

HOW TO REDUCE OR MODIFY YOUR CHILD SUPPORT PAYMENTS

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A UNITED WAY AGENCY**

**JACKSONVILLE AREA LEGAL AID, INC.
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The State of Florida
Florida Dept. of Children & Families -
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The information provided in this brochure is not a substitute for legal advice. The laws described here may change without notice.

HOW CAN I CHANGE THE AMOUNT OF SUPPORT I HAVE TO PAY?

The only legal way to change your child support payments is to have a court decide to reduce, suspend, or stop your child support payments.

WHEN CAN I REDUCE MY CHILD SUPPORT PAYMENTS?

A court can reduce, suspend, or stop your child support payments if there has been a substantial change in your circumstances after the court ordered you to pay. A substantial change in circumstances is anything affecting your income or the child's need to receive child support. For example, if you lose your job, your employer cuts your salary, you have a dramatic increase in expenses or a prolonged illness, or the children become adults or start living with you, one or more of these events may be considered a substantial change in circumstances.

HOW DO I GET A CHILD SUPPORT MODIFICATION ORDER?

First, you must file a written petition with the court. Although recommended, it is not necessary that you have an attorney.

The Florida Supreme Court provides free forms and instructions on their website at www.flcourts.org. If you do not have internet access at home, you may use the internet at your local public library.

Family Court Services, located in Room 413 of the Duval County Courthouse, sells packets of the same forms and instructions for a low fee, roughly \$20. These forms are also available in the Law Library, located in Room 102 of the Courthouse for a nominal copy fee.

WHAT SHOULD MY PETITION SAY?

Your petition should include any information showing a substantial change in your circumstances and why you should no longer pay the child support as ordered. You should ask the court to reduce, suspend, or stop your payments.

You will also need to file a financial affidavit. A financial affidavit is your notarized statement of your income, expenses, assets and liabilities. A financial affidavit form is included with the other forms mentioned before. Later, you will be asked to provide copies of your paycheck stubs, tax returns and other financial documents supporting your financial affidavit.

PAYMENT PLAN FOR CLERK'S FEE

There is a filing fee. If you cannot pay the filing fee all at once, you may request a payment plan, but \$25 will be added to the fee. You are entitled to a payment plan if your income is 200% of federal poverty guidelines or less, and you do not have assets of \$2,500 or more over and above your home and vehicle. If eligible, your monthly payments should not be more than 2% of your net monthly income, and your case cannot be held up if you cannot pay on time. Some of your other court costs may be included in the payment plan.

WHAT HAPPENS AFTER I FILE MY PETITION?

The caretaker of your child must be served with a copy of your petition and financial affidavit. If the Florida Department of Revenue (DOR) was involved in originally having you ordered to pay child support, you must also serve DOR with copies at their main office. The address is: Child Support Enforcement Program, Florida Department of Revenue, 4070 Esplanade Way, Tallahassee, Florida 32399-7016. Instructions for service are included with the forms.

After service, provided all other requirements have been met, the court will set a hearing. You will be notified of the date, time, and place of the hearing. If you move before the hearing, you must be sure to file a change of address with the court. Your child's caretaker will also be notified. You must attend the hearing. Men should wear a coat and tie and women should wear a conservative dress. If you do not appear at the hearing, the court will probably dismiss your case.

At the hearing, the court will want to know why your child support should be changed. You need to bring with you to the hearing all of your financial records or other proof that your income has changed. If you need witnesses, such as your employer to testify that you were laid off, or your doctor to testify that you cannot work, the Clerk of Court located in Room 103 of the Duval County Courthouse can help you with subpoenas. Expert witnesses, such as a doctor, may require an hourly fee. Proof of receiving Social Security disability may be a less expensive alternative.

If the court finds that there has been an involuntary long-term change in your circumstances making you unable to pay as ordered, the court will reduce, suspend, or stop your payments.

WHAT IF I STOP PAYING CHILD SUPPORT WITHOUT GETTING A COURT ORDER?

If you do not keep up with your payments, your child's caretaker could move for contempt of court against you. You would be required to appear in court and explain why you have not paid your child support on time. If the court finds that you have the ability to pay, but willfully refused to pay, the court can sentence you to jail until you pay all or part of the amount you owe. There may be other consequences such as liens against your property, garnishment, license suspension, and seizure of your federal tax refunds.

It is better to have your child support paid up until the point you lost your ability to pay. If you were behind even before you lost your ability to pay, the court could apply the "unclean hands" defense against you to deny your request to reduce, suspend or stop your child support.

DOES IT MATTER WHEN I FILE?

You should file to reduce, suspend or stop your child support as soon as you lose your ability to pay. The court is not permitted to modify your child support retroactively beyond the date you file your case. For example, if you do not file your case until six months after you lose your job, the court will not be able to modify your child support for those six months.

WHAT IF I AM INCARCERATED?

You should file to suspend your child support as soon as you are incarcerated. If you do not, you will not be protected from contempt charges or writs of attachment (civil warrants). Although incarceration alone is not a basis to stop your child support from adding up, the payments can be suspended while you are incarcerated, and you can request that the payments be restructured to be more manageable when you are released.

DO I NEED TO FILE IF MY CHILD IS RECEIVING SOCIAL SECURITY BENEFITS FOR MY DISABILITY?

Even if your child is receiving Social Security dependent's benefits for having a disabled parent, you still need to file to reduce or terminate your child support payments. The child support system receives no

notice of this money going to your child. It will appear as though you are not paying or providing any benefits to your child. You must file to have the court properly credit you for the benefits your child is receiving.

HOW CAN I GET ASSISTANCE IN REDUCING MY CHILD SUPPORT?

If you need help finding a private lawyer to take your case, the **LAWYER REFERRAL SERVICE** may help you. The Lawyer Referral Service can arrange for you to meet with a lawyer for 30 minutes for \$50. Costs for additional services will be subject to arrangement with the lawyer. You can call the service at 399-5780 for an appointment.

Another option may be the **CHILD SUPPORT ENFORCEMENT PROGRAM**. It is legally required to assist parents in reducing their child support payments. You may call 1800-622-KIDS or go to www.myflorida.com/dor/childsupport to find the office location in or near your county. You should call first for an appointment. There is a \$25 application fee; however there are no attorney-s fees.

RESOURCES

JACKSONVILLE BAR ASSOCIATION

Lawyer Referral Service
(904) 399-5780

CHILD SUPPORT ENFORCEMENT PROGRAM

(800) 622-5437

FAMILY COURT SERVICES

Room 413, Duval County Courthouse
330 East Bay Street, Jacksonville, FL 32202
(904) 630-7682

Room 309, Clay County Courthouse

825 North Orange Avenue
Green Cove Springs, FL 32043
(904) 278-3636

Nassau County Annex

76347 Veterans Way
Yulee, FL 32034
(904) 491-2028

St. John-s County Self-Help Coordinator

(904) 827-5631

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