

WAC 388-14A-3370 What legal defenses are available to a noncustodial parent when DCS seeks to enforce a support obligation? (1) A noncustodial parent (NCP) who objects to a notice and finding of financial, parental, or medical responsibility has the burden of establishing defenses to liability. Defenses include, but are not limited to:

- (a) Proof of payment;
- (b) The existence of a superior court order, tribal court order, or administrative order that sets the NCP's support obligation or specifically relieves the NCP of a support obligation for the child(ren) named in the notice;
- (c) The party is not a responsible parent as defined by RCW 74.20A.020(7);
- (d) The amount requested in the notice is inconsistent with the Washington state child support schedule, chapter 26.19 RCW;
- (e) Equitable estoppel, subject to WAC 388-14A-6500; or
- (f) Any other matter constituting an avoidance or affirmative defense.

(2) A dependent child's or a custodial parent's ineligibility to receive public assistance is not a defense to the assessment of a support obligation.

(3) An NCP may be excused from providing support for a dependent child if the NCP is the legal custodian of the child and has been wrongfully deprived of physical custody of the child. The NCP may be excused only for any period during which the NCP was wrongfully deprived of custody. The NCP must establish that:

- (a) A court of competent jurisdiction of any state, tribe or country has entered an order giving legal and physical custody of the child to the NCP;
- (b) The custody order has not been modified, superseded, or dismissed;
- (c) The child was taken or enticed from the NCP's physical custody and the NCP has not subsequently assented to deprivation. Proof of enticement requires more than a showing that the child is allowed to live without certain restrictions the NCP would impose; and
- (d) Within a reasonable time after deprivation, the NCP exerted and continues to exert reasonable efforts to regain physical custody of the child.

[Statutory Authority: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR 13-01-075, § 388-14A-3370, filed 12/18/12, effective 1/18/13. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.056, 74.20A.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 74.20A.055, 2002 c 302, and 2002 c 199. WSR 03-17-013, § 388-14A-3370, filed 8/12/03, effective 9/12/03. Statutory Authority: RCW 74.08.090, 74.20A.055, 74.20A.056. WSR 01-03-089, § 388-14A-3370, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-065.]