



Child Support



“Child support” is a set of continuing, periodic payments for the financial benefit of a child. You might be contemplating agreeing to pay child support, or you might be going to court to determine whether (and how much) you’ll have to pay. Hopefully these few questions and answers can help you get a sense of the legal background.

Do I have to pay child support?

Most likely, but it depends on your state’s law and on your situation. Every state wants to ensure that children are provided for, so they have laws obligating both parents to financially support their children, even when separated. Now, you probably shouldn’t be paying child support if you’re the custodial parent (if the children live with you). You also shouldn’t have to pay child support if your income is below the poverty level (but (a) no soldier’s income is below the poverty level and (b) even then you might have to pay a small, nominal amount like \$50 per month). But for the most part, if you have children who don’t live with you, expect to have to pay some child support.

How much will I have to pay?

It’s impossible to tell without researching your state’s specific law, because each state has a different set of guidelines for determining the proper amount. For the most part, though, you can expect the base amount to depend largely on your gross income (total money received before taxes, which, here in Korea, likely includes OHA, hardship pay, and COLA!) and the number of children you have. Here’s an example:

Say your LES shows that you have a monthly income of \$2000 base pay, \$1000 OHA, \$300 BAS, \$150 hardship, and \$350 COLA. That means your gross income is \$3800 per month. Say also that your state law says you will pay child support in an amount equal to 17% of your gross income if you have one child and 25% if you have two children. That means your base obligation might be around \$646 per month for one child and \$950 per month for two children.

Now, that’s a very rough estimate, based on a fictional person and fictional law, and it’s of a “base” amount. There are lots of other things taken into consideration (e.g. do you make other child support payments, who pays for child care, who covers health insurance, and the like...), and they will affect the final amount. The most important thing to know is that the judge will determine the amount based on a formula published by your state. So if you want a more precise guess, ask a legal assistance attorney to look up your state’s law.

Can the mother/father and I agree to some other amount?

Yes, usually. But the amount can not stray too far from the guidelines that your state has published, or the judge will not accept it and he’ll come up with his own amount. And since child support is the child’s right, and not the parent’s right, neither parent can agree to “waive” (relinquish) the right to child support completely.

Do I have to pay child support even if there’s no court order or agreement?

Yes! There’s an Army Regulation (AR 608-99) that requires soldiers to financially support family members from whom they’re geographically separated. If you don’t have a court order or written separation agreement providing for that financial support, then the Army Regulation sets the amount of support you have to pay. To learn more about AR 608-99, check out our information handout on “Family Support”, or talk to a legal assistance attorney.

Can the Army just take my pay for child support?

Yes. By law, DFAS is required to garnish your wages if it receives a child support order from a judge. There’s usually nothing you can do about this, but please feel free to talk to an attorney if you have any questions.

I have a child support hearing date coming up, and I can't make it. What should I do?

Talk to a legal assistance attorney. Sometimes you can delay the court date until a time more convenient for you. Other times you can attend by telephone. Whatever your situation, we'll try to help you work something out.

What should I expect in a child support hearing?

It depends, but it might go something like this: First the judge explains to you what the hearing is about, and answers any basic questions you have. Next, he'll probably ask you and the other parent some questions – about your income, the amount of time you spend with your child, the number of kids you have, etc. – in order to determine how much child support you owe. He'll base questions on any documents you've provided to him, like your LES or a financial disclosure affidavit. He might propose an amount, and give you the opportunity to object. At the end of the hearing, he'll either adjourn until a later time, or issue a temporary or permanent order of child support.

I just found out that there's a child support order against me. What should I do?

Talk to a legal assistance attorney. You're entitled to notice of any proceeding against you and to an opportunity to be heard by a judge. If you didn't get notice or an opportunity to be heard, you might be able to stop the payments and reopen the case. In the meantime, though, you do have to comply with the order and make the required payments.

Can I change the amount of child support I owe?

It's possible! In most states a parent is entitled to modify a child support award if there has been a significant change in circumstances that justifies such a change. So, for instance, if you just left the Army and joined Blackwater, and your salary went from \$30,000 per year to \$90,000 per year, the other parent is very likely entitled to increase the amount of child support you owe. Many states provide information on the process, and sometimes they even provide the necessary documents, on their official website. Just know that to obtain a modification you'll need to go through the court that issued the original child support order (or sometimes through the state's child support services agency). Talk to a legal assistance attorney for more information.

Can I stop paying child support if the other parent isn't letting me exercise my visitation rights?

No! Child support and custody/visitation are treated completely separately. One parent violating the custody arrangement does not authorize the other parent to violate the child support arrangement. The usual remedy for any violation of either arrangement is to go back to court and ask the judge to hold the violator in contempt.

How do I stop child support?

If your child has reached an "emancipation" event – an event that terminates child support, such as joining the military or turning eighteen – your child support payments should terminate. But you can't just stop paying. You usually have to go back to court to get a "termination order" before you can stop payments. This is especially true if child support is being withdrawn from your pay by DFAS, because DFAS will not stop a child support payment until it has an order from the judge telling it to! Talk to a legal assistance attorney to learn more about this.

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