

SUPPORT IN OREGON

The content of this document is based on the following documents:

- *"The Child Support Program In Oregon," published by the Department of Justice/Division of Child Support, revised December 16, 2004*
- *"Family Law, Guidelines & Services/Child Support Guidelines". This information was provided by the State Commission on Children and Families, the Oregon Judicial Department and the Oregon Dispute Resolution Commission, with the assistance of Oregon Legal Services and the Oregon State Bar.*
- *"Family Law, Guidelines & Services/Child Support Guidelines," provided by the Oregon Judicial Department with the assistance of the Department of Justice, Division of Child Support.*
- *"How to Prepare for Your Divorce, Legal Separation, Custody or Support Trial," a brochure created by the State Family Law Advisory Committee's "Self-Represented Legal Services Subcommittee," based on an original version developed by the Douglas County Local Family Law Advisory Committee and the Douglas County Legal Aid Office in 2001.*

CHILD SUPPORT

Oregon law requires all courts and agencies that set child support orders to use guidelines created by the State. The Oregon Administrative Rules that apply to child support (Oregon Administrative Rules, Chapter 137, Divisions 50 and 55) are available on the Internet at www.dcs.state.or.us. These guidelines decide the amount of child support a parent will be ordered to pay by using the incomes of both parents and the number of children named in the support order. The rules describe how much child support is paid when the parent is unemployed, self-employed or working part-time or temporarily. If the parent is already paying support for children from another relationship, this lowers the parent's income. The rules also address support parents might get from an ex-spouse – it is added to the income of the receiving parent, and subtracted from the income of the paying parent.

Once the parents' incomes are determined, they are added together to make a combined income. Based on the combined income of the parents and how many children are involved, Oregon law sets how much money the parents should spend to raise their children. Day care costs and some of the children's medical costs are then added to this basic support, and the combined figure is the total child support obligation.

The parent without custody pays the same share of the **total** child support that his or her income represents to the parents' combined incomes. In other words, if the non-custodial parent has 60% of the parents' combined incomes, that parent will pay 60% of the total child support obligation.

Credit for parenting time is given when overnight parenting time is equal to or exceeds a certain percentage and there is an agreement in writing. The credit increases gradually with increases in the amount of parenting time. For more information about calculating child support, please visit the Division of Child Support website at: <http://www.dcs.state.or.us/calculator>.

The parent without custody must enroll the child in an available health insurance plan if ordered to do so by the court or a hearings officer. The parents share this cost based on how much income each has. The non-custodial parent must pay the premium and the custodial parent's share is deducted from the child support payment.

When insurance is provided by the custodial parent, the custodial parent pays the premium and the non-custodial parent's share is added to the child support payment that he or she pays.

People receiving public assistance (welfare) are usually not required to pay any child support.

Oregon law presumes the amount of support calculated under these guidelines is correct. If either or both parents wish to have a different amount ordered, they must convince the judge or a hearings officer that the presumed amount is unjust or inappropriate. The judge must agree and make a specific ruling about why the presumed amount is not being ordered.

The child support guidelines also let the court take into account other circumstances which may either increase or decrease the child support amount. In the guidelines these are referred to as "rebuttals." For example, the judge may increase the support for a child who has special needs so that each parent shares in the payment of costs for the child. The rebuttal factors are listed in ORS 25.280(<http://www.leg.state.or.us/ors/025.html>) and the Oregon Administrative Rules Chapter 137, Division 50 (see above). You should look at both. If you include a rebuttal factor, you must be prepared to prove it is true.

If child support is to be determined by a judge, the judge will take into account the following basic issues, as well as others listed in the Oregon Administrative Rules:

- All of the income (including potential likely income) of both parties
- Whether a party receives or pays spousal support (alimony)
- The availability and cost of medical insurance for the children
- Whether the parties have minor children with someone else
- Whether the children receive Veterans or Social Security benefits based on one or both of the parent's retirement or disability
- The number of joint children, where they each reside and the amount of overnight parenting time the children have with the non-custodial parent
- The cost of child care related to a parent's employment, job search, or training or education necessary to obtain a job
- Continuing health costs for the joint children

CHILD SUPPORT SERVICES

The State of Oregon operates the Child Support Program which is free and available to anyone who wants services. The Department of Justice's Division of Child Support is the agency in charge of the Program, with both the Division of Child Support and local District Attorney Offices providing services. The services provided by the Child Support Program include:

- Establishing who the father of a child is
- Finding the noncustodial parent
- Getting a child support order established or changing an existing support order

- Getting medical insurance coverage for a child
- Determining the amount of past due child support
- Enforcing and collecting child support payments
- Collecting spousal support payments when spousal support is part of a child support order

Child support services are available to both custodial and noncustodial parents, even if one of the parents lives in another state. Relatives or other caretakers who have physical custody of a child are also entitled to child support services.

If the child receives public assistance in Oregon or received it in the past, the Division of Child Support (DCS) will provide child support services. Public assistance means Temporary Assistance for Needy Families (TANF) or Medicaid (including Oregon Health Plan Services). DCS also provides services if the child is in the care of the Department of Human Services (i.e., foster care) or the Oregon Youth Authority.

If the child has not received public assistance, either parent can receive child support services from the District Attorney, in the county where they live. In a few counties, DCS provides services for the District Attorney by contracted agreement.

Neither the Division of Child Support (DCS) nor the District Attorney is the attorney for the parent. They cannot give legal advice. They represent the State of Oregon. Any person involved in a case handled by DCS or the District Attorney may hire an attorney at their own expense. In contempt and criminal nonsupport cases, the court will appoint an attorney to represent the person charged if that person cannot afford an attorney.

WHAT SERVICES DOES THE CHILD SUPPORT PROGRAM PROVIDE?

Accounting – The division of Child Support:

- Sends monthly billing statements to the parent who owes support, showing the current amount due and any past-due amounts, unless payments are consistently being received through income withholding or electronic payment withdrawal
- Keeps the record of payments received and amounts due on your child support account
- Distributes payments received from the person who owes support

Locating the Parent

The Child Support Program (CSP) has specialized staff to help locate the parent. They can even help locate a parent living in another state or country. It is very important that you give as much information as you can to the CSP. Information such as the parent's social security number (which will be used for child support purposes only), birth date or age, last-known address or location, and employer (current or last-known) are all helpful in locating the parent.

Establishing Paternity

Establishing paternity means the CSP can help establish the legal father for a child. Sometimes the alleged father admits paternity right away. If either the mother or the alleged father denies he is the legal father, parentage tests can be ordered. Often the alleged father admits paternity when the parentage tests show he is the likely father. Occasionally, the case must be resolved in court. CSP can also help a man who wants to be declared the legal father of the child but needs help to establish paternity.

Establishing a Support Order

If there is no judgment or order for payment of child support and/or health care coverage, CSP will try to get one. Using information from both parties, CSP uses a formula called the child support guidelines to figure out the child support amount. CSP then notifies both parents of this amount. If neither party objects or requests a hearing, CSP will establish an order for the amount listed in the notice. If either party disagrees with the amount and tells CSP in writing, a hearing will be scheduled and held. The child support amount will be determined at the hearing. If a party disagrees with the hearing order, he/she may appeal to circuit court.

Out-of-State Orders

Even if you live in Oregon and the other parent lives in another state, CSP can work with the other state to help establish paternity or get support. It is important to tell your child support caseworker if you have a support order entered in another state or country.

Modifying a Support Order

CSP will review the support order, but not more than once every two years. The caseworker looks at the case to see if the amount is what it should be according to the guidelines. CSP also will look at the case to see if the parent who owes support has health care coverage for the child. CSP can change the order if the amount is not what the child support guidelines show or if the parent who owes support does not have health care coverage for the child. This change may end up as either an increase or a decrease in the support amount.

If the order is less than two years old (or has been reviewed less than two years ago) and there has been a substantial change of circumstance, a party can ask CSP to review the order to see if it should be modified. Examples would be if the child moves from the custody of one parent to the other, or if there is a significant change in either parent's income.

Enforcing Support

The CSP uses many tools to enforce child support and health care coverage:

- Unless payments are consistently being received through income withholding or electronic payment withdrawal, CSP sends monthly billing statements to the

parent who owes support, showing the current amount due and any past-due amounts.

- **Income Withholding.** This is a legal action where money is taken directly from the wages, salary, or other income of the parent who owes support. Income withholding is required for all new or modified support orders even if there is no past-due support. CSP is also able to collect from unemployment compensation, workers' compensation, and other types of income using income withholding.

If CSP is not collecting current support and/or past-due support by income withholding:

- CSP can withhold federal and state tax refunds to collect past-due support.
- If the person owns property in Oregon, CSP can place a lien against the property. This means the property cannot be sold with a clear title until the support has been paid.
- Sometimes bank accounts or other sources of funds can be attached to pay child support by issuing a "garnishment". CSP can garnish lottery winnings, and can attach insurance settlements or inheritances if they know about these funds ahead of time.
- The law allows the suspension of drivers' licenses and occupational licenses for failure to make and keep a payment agreement. This happens if the parent owes at least \$2,500 or three months in back support and CSP is unable to collect using other methods.
- The names of people who are delinquent in their child support are sent to consumer reporting agencies. Doing this sometimes causes parents to pay the amount owed to avoid damaging their credit record.
- A parent who gets behind in his/her support is subject to contempt of court or even criminal nonsupport. This court action can result in a jail sentence.

WHAT CHILD SUPPORT SERVICES ARE NOT COVERED BY CSP?

Legal Advice: The CSP is not your attorney. The Division of Child Support (DCS) and district attorneys represent the State of Oregon. They cannot give you legal advice. Any person involved in a case handled by DCS or the DA may hire an attorney at his/her own expense. In contempt of court and criminal nonsupport cases, the court will appoint an attorney to represent the person charged if that person cannot afford an attorney.

You must tell the enforcing agency if you have an attorney representing you in any child support matter. The CSP must talk with your attorney, unless your attorney says the CSP can talk with you.

Spousal Support: Spousal support is not enforced unless it was part of the original child support order. If spousal support was not part of the child support order, but includes an income withholding provision, CSP can provide income withholding and accounting services. However, CSP cannot take other enforcement actions to collect spousal support.

Parenting Time and Legal Custody: The enforcing agency cannot advise you about parenting time or custody matters. You can discuss these matters with an attorney or take action in court.

What is expected of me? If you are thinking of applying for public assistance, you may want to contact your local DA first. The DA may be able to help you get child support, which may help you avoid going on public assistance.

If you get public assistance, you are required to cooperate with the CSP, unless you believe that to do so would cause harm to you or your child. There are, however, several ways the CSP can help keep you and your child safe and still provide child support services. Ask your caseworker for a “client safety packet”.

Whether you receive public assistance or not, your cooperation with the enforcing agency is necessary for the success of collecting support or establishing paternity. Any facts you can give CSP about the other parent is helpful. Although not required for the application, you should give CSP as much of the following information as you can when applying for services. This will help the caseworker locate the parent and enforce support:

- The full name and address (or last known location) of the parent who owes support
- The social security number of the parent who owes support (this can be found on pay stubs, tax forms, health insurance forms, bank records or other financial records, and drivers’ licenses issued by some states). (NOTE: this will be used for CSP purposes only)
- The parent’s birth date (or approximate age)
- Where the parent works (or last worked)
- The county and state where your divorce occurred (if there was one) and a copy of the judgment, or the county and state where there is any other support order or judgment
- The children’s birth certificates and social security numbers.
- Information on any assets such as bank accounts, vehicles, or land the parent who owes support might have

What if I have a grievance?

Parties in child support cases are entitled to fair, professional, courteous and accurate service from the CSP.

If you have a complaint that you have not received this level of service from an Oregon CSP office, please contact a supervisor in that office. If talking to a supervisor does not resolve the issue, you may file a grievance. You can get a form to file a grievance by calling:

From the Salem area	503.378.5567
Outside the Salem area	800.850.0228 (Toll-free in Oregon)
From outside Oregon	503.378.5567
TTY Number	503.945.5928

This form will contain the instructions for filing the grievance, including the address where it should be sent. Your grievance will be screened and, if accepted, responded to within 90 days.

You can find more information on the Internet regarding the Oregon Child Support Program at www.dcs.state.or.us

SPOUSAL SUPPORT IN OREGON (Alimony)

Spousal support is an order that one spouse pay money to the other, usually on a monthly basis, to help that spouse with basic needs and to keep a standard of living similar to that existing during the marriage. There are three types of spousal support in Oregon:

1. Transitional Support

Transitional Support is designed to allow the person receiving support to obtain the education and training needed to go back to work or get ahead in the job market. It is temporary support. The judge will consider evidence (information) on the following issues:

- how long the marriage has lasted
- both parties' training and employment skills
- both parties' work experience
- financial needs and resources of each party
- tax consequences to each party
- both parties' custodial and child support responsibilities
- any other factor the court considers fair

2. Compensatory Support

Compensatory support is meant to compensate (pay back) a party who has made a significant financial or other contribution to the education, training, vocational skills, career or earning capacity of the other party. The court may consider the following factors:

- how long the marriage has lasted
- amount, length and importance of the contribution
- relative earning abilities of each party
- how much the marital estate has already benefited from the contribution
- tax consequences to each party
- any other factor the court considers fair

3. **Maintenance Support**

Maintenance support is supposed to help a person financially for a definite or an indefinite period of time. The court may look at the following factors:

- how long the marriage has lasted
- age of the parties
- health of the parties (physical, mental, emotional)
- standard of living (lifestyle) established during the marriage
- income and earning abilities of each of the parties
- training and employment skills
- both parties' work experience
- financial needs and resources of each party
- tax consequences to each party
- both parties responsibilities to take care of and support the children
- any other factors the court considers fair

Be ready to give evidence (information) on each of the issues listed under the type of spousal support you are requesting.

If you need assistance regarding child or spousal support issues, please do not hesitate to contact our firm at 503.693.6641.