



# Who Has to Pay Child Support and How Much Do I Have to Pay?

## HOW IS CHILD SUPPORT DETERMINED?

In New York State, either or both parents may be ordered to pay for the support, maintenance and education of the child. The courts may also order a parent to provide health insurance coverage for the child.

There are official New York State Child Support guidelines, designed to be in the best interests of the child, that the courts use to help determine the correct amount of child support.

In applying the Child Support Guidelines, the court will look at your "adjusted" gross income (your gross income minus any deductions for, e.g., taxes). The court then multiplies your "adjusted" gross income by the guideline percentage for the number of children for whom you are ordered to pay.

For example, if your adjusted gross income is \$20,000 for the year and you have one child, you will be responsible for paying 17% of this income. This equals a monthly payment of \$283.33 and a yearly total of \$3,400 in child support.

In exceptional cases, the court can set a different amount of child support when either: (1) your share of the child support is unjust or inappropriate if the factors of the guidelines are rigidly enforced, or (2) your child support obligation brings you to or below the poverty line or below the self-support reserve. If your income is below the federal poverty level (\$11,770 in 2015), the child support order may only be \$25. If your income is above the poverty level but below the self-support reserve level (\$15,890 in 2015), the child support order may only be \$50).

The poverty level, self-support reserve level, and a chart showing the child support guidelines can be found at: [https://www.childsupport.ny.gov/child\\_support\\_standards.html](https://www.childsupport.ny.gov/child_support_standards.html).

## WHAT SHOULD I DO IF I CANNOT MAKE MY CHILD SUPPORT PAYMENTS?

If there is a change in your income (for example, you cannot work because of a disability or you lose your job), or if there are other circumstances that affect your ability to pay child support, the first step is to file a **petition for modification** with the court. ***Only a court can change the amount of money you owe.*** A court will only reduce the amount you owe from the date that you file the petition, so you want to request a modification as soon as there is a change in your income.

When the petition is filed, a hearing date will be set and you will have an opportunity to present information and documents about your change in income to a hearing officer or judge. Based on the information presented, the court can modify the amount of money you must pay.

**WARNING:** You should **never** just stop paying child support. **If you cannot afford to pay child support, you must go to court.** The child support agency can take actions against you for past due child support, called arrears, including (but not limited to):

- driver license suspension
- passport denial
- report to credit bureaus for unpaid debt
- wage, unemployment insurance benefit, or income tax garnishment, or
- even time in jail.

You should pay close attention to notices you receive in the mail, so that you can take action before any of these things happen. If you change your residence, make sure to notify the child support agency.

#### **WHAT IF I OWE PAST DUE CHILD SUPPORT?**

If you owe past due child support, and you live at or below the poverty level, the amount that accrues may not be more than \$500. You will need to file a **petition to modify** and the court will consider the facts and circumstances of your individual case, including:

- your level of income
- whether a disability prevents you from working
- whether you are on public assistance
- other relevant factors

Looking at your individual case, the court may cancel any amount you owe above \$500 for the time you have been living at or below the poverty line.

**REMEMBER:** Child Support is an obligation and if you have trouble paying this obligation because of your income level, you (either through an attorney or by yourself) should notify the court immediately. The earlier you act, the more you can ensure that other actions will not be taken against you to collect the debt.

#### **WHO CAN I CONTACT IF I HAVE QUESTIONS?**

If you are a mental health consumer, you may call Mobilization for Justice, Inc.'s Mental Health Law Project on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m. at 212-417-3830.

**DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.**