

Child Support

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Child support is the financial contribution one parent makes to another for the support of their children. Child support may be ordered when parents are separated, and/or in divorce, dissolution of marriage, paternity and legal separation cases. It is ordered by the court or the child support agency, or established by agreement of the parties and approved by the court, in an amount that should allow the child to enjoy approximately the same standard of living he or she would have enjoyed had the parents remained (or had ever) married.

Establishment, modification and enforcement of child support may be done through the county Child Support Enforcement Agency (CSEA), as well as through court actions for divorce, dissolution, legal separation, parentage and/or allocation of parental rights (custody).

Who pays child support?

Although there are exceptions, in general, the “non-residential” parent, or the parent with greater income, pays child support to the other parent (typically, the parent with whom the child lives most of the time). In shared parenting plans, the amount of support may be reduced according to the amount of time the child spends in each parent’s home, if there is a near-equal division of that time. However, if there is a significant disparity between the mother’s and father’s incomes, there may not be any reduction of child support, regardless of the amount of time the child spends in each household. The court may grant a deviation from child support guidelines if a parent makes a significant contribution for the child’s benefit.

How is child support calculated?

Child support is calculated according to a formula written into state law. That formula combines the father’s and mother’s gross income. Each parent is allowed certain gross income “adjustments,” which reduce that figure. These adjustments include deducting the sum of local income tax actually paid, or any child or spousal support orders paid or received, and adjusting for the cost of the child’s portion of health insurance and any work-related child care expenses.

The state law also provides a chart listing total joint adjusted incomes and the child support figures for each. That figure is the starting point for determining the final amount of child support to be paid, called the “guideline” amount.

What is a cash medical support order?

The court typically will order one or both parents to carry health insurance coverage, if available at reasonable cost. Cost is considered reasonable if the cost for covering the child is equal to or less than five percent of the party’s gross income. If no affordable coverage is available, then parents will

be ordered to share the costs of health care in some way.

The residential parent who is receiving child support generally is ordered to pay the “ordinary” uncovered medical expenses, defined by state law as the first \$100 per child per year of out-of-pocket expenses. The costs above that amount are considered “extraordinary,” and those are generally ordered to be paid by each parent in proportion to his or her income, or in proportion to his or her income, or in proportion to his or her income after payment of child support.

Effective in 2008, the law now requires any child support order to address the health insurance costs for a child in three separate ways:

- 1) The child support order must include the cost of health insurance when insurance is carried for the child. Depending on the cost of the insurance, the amount of support required will vary.
- 2) If a party does not comply with a health insurance order or if reasonably affordable health insurance is not provided to begin with, the basic child support figure is applied, and a “cash medical support order” is added to it.
- 3) If there is no health insurance to begin with, or insurance is lost for some reason, then a cash medical support order is required.

The purpose of a cash medical support order is to provide money for the uncovered health care costs of a child, whether paid for by the other parent, a public agency or another person, and is charged only when private health insurance is not being carried for the child.

If I pay child support, do I automatically get to claim the child on my tax return?

Typically, the parents negotiate as to which one will have the right to claim a child as a dependent for tax purposes. If the court is making the order, the court must consider the net tax effects of this order for each household and which outcome would be in the child’s best interests. The non-residential parent must have a signed IRS Form (presently, Form 8332) in order to declare the child as a dependent for tax purposes.

How long does child support last?

Child support is payable until the child reaches the age of 18, or until he or she graduates from high school, whichever is later. If, however, a child is no longer attending high school and is not living with or dependent on a parent (i.e., is married or otherwise emancipated), then child support may end before age 18. If a child is over 18 years of age and still attends high school, support will continue until the child has completed high school, up to age 19, unless otherwise ordered or agreed.

Special rules apply to handicapped children who will not be expected to be self-sufficient by the age of 18. If a child is handicapped, child support can be ordered to be paid well beyond the child’s 18th birthday. The duration will depend on the child’s capacity for independence.

If, however, parents agree in their divorce decree to support a child beyond the age of 18 (to pay for college, for example), then the court can adopt and enforce that agreement.

For children born out of wedlock, the same rules described above apply. Support generally is due from the date of birth to the date of “emancipation” (age 18 or independence), but is ordered only after the fatherhood of the child is legally determined.

What happens if the court orders support and it isn’t paid?

All child support orders, plus a two percent processing charge, must be paid through the Child Support Enforcement Agency (CSEA). Payment is usually withheld from a payor’s paycheck, but for a person who is self-employed, child support payments are most commonly withheld from that person’s designated bank account.

A “seek work” order may be issued to unemployed parents. The unemployed parent must regularly report what he or she is doing to find work, and any income received or job obtained.

Support officers at CSEA are assigned to any person involved in a support order. Without cost, the CSEA officer will attempt to enforce a support order by filing contempt motions on behalf of the payee and by garnishing wages or bank accounts of the person owing support.

The CSEA can take certain income sources to meet past due support, such as tax refunds, bonuses or similar lump sums that the delinquent payor may have received. Also, the CSEA may take action to have a delinquent payor’s licenses suspended, including driver’s licenses and professional licenses.

Can parenting time be denied if a parent doesn’t pay support?

No. The payor parent does not pay for the right to have parenting time, so he or she cannot be denied parenting time due to failure to pay child support.

In fact, a parent who deliberately denies court-ordered parenting time rights may be found in contempt of court, which is punishable by a jail sentence, a fine, imposition of attorney fees and court costs. Also, if the parent who is denied parenting time seeks a change of custody, the court may consider the custodial parent’s deliberate withholding of parenting time to be an important factor in deciding who will receive custody.

Can support be stopped if a parent denies parenting time?

No. Just as a custodial parent may not deliberately disobey court-ordered parenting time to try to collect child support from a non-paying parent, the non-custodial parent also may not willfully disobey a child support order. A person who withholds support payments also may be considered in contempt of court. In addition, if the parent who withholds child support seeks custody, the deliberate non-payment of support may become an important factor in deciding that issue. The law provides remedies for denial or interference with parenting time. Depriving a child of support is not

one of them.

Can support be modified?

Support may be modified if circumstances change (e.g., there is an involuntary loss of employment, military call-up, the birth of a new child or a disability determination, or an increase or decrease in the incomes of either parent or needs of the child). Either parent may request a modification by contacting an attorney or the CSEA of the county in which the support order was issued.

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