

DO YOU OWE CHILD SUPPORT?

Introduction

This publication was written for parents who may owe child support. We have other publications available that discuss child support issues. Our publication [How Can I Collect Child Support?](#) provides general information about collecting child support. Our publication [What to do About a License Suspension Notice from DCS](#) provides information about license suspensions proposed by the Division of Child Support.

We also have a general information publication about child support called [Understanding the Washington State Child Support Schedule and How Child Support is Set in Washington](#). These publications and do-it-yourself child support packets are found on the Washington Law Help web site at www.washingtonlawhelp.org. You should talk with a lawyer if you have questions about your child support. If you are low-income, you may call CLEAR at 1-888-201-1014.

How is a child support obligation set?

Child support is based on the net income of each parent and the number of children needing support. Each parent completes a “worksheet” with information about their finances and the children’s needs. The worksheet is then applied to a child support schedule. The support schedule sets the basic support amount based on the parents’ income and number of children. You can get a support schedule from:

- the county clerk’s office
- DCS
- Online at <http://www.courts.wa.gov/forms>

You may send child support payments to the Washington State Support Registry P.O. Box 45868, Olympia, WA 98504-5868. This will make sure that the payments are properly credited. Payments made directly to the other parent may not be properly credited. If you do make payment to the other parent, or if you and the other parent have made some other arrangement regarding child support, you must have a written record of the payments or an arrangement with DCS to get credit for those payments.

How can I make sure the correct support amount is set?

A. Court Cases

A Superior Court judge sets the monthly child support that the parent owing support must pay. You must be served with papers when you are involved in a divorce, paternity, or other court case. The papers you receive tell you how to respond to the court and other party (spouse/parent/state). You must properly respond to the papers you are served with. You will receive notices of important court dates when decisions will be made about support and other issues. You must show up and be prepared to participate at trial or another court proceeding. **If you do not go to court or fail to meet a deadline, the court may give the other party whatever they ask for without**

any input from you. If you do not respond to a paternity action, you could be named the father of the child. If named as the father of the child you could be expected to pay for:

- the costs of birth
- court and blood tests costs
- past and current child support
- child's medical expenses

B. Administrative Cases (DCS/ALJ)

Superior Court is not the only place child support may be set. If there is no court order setting support, DCS may set support. DCS may send a Notice and Finding of Financial Responsibility (NFFR) to the responsible parent. (Men who have signed affidavits acknowledging paternity may receive a different notice – see the section below about paternity). An NFFR will tell you how much monthly support plus any back support is owed. DCS will also send a child support schedule and worksheets if you disagree with what is in the NFFR. As with court cases, you should be prepared to respond in a timely way whenever you are notified of an appeal deadline or hearing date.

What if I disagree with the amount of support DCS says I should pay?

1. Send in your objection/request for a hearing in a timely manner.

If you disagree with the amount DCS says you owe in the NFFR, you should request a hearing (called an “adjudicative proceeding” by DCS). There should be a form included with the other papers you receive that has the title “Objection – request for Blood Test or Adjudicative Proceeding.” State your reason for wanting to appeal in the space provided on the form. Deliver or mail it back to the DCS office that sent it to you (the address should be on the form). If you cannot find the address, send your appeal to:

DSHS Board of Appeals
P.O. Box 45803
Olympia, WA 98204-5803

You have 20 days from the day you receive the NFFR to send in your appeal (if the 20th day falls on a weekend day or holiday, you have until the next regular business day). If you make an appeal within the 20 days, DCS cannot collect any support from you while the appeal is pending. If you file an appeal after the 20-day period, you can still get a hearing but DCS can begin collecting child support from you right away. If you wait longer than a year to ask for a hearing, you must show you had good cause for the delay. Be sure to retain a copy of anything you send to DCS.

2. Try to settle your dispute before the hearing.

You should consider trying to settle your dispute with DCS before the hearing. A person called a Claims Officer will be representing DCS and might agree to a resolution that is satisfactory to you, the other parent, and the state without going to the hearing. If your income is different from what DCS says it is, show the Claims Officer your own child support worksheets with your actual income and expenses, and be prepared to provide proof of your income.

3. Attend the hearing if you can't agree.

You should go to the hearing if you and the Claims Officer can't agree on how to resolve the case. The hearing is conducted by an administrative law judge (ALJ). This hearing is less formal than a court proceeding. A telephone hearing has the same legal effect as when an ALJ is physically present. The ALJ will decide your child support amount after listening to what you, the other parent, and the Claims Officer have to say.

You should take at least two copies of any documents or papers you want the ALJ to consider. If DCS claims that your income is higher than what you receive, you should bring copies of your income tax return, W-2 statement, wage stubs, and bank statements to show what is accurate. The ALJ can also consider any child support you have already paid for the child. You should also bring receipts for clothing, medical bills, or other expenses you have paid for the child. You may want to bring someone as a witness who has helpful information about your ability to pay support.

The ALJ must use the state child support schedule to set support. Once arriving at the basic support amount, the ALJ may set support higher or lower (called "deviation") than the basic amount for certain reasons. Those reasons are explained in the Definitions and Standards section of the child support schedule. An example is where a parent has responsibility for children from another relationship. For a more detailed discussion of how child support is set, see our publication [Understanding the Washington State Child Support Schedule and How Child Support is Set in Washington.](#)

The ALJ will write an Initial Decision after the hearing. If you are dissatisfied with the ALJ's decision and your hearing request was filed prior to November 15, 2002, you may appeal it to the DSHS Board of Appeals, but you must do so **within 21 days of the date the Initial Decision is mailed**. If you disagree with the Board of Appeals decision, or if your hearing request was filed after November 15, 2002 and you disagree with the ALJ decision, you have the right of appeal to superior court.

What if there is a dispute about who is the father of a child?

Disputes about parentage of a child are resolved in Superior Court paternity proceedings. The court may also address issues of custody, visitation and child support. There is another way to establish paternity without going to superior court. Paternity may be established if the father has signed an acknowledgment of paternity and filed it with the state Department of Health. If the paternity acknowledgment has been filed, DCS may set a child support obligation against the alleged father without filing a paternity case in superior court.

A person who signs an acknowledgment of paternity may later believe that he is not the parent of the child. What impact the paternity acknowledgment has on the alleged parent's obligations to the child depends on when it was filed. If a paternity acknowledgment was filed *before July 1, 1997*, the person may respond to the DCS support notice (called a Notice and Finding of Parental Responsibility (NFPR)). A blood test will be used to show whether he can be excluded as the natural parent. If the blood test is negative, DCS will take no further action. If the test does not exclude him, the alleged father may ask that DCS start a paternity action in superior court. Starting a

paternity action in superior court takes the power to set support away from DCS and gives it to the court.

Paternity acknowledgments filed **after July 1, 1997** are much different from those filed before that date. This is because a person's acknowledgment of paternity becomes legally binding unless he formally withdraws the acknowledgment within **60 days from the date of filing**. If the acknowledgment is withdrawn within 60 days of filing, it is not binding on the signer and only a superior court may establish paternity. However, once 60 days have passed from the date of filing, the paternity acknowledgment becomes binding on the alleged parent unless and until it is successfully challenged in a court proceeding on the basis of **fraud, duress or material mistake of fact**. Because it is difficult to successfully challenge an acknowledgement in court, **you should not sign an acknowledgment of paternity unless you are absolutely certain you are the parent of the child**. If you have any doubt, you should let the superior court decide whether you are the parent. In fact, you may be in a better position to resolve child custody, visitation and support issues if you take the matter to court instead of signing the paternity acknowledgment.

How is child support computed for low-income parents?

If you have a monthly net income of \$600 or less, a minimum amount of \$25 per child per month will be charged. Judges or DCS may "deviate" or change the amount if they decide it would be unjust to calculate support at the lowest level. A support obligation may not reduce a parent's monthly net income below the state standard for one person. This excludes a child support payment of \$25 per month per child minimum amount. As of December 2003, the one person need standard is \$1,036 a month. However, this figure is subject to change.

How much of my income can be taken for payment of support?

DCS can take up to 50% of your net monthly income for collection of current support and arrears (unpaid back support). If your current support obligation exceeds 50% of your net income, DCS is limited to collecting the 50% amount. If you are receiving government benefits which are not based on need, such as Unemployment Compensation, Social Security Disability Insurance or Workmen's Compensation, DCS can take up to 50% of that monthly payment.

If you receive disability payments from Social Security or Labor and Industries, these agencies should be paying additional support to your children. This support should be applied to a current support obligation. If you have questions, talk with the person at DCS handling your case, called a Support Enforcement Officer (SEO). Your SEO can tell you how to get credit for those disability payments or how to get them started if they aren't being made.

DCS cannot collect child support from SSI or welfare benefits (TANF, GAU, Refugee Assistance). However, your back support will increase each month that support is not paid. If you are getting SSI or welfare payments and your child support payment is based on a much higher income, you should consider a modification action to change the support amount. You may also be able to reduce or even get rid of any back support you owe.

Can I change my child support obligation?

You can change a monthly child support obligation with a "Petition for Modification". Changing the child support obligation will not apply to back support. The "Petition for Modification" only applies to future child support payments and does not affect back support.

You must return to court to change the support order if your support obligation is based on a court order. NJP has a packet available to help you complete a modification at <http://www.nwjjustice.org/>.

If support was set by DCS or an ALJ decision, you may file a "Petition for Modification" with DCS (this form is available from DCS). When DCS receives your petition, they will set up a hearing with an ALJ. You should show the same evidence to the ALJ that you would in a hearing for setting support. (See above). NJP will soon have a packet entitled **CHANGING YOUR CHILD SUPPORT ADMINISTRATIVE ORDER**.

To change a support order, a judge will want to know how circumstances have changed since the first support obligation was set. Examples of this might include a long period of unemployment, becoming responsible for more children through birth or marriage, or becoming disabled. Any of these circumstances could be a reason to ask that child support payments be changed downward. DCS has a duty to help you change your child support if circumstances have changed. Your child support payment may also be increased if your income rises. DCS or the other parent can ask that support be raised if the paying parent's income increases.

Is there any way I can reduce the amount of collection?

In certain cases, DCS can reduce the amount of child support taken from you if collecting 50% of your monthly income causes a hardship. DCS can also reduce the amount of income taken each month for back support owed to the state. You must show how collecting 50% of your monthly income creates a hardship for you or your family. You can prove this by showing that the money left over after paying child support does not care for basic needs. If you are a Workfirst participant, you must sign a waiver of the Statute of Limitations to have back support payments lowered. You can also limit back support if you are currently caring for your children. Besides reducing the payments per month, you can also ask the state to waive or reduce some of the back support you owe the state. You will need to be aware of the Statute of Limitations and the Conference Board if you wish to reduce monthly payments or back support.

1. Statute of Limitations

The Statute of Limitations is essentially a legal time limit. On support orders signed by a judge or set by DCS on or after July 23, 1989, the statute of limitations allows DCS ten years from the date the youngest child named in the order turns eighteen to collect unpaid child support. Any back support not collected by the time the youngest child reaches twenty-eight will not be collected. If the support order was entered before July 23, 1989, the statute of limitations is six years after the amount became due if the order was entered in 1980 or before, and ten years if the order was entered after 1980. (Be aware that DCS says that pre-July 23, 1989 administrative orders are not subject to a statute of limitations at all. This position is disputed but has not been tested in court.)

It sometimes happens that DCS will ask parents who owe child support to sign a Waiver of Defense/Statute of Limitations form. Signing the form waives the limit. Signing the form allows DCS to collect unpaid child support indefinitely. If you are low-income and owe a large sum of back support, you may find it worthwhile to sign the waiver form. In exchange for signing the waiver form, you may receive lower monthly payments. Lower monthly payments will give you current relief from collection and more time to pay back support that is owed. Each case is different, so make sure you know exactly what DCS is agreeing to before signing the waiver. You should not sign the waiver as a pre-condition of negotiation with DCS.

2. Conference Board

If you have a child support problem or a grievance with DCS, you may petition for a Conference Board. The Conference Board consists of DCS employees. You may appear before a Conference Board and request relief. A Conference Board decision is not the same as a hearing decision and cannot be appealed.

The Conference Board can decide to accept a partial lump-sum payment instead of collecting all back support owed to the state. Sometimes, back support *owed to the state* may not have to be paid back if paying back the support would cause a hardship to you or the children who live with you. If you ask for a “substantial hardship waiver” DCS should consider:

- How much you have already paid
- Your present debts and assets
- Your income
- Whether you are unable to work
- Whether continued collection of unpaid support would cause you severe financial hardship

What if I disagree with a Notice of Support Debt (NSD)?

DCS could send you a Notice of Support Debt. The Notice may claim that you owe accumulated support under a court order that sets a fixed monthly amount of support. If you disagree with what DCS says you owe in an NSD, you most likely need to go to court to get the order changed. DCS may give you credit for payments you can prove you paid. But DCS cannot ignore or change the court ordered support amount. Sometimes, DCS can decide not to collect court ordered support. If you dispute an NSD, you can request a Conference Board, or consider a modification (see above).

What if I disagree with a Notice of Support Owed (NOSO)?

DCS uses a Notice of Support Owed (NOSO) to set a monthly child support obligation. The NOSO is used when a court orders support but does not set a fixed dollar amount. You should ask for an administrative hearing or set up a court hearing and notify DCS within 20 days if you disagree with the suggested amount. You should try to settle the amount first with your Support Enforcement Officer (SEO). You can do this by sending the SEO documents and child support worksheets to show the correct amount owed. At the hearing, you will need to show why the DCS figures are wrong.

What if child support is withheld from my wages but not sent in to DCS?

Ask your SEO to take action against your employer. DCS can demand that wages be withheld from you to pay child support and sent to DCS. If your SEO will not take action against your employer, make a written request to DCS to try to collect this money. If that does not work, write to or ask to speak with your SEO's supervisor. Send a copy of your wage stubs that show the amount withheld. Be sure to keep a copy of the stubs you send in.

How can I get in touch with DCS?

To get in touch with DCS, check the phonebook. Every Washington telephone book has the phone number of the DCS office in your area. Look in the Blue Pages under the Washington State listing for the Child Support Enforcement Office. Or look under Social and Health Services for the Support Enforcement listing. The phone book should list a toll-free number if the office is located outside your area.

What rights do I have for interpretation and translation services?

You have a right to an interpreter if you cannot understand or speak English. You have this right in any legal proceeding started by DCS, a prosecuting attorney, or other government body. For legal proceedings not started by DCS, a prosecuting attorney, or other government body, you still have the right to an interpreter, but you may have to pay for one yourself if you cannot afford one. However, you should not have to pay for an interpreter if you need one due to a disability.

If you or your witness cannot easily understand or talk because of a hearing or speech impairment, you have the right to an interpreter. This interpreter is appointed and paid for in civil and criminal proceedings.

If you feel that the interpreter is not doing a good job, you have the right to ask for a new interpreter.

DCS must provide an interpreter if you are not able to communicate very well in English. Be sure to ask for an interpreter every time you talk to DCS. Be sure to ask that all forms be translated. An interpreter needs to be provided without delay. Do not sign any form or make a written agreement unless you understand the form or agreement.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, December 2003.

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