

TITLE 32
DOMESTIC RELATIONS

CHAPTER 16
FINANCIAL INSTITUTION DATA MATCH PROCESS

32-1601. CHILD SUPPORT ENFORCEMENT -- FINANCIAL INSTITUTION DATA MATCH PROCESS. (1) This chapter is enacted to bring the state into compliance with the requirements of P.L. 104-193, sec. 372, and title IV-D of the social security act and to make the financial institution data match process an effective enforcement tool for use in enforcing past due child support and spousal support.

(2) The department shall:

(a) Establish and maintain a financial institution data match process with financial institutions in compliance with 42 U.S.C. section 666(a)(17);

(b) Define the type of information in the hands of financial institutions pursuant to the agreements with financial institutions which, if available to the department, would improve the effectiveness of child support collection;

(c) Limit authority to engage the matching process and access to all information received to specialized staff in the department and develop written protocol within the department for the foregoing;

(d) Limit data matching by the department to those obligors who are in arrears in an amount equal to or greater than the total support owing for at least ninety (90) days, or two thousand dollars (\$2,000), whichever is less;

(e) Provide for statistical verification of the improvement to child support enforcement in this state which results from use of the data match process with the financial institutions;

(f) Design the data match process identified herein in such a manner that it will be the least intrusive, least expensive and most confidential process reasonably possible;

(g) Develop a satisfactory contract term to protect the contracting entities from legal liability for disclosure of information as authorized by statute and to protect the public's right of action for wrongful disclosure;

(h) Enter into agreements with financial institutions, and pay reasonable compensation, not to exceed actual costs incurred by the financial institutions in developing the data match process and conducting the data match.

(3) Terms of an agreement between the department and a financial institution shall require the financial institution to provide to the department: the name and address of each obligor identified in the matching process, the account number(s) or other means of identifying the asset, the amount and type of asset, the state in which the asset is located, and other information necessary for compliance with federal requirements.

(4) Assets identified under this section may be withheld, attached or garnished as provided by this chapter and otherwise as allowed by law.

(5) The assets which are subject to this section, regardless of location in this or other states, are those on deposit with or held by a financial institution.

(6) Assets in accounts with the obligor as sole owner or with the obligor and spouse as the only co-owners, are subject to withholding up to the lesser of one hundred percent (100%) of the asset or the amount of arrears owed by the obligor, as set forth in the asset withholding order plus any fees pursuant to section [32-1608](#)(2), Idaho Code. Assets in other multiple party accounts are subject to withholding up to the lesser of a proportionate amount of the asset based upon the number of co-owners or the amount of arrears owed by the obligor, as set forth in the asset withholding order, plus any fees pursuant to section [32-1608](#)(2), Idaho Code.

[(32-1601) 56-203F, added 1997, ch. 315, sec. 1, p. 931; am. 1998, ch. 227, sec. 1, p. 776; am. and redesig. 2004, ch. 213, sec. 1, p. 640.]

32-1602. DEFINITIONS. As used in this chapter:

(1) "Arrears" means child or spousal support that is due, owing and unpaid pursuant to a support order.

(2) "Asset" means cash or cash value in or of a demand deposit account, checking or negotiable withdrawal order account, savings account, share account, share draft account, time deposit account or money market mutual fund account; and/or negotiable instruments including stocks and bonds, annuities, investment accounts or funds, and the cash value of insurance.

(3) "Asset withholding order" means an administrative order issued by the department of health and welfare to a financial institution requiring the freezing and surrender of an asset in which an obligor has an interest.

(4) "Child support" means the obligation, pursuant to a support order, to provide for the needs of a child, including food, clothing, shelter, education, day care and health care. "Child support" also includes reimbursement to any agency for medical assistance, assistance paid to families with children, and interest owed on such support.

(5) "Co-owner" means a person having withdrawal rights on a multiple party account.

(6) "Department" means the Idaho department of health and welfare.

(7) "Financial institution" means a bank, credit union or other depository institution, benefit association, insurance company, safe deposit company, money market mutual fund and other entities defined in 42 U.S.C. 669a(d)(1).

(8) "Obligor" means any person obligated by support order to pay child or spousal support.

(9) "Owner" means a person or entity who, by the terms of the account, has a present right, subject to a proper request in compliance with terms of the account, to payment from the account.

(10) "Spousal support" means the obligation, pursuant to a support order, to provide for a spouse or a former spouse.

(11) "Support order" means a judgment, decree, or administrative order from any state, directing one (1) or more individuals to pay child support or spousal support.

[32-1602, added 2004, ch. 213, sec. 2, p. 642.]

32-1603. WITHHOLDING OF ASSETS -- GROUNDS AND ISSUANCE. When the department receives information from a data matching process that an obligor is an owner or co-owner of an asset held by a financial institution, the department may issue an asset withholding order. Any asset which is subject to a previously perfected security interest or right of set-off from the finan-

cial institution is subject to withholding only as to the unencumbered portion of the asset.

[32-1603, added 2004, ch. 213, sec. 2, p. 643.]

32-1604. CONTENT OF ASSET WITHHOLDING ORDER. An asset withholding order shall contain:

- (1) The name of the obligor and any known co-owner or multiple party account holder;
- (2) The address of the obligor as listed in the department's records;
- (3) The account number or other means of identifying the asset subject to the withholding order;
- (4) The amount of arrears owed by the obligor;
- (5) Other information as determined by the department.

[32-1604, added 2004, ch. 213, sec. 2, p. 643.]

32-1605. RECEIPT AND ACCEPTANCE OF ASSET WITHHOLDING ORDER. (1) When an asset withholding order is received by a financial institution pursuant to this chapter, the financial institution shall immediately freeze the asset subject to the withholding order up to the maximum amount as set forth in section [32-1601](#)(6), Idaho Code. Financial institutions shall accept the asset withholding order at any office of the financial institution located in this state, or at a particular office in this state or another state designated by the financial institution for the service of attachment, execution and garnishment papers pursuant to section [11-703](#)(2), Idaho Code.

If the financial institution has designated a particular office for service of attachment, execution and garnishment papers pursuant to section [11-703](#)(2), Idaho Code, and the asset withholding order is received by another office of the financial institution, it is within the discretion of the financial institution to accept the order and promptly forward the order to the designated office; not accept the order and promptly forward the order to the designated office; or promptly return it to the department. If a financial institution has chosen to accept the order at a nondesignated office, the financial institution's duties pursuant to section [32-1608](#)(1), Idaho Code, shall be effective upon acceptance at that office, and the time periods for the financial institution's duties pursuant to subsections (2) and (3) of section [32-1608](#), Idaho Code, shall begin to run upon receipt of the order at the designated office.

(2) Unless otherwise notified by the department pursuant to this chapter, the financial institution shall release the asset to the obligor on the seventy-sixth day after the financial institution receives the asset withholding order.

(3) The department shall provide the financial institution with copies of the order and notice required by section [32-1607](#), Idaho Code, to forward to the obligor and any co-owner.

[32-1605, added 2004, ch. 213, sec. 2, p. 643; am. 2017, ch. 303, sec. 11, p. 815.]

32-1606. DELIVERY OF AN ASSET WITHHOLDING ORDER AND ACCEPTANCE OF JURISDICTION. (1) A financial institution shall accept an asset withholding order by any form of U.S. mail, commercial mail, delivery service, by facsimile or other electronic form of correspondence. If the asset withholding

order is delivered electronically, the effective date shall be the date the electronic copy is received. An additional copy of the order shall also be sent to the financial institution by regular mail.

(2) If the financial institution elects to designate an out-of-state office to accept or process an asset withholding order, such election shall act as a waiver of any claim of defect in jurisdiction.

[32-1606, added 2004, ch. 213, sec. 2, p. 644.]

32-1607. NOTICE. Upon the issuance of an asset withholding order to the financial institution, the department shall, within one (1) business day, send to the obligor by certified mail, at the last known address in the department's records, a copy of the asset withholding order and a notice containing the following:

- (1) The obligor's and/or the co-owner's right to a hearing;
- (2) The request for a hearing must be in writing and received by the department within fourteen (14) days after the date of mailing the notice;
- (3) That the asset subject to the withholding order will be applied to the arrears unless a timely request for hearing is made;
- (4) That the asset will be released by the department if the obligor pays the arrears and the current support obligation in full; and
- (5) The grounds to contest the asset withholding order:
 - (a) The amount of arrears;
 - (b) The validity of the order;
 - (c) The extent of the obligor's interest in the asset; and
 - (d) The amount which qualifies as a homestead exemption pursuant to section [55-1008](#), Idaho Code.

[32-1607, added 2004, ch. 213, sec. 2, p. 644.]

32-1608. DUTIES OF THE FINANCIAL INSTITUTION. (1) Upon receipt or acceptance of an asset withholding order issued by the department pursuant to this chapter, the financial institution shall immediately freeze the asset subject to the withholding order up to the maximum amount as set forth in section [32-1601](#)(6), Idaho Code. The financial institution shall honor the terms of the account of the said asset, except when the terms conflict with compliance with this chapter. The financial institution shall freeze, release or surrender the asset as provided in this chapter.

(2) The financial institution shall be required to mail, within two (2) business days, copies of the asset withholding order and notice, provided by the department pursuant to section [32-1605](#)(3), Idaho Code, to the obligor and to each co-owner, based on the records of the financial institution. A fee not to exceed five dollars (\$5.00) per mailing may be assessed by the financial institution for sending the required copies of the documents. The fee can be withheld in addition to the amount ordered withheld. If funds are inadequate to cover the amount of the asset withholding order and the fees, the fees may be withheld from the asset before the remaining balance is applied to the withholding order.

(3) The financial institution shall complete and return to the department any asset verification form provided by the department within fourteen (14) days from the date of receipt of the asset verification form.

(4) Upon notification by the department that the obligor has not filed a request for hearing within the allowed time, the financial institution will

release the asset promptly to the department by sending the funds to the department.

[32-1608, added 2004, ch. 213, sec. 2, p. 645.]

32-1609. NO REQUEST FOR HEARING. If the obligor or a co-owner has not filed a request for hearing within fourteen (14) days after the date the department mailed the notice to the obligor, the department shall notify the financial institution and the financial institution shall promptly surrender the amount of the asset that has been frozen to the department. The department shall apply this amount to the obligor's arrears.

[32-1609, added 2004, ch. 213, sec. 2, p. 645.]

32-1610. HEARING TO CONTEST ASSET WITHHOLDING. (1) Within five (5) business days of receiving a timely request for hearing, the department will schedule the administrative hearing date and notify the obligor and any co-owners by mail. Upon receiving the request for hearing, the department shall notify the financial institution that it must continue to hold the asset until an order is issued and the department provides instructions for the disposition of the asset pursuant to section [32-1612](#), Idaho Code.

(2) The department will hold an administrative hearing within thirty (30) days from the day the department receives the request for hearing.

[32-1610, added 2004, ch. 213, sec. 2, p. 645.]

32-1611. BASIS TO CONTEST THE ASSET WITHHOLDING ORDER. The obligor who owes the support or any co-owner of the asset that is subject to the asset withholding order may contest the order to withhold. Contests are limited to the following issues:

- (1) The amount of the arrears;
- (2) The validity of the order;
- (3) The extent of the obligor's interest in the asset; or
- (4) The amount which qualifies as a homestead exemption pursuant to section [55-1008](#), Idaho Code.

Issues that have been previously adjudicated may not be contested.

[32-1611, added 2004, ch. 213, sec. 2, p. 646.]

32-1612. ORDER FROM HEARING. (1) The department shall issue an order based upon the hearing that rejects the contest or supports the contest in whole or part. The parties may file an appeal with the district court within twenty-eight (28) days, notwithstanding the provisions of section [67-5243](#), Idaho Code.

(2) The department shall notify the financial institution in writing, within two (2) business days after the receipt of the order, as to the outcome of the hearing, and provide instructions to the financial institution as to the disposition of the asset that has been frozen.

[32-1612, added 2004, ch. 213, sec. 2, p. 646.]

32-1613. DEFAULT. (1) The allegations of the asset withholding order shall be deemed admitted and the department shall issue an order upholding the asset withholding order if the obligor or co-owner fails to appear at the

hearing without good cause. The default and issuance of any subsequent order shall be entered pursuant to the department's rules governing contested case proceedings.

(2) The department shall notify the financial institution in writing, within two (2) business days after the receipt of the default order, and provide instructions to the financial institution as to the disposition of the asset that has been frozen.

[32-1613, added 2004, ch. 213, sec. 2, p. 646.]

32-1614. LIABILITY OF FINANCIAL INSTITUTION. Notwithstanding any other provisions of federal or state law, any financial institution, or officer, agent or employee of the financial institution, acting in good faith, shall be immune from all civil and criminal liability for withholding funds, freezing assets, turning over assets or otherwise complying or attempting to comply with the provisions of this chapter or for disclosing any information to a state child support enforcement agency pursuant to this chapter. A financial institution shall not be required to give notice to any owner or co-owner of the financial institution concerning whom the financial institution has provided information pursuant to the data match process. The state child support enforcement agency which obtains information from any financial institution may disclose such information only for the purpose of, and to the extent necessary to establish, modify or enforce a support obligation of an obligor.

[32-1614, added 2004, ch. 213, sec. 2, p. 646.]