

Child Support

Every child living in Arkansas has a legal right to the financial support of both parents, even if the parents are divorced, separated or never married.

A support order is a legal order issued by a judge. The order spells out how much child support is owed and how it will be paid. In addition to child support, the court usually orders the parent who doesn't have custody (**the noncustodial parent**) to pay either one half or all of reasonable and necessary medical and/or dental expenses of the child or children. The support order may also provide for educational expenses.

Payment of child support cannot be enforced without a support order issued by a judge. Only requirements included in the support order can be enforced. So it is important to read your child support order carefully and understand what is in it. You may need to get your support order changed when your situation changes or terminated when the child no longer needs support.

Opening A Child Support Case

Any parent or person with custody of a child under age 18 or in high school who needs help to establish child support or medical support or to collect support payments from the noncustodial parent can apply for child support enforcement services from the Office of Child Support Enforcement (OCSE) at <http://www.state.ar.us/dfa/childsupport> or contact an attorney.

Families currently receiving Transitional Employment Assistance (TEA) or Foster Care are required to cooperate in establishing paternity and collecting support. If you receive TEA or Foster Care, you will be required to sign a document assigning your child support to the State up to the amount of your benefits. Current support collected is kept by the State as long as you are receiving benefits. **Back benefits are kept by the State until the total amount of public benefits received by the custodial parent are repaid.**

If you receive Medicaid or ARKids First, you will be required to sign a document assigning your medical support to the State. A separate application and nonrefundable \$25 application fee is required for each noncustodial parent. Additional fees are described below. ***If you or your child receives Medicaid, ARKids A or B, you are entitled to child support enforcement services at no cost.***

How Support Is Determined

The court decides how much support the noncustodial parent will pay, if the parents cannot agree. The Court considers the needs of the child, the best interests of the child now and in the future, the number of children, other dependents, and the ability of the parents to pay.

The Court usually uses *Family Support Guidelines* issued by the Arkansas Supreme Court to determine the amount of the payment unless you can document that your child's financial needs are higher than average (for example, if your child has special medical needs). If the court does not follow the guidelines, the judge must explain in writing. In addition to payment of child support, the court usually orders the noncustodial parent to pay either one half or all of reasonable and necessary medical and/or dental expenses of the child or children.

You may be asked to provide some information to help your attorney or OCSE locate the noncustodial parent, determine his or her ability to pay and document the financial needs of the child.

The chart below is based upon the "net income" of the noncustodial parent. Income generally means any form of payment you receive, regardless of its source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest minus deductions for:

- ✓ Federal and state income tax;
- ✓ Withholding for Social Security (FICA), Medicare, and railroad retirement;
- ✓ Medical insurance paid for dependent children; and
- ✓ Presently paid support for other dependents by court order.

For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and children on account of the payor's disability. SSI benefits **will not** be considered as income. The court **will** consider Veteran's Administration disability benefits, Workers' Compensation disability benefits, and Unemployment Compensation as income. For military personnel, see the latest military pay allocation chart and benefits.

The example chart below provides a rough idea of weekly child support payments.

Example of Family Support Guidelines					
Pay or Net Weekly Income	Number of Children				
	1	2	3	4	5
\$100	\$24	\$35	\$42	\$46	\$50
\$150	\$36	\$52	\$62	\$69	\$74
\$200	\$47	\$69	\$81	\$90	\$97
\$250	\$59	\$85	\$100	\$111	\$120
\$300	\$70	\$102	\$120	\$133	\$144
\$350	\$77	\$111	\$131	\$144	\$156
\$400	\$82	\$119	\$140	\$154	\$167
\$450	\$88	\$127	\$149	\$165	\$178
\$500	\$96	\$138	\$162	\$179	\$194
\$550	\$103	\$149	\$174	\$193	\$209
\$600	\$111	\$159	\$186	\$206	\$223
\$650	\$118	\$169	\$198	\$219	\$237
\$700	\$124	\$179	\$210	\$232	\$251
\$750	\$131	\$189	\$221	\$245	\$265

Complete weekly and monthly charts can be found at http://courts.state.ar.us/courts/acs_guidelines.html. The actual chart provides guidelines for income in \$10 increments. Family Support Guidelines are reviewed every four years. The example provided was updated February 11, 2002.

How Support is Collected and Disbursed

If you are ordered to pay child support, **never** pay it directly to the custodial parent. In most cases, child support is collected through payroll deduction. After the noncustodial parent is served with a withholding order, employers must withhold the support and forward the money to the Arkansas Child Support Clearinghouse to be disbursed to the custodial parent. The employer is required to begin withholding within 14 days of receiving the order. The Office of Child Support Enforcement administers the Clearinghouse.

The Office of Child Support Enforcement ensures that child support payments are made regularly and in the correct amount. They also collect medical support. OCSE is aggressive in enforcing child support orders. They can:

- Withhold wages, including military wages
- Place liens on houses, property and financial accounts

- Intercept Federal and State income tax refunds
- Intercept unemployment, retirement and worker's compensation
- Report past due child support to credit bureaus
- Suspend business and professional, drivers' licenses and recreational licenses, including hunting and fishing licenses
- Publish names and pictures of "deadbeats" on the internet and in newspapers
- Refer cases for possible prosecution

Termination of a Support Order

A child support obligation will generally terminate when **all** children to whom the support is ordered reach the age of eighteen, die or become emancipated. An order however, may provide that the support continue for the child as long as the child is in high school or if a child is over 18 but has a handicap affecting his or her ability to live independently.

If the order originally covered two or more children, the amount of support does not go down when the oldest child reaches 18 years. The amount of child support remains the same until the non-custodial parent files a motion to modify the order with the court.

Getting A Support Order Changed

You will need to get your support order changed when your circumstances change. In order to modify a support order, the party wanting the change (or moving party) must show a **material change in circumstances**. The law states that a change of 20% or more than \$100 per month in the non-custodial parent's income is sufficient to demonstrate a material change in circumstances. In addition, a change in the non-custodial parent's health insurance status is considered a material change of circumstances.

Many parents do not understand that once set in a court order, the amount of child support due **stays the same** unless a parent petitions the court to have it modified or terminated. This means that if a non-custodial parent is originally ordered to pay \$103 per week for one child based on a salary of \$550 per week and he loses his job, the \$103 continues to accrue despite the fact that he may be only making \$100 per week in unemployment benefits or for part-timework. The reverse is also true. If a non-custodial parent is making \$150 per week and is ordered to pay \$36 per week for his child, and then gets a job paying \$600 per week, the child support will continue at \$36 per week unless either party asks for a modification.

Payments Made In Error

If the Office of Child Support Enforcement makes a payment to you in error, you will be asked to return the money paid in error, even if someone else made the error.

Child Support and Visitation

Visitation and child support are totally separate issues. In other words, if the non-custodial parent is not getting visitation, he or she cannot withhold paying child support. The reverse is also true. If a custodial parent is not receiving child support, he or she cannot withhold visitation. The remedy for each is to file a Motion for Contempt against the party who is not performing his or her obligations under the order.

Past Due Support

Under Arkansas law, all child support that becomes due and remains unpaid shall accrue interest at the rate of ten percent (10%) per year, so a child support debt can grow very large, very quickly if not paid.

Limitations on Recovery of Past Due Support

It is important that enforcement of past due support be attempted because there are limitations on the amount of time you have to collect the back support owed. An action to collect back support may be brought at any time up to and including five years beyond the date that the child turns 18 years old.

Fees Charged For Services of OCSE

The Office of Child Support Enforcement charges fees for its services. Fees are automatically deducted from child support payments. ***If you or your child receives Medicaid, ARKids A or B, you are entitled to child support enforcement services at no cost. Ask your Medicaid worker to refer a case to OCSE.***

One Time \$25 Application Fee. The application fee will be paid by the applicant at the time the application is submitted for assistance. This fee is non refundable and non reimbursable. A separate application and \$25 fee is required for each non-custodial parent. **There is no fee charged** if the applicant or the child is receiving TEA or Medicaid including ARKids 1st A and B.

Monthly Fees. In addition to the application fee, a base cost of \$18.00 is assessed for each month in which a child support

payment is received in your case. If no payment is received, you are not charged for that month. If legal action is required to establish or enforce the child support obligation in your case, a fee is charged to you for the services provided to you.

Additionally, the actual cost paid by OCSE for services such as paternity testing, IRS tax refund or administrative offset, court costs, filing fees, and transcripts of trials or depositions will be charged to your case.

If the Court orders the noncustodial parent to pay court costs and attorney fees, or for the cost of paternity testing, OCSE will take action to collect those costs and fees and reimburse you for any amounts you have paid under your contract with OCSE.

Fees and costs for services are withheld from any support collected on your behalf at a rate of 13% of the amount collected each month or the actual fees and costs due in your case, whichever is less.

The Family Law Series is produced by the Arkansas Legal Services Partnership, a collaboration of the Center for Arkansas Legal Services, Legal Aid of Arkansas, Inc., and Arkansas Volunteer Lawyers for the Elderly. These agencies provide free legal services to eligible Arkansans. Legal services may include advice and counsel, brief services, or full representation consistent with case priorities and case acceptance criteria. Additional information can be found at: <http://www.arlegalservices.org> or call 1-800-9LAW AID.

The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Local courts interpret things differently. This fact sheet is given to you as a guide to help you understand the way family law matters are handled in general. Before you take any action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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