



## CHILD SUPPORT

### **What is child support?**

Even though parents are not married and live apart, they are both legally responsible for the support of their child. The parent who the child lives with must provide such things as food, shelter, education, and medical care. The parent who the child doesn't live with must provide financial support and health insurance (if the health insurance is available through that parent's job) for the child until the child reaches the age of eighteen or, in some cases, nineteen.

### **Is child support still required if the parents were never married?**

Yes. If the parents were never married the court must establish paternity of the child, for example, establishing who is the child's biological father. Once paternity is established the father must support the child. If the father refuses to acknowledge paternity he may be required to take a blood test to confirm paternity. Please refer to the fact sheet on **Paternity** for more information about paternity.

### **Who decides how much money the parent living apart from the child must pay?**

If the parent who the child lives with is not receiving any TANF or Medi-Cal support (e.g. welfare) the parents are free to decide the amount of child support on their own. They can receive a court order stating the amount that they have agreed upon. If the parents cannot agree on the amount, they can go to court and a judge will decide based on a formula that looks at income, childcare costs, medical costs, and time spent with the child.

However, if the parent who the child is living with is receiving TANF or Medi-Cal support, the Family Support Division of the District Attorney's Office will determine the amount of child support based on the formula described above. A judge orders the final amount of child support. The parent must give the child support payments to the Family Support Division as long as that parent continues to get welfare.

The Family Support Division will also recommend the child support amount and enforce a child support order for a parent who is not receiving welfare if either parent requests their assistance. **The Santa Clara County Office of the District Attorney Family Support Division** can be reached at **(408) 433-9600**.

### **How does the Family Support Division decide on the amount of child support?**

As described above, the Family Support Division uses a formula or guideline set by the Statewide Uniform Guidelines for Determining Child Support found in the California Family Code.

### **What happens if the parent refuses to pay child support?**

The Family Support Division can work to enforce child support orders. It will try to get the parent to pay voluntarily. However, if the parent still refuses to pay the child support, more drastic steps are authorized by the Family Support Act of 1988. This Act allows for such actions as taking money directly out of that parent's paycheck; taking that parent's tax refunds; taking that parent's unemployment and state disability benefits; taking any lottery money won by that parent; suspension of that parent's professional licenses; liens; writs of execution; and contempt proceedings.

### **What happens if the parent moves to another state to avoid paying child support?**

The parent still has to pay child support. A federal law called the Full Faith and Credit for Child Support Orders Act allows California to continue enforcing child support orders issued here no matter where the parent may move. The parent seeking the child support payments can hire an attorney and try to enforce the order against the other parent in the new state or the Family Support Division can work to enforce the child support order in the new state.

### **Can a child support order be changed?**

Yes. If one parent paying child support experiences a significant change such as a loss or gain of employment, either parent may request that the Family Support Division increase or decrease the child support order. Parents can also ask to change the amount of the child support payment if the amount of time spent with the child changes significantly. If the Family Support Division is not involved in a child support case the parent desiring the change must ask the judge directly.



### **What if one parent is under 18 and the other is an adult – will the adult parent get in trouble if the minor parent requests child support through the District Attorney's Office?**

It is against the law for an unmarried person under the age of eighteen to have sexual intercourse. The District Attorney's Office does sometimes check the ages of people in child support cases and it is possible that the adult could be in trouble. For more information please see the fact sheet on **Unlawful Sexual Intercourse**.

### **What if the parent the child lives with doesn't want child support from the other parent?**

If the parent who lives with the child is not on welfare he/she does not have to get child support from the other parent. If the parent is on welfare, the Family Support Division of the District Attorney's Office will automatically pursue child support whether or not the parent with custody wants the child support.

### **What if the parent the child lives with doesn't know where the other parent is?**

The Family Support Division will help find the other parent. It is important that the parent who lives with the child give the District Attorney's Office as much help as possible in finding the other parent. Refusing to give the Department of Social Services or the Family Support Division information about the other parent is a crime that can lead to jail time.

### **Should a parent still get a child support order if the other parent isn't working?**

The parent the child lives with can get a child support order regardless of whether the other parent is working. Once a judge signs an order, the parent the order is against starts owing money. If that parent isn't working the amount of the order may be low and the parent may not pay. However, if that parent does start working or otherwise gets money, the parent will owe the monthly child support payment amount plus all the prior amounts he/she didn't pay.

### **Can a parent get a child support order against a parent who is in jail?**

The parent who lives with the child will probably not be able to collect any support from the jailed parent unless that parent has money or property or is in a work release program. However, yes, a child support order can be entered against a parent who is in jail. Once the jailed parent is released child support can be collected.

*Fact Sheets for Teen Parents can be found on-line at: <http://www.teenparents.org>*