

## ***Child Support - An Overview***

In America, there are more than 13 million divorced parents with children under the age of 21. Typically, one of the parents has physical custody and relies on child support paid by the other parent. Statistics show that when all child support is paid as agreed in the divorce decree, *both* parents remain involved with their children and the children usually have an acceptable standard of living. Conversely, when child support is not paid custodial parents and their children are at risk for financial turmoil. Unfortunately, a disproportionate number of divorced single parents and their children do not receive child support and live below established poverty levels.



Enforcing the obligation to pay child support is a national priority. Federal legislation and uniform state laws exist to make enforcement and collection of child support easier. Each state has different guidelines for establishing child support and there are various methods in the law that exist to recover the support you are owed. If you are ending a marriage, already divorced or are trying to make your child's other parent legally responsible, it is important to consult with a family law attorney. An attorney with experience in the area of child support will help you understand the laws in your state and the rules for child support collection and enforcement that apply to your particular situation.

## **Child Support Basics**

Each child's biological parents have a legal obligation to financially support the child. That obligation lasts until the child reaches "the age of majority" (depending on state law, 18 or 21), marries, joins the military, or becomes self-supporting. When parents live together, the level of financial support provided is generally not questioned.

When parents divorce or are unmarried the parent who does not live with their child is usually obligated to pay child support. Support is owed whether the child lives with their other parent or a third party, and whether or not the person with whom the child lives can afford to support the child on their own. Depending on the state, support may be owed even if the parents share custody.

Each state has adopted a set of guidelines for determining child support. Family courts use the guidelines to establish the amount of support. Some states allow courts to make adjustments to the amounts the state guidelines indicate. Most courts, however, tend to closely follow the amounts the guidelines establish unless something in the case indicates the need for a change.

Support guidelines generally fall into one of three categories. Each uses a different approach to establish the amount of support, though they all consider the needs of the child. Provisions for medical costs and insurance are generally added to the basic amount suggested by the state guidelines. The three guideline categories are:

- **Percentage**-Calculates support based upon a flat or varying percentage of the income of the paying parent.
- **Income Shares Model**- Calculates support based on a formula that determines the proportion of parental income the child would have received if the parents had not divorced.
- **Melson Formula**-Calculates support using a complex formula that considers the economic conditions of the parties involved, their standard of living and the overall equities of the situation. The goal of the Melson Formula is to give children the standard of living of their more affluent parent, even if the custodial parent gets a financial benefit to which they may otherwise not be entitled.

Whatever approach is used, courts look at a variety of sources to determine the paying parents' income and ability to pay. Income may include wages and the following items:

- Investments, stocks and pensions;
- Government payments and benefits like disability, social security, veteran unemployment payments;
- Goods and services that come with a job or are given by family members, friends or new spouses;
- Gifts and inheritances;
- Income from rental property; and/or
- Overtime, seasonal or part-time second jobs.

People who receive welfare payments or who are unemployed without wages will usually be ordered to make a small monthly payment. A court may assign an income different than the one a paying parent appears to have if they believe they are capable of higher earnings.

## **Child Support Payments**

Support payments generally begin when a family court enters an order requiring payment of support. In divorce, child support will be set on a temporary basis at an early hearing following the filing of the initial request for divorce. The parties may agree on the amount of both temporary and permanent support. Otherwise, the amount of support will be determined by the court as part of its overall decision in the divorce and a permanent order for child support will be entered.

When parents have never married, the custodial parent may petition for support from the other parent. As part of that proceeding, DNA tests may be ordered to establish paternity or maternity.

Payments are due at specific times each month. In most states, the paying parent may be able to make their payments to a "child support registry". The registry forwards the payment to the custodial parent and keeps track of payments that are made.

Often, the guidance of an experienced family law attorney can greatly aid the process of securing child support payments.

## **Enforcement of Support Awards**

When child support is owed but not paid, a variety of measures exist to collect past due amounts and protect against future non-payments. Most states have laws that allow a family court judge to suspend professional or business licenses, take away driver's and recreational licenses, require payment of future owed sums in advance or place non-paying parents in jail.

All states have also created offices of Child Support Enforcement. These state agencies are supported by the federal government and have the power and tools to locate responsible parents and create and enforce support orders.

Additionally, when the amount of support owed exceeds a certain level and the responsible parent lives in a different state, the federal government has the right to bring criminal charges against that parent under the federal Child Support Recovery Act.

## **Changing Child Support Awards**

Some states have rules that require a regular review of ongoing child support awards. Otherwise, either parent may ask the court to recalculate the amount of support if the parent can show a substantial change in circumstances. Parents receiving child support may be able to increase the support they receive when the paying parents income goes up, especially if the current amount of support ordered is not sufficient to meet their child's needs. Support may also be increased because of a child's specific needs for things like tutoring, medical treatment or therapy.

Paying parents may be able to decrease the amount of future support payments if they face the loss of a job, a reduction in income or when the custodial parent's income increases. Federal law prohibits states from forgiving past due child support payments. Courts are reluctant to reduce child

support awards and paying parents may have an earning capacity imputed to them whether or not their actual earnings reflect that amount.

## **Conclusion**

An experienced family law attorney can assist a parent in obtaining an order for the appropriate amount of child support and assist in making sure the order is enforced. Family law lawyers can also represent either parent in a support modification proceeding or in proceedings to establish or disprove paternity. Because the well being of children is at stake, child support issues can be some of the most critical and emotional parts of the divorce process.

We make it a point to be available to our clients, and we can often meet the day you call. We invite you to contact our family law and child support attorneys today. Often, we are able to meet with you the same day you contact us. Our address is 1908 Allen Street, Allentown, Pennsylvania, 18104. Our phone number is (610) 432-7040.