

Child Support

BOTH PARENTS have a financial responsibility to support their children. Usually, the parent with whom the children live receives support payments from the other parent. The duty to support a child exists whether or not the parents are married. Even a parent who is denied visitation must support the child. A parent cannot refuse the other parent visitation just because child support has not been paid.

How long must parents pay child support?

The duty to support a child continues until the child is 18 years old or graduates from high school, whichever is later. In situations where the child is disabled this duty may continue beyond age 18. A parent usually does not have to pay college expenses for a child who is over 18 unless this has been agreed upon as part of a divorce case.

How do I get a child support order?

To get a child support order, file a complaint for support in your local county domestic relations office. You do not need a lawyer to do this.

The domestic relations office will give you a form to fill out. Then a conference will be scheduled. At the conference, both parents must give a conference officer information about their income and expenses. The conference officer will make a recommendation about how much child support must be paid.

The next step depends upon the procedure of that particular county.

In some counties, the court will adopt this recommendation as a temporary order, but either parent can file an appeal within 20 days. If either parent files an appeal, a hearing is held in front of a judge, who decides how much child support must be paid.

In other counties, the hearing is held immediately after the conference and is before a hearing officer rather

than a judge. In that case, any party dissatisfied with the hearing officer's decision has 20 days to appeal for a review by the judge. The hearing officer's recommended order remains in effect until the judge makes a decision.

How much child support must be paid?

The amount of support is based on the income of both parents (or the amount each is capable of earning) and the number of children involved. The court uses statewide support guidelines unless a parent shows that this amount is not fair under the circumstances.

The guidelines start by setting a basic amount which should be spent on the children's needs. This amount is based on the combined income of both parents. The amount of child support owed by the parent who does not have custody depends on the percentage of the combined income that parent earns. For example, if the parents should be spending \$600 a month on their children's needs, and the person who does not have custody is earning $\frac{2}{3}$ of the combined income, then he or she will have to pay \$400 a month ($\frac{2}{3}$ of the basic amount) as child support. This amount can be reduced if the children spend 40 percent or more of their overnights with the person who is paying support. You can get a copy of the guidelines from your domestic relations office.

Cash assistance and SSI benefits are not counted as income. To figure out a parent's net income, start with the monthly gross income and subtract:

- federal, state, and local income taxes;
- F.I.C.A. (Social Security) payments;
- Unemployment compensation taxes and local services taxes;
- payments to a retirement plan that the employer requires the parent to make;
- mandatory union dues;
- alimony paid to the other party.

If a parent's net monthly income is less than \$931, the court will usually assume that he or she can pay very little support. The court may order the parent to try to find a job.

What if a parent has support obligations in more than one household?

Sometimes, a person who is being asked to pay support has other children, too. In such a case, the court will use the support guidelines to figure out how much support the children in each household should get. If the total amount of support for the households together is more than half of the parent's net income, then the court may reduce the amount of support. The children of each family must be treated fairly, and no family can be given preference.

Can a parent be ordered to pay for a child's health insurance and medical expenses?

The law requires the court to deal with health insurance for the children in every child support case. The non-custodial parent has the obligation to provide coverage if it is at a reasonable cost. If this is not available, the custodial parent is obligated. If neither parent can get coverage at a reasonable cost, the custodial parent must apply for government sponsored care.

The cost of the insurance, and any uncovered medical expenses, are divided between the parties in proportion to their net incomes after a minimum threshold is paid.

Can a parent be ordered to help with child care expenses?

Yes. Reasonable child care expenses paid by either parent who needs child care in order to work or go to school to learn job skills can be divided in proportion to income.

What if a man denies that he is the father of a child?

If a man denies that he is the father of a child, the domestic relations office may schedule genetic tests for

the man, the child, and the child's mother. Any denial of paternity must occur early otherwise there may be a presumption that the man is the father. In some situations, the man is presumed to be the father regardless of what the genetic tests show.

Can support payments be taken directly out of a parent's paycheck?

In most cases, the court automatically orders a wage attachment as part of the original support order. This means that the parent's employer is required to take the support money directly from the parent's paycheck and send it to the domestic relations office.

What happens if a parent doesn't pay child support?

If a parent falls behind in child support, the domestic relations office can increase the income attachment. It can also take any lottery winnings, federal income tax refund checks, personal property, and bank accounts that belong to the parent.

If a parent falls more than 3 months behind in paying child support, the domestic relations office can suspend the parent's driver's license, hunting or fishing license, or any professional license.

A parent who willfully fails to pay child support can also be charged with contempt of court, fined, and sent to jail for up to six months. A parent who is sent to jail can often get work release and make support payments while in jail.

Can a support order be changed?

A support order may be changed if there is a substantial change in a parent's circumstances—for example, an increase or decrease in income.

Parents are required to report changes in circumstances to the domestic relations office within seven days. A parent who believes that the other parent has not reported a financial improvement can ask for a hearing.

In order to ask for a change in a child support order, the parent must go to the domestic relations office and fill out the proper form. Afterwards, a conference will be scheduled.

In addition, state law allows a parent to have a support order reviewed every three years, without having to show changed circumstances.

How is child support handled if I am receiving public assistance?

If you are receiving public assistance, the child support payments go directly to the Department of Public Welfare (DPW). Then, each month, DPW sends you a "pass through" check for a portion of the current support that was paid on time that month, up to \$100 for the first child and up to \$200 for two or more children. If the person pays support before it is due, you get a "pass through" check for the month in which it was due.

REMEMBER

The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

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This public information pamphlet was revised and updated by Neighborhood Legal Services.

Revised 12/22

