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Child Support by Court Order

In most states, a child is legally entitled to receive financial support from his or her parents, from birth until the age of 18 -- whether the parents are married, legally separated, divorced, or were never married. Child support "orders" are the method through which the court sets the terms of a child support situation, and the basis upon which an enforcement or collection action can be taken against a parent who has failed to meet his or her support obligations.

In legal terms, an "order" is a command entered by a judge (usually a family court judge in child support cases), instructing parties to take some action (i.e. to make periodic child support payments in a set amount), or face penalties for violation of the order.

Creation of Child Support Orders

Though specific procedures may vary from state-to-state, a child support order is usually created in one of three situations: as part of the divorce process; when an unmarried parent seeks child support; or when a state child support agency's services are utilized.

Child Support Orders as Part of the Divorce Process

When a divorcing couple has one or more children, a child support order is usually created in family court as part of the divorce process. For example, when finalizing such issues as property division and child custody (as part of the divorce judgment), the family court may also make a decision on the non-custodial parent's obligation to support the child financially. The family court will then put a child support order in place, ordering the non-custodial parent to pay a certain amount of money per month toward the child's financial support. The amount of support is based on the state's child support guidelines -- under a formula largely determined by the parents' respective incomes and the number of children they have together.

(Note: Even if divorcing spouses reach a settlement agreement on child support out of court, in most states the family court will still need to approve the agreement to ensure that it complies with state child support guidelines. Once approved, the agreement will serve as the basis for a child support order entered by the court.)

Child Support Orders and Unmarried Parents

A child support order can also be requested by a parent when there is no marriage relationship to dissolve, because the mother and father were never married in the first place. In such cases, the custodial parent who is seeking child support can go to family court (usually a county branch of the state's superior court) to request that a child support order be put in place.

The court will usually enter a child support order only after parental status has been established -- meaning that either the father has acknowledged that he is the child's parent, or biological fatherhood has been shown through a paternity action. As in divorce cases, the court will arrive at a dollar amount for child support based on the state's child support guidelines.

Child Support Orders and State Services

Every state has a department or agency that provides child support enforcement services to its residents, usually through local branches at the county level. In almost all states, a parent seeking enforcement or collection services for unpaid child support cannot receive assistance from these agencies *unless* there is a child support order in place. For example, assume that an unmarried mother is receiving periodic child support from the father of her child on an informal basis, with no child support order in place. If the father abruptly stops making support payments, the mother will need to go to court to have a child support order put in place *before* her state's child support services/enforcement agency can provide parent location, collection, or enforcement services. *(Note: This state agency may be a smaller branch of a larger state organization, i.e. the District of Columbia Attorney General office's Division of Child Support, or may be its own state agency, i.e. California's Department of Child Support Services.)*

A parent seeking child support may not need to go to court him/herself to get a child support order -- a county or local branch of the state child support services/enforcement agency may go before the court, on the parent's behalf, and ask that a child support order be put in place. The agency can then provide services to the parent seeking child support.

Function of Child Support Orders

Once a child support order is entered by a court, the order becomes an enforceable legal document which, among other things:

- Identifies the parties to the order (who pays support; who receives support);
- Establishes the amount of child support to be paid (including frequency of payment);
- Sets the procedure for payment (i.e. paycheck deductions, direct payment, or other options);
- Authorizes penalties for violation (i.e. wage garnishment, imposition of fines).

Enforcement of Child Support Orders

If a parent fails to meet his or her support payment obligations, enforcement of a child support order can take a number of forms. In some states, the order itself will state that the parent's wages will be withheld if support payments are not made as ordered. Additional actions that may be taken include seizure of property, interception of tax refunds, and the court's holding the non-paying parent "in contempt" of the support order. In this context, a finding of "contempt" is a legal ruling that the court's instructions as to child support were violated, and punishment can include jail time in some cases).

Remember that in most states an actual child support order must be in place before any enforcement/collection action can be taken. As discussed above, once a child support order is issued, the state's child support services/enforcement agency can provide parent location, support collection, or support enforcement services.

More on [Enforcement of Child Support Orders](#) FindLaw Bookshelf

Go [here](#) to see a state-by-state listing of child support agencies.

Changes to Child Support Orders

Child support can be increased if there is a change in circumstances justifying the increase, such as an increase in the payer's income, a decrease in the custodial parent's income, an increase in the child's needs, or an increase of the cost of living. Similarly, the amount can be reduced if circumstances justify the reduction.

More on [Changes to Child Support Orders](#) .

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