

INCARCERATED
PARENTS
and CHILD
SUPPORT



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

INCARCERATED parents & child support

The Attorney General of Texas administers the child support program in the State of Texas.

Most of our services involve getting financial support for children. We also establish paternity for children, establish court orders for financial and medical support, and enforce child support orders.

Children do better when both parents are involved in their lives. Even while you are incarcerated, you can let your children know that you care about them, want the best for them and are doing everything you can to support them.

I'm in prison and can't work.

Why doesn't my child support order change?

Your child's needs don't change or stop just because you are in prison. In fact, they are probably greater. Even if the Attorney General's Office knows you are in prison, your obligation to pay child support doesn't go away. The amount you owe will continue to add up and you will be charged interest on any unpaid support. If you have any ability to pay child support while in prison, it is in your best interest – and your child's interest – to do so. You can request a modification to your child support due to incarceration, but the judge may not approve a reduction.

I don't have a child support case, so I don't have anything to worry about, right?

You may not have a child support case when you go to prison, but that doesn't mean a new case can't be established while you are incarcerated. If you are served with legal papers from the Attorney General's Office, it is important that you respond promptly in writing to the court that issued the papers and to the local child support office that is named in the papers. If you do not respond, the court may make a decision on your child support case without your involvement, including setting the amount of child support you must pay.

In your response, include all information that you want the court to consider when deciding your case. If you have been identified as the father of a child and are being sued for paternity, you may request genetic testing. The State Counsel for Offenders at the Texas Department of Criminal Justice (TDCJ) may be able to assist you in preparing your response. You also have the right to get your own attorney. The Attorney General's Office cannot advise you on any legal matters, and we cannot help you prepare a response to legal documents.

I didn't go to court or sign any child support papers.

Can I still be held responsible?

Yes. Even if you don't go to court or sign the papers, child support documents can have serious legal consequences for you and your child. This is especially true when establishing paternity.

What are the legal benefits for a father, mother and child when paternity is established?

Establishing paternity has many benefits for both children and parents. The most important benefit for children is knowing that they have a father who wants to be in their life.

Other benefits for the child include:

- Social Security/veterans benefits
- Inheritance from the father
- Access to the father's medical insurance
- Access to family medical information
- Knowing the identity of the father

Benefits for the father may include:

- His name on the child's birth certificate
- Protection of his legal right to develop a relationship with the child
- Access to his child's school and medical records
- Visitation as set by the court

Benefits for the mother may include:

- Creating a formal legal connection between father and child
- Father's name appearing on the birth certificate
- Financial and emotional support for the child

What should I do when I get out of prison?

It is important to contact the Attorney General's Office with your new address, employment information and plans to pay child support. You can:

- Arrange a payment plan on any back support you owe;
- Get help finding employment; and
- Find out what other help the Attorney General's Office may be able to give you.

We recognize that most people need a little time to get on their feet after being released from prison. The Attorney General's Office may be able to temporarily hold off on certain enforcement actions if you provide our office with evidence that you are looking for a job and providing some support to your child. You can also request a "review and adjustment" to see if you qualify for a modification of your child support, which may reduce the amount you are required to pay. Finally, if you are reuniting with the mother of your child, you may qualify for other child support relief.

ADDITIONAL QUESTIONS and answers:

Are fathers treated differently from mothers in child support matters?

No. In terms of support, custody or visitation, the law does not discriminate based upon the gender of a person.

We're together, so why do I have a child support case?

You may be together in your eyes, but in the eyes of the law, you are incarcerated and the other parent and your children are living separately from you. If the custodial parent needs assistance from the State and applies for Temporary Assistance for Needy Families (TANF or welfare), the State may proceed with a child support case whether the custodial parent requests it or not.

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. Your new spouse does not have to pay your child support. A new spouse's income may not be used when determining the amount of child support to be paid.

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

Texas law sets the following general guidelines for child support payments.

- 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. If the court believes you are not making as much money as you should, the child support amount may be based on your earning potential.

Where can I get help with my child support or information about my child support case?

The State Counsel for Offenders at TDCJ is a good place to start. They may be able to assist you with preparation of responses to legal documents.

The Attorney General's Office can provide you with some information about your child support case. Use the form on the back of this brochure to request basic information. Mail it to:

Office of the Attorney General
P. O. Box 12017
Austin, TX 78711-2017
Phone: (800) 252-8014
Website: www.oag.state.tx.us
E-mail: child.support@oag.state.tx.us

CHILD SUPPORT DEFINITIONS:

- **Custodial parent (CP)** – The person who has primary care, custody and control of the child, also referred to as the *obligee*
- **Non-custodial parent (NCP)** – The parent who does not have primary care, custody and control of the child, also referred to as the *obligor*
- **Paternity** – Legal determination of fatherhood
- **Default judgment** – A judgment entered when a person fails to respond to a legal action or fails to appear in court
- **Arrearage** – Past due, unpaid child support owed by the non-custodial parent
- **Child support modification** – A court-ordered change to a child support order
- **Court order** – A directive from the court
- **Acknowledgment of Paternity (AOP)** – A document that both unmarried parents can voluntarily sign to establish legal paternity for their child without going to court

INQUIRY FORM FOR INCARCERATED PARENTS

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

(Please print)

YOUR NAME: _____ **TDCJ#:** _____

YOUR ADDRESS: _____

YOUR SOCIAL SECURITY NUMBER: _____

OTHER PARENT'S NAME: _____

PLEASE SEND ME INFORMATION ON:

____ FORWARDING MAIL TO CHILDREN

____ DNA TESTING ON _____ (child's name)

____ MODIFICATION OF CHILD SUPPORT

____ INTEREST RATE REDUCTION TO 6%

____ ARREARS OWED

____ COPY OF MY ORDER

____ COPY OF MY PAY RECORD

____ OPENING A CASE TO ESTABLISH PATERNITY

____ SIGNING AN ACKNOWLEDGMENT OF PATERNITY

____ STATUS OF MY CASE (active - deferred - closed)

____ MULTIPLE FAMILY GUIDELINES FOR CHILD SUPPORT

____ OTHER PARENT WANTING TO CLOSE THE CASE

____ OTHER PARENT WANTING TO FORGIVE ARREARS

____ SOCIAL SECURITY DISABILITY PAYING CHILD SUPPORT

____ ADDRESS/PHONE OF CHILD SUPPORT UNIT HANDLING CASE

____ OTHER:

SIGNATURE _____ **DATE** _____

IMPORTANT INFORMATION

What the Attorney General Cannot Do:

1. Change custody or enforce the visitation provision of your order.
2. File a "Termination of Parental Rights" petition.
3. Provide you with the address(s) of your children or the other parent.
4. Answer questions other than child support inquiries.
5. Obtain information from the court if you do not have a case with the Attorney Generals Office.
6. Transport you to the court for a hearing.
7. Lift a bench warrant.
8. Stop the interest on your arrears.
9. Give you legal advice.

What the Attorney General CAN Do While You Are Incarcerated:

1. Forward your mail to your children if your case is in active or deferred status.
2. Upon your request, review your case to see if you are eligible for child support modification.
3. Review your case and report the terms of the order to you (monthly child support payment, monthly arrears payment, total arrears owed).
4. Provide you with copies of your order and payment record.
5. Open a case to establish paternity (Required: the other parent's name and the number of children).
6. Send a lab technician to collect a sample of your DNA.
7. Help establish the biological father as the legal father by coordinating with both parents to sign an AOP (Acknowledgement of Paternity). This can be done by mail and does not require opening a child support case.

FREQUENTLY ASKED QUESTIONS:

1. **Can I have a court-appointed attorney represent me in court at a child support hearing?** A judge will appoint an attorney to represent you only if you are found to be indigent, you appear in person at the hearing, and you face incarceration as a result of the hearing.
2. **Where can I get legal advice or direction about my child support case?** Your private attorney or the Access & Visitation Hot Line, 1-866-292-4636, Monday through Friday, 1 p.m. to 5 p.m.

3. What do I do if I believe my child is being abused?

Call the Department of Family and Protective Services at 1-800-252-5400. If you do not have access to a phone, ask a third party to make the call for you.

4. What do I do about my child support case once I am released from prison?

- Contact the child support office handling your case.
- Pay child support regularly while you are looking for work.
- Request time to find employment before an enforcement action is taken, provided you report your address and job search efforts.
- Notify the child support unit as soon as you are employed so that an order or writ for withholding can be sent to your employer.
- Request referrals to parenting programs, job help resources or other community assistance.
- Make an effort to become an important part of your child's life.

CONTACT INFORMATION

BY US MAIL

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

ON THE INTERNET

Website: www.oag.state.tx.us
E-mail: child.support@oag.state.tx.us

BY TELEPHONE

Regional Customer Service Centers and Area Offices (all voice)
Houston/Harris County . . . (713) 243-7100
Dallas/Tarrant County . . . (972) 339-3100
San Antonio/Bexar County (210) 841-8450
Austin/Travis County (512) 514-7000
Lubbock (806) 765-0094
McAllen (956) 682-5581
Tyler (903) 595-6900
El Paso (915) 779-2388

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

FOR THE DEAF AND HARD OF HEARING
(800) 572-2686 (TTY)
(512) 460-6417 (TTY)