

NJDOC-OTS HOPE Program Handout

The Basics of Child Support in New Jersey for Incarcerated Parents

The goal of New Jersey's child support system is to help children receive the financial support they need as they grow into adulthood. Understanding how the system works can be beneficial to any parent who is involved with it.

- There are two types of parents involved in child support cases: the custodial parent (CP) with whom the child lives and the non-custodial parent (NCP).

When an application for child support is made by the CP, the following steps occur:

- The NCP is located by the child support system
- Legal notice of the application for child support is delivered to the person who has been identified as the NCP, even if the NCP is incarcerated
 - o Ignoring this notice could result in an unfavorable default judgment.
 - o Consideration should be given to obtaining legal representation.
- If the parents are not married, paternity of the child will be established
 - o Being named as the father on a birth certificate **does not** establish paternity
 - o If a child is born to a married couple, husband is presumed to be the father
 - o If child born to an unmarried mother, father can admit paternity by signing a Certificate of Parentage (COP).
 - The first opportunity to sign a COP will be at the hospital where the child is born, but it can also be signed at a later date
 - Admitting paternity by signing a COP can be done up to the time a child is 23 years of age
 - After signing a COP you have 60 days to change your mind. Otherwise, paternity is established.
 - Very difficult to reject paternity once a COP has been established
 - o Anyone uncertain about being a father may request genetic testing to determine fatherhood.
 - Test is done with a small sample of saliva
 - With a score of 95 percent or higher on test, the man is determined to be the father
- After paternity is established, a child support order will be developed
 - o The incomes of both parents are taken into account as are the necessary expenses regarding the child.
 - o If parents agree on the amount of child support, a "Consent Support Agreement" will be signed by a judge

Sources – Hope Miller, Rutgers University School of Social Work

New Jersey Child Support Program Handbook: The Chance of a Lifetime

- If parents don't agree, next step is to sit with a mediator from the Child Support Hearing Officer Program
- If no agreement with Hearing Officer, then case goes to Superior Court, Family Division where an order will be established
 - Child support order for most divorce cases ends up in Superior Court
- Child support orders may be appealed
- Child support orders are not the same as custody and visitation orders.
- Only natural parents are responsible for child support, not step parents
- Once order is established, payments must be made.
 - Federal law requires payments to be withheld from NCP's paycheck
 - State has numerous ways to collect payments if necessary including, but not limited to, garnishing up to 65 percent of NCP's paycheck, withdrawals from banks, suspension of licenses (driving, barbering, hunting, etc.), and bench warrants.
 - If NCP's income drops, change in required payments can only be made through request made to the court.
 - If incarcerated, an NCP may ask the court for a suspension of child support order because of NCP's inability to make payments.
 - Order can be suspended by court until NCP's discharge from prison. After NCP's discharge from prison, court will review the order to adjust payments and any arrears. (Halliwell v. Halliwell)
 - If child support payments are not made, case could go beyond state level to result in federal criminal prosecution.
- If there has been no agreement on when payments should stop, NCP must pay until court orders a change.
 - There is no automatic age of emancipation in New Jersey
 - Emancipation based on circumstances that include age and child's ability to support him or her self.
 - Emancipation can occur at 18 years of age. Can also go through college.
- If either the custodial parent and child or the NCP moves to another state, child support obligations continue although a state other than New Jersey may handle the processing.
- If you owe child support, your chances of avoiding payment are extremely low.
 - If you have difficulty paying, best to work with the child support authority to pursue changes in amount you are ordered to pay.
 - Incarceration will often make paying child support difficult.
 - If incarcerated and there is a need to have a child support order revised, it can only be changed through a court order even if the CP agrees outside of court to change the payments.