

Child Support in Florida

Child support is money paid from one parent to the other for the benefit of dependent or minor children. Florida Statutes Chapter 61 addresses child support and sets forth the procedures used to obtain and calculate child support. Child support is a right of the child, and is therefore NOT able to be waived by one parent (i.e., as part of a dissolution of marriage settlement agreement).

If a married couple has a child and then subsequently divorces, the divorce proceedings will include orders for child custody and child support. However, any person having the ability to contribute to the maintenance and support of his or her minor child may be ordered by a court to pay child support. Additionally, each military branch requires service members to adhere to certain standards concerning the financial support of a child.

Establishing Paternity

The first step for a parent to obtain child support from the other biological parent of the child is to establish the paternity of the child. Paternity gives both parents the legal right to get a child support order, get a visitation or custody order, and have a say in legal decisions about the child. The child, in turn, receives numerous benefits, including knowledge about the father, health or life insurance from either parent (if available), child and medical support from both parents, and access to Social Security or veteran's benefits and inheritances (if applicable).

In Florida, paternity may be established in a variety of ways:

- **Marriage:** Paternity is established if the parents are married to each other when the child is born.
- **Acknowledgement of Paternity:** Unmarried parents can sign a legal document acknowledging that the child is theirs. This can be done free of charge at the hospital when the child is born, or at a later time through the Department of Children and Families, Child Support Enforcement Office, or local public health unit. This affidavit should not be signed if the identity of the father is uncertain.
- **Judicial Paternity Order:** One birth parent may petition the court to establish paternity. The court looks at all the facts and issues a court order for paternity. The court may accept a stipulation from the noncustodial parent establishing paternity or may hold a hearing to establish paternity.
If the paternity of the child is disputed, the court may order genetic testing. If the alleged father is served with notice of the hearing but does not show up for the hearing, the judge may still find that he is the legal father.
- **Administrative Paternity Order Based on Genetic Testing:** After a genetic test scientifically proves who the father of the child is, a paternity order is issued and the Florida Office of Vital Statistics adds the father's name to the child's birth certificate. There is no need to go to court nor is there a cost for the genetic test results. The Administrative Paternity Order is just as legal as a Judicial Paternity Order.

- Legitimation: The mother and father marry each other after the child is born and update the child's birth record through the Florida Office of Vital Statistics.

In Florida, the test used in paternity cases is usually the buccal swab, which involves obtaining genetic material by rubbing a cotton swab on the inside of the mouth. It does not involve having any blood drawn. Two labs provide testing services in Florida through a contract with the state: Orchid/GeneScreen and LabCorp of America Holdings. The cost of testing ranges from \$45 to \$51 per person. Testing costs are initially paid for by the Department of Revenue, but will be collected from the alleged father if he is in fact found to be the actual father of the child through genetic testing, by court order, or by his own agreement. These contract labs are responsible for genetic testing in both military and civilian paternity cases. It usually takes 11 days to receive the results.

Once paternity is established, the noncustodial parent must be located, if he has not yet been found. The Florida Department of Revenue is responsible for this. They request and search through information from a variety of sources, including the military, in order to locate noncustodial parents.

Obtaining Child Support

Once parentage is established and the noncustodial parent is located, the custodial parent may bring an action for child support. The Florida Department of Revenue Child Support Enforcement Program will also obtain court orders for child support and the provision of health insurance, if necessary.

Calculating Child Support

Florida statutes establish guidelines governing child support amounts. These guidelines take into account all income and earnings of both the custodial and noncustodial parents, as well as the health care and standard needs of the child. In some cases, extraordinary needs of the child may also be considered.

One resource for calculating child support based on the guidelines is on the Florida Courts website at: <http://www.flcourts.org/core/fileparse.php/533/urlt/902e.pdf>.

Generally, these child support guidelines may be deviated from only if the court makes a written finding that the guidelines would be inappropriate in a particular case.

Modifying Child Support

Either the custodial or noncustodial parent may request that a child support order be reviewed for possible upward or downward modification. An order can be modified if there has been a substantial change in circumstances. A substantial change has occurred whenever there is a significant change in income or financial ability of either party, when health insurance becomes available or when a child is emancipated. Termination of a party's employment which has taken place without fault may be grounds for a modification of child support. In order for the court to find a substantial change in circumstances warranting modification has taken place, the difference between the current amount of support and the proposed amount must be at least \$50 or 15%, whichever amount is greater.

In addition, Florida law provides for temporary modifications to child support and visitation rights when a

military parent is activated, deployed, or temporarily assigned to military service where it is in the best interests of the child. If this seems applicable to you, then we recommend you seek legal advice from an attorney as soon as possible.

If you believe that it would be in the best interests of the child to modify child support, and that justice would be served by such a modification, consider discussing the specifics of your case with an attorney.

Enforcing Child Support

Florida will take steps to enforce payment of a child support order if payment is 30 or more days delinquent. Noncustodial parents who do not pay their court ordered child support may face:

- Suspension of Florida driver's license and/or passport
- Suspension of hunting, fishing, or other state licenses, including professional licenses
- Interception of IRS tax refunds
- Interception of Florida lottery winnings, if over \$600
- Collection through income deduction (wage garnishment) or deduction from unemployment or worker's compensation
- Issuance of an arrest warrant
- Liens on real and personal property
- Bank account levies and garnishment
- Reporting the child support debt to credit bureaus, affecting the noncustodial parent's credit rating
- Misdemeanor and felony criminal prosecution

Child support debts may also be enforced across state lines; a federal law called the Uniform Interstate Family Support Act (UIFSA) ensures this. However, the other state's support enforcement office and court system may process the case within its time frames.

When the noncustodial parent lives in another country, child support orders are only enforceable if there is an international agreement or reciprocity between Florida and that country. There are several such agreements in place with various Canadian provinces and foreign nations.

However, when a parent who fails to pay child support as ordered, the parent who should have received the child support may not refuse to honor a time-sharing schedule presently in effect between the parties.

For additional information, access the Florida Department of Revenue's child support web site at: <http://dor.myflorida.com/dor/childsupport/>

Contact information:

- Legal Services of North Florida: (850) 862-3279
- Florida Bar Referral Service: (800) 342-8011 (\$25 fee for a consultation)
- Child Support Enforcement Customer Service: (800) 622-KIDS (5437)
- Okaloosa County Child Support Customer Service Crestview Office: 2810 Richburg Lane Crestview, FL 32536.