

Child support enforcement in California

Most parents, whether married, never married, or divorced, want to support their children. Some parents, on the other hand, refuse to pay child support for their children (even it's a requirement set by a court). Every state has tools to help parents enforce child support orders and collect on support that is late.

The following discusses how to enforce California child support orders. Additional information can be gained by speaking with your family law attorney.

Establishing Child Support in California

In order to enforce child support, there must be an actual order requiring a parent to pay support. That is called establishing child support. If two parents fail to have a child support agreement in writing and signed by a judge, there is no legal requirement to honor that agreement. If an agreement on an amount for support exists, it must be written (not oral) and approved by a judge. That is commonly referred to as a Stipulation and Order. If the court agrees with the parties that the amount is in the child's best interests, a child support order will be issued.

If an agreement cannot be arrived at amicably and child support is needed, one would need to file an action for child support in court. This can be accomplished in the following ways:

- Self-represented and without assistance, using the mandatory forms;
- With an attorney, who will file a petition for child support on your behalf; or
- With the assistance of the local child support agency who will file for child support on your behalf, often referred to as the Department of Child Support Services (DCSS). The State Disbursement Unit (SDU) is the entity that collects and manages the payments.

Enforcement of Child Support in California: Contempt

Once support has been established, there are several ways a court can enforce the order and help a parent collect late payments. The primary way is through holding the non-paying parent "in contempt." California courts can enforce a child support order by holding the delinquent parent in "contempt." This translates to a judge believing one has knowingly disobeyed a court order.

Contempt is considered a "quasi-criminal" charge, and it carries both civil and criminal penalties. If the delinquent parent is found guilty of contempt for failing to pay child support, the court can order that person to pay fines, perform community service, and/or serve time in jail.

The party seeking enforcement in court must file a motion (a written request) for contempt. This motion can be created in the same manner discussed above. In California, there is a statute of

limitations (time limit) on filing a motion for contempt related to non-payment of support. The window is three years from the date a payment was due (delinquent) to file the contempt action against a delinquent parent. To illustrate: If a parent doesn't pay child support for six years, the enforcing party can only file contempt covering the last three years of payments. In a situation involving child support arrears, it's recommended to file for contempt every three years to ensure full eligibility of all past due child support.

Court Orders Aimed at Collecting Support

After an Order to Show Cause re Contempt has been properly filed and personally served, the court will hold a hearing. If the court believes that the delinquent parent knowingly refused to pay, a judge has various penalties that can be applied:

- A fine up to \$1,000 and a sentence of up to five days in jail *per count of contempt* (typically, judges don't impose the fine, since that money could go toward past due child support)
- Community service (up to 120 hours) for a first or second contempt, and up to 240 hours for a third case of contempt
- Order a delinquent parent to pay the plaintiff's legal fees and other costs associated with enforcing the child support order
- Require the delinquent parent's property be sold to pay child support
- Order the possession of a delinquent parent's real property, like a house or land
- Wage garnishment (payments are automatically withheld from the delinquent parent's pay checks)
- Garnishment from the delinquent parent's bank accounts
- Order that past due child support be paid from another source, such as a pension plan, veteran's disability benefits, community property owned by a delinquent parent's spouse, unemployment compensation disability benefits, workers compensation, and lottery winnings

Some aspects of monetary value may be exempt from garnishment, but typically a court can order that any income received by the defendant be used for child support.

When a child has reached 18 years of age and graduates from high school, although ongoing child support ceases, child support arrears do not end. If a parent is behind on child support, the delinquent amount is still owed until paid in full. It's important, as mentioned previously, to file within three years to ensure full eligibility of the delinquent amount.

Other Penalties for Delinquent Child Support Payments in California

In California, there are additional penalties for failing to pay support. If a parent is more than 30 days late on child support, the DMV may refuse issuance or renewal of a driver's license. A temporary license (valid for 150 days) may still be issued, but if payment remains delinquent, the

temporary license won't be extended. If a parent is delinquent by 120 days (or more) in child support, the state can revoke the license altogether. Another penalty is the reporting of delinquent payments to credit bureaus, which can have a negative impact on credit rating.