**

5. Reviews file and justification to ensure that the case meets the previously stated requirements.  
If the circumstances are such that further legal action is appropriate, the OLA will petition the district court for an order requiring the obligor to post bond.

**Procedure for Caseworker**

6. Once the case is returned from the OLA with the court ordered bond or security, it must be monitored to ensure that payments are kept current. If obligor falls into arrears the case will be returned to the OLA for execution on the bond.