



Family Legal Care

Justice for All. One Family at a Time.



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TODAY WE WILL COVER:

- I. Family Legal Care Services
- II. Paternity/Parentage
- III. Custody & Visitation
- IV. Child Support
- V. Family Court Orders of Protection



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OUR VISION

We envision a world in which justice in New York State Family Court is attainable for everyone, fully and equitably—no matter who they are, where they live, or their economic status—because all families deserve the opportunity to create stability, security, and emotional well-being.



OUR PROGRAMS & SERVICES

Family Legal Care offers parents and caregivers *free* resources, support, and guidance to navigate New York Family Court.

We **increase access to justice** for families dealing with **child support, custody, visitation, paternity/parentage, guardianship,** and **domestic violence**, through an array of programs, including our Helpline, legal consultations, workshops, and more.



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BILINGUAL HELPLINE

Phone, Email, and Chat

- Provides legal **information** about NY family law and Family Court
- Schedules one-on-one consultations
- English and Spanish, and other languages through interpreters

Monday-Friday from 9 am-5 pm (closed 1-2 pm)



212-343-1122 or familylegalcare.org/helpline





LEGAL ADVICE CONSULTATIONS

We provide *free limited scope representation*, helping parents and caregivers successfully represent themselves in Family Court.

- Attorneys provide **1-on-1 legal advice** to litigants
- **One-hour consultations** by phone or video
- **Follow-up** consultations as needed



212-343-1122 or familylegalcare.org



FAMILY LEGAL CARE CASES



**Paternity
and
Parentage**



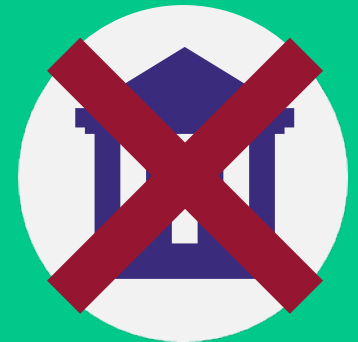
**Child
Support**



**Custody &
Visitation**



Divorce



**Abuse and
Neglect**

LEGAL RESOURCE GUIDES

Multilingual guides about New York family law and court procedure

- Over **60** original guides that provide step-by-step guidance
- Available in **9 languages**
- Can be found in NYC courthouses, through partners, and online



Visit: familylegalcare.org/guide

Family Legal Care | Child Support Basics | Pg. 1

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

Someone or an agency filed a **petition** in court asking for you to pay child support. A petition is a request in writing to the court.

Who can file a child support petition?

A child support petition can be filed by:

- The person caring for the child
- The Department of Social Services (DSS) of a county or New York City if the child is, or was, receiving public assistance
- The child (although this usually applies only to older children)

When does child support end?

In New York State, a child can receive child support until the age of 21. Sometimes the child support can end earlier. Some examples of when it can end earlier are if the child joins the military or gets married.

What will happen when I go to court?

At your court appearance, a **support magistrate** will hear, or listen to, the case and make an **order for child support**. The order for child support is a piece of paper that tells you how much support you have to pay, how often you have to pay it, and where to send it. A support magistrate is similar to a judge and has the power to make decisions about child support and **paternity** cases. A paternity case is about who the legal father of a child is.

Can I get a lawyer for my child support case?

In child support cases, Family Court does not give parents a lawyer unless the non-custodial parent is in danger of going to jail for not paying. But you may hire a lawyer if you want to. The support magistrate may assign a lawyer called a law guardian, or attorney for the child, to the child to make sure that the best interests of the child are being protected. This doesn't happen in every case.

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 request in writing to the court.

Support magistrate: A person who will hear, or listen to, the case and make an order for child support.

Order for child support: A piece of paper that tells you how much support you have to pay, how often you have to pay it, and where to send it.

Paternity: A case about who the legal father of a child is.

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



TECH HUBS

Our Tech Hubs offer computers, Internet, phones, scanners, printers/fax, and assistance with navigating Family Court. Services include:

- A computer and private space to attend virtual court hearing
- Help downloading and submitting Family Court forms

To make an appointment, email techhub@familylegalcare.org or call **646-496-0046**.

Locations

• Brooklyn

Temporarily located inside the Brooklyn Family Court:
330 Jay St, 6th Floor,
Brooklyn, NY 11201

• Queens

Legal Hand Jamaica
149-13 Jamaica Ave.,
Jamaica, 11435

• Bronx

Bronx Family Court, 900
Sheridan Ave., Lower Main
Floor, Bronx, NY 10451



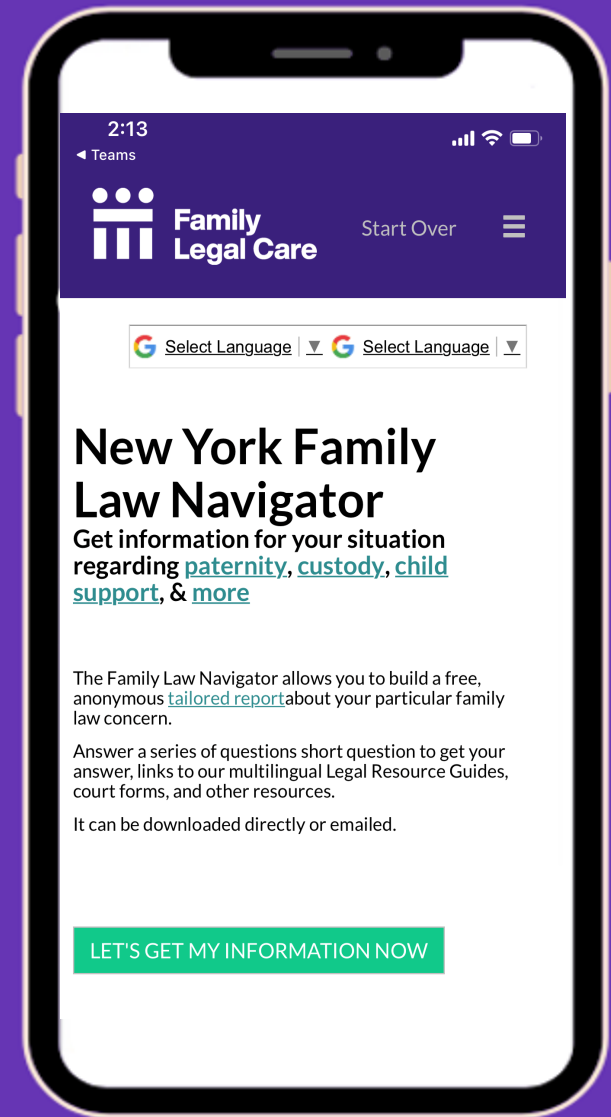
FAMILY LAW NAVIGATOR

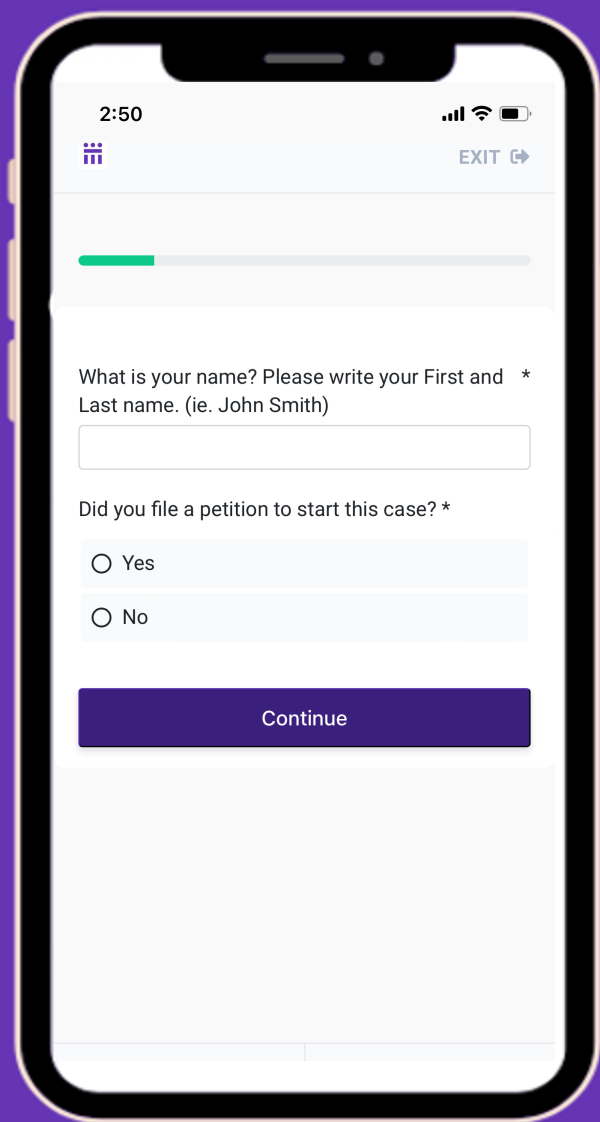
An **interactive website** that offers quick, customized information on questions about family law issues.

Answer 3-12 simple questions to get a report specific to your family law issue



Visit:
familylegalcare.org/navigator





GUIDED COURT FORMS

A free program that guides you step-by-step through court forms on any computer or mobile device

- Answer a few simple questions and receive a completed PDF that's ready to be filed
- Order to Show Cause, Petition for a Writ of Habeas Corpus, Affidavit in Support, and more!



Visit: familylegalcare.org/courtforms



NEW YORK FAMILY COURT



The Family Court decides cases involving:

- **Paternity & Parentage**
- **Custody & Visitation**
- **Child support**
- **Domestic violence**
- **Guardianship**
- Child abuse and neglect (child protection)
- Adoption
- Juvenile delinquency
- Persons in need of supervision (PINS)

Each county has its own family court (one per borough in NYC)





PATERNITY & PARENTAGE





PATERNITY & PARENTAGE OVERVIEW

Parentage vs. Paternity – What’s the difference?

Parentage is the status of being a legal parent. **Paternity** is the status of being a legal father.

Establishing parentage means determining or proving who the legal parent (generally father) of the child or children are.

Why Does Parentage Have to Be Established?

Before any child support, custody, or visitation case is heard, **parentage must be established.**

Once parentage is established, the two parents have equal rights to their child. If parentage has not been established, an individual may not have the same rights as the birth parent/mother.



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ESTABLISHING PARENTAGE



Marriage / Presumption of Legitimacy

Whoever is married to the mother is assumed to be the father.

Ex: If Maria and Robert were legally married, Robert is considered the legal father of the child.



Acknowledgement of Parentage (AOP)

Whoever signs the acknowledgment of parentage is the legal parent.

Ex: If Maria and Robert were not married and Robert signed the "AOP."



Court / Order of Filiation

This is a court order entered by a jurist.

Ex: If Maria and Robert were not married and Robert never signed an AOP. A jurist could issue an order of filiation.



Equitable Estoppel can prevent someone from challenging paternity. This happens when someone has held themselves out or acted as a child's father.



Custody & Visitation



CUSTODY & VISITATION

Custody is the right to parent your child.

- **Physical Custody** – Where the child lives
- **Legal Custody** – The ability to make major decisions impacting your child's life

Visitation is parenting time between a noncustodial parent and their child.





TYPES OF CUSTODY



Joint

Both parents share legal decision-making or parenting time or both.

Ex: Maria and Robert's child, Zelda, spends substantial time with both of them. Maria and Robert have to make decisions together.



Sole

One parent has more decision-making power or parenting time than the other.

Ex: Robert has sole physical custody of Zelda. Zelda lives with Robert and Robert makes decisions for her.



Split

Children don't live with the same parent.

Ex: Robert has custody of Zelda and Maria has custody of their other child, Linn.



Shared custody is the default. This is what people have with no court orders.



TYPES OF VISITATION



- Supervised
 - Agency
 - Private Neutral Third Party
- Unsupervised
- Therapeutic
- Daytime
- Overnights
- Electronic or Telephonic





BEST INTERESTS OF THE CHILD STANDARD

- Who can provide **stability and continuity** for the child?
- Who is the child's **primary caretaker**?
- Quality of **home environment** – does one parent live in an area surrounded by other family and friends?
- Ability to provide for child's **emotional and intellectual development**
- Relative **fitness of each parent** – mental health or substance abuse issues
- **Desires of the child**, especially as she matures (assignment of an Attorney for the Child)
- Any other **relevant factor**





WHO CAN FILE FOR CUSTODY & VISITATION

Standing to File for Visitation

- Parents
- Grandparents and siblings if:
 - There is a reason why visits are not happening through the parents,
 - There is an **established relationship** between the relative and the child, and
 - It is in the **best interest** of the child

Standing to File for Custody

- Parents
- Non-parent caretaker if:
 - There are **extraordinary circumstances** and
 - It would be in the child's **best interests**





CUSTODY & VISITATION FAQs

WHERE CAN I FILE FOR CUSTODY AND VISITATION?

Where your child has lived for the past 6 or more months.

HOW DO I CHANGE MY CUSTODY AND VISITATION ORDER?

File a modification petition. You must prove there is a change in circumstances and that it is in your child's best interest to modify the order.

HOW DO I ENFORCE MY CUSTODY AND VISITATION ORDER?

By filing a petition for enforcement ("violation") petition.

CAN MY CHILD TESTIFY IN COURT?

Generally, no. The court will appoint a lawyer for your child to represent them and what they want in court.





**You have the right to visit
your child even if you are
behind on child support.**



**CHILD
SUPPORT**



CHILD SUPPORT OVERVIEW

What Is Child Support?

Child support is the financial support provided by the **non-custodial parent**. Child support can be broken down into two parts:

1. The “basic” obligation to cover the basic needs of the child (e.g., food, clothing, shelter, and other necessities); and
2. Add-ons for insurance, unreimbursed medical expenses, childcare, and educational costs.



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CALCULATING CHILD SUPPORT

The Court will typically base an initial child support amount on a formula that uses the parties' actual income. This only happens when:

1. The parties **appear**; **AND**
2. The parties provide **credible** (believable) evidence about their income.



Did you know?

Child support is retroactive back to either the day the custodial caregiver files a petition for child support or when the child goes on public assistance, not to the child's birth.





CALCULATING CHILD SUPPORT CONTINUED . . .

Number of Children	Percentage applied to AGI
1	17%
2	25%
3	29%
4	31%
5 or more	35%



CHILD SUPPORT AND PUBLIC ASSISTANCE

- The Department of Social Services (DSS) will generally file for child support
 - Custodial Caregiver is required to comply to receive public assistance benefits
 - Cash Assistance, Rent Assistance, Daycare Assistance
 - Passthrough amount for Custodial Caregiver
-



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CHILD SUPPORT FAQS

HOW LONG DOES CHILD SUPPORT LAST?

In New York State, child support generally lasts until the child is 21 years old.

WILL THE COURT DECIDE CUSTODY AND VISITATION WITH MY CHILD SUPPORT CASE?

Child support and custody and visitation cases are heard by separate jurists. The cases do not generally affect each other.

CAN I GET A COURT-APPOINTED LAWYER TO REPRESENT ME?

There are generally no court-appointed lawyers for child support.

WHAT HAPPENS IF A CHILD RECEIVES PUBLIC ASSISTANCE?

When a child is receiving public assistance, DSS will automatically start a child support case against the non-custodial parent.

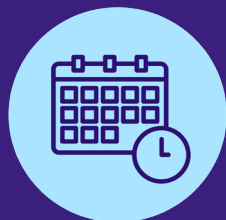




MODIFYING CHILD SUPPORT

A modification is a petition asking the court to change a final child support order.

- To file for a modification petition you must prove:
 - Either parent's **income has changed by 15% or more**;
 - **More than 3 years have passed** since the last court order; or
 - There has been a **substantial change in circumstance**
 - Child moving in with a different adult
 - Emancipation event (military, marriage, older child turning 21)
 - Incarceration
 - Change of Employment



PLEASE KNOW: The court can generally only modify the order back to the date that the petition was filed.



CHILD SUPPORT: MANAGING ARREARS

Arrears are unpaid child support. It is very difficult to change arrears once they are in place.

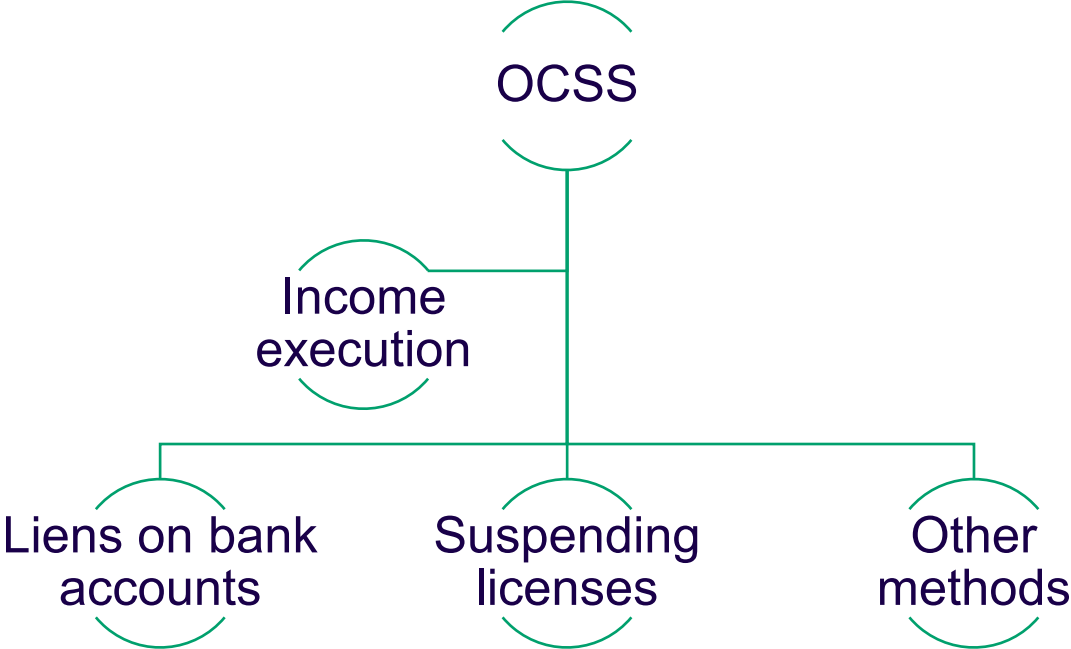
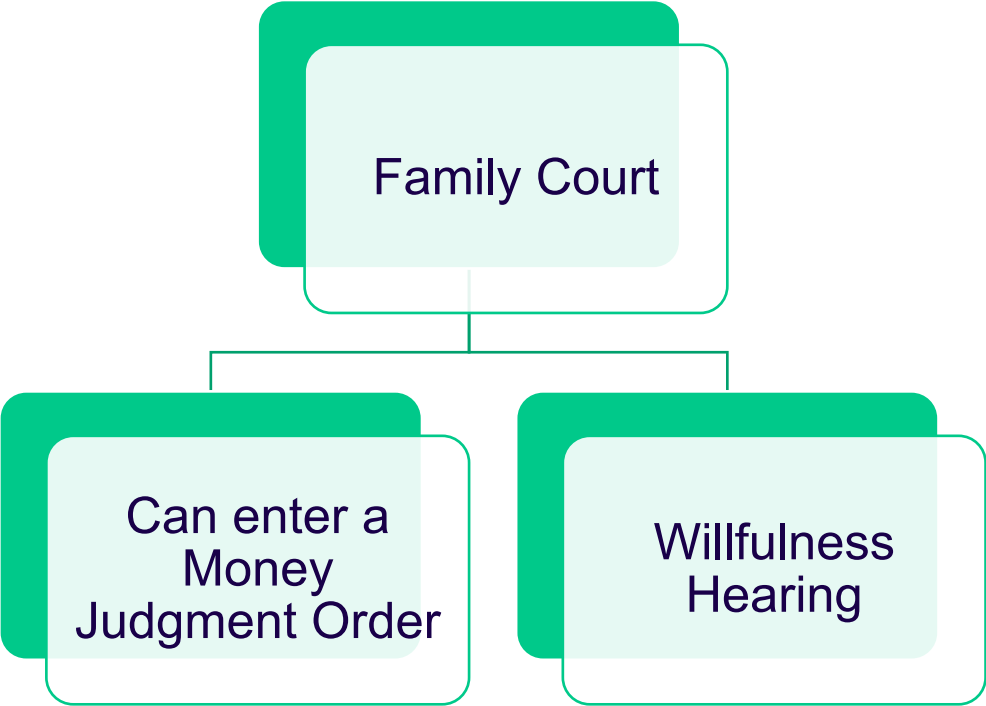
- If you owe arrears to the custodial caregiver – only they can forgive those arrears
- If the child is receiving public assistance – arrears are owed to DSS
- Contact OCSS to talk about your case and see if you qualify for any of their arrears reduction programs (only in NYC)

Because it is so difficult to modify arrears, it is very important to file a modification petition as soon as there has been a substantial change in circumstances.





Enforcing Child Support





OFFICE OF CHILD SUPPORT SERVICES (OCSS)

OCSS helps parents and guardians with child support

- File for child support
- Locate the non-custodial parent
- Collect child support payments and keep an accounting
- Other services for both custodial and non-custodial parents are also available

Contact OCSS:

- Call 311 and ask for child support, or call the NYS Child Support Helpline at 1-888-208-4485
- Email dcse.cseweb@dfa.state.ny.us. Include your case number in your email.





FAMILY OFFENSES & ORDERS OF PROTECTION





ORDERS OF PROTECTION

Family Court

To get an order of protection against someone in Family Court, you must:

- Be related by blood or marriage;
- Be married or have been married in the past;
- Have a child in common; or
- Be in or have been in an intimate relationship

Criminal Court

To get an **order of protection** from Criminal Court:

- There must be a criminal case
- The prosecutor, or Assistant District Attorney (ADA) must bring the case to the judge, usually after an arrest is made; and
- The person receiving the order of protection does not need to have any special relationship with the person that the order is against





VISITATION AND FAMILY OFFENSES

If the other parent has a family offense petition against them, they may still be allowed to visit with children

- This depends on:
 - What the order says
 - If the children are listed on the order, and
 - Whether it is within the children's best interests





ORDERS OF PROTECTION FAQS

CAN I FILE FOR AN OP FOR MY CHILD?

Yes. You can ask the Family Court for an OP that protects you, your child, or both.

CAN MY INFORMATION BE CONFIDENTIAL?

Yes. If you have safety concerns about the other parent or family member, you can ask the Family Court to keep your information confidential.

HOW LONG DO OPs LAST?

In Family Court, temporary OPs generally lasts until the next court date. Final OPs usually last for 2 years but can be up to 5 years.

CAN I GET A FREE LAWYER?

Generally, yes. If you are financially eligible, you can be appointed a free lawyer to represent you on this case.





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QUESTIONS?



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Visit our website to access our legal resources and tools:
familylegalcare.org



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