



Child Support Basics

This guide provides both custodial and non-custodial parents with helpful information about child support. This information has been adapted for the following New York State Counties: Dutchess, Orange, Putnam, Rockland, and Westchester.

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How do you start a child support case?

A child support case generally starts when the custodial parent (or an agency acting on the custodial parent's behalf) files a petition with the court requesting child support from the non-custodial parent. The petition is typically filed in the county where the child resides and/or where one of the parents resides. There is no fee to file a petition in Family Court.

Why did I get papers saying I must go to court?

Once a child support petition is filed, both parents generally must appear in court. The court papers have important information such as:

- The date and time of the court appearance;
- The name of the support magistrate who will hear the case;
- What the petitioner is asking the court for; and
- What documents you should bring to the court appearance.

Who can file a child support petition?

A child support petition can be filed by:

- The person caring for the child, such as a parent or legal guardian;
- The Department of Social Services (DSS), if the child receives public assistance; or
- The child (although this usually only applies to older children, who are still under the age of 21).

There does not need to be a custody order before the court can issue a child support order. If the parents have joint physical custody, the parent who earns less money can request child support.

Definitions of key terms

Custodial Parent: The parent living with the child most of the time.

Non-Custodial Parent: The parent not living with the child most of the time.

Petition: A written request filed with the court.

Petitioner: The person who starts a case.

Respondent: The person against whom the petitioner files a case.

Support Magistrate: A person similar to a judge who has the power to make decisions about child support and other related issues, including paternity and spousal support.





What will happen when I go to court?

The support magistrate will hear the case and may issue an **order for child support**. The order for child support is a piece of paper that tells the non-custodial parent how much support they have to pay, how often they have to pay, and where to pay the support.

Can I get a lawyer for my child support case?

In most child support cases, the Family Court does not give parents a free lawyer. The Family Court can provide a free lawyer in a child support case if the non-custodial parent may go to jail for not paying support. The support magistrate can also assign a lawyer to the child to make sure the best interests of the child are protected. The lawyer is called an **attorney for the child**. This is rare. This usually happens in cases involving paternity.

Can the court order support before the case is completed?

Yes. The court can order the non-custodial parent to pay child support before the final court order. This is called a **temporary order of support**. The court can order the non-custodial parent to pay child support starting from the date the petition was filed. This is called **retroactive support**. The court can order the retroactive support to be paid all at once or in fixed amounts until it is fully paid.

What if I miss my court date?

If you know you cannot make a court appearance, you can file a written request to the support magistrate. In the request, you can explain why you cannot appear and ask for a new court date. The support magistrate will decide what happens next. If you are the petitioner and fail to make this request, the court can dismiss your case. This could mean that any child support orders that were in place will no longer be in effect.

If you are the respondent and fail to make this request, the court can enter an order in your absence. This is called a **default judgment** (also known as a default order). A default judgment is often based on the information the custodial parent gave to the court. If you are the non-custodial parent and disagree with the default judgment, you may file a **motion to vacate the default judgment**. This is a written request asking the court to cancel the order. You must give the court a good reason for not showing up.





How is the amount of child support decided?

In New York State, the amount is based on a law called the **Child Support Standards Act**. First, the court determines the **gross income** of each parent. Gross income is the amount of money you earn before taxes are taken out. Before calculating child support, certain expenses, including New York City and Yonkers City taxes, as well as Federal Insurance Contributions Act taxes (FICA) will reduce your income. Once the court determines your total income, it uses the formula below to determine the child support amount. Note that the calculation may be different if both parents' combined gross income is above a certain amount. The amount changes regularly. As of March 1, 2022, the amount was \$163,000.

Number of Children	Percentage of Income
1 child	17% of your income
2 children	25% of your income
3 children	29% of your income
4 children	31% of your income
5 children or more	35% of your income

If the court finds that the formula above would result in a non-custodial parent being left with an income that is below the poverty guidelines, the court can set child support at \$25 per month.

In addition to the basic child support payments, both parents may be ordered to also pay a portion of any child care, health care, and educational expenses. These extra expenses are known as **add-on expenses**. A parent may also be ordered to include the child on their health insurance.



What should I bring to court?



1. Proof of identification, such as a driver's license or state ID.

2. A carefully completed Financial Disclosure Affidavit.

3. Proof of your salary, such as pay stubs.

4. Copies of any income tax filings, Federal or State.

5. Documentation of health care expenses for you and/or for family coverage, and the amount of that coverage.

6. Documentation that shows your Social Security or disability benefits, worker's compensation, unemployment benefits, veteran's benefits, pension or retirement funds investments, fellowships, or annuities.

7. Documentation of any public assistance you receive, such as cash assistance, SNAP benefits, Medicaid, and Home Relief.

8. Proof of expenses, such as FICA and local taxes. These expenses will be subtracted from your income before the court determines your support payments.

9. Proof of other expenses, such as child care, education, and medical expenses.

10. If you have been ordered to pay support for another child, bring a copy of the order and proof of the payments you have made. Some ways to prove you have paid are receipts for money orders, canceled checks, or pay stubs showing that the support has been paid directly from your paycheck.

What if I work "off the books"?

If you work "off the books" or do not receive regular paychecks, and you cannot provide sufficient proof regarding your income, the court may base your income on the following:

- What you earned in the past and what you currently earn;
- What the court thinks you can earn; and/or
- What the standard of living is in your household.

The amount the court decides to use as your income for purposes of calculating child support is called **imputed income**.



What if I do not agree with the support order?

You have the right to tell the court that you do not agree with an order. This is called an **objection**. Either parent can file an objection. If you receive a copy of the court order on the day it was made, you have 30 days to file an objection in writing. If the order was mailed to you, you have 35 days (from the day it was mailed) to file an objection in writing. You must file the objection in the same Family Court where the decision was made. The other parent will have an opportunity to respond. A judge will then decide the case. You may not have to go back to court for another hearing about the objection. The judge's decision will be mailed to you.

While you are waiting for the decision, the child support order is still in effect. This means that the non-custodial parent must continue to pay the support until the court changes the order. For more information, see the Family Legal Care guide "[How to File an Objection or a Rebuttal to a Child Support Order](#)," which is available at familylegalcare.org.

How are the support payments made?

The order will say how the non-custodial parent should make the payments. The non-custodial parent may have to pay the custodial parent directly or pay through the Support Collection Unit (SCU). (See page 8 for information about the local SCU offices.) If the custodial parent receives public assistance, the SCU will automatically collect the support.

In order to keep track of the amount of child support paid or received, it is important to include the SCU case number on any payments made through the SCU. If child support is paid directly to the other parent, the non-custodial parent can pay by check, money order, or account wire transfers so that there is a record of the payments. If the non-custodial parent can only pay in cash, it is important to keep a written record of the dates and amounts of all payments.

If the child is on public assistance, who gets the child support?

If the custodial parent receives public assistance for the child, the parent assigns their right to receive child support to the Department of Social Services (DSS). This means that DSS will automatically file a child support case against the non-custodial parent. The SCU will collect the support on behalf of DSS. Note that a non-custodial parent cannot take a child off of public assistance. Only the custodial parent who started the public assistance case can do so.



What happens if the non-custodial parent fails to pay child support?

Once there is an order for child support, the non-custodial parent must pay the amount ordered. If the non-custodial parent fails to pay, they will have **arrears**. Arrears means unpaid child support. Arrears typically WILL NOT go away, even after the child turns 21. The SCU has different ways to enforce the child support order:

- SCU can have the non-custodial parent's employer take the child support directly from their paycheck. This is called **garnishing wages**. By law, the employer is required to do this. The employer cannot fire the parent because of this.
- SCU can take the non-custodial parent's state or federal tax refund before they get it.
- SCU can freeze the non-custodial parent's bank account.
- SCU can suspend the non-custodial parent's driver's license or professional license.

In addition, the custodial parent can file a **violation petition** in Family Court. This lets the court know that the non-custodial parent did not pay some or all of the child support. If the court finds that the non-custodial parent **willfully violated** the support order, the non-custodial parent can be put in jail for up to 6 months. Willfully violated means not following the order when the non-custodial parent has the ability to do so.

The court may also issue a **money judgment**. This is a court order saying how much the non-custodial parent owes. Until the money judgment is paid off, the arrears build up interest at a rate of 9% per year. The custodial parent can use the money judgment to take the non-custodial parent's assets, put liens on their property, or suspend their business or professional licenses. The money judgment can be filed in the county clerk's office where the non-custodial parent lives or has property.

What if there is no child support order, but the non-custodial parent supports the child?

Either parent can still decide to start a child support case. The court may order the non-custodial parent to pay a different amount than what they currently pay. Even if the non-custodial parent pays bills or buys gifts, the court can still order the parent to pay child support.

If a non-custodial parent pays child support without a court order, both parents can keep a record about how much child support is paid and when. This can be helpful information if either parent starts a case later on. If the non-custodial parent wants to support their child but does not know where the child is, the parent can put money in a separate bank account until they are able to find the child.





What happens if the non-custodial parent's income changes or they lose their job?

If the non-custodial parent loses their job or cannot pay child support for another reason – such as their income went down or they are going to prison – the court will NOT automatically lower the amount of child support. The non-custodial parent can go to the Family Court where the order was made and file a **petition for downward modification**. This is a written request asking the court to lower the amount of child support. Similarly, if the non-custodial parent's income goes up, the court will not automatically increase child support. The custodial parent can go to court and file a **petition for an upward modification**. This is a written request asking the court to increase the amount of child support.

The court may modify, or change, the amount of child support ordered if:

- There was a **substantial change of circumstances** since the court made the last child support order (for example, if the child now lives with the order parent or if one of the children on the order turned 21)
- **Three or more years** passed since the last order was made
- Either parent's **income changed (either up or down) by 15% or more** since the last order was made.

When you go to court, you must bring proof of these changes. You can ask the court to modify the support amount going back to the date when you filed the modification petition. Until the court makes a different child support order, the last order stays in effect.

Keep in mind that the court may not change the order. To determine the child support amount, the court will often look at what a parent previously made. The court may decide that the parent still has the ability to earn that much. This is true even if a parent's income has gone down since the last order.

When does child support end?

In New York State, a child can receive child support from their parents until the age of 21. Child support can end earlier if a court finds that the child is **emancipated**. A child can be emancipated if they are married, self-supporting, or in the military.

Notes



Additional Resources

Where can I go for help?

If the SCU is working on your case, contact the SCU office in your county. Be sure to include your SCU case number if you have one. For other county SCU information or to ask questions by phone, you can call the New York State Office of Child Support Services at 888-208-4485.

SCU offices by county:

Dutchess County Child Support Enforcement Unit

60 Market Street
Poughkeepsie, NY 12601
Email: CSEWEBDutchess@dfa.state.ny.us

Orange County Department of Social Services

11 Quarry Road
Goshen, NY 10924
Email: CSEWEBOrange@dfa.state.ny.us

Putnam County Support Collection Unit

110 Old Route Six Center
Carmel, NY 10512-2192
Email: CSEWEBPutnam@dfa.state.ny.us

Rockland County Department of Social Services - Child Support Enforcement Unit

50 Sanatorium Road, Building C, 2nd Floor
Pomona, NY 10970
Email: CSEWEBRockland@dfa.state.ny.us

Westchester County Office of Child Support Enforcement

100 East First Street, 5th Floor
Mt. Vernon, NY 10550
Email: CSEWEBWestchester@dfa.state.ny.us

Family Legal Care

Family Legal Care offers free legal information and guidance on New York family law and Family Court. Call our Helpline at 800-696-8629, or visit familylegalcare.org for more information.

Pace Women's Justice Center

The Pace Women's Justice Center (PWJC) provides a free Helpline and legal services to victims and survivors of domestic violence, sexual assault, and elder abuse in Putnam and Westchester Counties. Call the Helpline at 914-287-0739, or visit law.pace.edu/wjc to learn more.

Legal Services of the Hudson Valley

Legal Services of the Hudson Valley provides free legal representation to survivors of domestic violence, as well as some individuals with HIV or mental illness, veterans, members of the LGBTQ community, seniors, and individuals caring for children because of abuse and neglect by the parents, in Family Court matters in Westchester, Putnam, Rockland, Orange, Dutchess, Sullivan and Ulster Counties, including representation in family offense proceedings to request an order of protection, custody matters, and child support. Call the intake line at 1-877-574-8529 and see their website at lshv.org.



This guide was created in collaboration with the Pace Women's Justice Center (PWJC). For more information about PWJC, visit law.pace.edu/wjc.

Need more help? Family Legal Care offers free legal information and advice on New York family law and court procedure.



Call our Helpline: 212-343-1122 or 800-696-8629

Visit: familylegalcare.org