

How is Child Support Calculated?

There is complex mathematical formula set forth by statute (*Family Code §4055*) that is used to calculate child support. This is the presumptively correct amount of child support and is referred to as “Guideline” child support. This guideline amount must be determined in *every* case. However, after the amount is determined, in limited circumstances, the court has the discretion to deviate from the guideline amount. Parents may also agree as part of a settlement to deviate from the guideline amount of child support.

Because the mathematical calculation of child support is complex and includes incorporation of the parents’ tax schedules, two different computer programs have been created by private companies and approved by the courts to calculate child support. One program is DissoMaster™, the other is Xspouse™. There is also a free child support calculator on the Orange County Superior Court Website that you can try for yourself to get a rough approximation of child support.
(<https://www.cse.ca.gov/ChildSupport/cse/guidelineCalculator>)

However, note that the actual input of data for child support can be complex and involve a legal analysis of various factors. Your results may vary significantly from the support calculated by a knowledgeable attorney or the court.

The main factors that go into calculating child support include:

- Each spouse’s income.
- The time share that each spouse has with each minor child.
- Which spouse will be claiming the Dependency Exemption and Head of Household Tax filing status for each minor child.
- Certain itemized tax deductions that each parent is entitled to take.

When this data is put into the child support calculation software it provides the resulting “Guideline” child support.

The basic concept behind this calculation and the computer software is that each parent’s respective child support obligation is calculated separately based on that parent’s income and time share, and then the difference is netted out. Dad’s child support obligation to mom is determined based upon the time Mom has the children and Dad’s income. Let’s say that this comes to \$1,000 per month payable to Mom. Then Mom’s child support obligation to Dad is calculated based upon Mom’s income and time share. Let’s say that comes to \$250 per month. The two resulting numbers are then netted out, to determine the final child support obligation. In this example it would mean that Dad pays Mom \$750 per month.

If the children spend 100% of their time with Dad the amount of income made by Dad is irrelevant. Dad can make \$300,000 a year while Mom only makes \$40,000 a year and Mom will still have to pay Dad some child support. There are two takeaways from this example. First, the more timeshare a party has, the less child support they will have to pay. Second, as a party’s timeshare for the children becomes lower

the other parent's income will become a smaller factor in calculating child support. The opposing party's income starts to have a very marginal effect on child support after the payor's timeshare gets down to 10% or less.

What if the Other Parent is Under Employed or Misrepresenting his/her True Income?

As discussed above, in determining child support a key factor is each parent's income. If a parent is not employed to their full potential or understating his/her true income, the child support calculation will be wrong. An attorney can help you obtain evidence to present to the court to show that a parent could and should be earning more money. Based on that, the court can "impute" a higher income to the parent when calculating child support.

Similarly an attorney can help you present evidence to the court that a party is understating their income. Based on that, the court can determine and use the party's true (higher) income in determining child support.

Other Considerations in Calculating Child Support

There are a variety of factors that can be considered by the court to deviate from or add on to the guideline amount of child support. Some of the more common factors include:

- In addition to guideline child support, the court will allocate between the parents, typically split evenly, the following costs:
 - Reasonable health care costs for children not covered by insurance such as co-pays.
 - Reasonable and necessary costs for child care to allow the custodial parent to go to work or obtain education for employment.
- The court will often allocate, usually split, the following additional costs:
 - Education costs for the children.
 - Extracurricular activity costs for children.
 - Travel expenses incurred by a parent to travel to the other parent's distant residence to visit with the children.
- Child support may be decreased by virtue of a "hardship" deduction where a parent has an additional child or children (biological or adopted) to support from another relationship.
 - By way of example, if there are two children of the divorce, and the mother has another child from another relationship, the court may decrease child support payable by the mother as if the mother was paying child support to three children rather than two.
- Absent exceptional circumstances, the income of a new spouse is irrelevant for the purposes of determining child support except for the effect on the payor's marginal tax rate.

How Long Does a Parent Have to Pay Child Support?

A parent's legal responsibility to support a child continues until the earlier of the following:

- The child reaches 18 years of age and is no longer enrolled full time in high school.
- Turns 19 years old.
- Marries, dies or is legally considered an adult i.e., receives a court order of legal emancipation.
- In the event a child is disabled, the court can order support to continue indefinitely so long as the child, even as an adult is not able to support him or herself.

Important Tips

- **Unallocated Child Support Orders:** Sometimes child support is issued for multiple children but the court order does not specifically state that amount of support to be paid per child. If this is the case, you can't simply decrease child support by some fraction once one of the children is no longer (e.g., ages out of) cause for child support. You must first return to court, and ask the court to issue a new, decreased child support order. Thus, when obtaining a child support order always ask for it to be allocated per child.
- If you are receiving both child and spousal support, a subsequent loss of child support (e.g., because a child reaches age 19), presumptively entitles you to more spousal support. However, you only have 6 months from the date that child support decreases on such grounds to seek an increase in spousal support. Therefore, you need to act promptly to file a Request for Order to increase spousal support, or else you will risk losing your right to increase spousal support on such grounds.