

# FAMILY LAW NEWSLETTER

Paula J. Goforth, Certified Legal  
Specialist - Family

Topic – Child Support Orders  
Attorney Advertisement

## WHAT IS CHILD SUPPORT?

When you divorce and have children from the marriage in California the Court is required to order Child Support. If you have children with someone you are not co-habiting with, either of the parents can obtain a child support order by filing a paternity action in the family Court.

responsible to provide for necessities for your children while they are in your care. This includes clothing, food, toys, school supplies, etc.

Additional child support orders are available with regard to child care necessary for education or work and the sharing of medical expenses that are

### CALIFORNIA IMPOSES A DUTY ON BOTH PARENTS TO SUPPORT THEIR CHILDREN

California imposes a duty on both parents to support their children. Child Support is required when there is a disparity 1) between the parents' incomes and/or 2) the time the children spend with each parent. A child support order is intended to equalize the income available to the parents to support the children. With that said, if you are the payor of child support you remain

not covered by insurance. Generally these expenses are shared equally between the parents.

A further order must be made with regard to which parent is to provide Health Insurance for the children.

If you are the parent of an adult disabled child, support may also be ordered.

### I HAVE A CHILD SUPPORT ORDER IN PLACE HOW DO I GET PAID?

California law provides for the issuance of an Earnings Withholding Order by the Court without further notice to the payor. Also, application to the State Department of Child Support Services (DCSS) may be helpful as the state can report unpaid child support to the credit reporting services and deny the privileges of drivers and professional licenses. Further, the Federal Government will intercept tax refunds and cooperate to withhold Passports preventing a non-payor from traveling abroad until he or she is current on payments and making payments on the unpaid amount.

Call us today for help with your child support order.

Telephone: 760-477-8595

## HOW IS CHILD SUPPORT CALCULATED?

It is important to understand that child support is intended to equalize the parents' income so that the children may live at similar lifestyles when with each parent. Many payors of child support mistakenly believe they are paying the other parent to care for the children and insist that payee provide them with clothing or toys for the children. Where a payor may have very limited visitation it may be more practical for the payee to provide clothing and toys for the visits, but keep in mind the child support order will be in an amount that makes this easier for the payee.

California law provides for a calculation that is rather complicated. The Court is provided with an approved computer program to make the support calculation from the bench. Most good family law attorneys will have this same computer program in their office and can make the calculation.

### *What Information is needed to calculate child support?*

#### **Income available for support:**

The computer program calculates child support taking into consideration the tax consequences of the parties' earnings and circumstances. Therefore, the gross earnings of both parents is used. Any rental, interest or income from other sources is also considered. If a parent is self employed you will be required to demonstrate to the Court your earnings by providing your tax returns and Profit and Loss Statements which show your gross receipts less expenses.

Also keep in mind if the other parent is not working and has the opportunity and skills to do so the Court can "impute" income to that parent. This means that the Court can use an increased amount of earnings for such a parent when calculating child support. This encourages the

parent who is not working to return to work because the child support order results in an amount that will consume their available income and assets.

#### **Health Insurance:**

The payment of health insurance will be considered and essentially reduces your income available for support by the amount of the payment.

#### **Deductions:**

Items that are tax deductible such as mortgage interest and property taxes are considered and generally will increase the amount of income available for support.

#### **Timeshare:**

The time that each parent spends caring for their children is an important item in calculating support. A support order for a parent with 50-50 custody may be a very different amount from that of a parent with 20% visitation.

## Can my Child Support Order be increased or decreased?

If you are paying or receiving child support pursuant to a California Court Order the law provides for modification of that order where there is a material change of circumstances. If you are the payor and you have been laid off and have difficulty finding a replacement job the Court will stay or reduce a child support order if you can show that you do not have the ability to pay. If the parent receiving support has been promoted receiving a raise in his or her pay, this may be sufficient for the Court to recalculate the support which will very likely decrease the child support order. Also if the time that you spend with your child(ren) changes, a modification of the child support order may also be appropriate.

Call our office today to discuss how we can help you to obtain, modify and collect a child support order. California law is complicated and you should have the advice of a competent family law attorney.

*Telephone:* 760-477-8595

*Visit our website at:*

[www.goforthfamilylaw.com](http://www.goforthfamilylaw.com)