

My Spouse Left the US to Avoid Paying Child Support - International Enforcement of Child Support

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Failure to pay court-ordered child support carries criminal consequences under both the state and federal statutes. In addition, non-paying parent may encounter severe immigration ramifications for avoiding payment of child support obligations.

Currently every state has an in-state child support enforcement mechanisms that allow a state to garnish income, hold non-paying spouse in contempt or revoke his/her license. Income withholding encompasses deduction of money from the income of the non-custodial parent (including wages, overtime pay, worker's compensation, unemployment compensation, retirement benefits, etc.) A person found in contempt may be ordered to pay a lump sum of money. The person also can be sent to jail (incarcerated) until a certain sum of money is paid. Finally, if a court finds the non-custodial parent failed to obey the court order, it may order his or her driver's license, professional, occupational license, or recreational license suspended after 30 days.

If the non-custodial parent moves out of state and the state Support Enforcement Services Unit is already enforcing the case, the Unit will take the steps to collect child support from the out-of-state parent. Some of the available interstate enforcement tools include:

- * Direct income withholding (the filing of an income withholding with an out-of-state employer)
- * Registering a custodial parent order in a new state to give the new state authority to enforce the order
- * Interstate real property liens
- * Seizure of financial assets
- * Referral to the U.S. Attorney for federal prosecution under the Child Support Recovery Act and Deadbeat Parents Punishment Act, 18 U.S.C. Section 228.

However, there are circumstances when a non-custodial parent may attempt to leave the US in order to avoid payment of the child support. Luckily for a custodial parent, if a non-paying spouse left the US in hoping to avoid paying the child support, there might be a relief available. In 1996, the United States government joined international convention concerning enforcement of child support. If a non-paying spouse resides in a country where US has a bilateral agreement, the child support obligations are easier to enforce. At this moment, such countries are Australia, Canada, Czech Republic, El Salvador, Finland, Hungary, Ireland, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, The United Kingdom of Great Britain and Northern Ireland.

In addition, State of Connecticut signed separate child support agreements with the following countries: Australia, Bermuda, Canadian Provinces: Alberta, Nova Scotia, British Columbia, Ontario, Manitoba, Saskatchewan, New Brunswick; Czech Republic, France, Germany, Hungary, Ireland, Mexico (the following 27 of 32 states): Aguascalientes, Nayarit, Baja California, Nuevo Leon, Campeche, Puebla, Chiapas, San Luis Potosi, Chihuahua, Queretaro, Coahuila, Quintana Roo, Colima, Sonora, Distrito Federal, Tabasco, Guanajuato, Tamaulipas, Guerrero, Tlaxcala, Hidalgo, Veracruz, Jalisco, Yucatan, Michoacan, Zacatecas, Morelos; Norway, Poland, Slovak Republic, United Kingdom: England, Wales, Scotland, Northern Ireland.

Immigration Consequences of Failure to Pay Child Support

A Legal Permanent Resident (green card holder), who is applying for the US citizenship must demonstrate good moral character. Fulfilling one's child support obligations is crucial to satisfy this requirement. Hence, failure to pay child support may prevent a non-paying non-US citizen parent from becoming a U.S. Citizen.

Changing country of residence may have dire immigration ramifications even on the U.S. Citizens. Although U.S. passports cannot be denied based on requests from private individuals, nonetheless the Secretary of State must deny issuance of a passport to a person who is in arrears of child support of more than \$5,000 based upon a certification to that effect by the Secretary of Health and Human Services (HHS). (42 U.S.C. 652 (k)). Needless to say that the restoration of a U.S. passport or even obtaining the limited validity passport for the purpose of entering the U.S. is a complicated bureaucratic process.

Frequently, non-custodial parents fall behind their child support payments due to the change in their financial circumstances and assume that there is nothing can be done to fix the problem. They may decide to leave the country, work "under the table" to avoid have their wages garnished or undertake other ill-advised decisions. Fortunately, most of the child support issues could be avoided by a timely consultation with an attorney who has experience in child support modifications.

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