



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 26, 2024

Senator Ted Cruz
167 Russell Senate Office Building
Washington, DC 20510

Senator John Cornyn
517 Hart Senate Office Building
Washington, DC 20510

Dear Senator Cruz and Senator Cornyn:

My office operates the largest and most cost-effective Child Support Program in the nation. Ensuring it can continue to operate successfully is essential to the well-being of Texas children and families.

I urge the United States Senate to support and pass the measures in the bipartisan Strengthening State and Tribal Child Support Act (Title 2; H.R. 9076) that would strengthen the ability of state, tribal, and local child support agencies to serve families. Recently passed by the House of Representatives, this legislation would resolve a long-standing discrepancy in interpretation under the Internal Revenue Code of the use and definition of contractors. The bill will enable child support agencies to continue using contractors for work that is integral to establishing and enforcing child support obligations. A nearly identical bill, S. 3154, is pending in the Senate.

On February 15, 2023, the IRS Office of Safeguards (IRS) issued a Security and Privacy Memo to all Title IV-D child support agencies reversing course on over a decade of policy interpretation and requiring IV-D programs to significantly limit contractor access to Federal Tax Information (FTI) by October 1, 2023. The threatened consequence for noncompliance was suspension of FTI transmission to the states, eliminating a significant source of child support collections through the Tax Offset Program.

The IRS and the federal Office of Child Support Services (OCSS) agreed for decades—until the abrupt reversal of this policy—to allow contractor access to federal tax information beyond what was in the Internal Revenue Code (the same information as child support agencies are permitted) as long as contactors adhered to the same stringent protections of that confidential information.

After my office filed suit in May 2023 against the IRS for their arbitrary and capricious policy, the IRS amended its announcement to extend the deadline by one year to October 2024 and directed states to submit a “mitigation plan” to outline the steps, costs, and timeline involved for the state to comply with this new directive. The IRS communicated to states that submission of such a plan would be sufficient to prevent any punitive action by the IRS to suspend state access to FTI.

As a result of the IRS accepting Texas's mitigation plan, my office withdrew our suit. However, while the IRS has presently backed down from its threatened enforcement actions, we reserve the right to revive the suit if the agency changes its position (again).

In a joint hearing of the House Ways and Means Subcommittees on Work & Welfare and Oversight on November 29, 2023, members heard testimony that the only viable path to resolution of this issue is a legislative one. This remains true. While the threat to Texas families and the Texas child support program may be temporarily held at bay, the fact remains that the IRS has demonstrated time and again that Congress must take action to clarify in statute that IV-D programs are authorized to redisclose FTI—with rigorous safeguards—to contractors for the purpose of operating the program. Otherwise, the programs and the families who rely on them for vital economic support are subject to the interpretive whims of the IRS. Without a legislative solution, estimates exceed \$1 billion annually in additional costs for child support programs nationwide.

After months of review and negotiation, both H.R. 9076 and S. 3154 have bipartisan support. The IRS and OCSS were deeply involved during the drafting process and support the provisions, and all four national associations representing state and tribal child support agencies also support the bill.

Please contact my office at (512) 463-2057 with any questions about this legislation.

Sincerely,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

Ken Paxton
Texas Attorney General