

§ 110-129. Definitions.

As used in this Article:

- (1) "Court order" means any judgment or order of the courts of this State or of another state.
- (2) "Dependent child" means any person under the age of 18 who is not otherwise emancipated, married or a member of the Armed Forces of the United States, or any person over the age of 18 for whom a court orders that support payments continue as provided in G.S. 50-13.4(c).
- (3) "Responsible parent" means the natural or adoptive parent of a dependent child who has the legal duty to support said child and includes the father of a child born out-of-wedlock and the parents of a dependent child who is the custodial or noncustodial parent of the dependent child requiring support. If both the parents of the child requiring support were unemancipated minors at the time of the child's conception, the parents of both minor parents share primary liability for their grandchild's support until both minor parents reach the age of 18 or become emancipated. If only one parent of the child requiring support was an unemancipated minor at the time of the child's conception, the parents of both parents are liable for any arrearages in child support owed by the adult or emancipated parent until the other parent reaches the age of 18 or becomes emancipated.
- (4) "Program" means the Child Support Enforcement Program established and administered pursuant to the provisions of this Article and Title IV-D of the Social Security Act.
- (5) "Designated representative" means any person or agency designated by a board of county commissioners or the Department of Health and Human Services to administer a program of child support enforcement for a county or region of the State.
- (6) "Disposable income" means any form of periodic payment to an individual, regardless of sources, including but not limited to wages, salary, commission, self-employment income, bonus pay, severance pay, sick pay, incentive pay, vacation pay, compensation as an independent contractor, worker's compensation, unemployment compensation benefits, disability, annuity, survivor's benefits, pension and retirement benefits, interest, dividends, rents, royalties, trust income and other similar payments, which remain after the deduction of amounts for federal, State, and local taxes, Social Security, and involuntary retirement contributions. However, Supplemental Security Income, Work First Family Assistance, and other public assistance payments shall be excluded from disposable income. For employers, disposable income means "wage" as it is defined by G.S. 95-25.2(16). Unemployment compensation benefits shall be treated as disposable income only for the purposes of income withholding under the provisions of G.S. 110-136.4, and the amount withheld shall not exceed twenty-five percent (25%) of the unemployment compensation benefits.
- (6a) "Financial Management Services" (FMS) means the unit of the U.S. Department of the Treasury, which, under federal law, offsets certain federal payments to satisfy support arrears.
- (7) "IV-D case" means a case in which services have been applied for or are being provided by a child support enforcement agency established pursuant to Title IV-D of the Social Security Act as amended and this Article.

- (8) "Non-IV-D case" means any case, other than a IV-D case, in which child support is legally obligated to be paid.
- (9) "Initiating party" means the party, the attorney for a party, a child support enforcement agency who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation.
- (9a) "Internal Revenue Service" (IRS) means the unit of the U.S. Department of the Treasury, which, under federal law, offsets income tax refunds against certain support arrears.
- (10) "Mistake of fact" means that the obligor:
 - a. Is not in arrears in an amount equal to the support payable for one month; or
 - b. Did not request that withholding begin, if withholding is pursuant to a purported request by the obligor for withholding; or
 - c. Is not the person subject to the court order of support for the child named in the advance notice of withholding; or
 - d. Does not owe the amount of current support or arrearages specified in the advance notice or motion of withholding; or
 - e. Has a rate of withholding which exceeds the amount of support specified in the court order.
- (11) "Obligee", in a IV-D case, means the child support enforcement agency, and in a non-IV-D case means the individual to whom a duty of support, whether child support, alimony, or postseparation support, is owed or the individual's legal representative.
- (12) "Obligor" means the individual who owes a duty to make child support payments or payments of alimony or postseparation support under a court order.
- (12a) "Offset" means withholding by the IRS or FMS of all or part of an income tax refund or certain federal payments due an obligor and remitting payments to the federal Office of Child Support Enforcement for transmittal to the State.
- (13) "Payor" means any payor, including any federal, State, or local governmental unit, of disposable income to an obligor. When the payor is an employer, payor means employer as is defined at 29 USC § 203(d) in the Fair Labor Standards Act. (1975, c. 827, s. 1; 1977, 2nd Sess., c. 1186, ss. 2, 3; 1985, c. 592; 1985 (Reg. Sess., 1986), c. 949, s. 1; 1987, c. 764, s. 3; 1989, c. 601, s. 1; 1991, c. 541, s. 3; 1995, c. 518, s. 2; 1997-443, ss. 11A.118(a), 12.27; 1997-465, s. 27; 1998-176, ss. 9, 10; 2010-96, s. 30; 2011-183, s. 75; 2023-65, s. 7.3(a).)