

## FREQUENTLY ASKED QUESTIONS

### **What is child support?**

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 is determined based upon a worksheet generated by statutory guidelines.

### **Who pays child support?**

Although there are exceptions, in general, in a shared parenting plan, the parent with less parenting time pays child support to the other parent. 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 the child support guidelines for various reasons.

### **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 incomes. Each parent is allowed certain gross income "adjustments," which reduce that figure, such as local income tax actually paid, or any other child or spousal orders paid or received. In addition, the calculation formula adds the cost of the child's portion of health insurance, and/or any work-related child care expenses, which is shared by the parents according to their income.

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, and is called the "guideline" amount.

### **What is a cash medical support order?**

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 upon 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 available the basic child support figure is applied, and a "cash medical support order" is added to it.
- 3) If there is no health insurance 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 it is charged only when private health insurance is not being carried for the child.

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.

### **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) or its equivalent (such as a form the parents create solely to transfer the exemption) 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 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. If, however, a child is no longer attending high school and is not living with or dependent upon a parent (i.e., is married or otherwise emancipated), then child support may end before age 18.

If a child is handicapped, child support can be ordered to be paid well beyond the child's 18<sup>th</sup> birthday. The duration will depend upon the child's capacity for independence. These situations require a court order and you should consult an attorney. 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 and graduated from high school), 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 (including unemployment benefits) or job obtained.

Case managers at CSEA are assigned to cases that have, or need a support order. Without cost to the obligee, the CSEA case manager will attempt to enforce a support order by all available administrative actions, including 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. CSEA attorneys may also take Court Action to enforce orders.

**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 may be punishable by a jail sentence, a fine, imposition of attorney fees, and court costs.

**Can support be stopped if a parent denies parenting time?**

NO! Just as a parent may not deliberately disobey court-ordered parenting time to collect child support from an obligor, a 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?**

Child support orders may be reviewed by CSEA every 36 months from the date the order was established or the date of the last review. Some orders may be reviewed sooner than the required timeframe if certain criteria are met. Either parent may request a modification by contacting an attorney or file a Motion with the Court in the county in which the support order was issued.