



▼ Child Support Enforcement — Information for Prisoners

▼ **Totally Pot Luck**

The following information sheet provides only general information and is not intended to give legal advice or opinions. For legal advice, consult an attorney.

There are two main things prisoners need to know about child support:

- ▼ **1) The laws vary from state to state.** The way the laws are applied can vary within each state from county to county and from court to court. Also, the laws are changing. This is why we titled this paper “totally pot luck.”
- ▼ **2) Child support enforcement is very real. It does apply to prisoners.** Ignoring court orders can lead to disaster. For example, failure to pay child support of \$400 a month for a period of 5 years would create an unpaid debt of \$24,000, not counting any additional interest and court fees.

For a look at ways that some states are trying to reform the way child support affects prisoners, see The Incarcerated Fathers Library’s pamphlet: *Prisoner Child Support - Broke But Not Deadbeat*.

(Q) When I go to prison do I still have to pay child support?

(A) Yes, child support does not stop.

Child support enforcement is very real. It does apply to prisoners. Ignoring court orders can lead to disaster. For example, failure to pay child support of \$400 a month for a period of 5 years would create an unpaid debt of \$24,000, not counting any additional interest and court fees.

Unpaid monthly payments add up. The sum of the unpaid support can grow to many thousands of dollars over the years. You are also charged interest on the unpaid balance.

(Q) I can’t earn money to pay support while I’m locked up. What can I do?

(A) Immediately notify the court and child support enforcement that you have been incarcerated. Ask the court or suspend payments or reduce the

payments until you are released. How to do this varies from state to state.

You may need to file a formal motion with the court, state attorney and the recipients of the child support. In some states, the court can stop or reduce the child support payment based upon your incarceration.

(Q) Will the court forgive the money I already owe or that has built up during my incarceration?

(A) No, but sometimes the court will roll back your obligations to the date you filed the motion or the date you were arrested. The laws vary from state to state.

(Q) Are there any reasons my unpaid support can be forgiven?

(A) Yes, there are some limited reasons under which unpaid support will be reduced. This will vary from state to state. Get to your law library to find the statutes that apply to you.

(Q) Can child support be withheld from my prison wages or any other money I receive from other sources?

(A) Yes, when there is a valid court order.

(Q) If I don't have child support obligations upon entering prison, do I have to worry about child support?

(A) Yes, if you have a child you always have an obligation to support that child. If a motion for child support is filed against you while in prison be sure to fill out and return any forms you receive about this. Do not ignore these forms because the court can then set your child support at any amount it chooses.

(Q) Can I legally be determined as the father of a child if I am incarcerated?

(A) Yes, if the court knows you are in prison and knows you cannot pay child support, it may still act to have you declared the father of the child.

(Q) So what can I do about this?

(A) First, respond immediately to any paper served on you. Do not ignore them or refuse to respond in a timely manner. The court can declare you the father and you will lose your chance to dispute paternity. If you are not sure that you are the father, or have any doubt the child is yours, ask for genetic testing right away. If you don't ask now, you may lose the right to challenge paternity at a later date.

(Q) My child support order was modified while I was incarcerated. Now my wife is not on welfare and we will be living together with the children when I am released. What happens then?

(A) Maybe, in some states, if your wife is not receiving cash welfare payments, she can ask that the order either be stopped permanently or that the order not be enforced.

(Q) I pay child support directly to my Ex and not the court. How can I get credit for that?

(A) You can request a form from your local child support office. If your Ex agrees that you paid money directly, you can both sign the form and the debt can be credited. If your Ex disagrees, you can fill out the form and a hearing will be scheduled where you can present your case and any proof you have. A hearing officer or the court will make the decision on how much credit you'll get.

(Q) My Ex won't let me see my kids. What can I do to change this?

(A) First of all, do not stop paying your Court Ordered Support. You can go to the county where your court order is filed and request that a "Custody and Parenting Time Order" be established. If you are divorced, check your decree, you can ask the court to enforce it.

(Q) If my kids are being adopted what happens to my child support order?

(A) Your support will stop when you supply a copy of the adoption papers signed by a judge. You will only owe unpaid back support.

(Q) If I don't agree with the way I am being treated by child support, how do I complain?

(A) Child support staff people are required to treat everyone in a professional and courteous manner. If you feel you are being treated unfairly or that your letters and phone calls are being ignored, you may call the child support office and ask to speak to the supervisor. If that doesn't work, you can file a formal grievance with the main child support office or the court that ordered your child support.

(Q) How do I get more information about child support?

(A) For more information call or write your local district attorney/family support division, health and human services agency and the Department of Social Services.

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A printed set of the ten pamphlets can be ordered for \$6.00, shipping included, from FCN at the address below. Ask for *FCN REPORT #31 - The Incarcerated Fathers Library*. Sorry, FCN is not budgeted to mail free copies.

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Send comments to The Incarcerated Fathers Library at FCN, 32 Oak Grove Road, Palmyra, VA 22963, 434/589-3036, 434/589-6520 Fax, fcn@fcnetwork.org.

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