CHILD SUPPORT

Information for Incarcerated Parents and Parents Returning to the Community
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THE TEXAS OFFICE OF THE ATTORNEY GENERAL (OAG) believes that children need love and support from both parents. While you are incarcerated, do everything you can to show your children you love them, care about them and support them.

This booklet answers common questions that parents have about how to handle their child support case while they are incarcerated and what to do when they are released. The booklet also includes definitions of child support and legal terms. Terms in boldface type are defined in the definitions section starting on page 7.

The OAG welcomes questions from parents about their Texas child support cases. Please review the following two lists to see what information and services we can and cannot provide while you are incarcerated.

THE OAG CAN PROVIDE:

1. Basic information about your child support case.
2. The terms of the order (such as monthly child support payments and total arrears owed).
3. A review of your case to see if you are eligible for a child support modification (upon your request).
4. The address and phone number of the child support office handling your case.
5. Information on how to establish paternity for your child if you weren’t married to the other parent when the child was born.
6. The state of Texas Child Support Guidelines (how the child support amount is calculated by state law).
7. In some cases, we may be able to forward one letter for your child to the custodial parent, if you do not know the custodial parent’s address, and you have an open child support case. The custodial parent will be given whatever contact information you include in the letter.

THE OAG CANNOT:

1. Change custody or enforce visitation.
2. File a Termination of Parental Rights petition.
3. Give you the address of your children or the other parent.
4. Perform DNA testing if you signed an Acknowledgment of Paternity (AOP), or if there is an existing child support order.
5. Answer questions other than child support inquiries.
6. Obtain information from the court if you do not have a case with the OAG.
7. Transport you to court for a hearing or request a bench warrant on your behalf.
8. Lift a bench warrant.
9. Stop the interest on your arrears.
10. Provide legal advice or an attorney.

FREQUENTLY ASKED QUESTIONS ABOUT PATERNITY

What does paternity mean?
Paternity means legal determination of fatherhood.

For Married Parents...
When a baby is born to married parents, Texas law automatically recognizes the husband as the father. Married couples do not do anything to establish paternity.

For Unmarried Parents...
When a baby is born to parents who are not married to each other, Texas law does NOT automatically recognize the biological father as a legal parent. Biological fathers must establish paternity to become legal parents and gain legal rights to their children.

How can the paternity of a child be established?
When the mother and father agree, they can voluntarily establish paternity by signing an Acknowledgment of Paternity (AOP). An AOP establishes the father’s legal relationship with the child when it is filed with the Texas Vital Statistics Unit (VSU).

How does a father’s name get on his child’s birth certificate?
Once paternity is established, the father’s name can go on the birth certificate. If an AOP is signed at the hospital when a child is born, the father’s name is automatically added to the birth certificate. If paternity is established after leaving the hospital, either through a court order or by signing an AOP, the Texas VSU has a process to request that the father’s name be added to the birth certificate.

What if the incarcerated parent wants to sign the AOP?
If the incarcerated parent and the other parent both agree that they want to sign an AOP, the parent who is not incarcerated can contact staff at the local child support office, or call (866) 255-2006.

What are the legal benefits of establishing paternity?
Establishing paternity has many benefits for children and parents. The most important benefit for children is knowing that they have a father who wants to be in their life. Once paternity is established, the legal father has all the parental rights and responsibilities of a father who was married to the mother. Also, the legal father may be listed on the child’s birth certificate, giving the child a sense of identity. Establishing paternity also gives children, if eligible, the opportunity to receive Social Security, military and health insurance benefits from both the mother and the father.

How do you change the child’s last name to the father’s last name?
If paternity is established for a very young child through the completion and filing of an AOP, a name change may be possible through a process with the VSU. If paternity is being established through the court, parents can ask the court to change a child’s
last name to the legal father’s last name when the paternity order is finalized. Otherwise, parents may submit a separate petition (request) to the court to change the child’s name.

What if I change my mind after I sign the AOP?
It can be very difficult for an incarcerated parent to rescind or challenge an AOP.

Depending on the situation, a person may be able to follow a very specific and time-sensitive process to rescind (take back) the AOP or challenge the AOP in court. If you have been recently released and wish to find out more about how to rescind or challenge an AOP, visit texaslawhelp.org, click [Families and Kids] and then click [Paternity].

What if I’m not sure who is the biological father of the child?
If either parent has a doubt about who is the child’s biological father, neither should sign an AOP. Parents should get a genetic test to confirm who is the biological father before signing an AOP. Once parents get the results of the genetic test, they may then complete an AOP or go to court to establish the biological father as the legal father of the child.

In many instances, if paternity has not already been established, genetic testing may be provided at no cost by opening a child support case with the Office of the Attorney General. The OAG will not provide genetic testing to parents who have already established paternity through a court order or by completing an AOP. Parents who can access genetic testing through an accredited private lab or over-the-counter kit from a pharmacy may be able to identify the biological father without opening a child support case.

FREQUENTLY ASKED QUESTIONS ABOUT CHILD SUPPORT

Can I open a case with the Office of the Attorney General?
The OAG accepts applications from mothers, fathers and other individuals who request services. OAG attorneys represent the state of Texas in providing child support services and do not represent either parent in the case.

We think of ourselves as still being together as a couple, so why do I have a child support case?
A child support case was opened because the other parent and your children do not live with you. If the custodial parent (CP) applies for Temporary Assistance for Needy Families (TANF) or Medicaid, the state may proceed with a child support case even when the CP does not want child support.

What should I do if I have a child support case when I enter prison?
If you have a child support case, provide the office that is handling your case with your current address. By doing this, you will receive monthly updates that show how much you have paid and how much you owe in past-due support. If you want to try to lower your monthly child support payment, send in the form on page 9 of this booklet, or contact your local child support office and ask for a review and adjustment packet.
Remember: If you are able to send in all or some of your child support payments, send them through the State Disbursement Unit. Do not send child support payments directly to the other parent.

If I am in prison, I cannot work. Why doesn’t my child support order change automatically?
The OAG cannot automatically change your child support; only the court that has jurisdiction in your case can change the amount of child support you are required to pay. The court will consider changing the child support amount after the correct legal papers are filed. The court also must allow the other parent to present evidence that can affect the court decision.

How can my child support order be changed?
If you want the court to change your child support order while you are in prison, legal papers must be filed in court. One way to see if the court will change your order is by completing the OAG’s Incarcerated Noncustodial Parent Affidavit of Income/Assets form and returning it to our office. You may be asked to provide financial information and a notarized statement that can be given to the court for evidence. The completed forms do not guarantee that your child support will change, but they will help the court make a decision. You also can hire a private attorney to file papers with the court.

What happens to my child support payments while I’m in prison?
If you are the custodial parent and you do not contact the OAG, payments will continue to be sent through the payment method you selected: by direct deposit to a bank account or debit card, or by mail to the address previously provided. The OAG will continue to send your child support payments to you unless a court order redirects them to another person. For example, the court may order that payments go to the person with physical custody of your children while you are incarcerated.

While I’m in prison, can the child support I receive go to the person who is taking care of my children? If so, what should I do?
Yes, your child support can go to the person caring for your children. There are two ways to redirect child support to a child’s caregiver. One way is by completing an “Authorization for Release of Information and Payment” and returning it to the OAG. Include the name of the person who is to receive the payments. A second way to redirect payments is for the person with physical custody of the children to apply for child support services. Then, the OAG will seek a child support order to redirect the child support payments to that person. Caregivers must provide proof that the children live with them before the OAG can file a legal motion to redirect child support. Examples of proof include children’s school or daycare records, or an affidavit of possession.

Where can I get help with my child support or information about my child support case?
If you are incarcerated, the law library is a good place to start. The law librarian can give you the “Child Support Inquiry Form for Incarcerated Parents.”

All requests for information about child support or your child
support case must be made on this form. Please allow 60-90 days for a response.

FREQUENTLY ASKED QUESTIONS
ABOUT CUSTODY AND VISITATION

Does the OAG handle custody and visitation problems?
The Office of the Attorney General is not authorized to handle custody or visitation disputes. After incarceration, the Access and Visitation Hotline can provide parenting time (visitation) resources that may help reunite and resume parenting time with your children. The hotline number is (866) 292-4636. The hotline is answered in English and Spanish, Monday–Friday, 1–7 p.m.

Are fathers treated differently from mothers in child support matters?
No. Texas laws about support, custody and visitation do not mention the parent’s gender. Texas law focuses on the best interest of the child.

What should I do if I believe my child is being abused?
Call the Department of Family and Protective Services at (800) 252-5400. If you do not have access to a phone, ask someone else to make the call for you.

FREQUENTLY ASKED QUESTIONS
UPON RELEASE FROM INCARCERATION

Most people need time to get on their feet after leaving prison. The OAG may be able to temporarily delay certain enforcement actions when parents provide evidence that they are looking for a job and making some child support payments. It’s important to make an appointment with a child support office upon release from prison. Request a review of your court order when you return to work, or if you reunite with your child’s other parent.

Are there any services available to help me get a job so I can pay my child support?
You can go to the Texas Workforce Commission’s local workforce development board for job search help, skills training and employment support services. You also may dial 211 or search the Internet for referrals to educational, literacy or parenting classes; or referrals to substance abuse counseling. In some cases, the court may order a noncustodial parent who is behind on child support payments to take part in one or more of these services.

What can I do about my child support case once I am released from prison?
- Contact the child support office handling your case and provide your new phone number, address and employment information. If you are living in transitional housing, let the office know how much of your income is deducted to cover the expense. Remember that the more information you provide, the easier it is for the child support office to make informed decisions about your case.
- Pay child support regularly while you are looking for work. Even if you can’t pay the full amount, pay what you can.
- Stay in touch with the child support office handling your case about your job search efforts, and find employment before an enforcement action is taken.
- Notify the child support office as soon as you get a job, so that the office can send an order to your employer to automatically deduct child support from your pay check and send it to the Texas State Disbursement Unit.
• Request referrals for parenting classes, job help or other social services.

My child support order was modified during my incarceration. Now that I am out, will my monthly payment change?

If your child support order was lowered while you were in prison, the court will consider your release from prison as a reason it can change your child support order. After your release from prison, the amount you pay in child support will likely increase to reflect your actual earnings or your earning capacity.

Do I have to go to court to get my child support modified when I get out of prison?

Not always; in some cases you may be eligible for the Child Support Review Process (CSRP), which is one way to handle legal issues on your child support case without going to court. In CSRP, both parents are given the opportunity to meet with a child support officer at a local child support office to establish a legal order. Ask at the child support office if you are eligible.

How does the court decide how much child support I will pay?

Texas law sets the following general guidelines for child support payments. The percentage is applied to the net resources of the noncustodial parent.
• 20% for one child
• 25% for two children
• 30% for three children
• 35% for four children
• 40% for five children
• Not less than 40% for six or more children

Special rules apply if you have children in more than one household.

I have remarried, and my spouse makes a very good living. Will the child support office take my child support out of my spouse’s earnings? Will my spouse’s income be counted when my child support amount is calculated?

No. Child support cannot be taken out of a spouse’s check or earnings. A new spouse’s income will not be added to your net resources when calculating the amount of child support to be paid.

I have children with different mothers. How will the court determine the amount of child support that I pay?

When you have children in different households, the court uses a multiple household formula to determine the amount of support you must pay. It is important that you let the judge or child support review officer know that you are legally responsible to support other children who have a different mother.

CONTACT INFORMATION FOR USE AFTER INCARCERATION

BY U. S. MAIL
Office of the Attorney General
Child Support Division
P. O. Box 12017
Austin, TX 78711-2017

ON THE INTERNET
website: www.texasattorneygeneral.gov
email: child.support@texasattorneygeneral.gov

BY TELEPHONE
Customer Service Centers (800) 252-8014
Paternity Opportunity Program (866) 255-2006

24-HOUR PAYMENT AND CASE STATUS INFORMATION
(800) 252-8014

FOR THE DEAF AND HARD-OF-HEARING
1-800-Relay-TX
(800)735-2989
CHILD SUPPORT DEFINITIONS:

Accredited private lab — A lab accredited by the American Association of Blood Banks to perform genetic testing to determine whether a man is the biological father of a child

Accrual — Sum of child support payments that are due or overdue

Amend the birth certificate — A special request made to the Texas Vital Statistics Unit that allows parents to change information on a child’s birth certificate

Arrearage — Past due, unpaid child support owed by the noncustodial parent

Acknowledgment of Paternity (AOP) — A document that unmarried parents can voluntarily sign to establish legal paternity for their child without going to court. The form does not establish child support or resolve custody and visitation.

Case — A collection of people associated with a particular child support order, court hearing, and/or request for IV-D services. This typically includes: a custodial parent (CP), one or more children, a noncustodial parent (NCP) and/or presumed father (PF). Every child support case has a unique Case ID number.

Case ID — Unique identification number assigned to a child support case

Child support modification — A court-ordered change to a child support order, which can include your child support payment amount being lowered or raised

Child support — Financial support paid by a parent to help support a child or children of whom they do not have custody

Child Support Review Process (CSRP) — OAG expedited administrative actions to establish, modify, and enforce child support and medical support obligations, to determine parentage, or to take any other actions authorized under Title IV-D of the Social Security Act.

Court order — A legally binding document issued by a court of law. A court order related to child support can dictate how often, how much, and/or what kind of support a noncustodial parent must pay and how long he or she must pay.

Custodial parent (CP) — The person who has primary care, custody and control of the child, also referred to as the obligee

Dependent — A child who is under the care of someone else. Most children are dependents. The child ceases to be a dependent when he or she reaches the age of 18, as determined by state law, but depending on the state’s provisions, may remain eligible for child support for a period after he or she turns 18 years of age.

Default judgment — A judgment entered when a person fails to respond to a legal action or fails to appear in court even though the person was notified of the legal action and court date

Genetic testing (DNA testing) — Analysis of inherited factors to determine whether a man is a child’s biological father

Guidelines — A standard method for setting child support amounts based on the income of the parent(s) and other factors determined by state law

Income — Any periodic form of payment to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker’s compensation, disability, pension, or retirement program payments and interest

Legal father — A man who is recognized by law as the male parent of a child

Material and substantial change — A serious and meaningful change; something that makes enough of a difference to the family’s situation that it justifies a review of the child support order

Monthly support obligation — The amount of money a noncustodial parent is required to pay per month

Net resources — Income and earnings minus allowable deductions, such as federal taxes

Noncustodial parent (NCP) — The parent who does not have primary care, custody and control of the child, also referred to as the obligor

OAG — Office of the Attorney General

Obligated — A term meaning that a noncustodial parent (NCP) is required to meet the financial terms of a court or administrative order

Obligation — Amount of money to be paid as support by a noncustodial parent (NCP). It can take the form of financial support for the child, medical support or spousal support. An obligation is recurring and ongoing. It is not a one-time debt.

Order — Direction of a magistrate, judge or properly empowered administrative officer

Paternity — Legal determination of fatherhood

Rescind — To cancel; refers to a change of mind after signing an Acknowledgment of Paternity (AOP).

Review and adjustment packet — A Texas Child Support Division forms packet. The packet may be automatically sent once every three years while the child support case is open, or may be sent when a parent requests a review of the child support obligation, and includes questions about each parent’s financial and family situation.

Visitation provisions — Language in a court order that says when a parent has parenting time (visitation) with the child(ren) listed on the court order
INQUIRY FORM FOR INCARCERATED PARENTS

Read the section below carefully before completing this form. If you have multiple cases, use one form for each case. (Photocopies are acceptable).

(Please print)

NAME (Last, first, middle): _______________________________ INMATE#: ________________________________

FACILITY NAME: __________________________________________________________________________________

FACILITY ADDRESS: ________________________________________________________________________________ CITY/ZIP CODE: ________________________

SOCIAL SECURITY NUMBER: ____________________________________________________________________________

ATTORNEY GENERAL CASE NUMBER: ______________________________________________________________________

COURT CAUSE NUMBER & COUNTY OF JURISDICTION: ____________________________________________________________________________________________________

OTHER PARENT’S NAME: _______________________________________________________________________________

NAME OF CHILD(REN): ________________________________________________________________________________

DATE OF ENTRY: ______________________________ DATE OF RELEASE: ______________________________

PLEASE CHECK ONLY THE LINES YOU WANT US TO RESPOND TO:

____ I would like the address and phone number of the child support office handling my case.

____ I have a child support case, and I am requesting that it be reviewed to see if I qualify for a lower monthly child support payment.

____ I was not married to the mother/father of my child _____________________________ (child’s name) and would like to establish paternity (legal fatherhood ) for this child.

NOTE: Requests for information not listed above will not be answered. State and federal law limits the release of certain information on child support cases.

SIGNATURE _______________________________________________________________DATE __________________________

MAIL TO:
Office of the Attorney General
Child Support Division
Mail Code 038
P. O. Box 12017
Austin, TX  78711-2017