

Chapter **8** Child Support Handbook



NONCUSTODIAL PARENTS' RIGHTS AND RESPONSIBILITIES

Bringing a child into the world means making a commitment to care for him or her throughout childhood – ensuring the best possible environment to grow in. Children need safe places to live, nourishing food, education, and a solid foundation of values.

Mothers and fathers bring different, but equally important, qualities to their children. In a divorce or non-marital situation, either parent may be granted custody of the child – or both may share equally in the physical custody and/or decision-making responsibilities.

I'm getting a divorce and my spouse wants me to pay child support directly to her. Can I insist on paying through the child support office?

A noncustodial parent can apply for child support services if the case is not being enforced through the child support program, unless the support order requires you to pay her directly. Since January 1994, support orders must include a provision for *income withholding* unless both parents and the courts agree on another payment method. If your order does not call for income withholding, you can request this service. If you do, you will have a record that you have made payments as required. If you are self-employed, you may be able to arrange for an automatic transfer of funds to the child support agency through *electronic funds transfer* (EFT). Either parent can apply for child support services, which include collecting and distributing payments.

I'm the noncustodial parent. I love my kids. I pay my child support. About half the time when I go to pick them up for my weekend, my ex-wife has made other plans for them. It's not fair that the state will enforce my child support obligation but not do anything about my right to see my kids.

Many state or local governments have developed procedures for enforcing visitation orders. Also, the federal government has made funding available to states for developing model programs to ensure that children will be able to have the continuing care and emotional support of both parents. Check with your local child support agency and clerk of court to see what resources are available to you and to find out about laws that address custody and visitation. See a [list of state Access and Visitation contacts](#).



After I pay my child support, I don't even have enough money for a place to live. When my child support order was set, I was making about \$300 a month more than I am now. Can I get the order changed?

Either parent can request a review and adjustment, if appropriate, of a child support obligation at least every 36 months, or sooner if there has been a substantial change in circumstances such as reduced income of the obligated parent or a change in medical support provisions. Check with your child support office to see if your child support obligation is in line with state guidelines and ask how to request a review.

If your case does not meet the state's standards for review, either because the order has been reviewed within your state's review period or the change in income is smaller than would merit an adjustment under state standards, you may still be able to petition the court for a hearing. In this case, it may be helpful to have the services of an attorney. Your local legal aid society may be able to advise you about finding low-cost counsel if you cannot afford a private attorney. Also, a number of states have information about how to handle your case *pro se* (a legal term for representing yourself) to have the courts determine if your support obligation should be changed. Contact your local child support office or the clerk of the court for more information.

In addition, some courts and child support offices partner with employment programs and other agencies to provide employment services to noncustodial parents who are struggling to make ends meet and support their children. Again, contact your local child support office.

Is there a limit to the amount of money that can be taken from my paycheck for child support?

The amount that can be withheld from an employee's wages is limited by the Federal Consumer Credit Protection Act (FCCPA) to 50 percent of *disposable income* if an obligated parent has a second family and 60 percent if there is no second family. These limits are each increased by 5 percent (to 55% and 65%) if payments are in arrears for a period equal to 12 weeks or more. State law may further limit the amount that can be taken from a wage earner's paycheck.

I can't find my child and the custodial parent. What can I do?

One of the services of the child support program is helping to locate children in parental kidnapping cases. Federal law allows the use of the Federal Parent Locator Service (FPLS) in parental kidnapping or child custody cases (including cases in which the custodial parent has hidden the child in violation of a visitation order) if: 1) a civil action to make or enforce a custody order has been filed in the state courts; or 2) a criminal custodial interference case is being investigated or prosecuted.

Requests for information from the FPLS in custody and parental kidnapping cases must come from a state child support agency. See [state and tribal child support agency contact information](#). States may collect a fee from people using the service to cover processing costs.



I just found out that I was named the father of a child I never even knew about. How can that happen and what can I do about it?

If you have received papers naming you as the father of a child, and providing information about attending a hearing, contacting the child support agency or some other tribunal, or other action that you must take, it is very important to follow up as required by the document you received. Check with the child support agency to see how to request genetic testing, or to learn about paternity establishment in your state.

There are cases in which a man can be determined to be the father of a child if he was “properly served” notice of a paternity hearing but did not go. What constitutes “proper service” is determined by the state – it may be in the form of a registered letter, a notice delivered to the person’s legal residence, or even a notice published in the newspaper. Check with the child support agency in the state where paternity was established to see what can be done. If the paternity was established by fraud, duress, or material mistake of fact, it may be possible, depending on state law, to challenge the paternity finding.

Also, there are cases in which the alleged father is misidentified – if names are closely similar, for example. There, too, your best information about resolving this will come from the [state or tribal child support agency](#) if it was not provided in the notice that you received about the paternity.

How long do I have to pay?

Emancipation and the age of majority for termination of child support are determined by the states and tribes. Some states have provision

for child support payments while a child is in college. See state and tribal ages of majority in the [Intergovernmental Reference Guide](#).

You can also check with the child support agency.

For particular situations -- if a child leaves school before reaching the age of majority, is still in school but is emancipated, or is enrolled but not attending classes, for example -- check with the child support agency to see how the state handles them.

If a child is handicapped, parents may be required to pay support after that child becomes an adult.

I pay child support every month. I buy extras like school clothes and pay for field trips. Why can't I claim my child as a dependent?

Under domestic relations tax provisions set forth by the Internal Revenue Code, for divorced or separated parents, the parent who has custody for a greater portion of the calendar year is entitled to the dependency exemption for the child (See 26 U.S.C. 152(e)). In some cases, a court or administrator will address the issue of who can claim the dependency. Also, the parent with custody can provide the other parent with a written statement that he/she may take the exemption for a given year. See [IRS Publication 504](#).

In the case of parents who have never married, the IRS gives information about who can be claimed as a dependent in their [Publication 501](#)



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My current wife is working and when we filed our taxes, the whole refund was taken.

If a couple filed a joint return and only one of them is liable for child support payments, in non-community property states the other spouse can file an amended return to receive his or her share of the tax refund. The person who is not responsible for the child support debt can file tax [Form 8379](#), the Injured Spouse Claim and Allocation. Follow the instructions on Form 8379 carefully and provide the required documents.

I tried to get a passport for a business trip abroad. The State Department denied it because of child support. I don't know which state said I owe child support.

If you do not know which state certified your case, or if you have never owed back child support, check the list provided with the Department of State denial letter for the contact information it gives for the state where you currently live. If you don't have the list, staff in the state child support agency can check with the federal Office of Child Support Enforcement to see which state certified the case and can get you contact information for resolving any problem.



For information about your specific child support case or how the child support system works in your state or tribe, contact your [state or tribal child support agency](#).

For general information about the child support program, contact the Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, or visit our [website](#) at www.acf.hhs.gov/programs/css. OCSE does not have case-specific information.