

# Five Things You Should Know About Child Support

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Child support can be a heavily litigated aspect of any Family Law case, which seems counter-intuitive. Most child support figures are a matter of basic calculations – or so one would think. In reality, child support will always be based on the best interest of the child. All other factors are considered secondarily. Given the complex landscape of child support in Family Law matters, here are five things you should know:

1. There is no national rule for child support
2. Only a few expenses will be considered when calculating child support
3. Child support will end – but be careful of the statute of limitations in each state
4. Child support can always be modified (until it is terminated)
5. Failure to pay child support can have serious consequences

Below, we will go into detail about each of these five facts on child support.

## **1. There is no national rule for child support.**

[Every state has different guidelines](#), formulas, and methods for calculating support. In Texas, for example, there is generally a flat percentage of net income to be paid by the non-custodial parent, versus California, where the court employs a fairly complex formula which takes each [party's parenting time](#), income, and expenses into consideration. Cases in two different states can have hugely different results when it comes to child support. So, just because your sister in Alabama is receiving a certain amount for child support does not mean you will be entitled to the same.

Although each state is different, states generally follow on of the three basic models: Flat Percentage, Income Share and the Melson Formula. The Flat Percentage is based on a percentage of the non-custodial parent's income, the Income Shares, which most states follow, is based on the income of

both parents, and the Melson Formula is based on a variety of different factors such as income and child(ren)'s needs. To understand each type of model, and to know which one your state follows, it is important to hire an experience Family Law attorney.

## **2. Only a few expenses will be considered when calculating child support.**

Most guidelines will look to each parent's regular take-home pay after taxes and payroll deductions. Other expenses such as health insurance for the child and even costs of day care might be considered. But if you have credit card bills or are paying a mortgage on a home that is out of your price range, you won't necessarily catch a break on paying child support. This is to prevent parties who might be obligated to pay from going out and purchasing a Rolls Royce in an attempt to avoid making payments.

## **3. Child support will end – but be careful of the statute of limitations in each state.**

Each state is a little bit different, but the general rule of thumb is that payments will stop when the child either reaches the age of 18 or whenever they graduate high school, whichever comes first. This is not always automatic, however. If child support payments are being withdrawn from a pay check automatically, it is important for the paying parent to notify the appropriate Office of Child Support to terminate those payments. Otherwise, they will continue to have a monthly child support deduction well after their child graduates.

Additionally, in many states, a parent can claim back child support against another parent throughout the child's entire age of minority, and often a few years beyond. This situation comes up more often between parties who do not marry. For example, if the parents split and the father raises the child and tells the mother 'Don't worry about child support,' this will often have no bearing later down the line if the father sues the mother for unpaid child support. That is because the obligation of child support is owed **to the child**, rather than the parent. And the parent has no right to waive this option. A court should always approve any agreements made between the parties in order to memorialize and protect the child's and each parents' interests.

#### **4. Child support can always be modified (until it is terminated).**

Child support payments can be modified up or down, depending on the numbers. The parent [requesting the modification](#) will have to show a significant change in circumstances if the parties cannot agree to change the payments. Most courts would consider a change in circumstances to be anything from the obligor parent losing their job, to the child developing ill-health with increased expenses, or promotion and pay raise for a parent. However, the child growing older by his/her self is not usually sufficient grounds to change a child support obligation. Any change in payments at all – whether done by agreement or otherwise – **must** be done with a court order. Even if parents agree on a change, it will need to be memorialized in writing with court approval. Otherwise, the paying parent risks the receiving parent suing them for unpaid child support in the event they reduce their monthly payments.

#### **5. Failure to pay child support can have serious consequences.**

The law considers child support to be an inherent parental duty, no matter what. Even unemployed parents will typically have a minimum amount they must pay to support their child. If a parent fails to pay, the courts have the power to garnish wages, tax returns, affect your credit, charge interest on late payments, withhold unemployment benefits or other government benefits, suspend professional or driver's licenses – and even order jail time. It is a debt that cannot be discharged through bankruptcy. Courts have been known to order payments on (an accumulation of the past child support payments that were not paid) for decades until the debt is paid. And because each state has the power to enforce child support orders - even across state lines- the likelihood of these consequences being imposed on the obligor party is high.

Sometimes, [parents who struggle with addiction](#) also struggle with paying their child support obligations on time and in full. New technology can help these parents stay accountable and sober so they can focus on fulfilling the orders from the court. [Soberlink](#), for example, combines a breathalyzer with facial recognition technology and provides real-time alerts and detailed reports. When child support is at issue, a parent struggling with alcohol addiction can rely on a system like this to help keep them accountable.

If you have questions about the specific child support laws in your state, you need to speak with an experienced family lawyer. Remember that agreements between parents regarding child support will not be enforced until it is memorialized within a court order.