

MICHAEL A. DVORAK
PROSECUTING ATTORNEY
ST JOSEPH COUNTY
60TH JUDICIAL CIRCUIT

County City Building
227 W Jefferson Blvd
South Bend IN 46601

CHILD SUPPORT DIVISION
(574) 235-9786
FAX: (574) 235-9097

Handbook for Custodial Parents

Frequently Asked Questions

Is there a fee for opening a case in the Child Support Division?

If you are not receiving TANF or Medicaid (public assistance) for yourself or your children, there is a one-time \$25.00 filing fee.

Since my child's father gives me diapers and clothes, does that mean he doesn't have to pay support?

NO. These are generally considered to be gifts by the court and do not effect the support obligation in any way.

How is the child support amount determined?

Indiana law has clearly established guidelines for determining child support amounts. Many different things go into this calculation including visitation credits and medical expenses. However, the income of both parents is the primary consideration.

How do I get the support order increased?

As a member of our program, you can ask to have your case reviewed for modification. You will be required to submit a number of documents and items as part of this process, including proof of your earnings, etc.

How are child support payments made?

Indiana law requires all payments be made through the Clerk of the Court unless the judge approves other arrangements. In most cases, child support is withheld from an obligor's paycheck and mailed to the clerk of the court. This is done for ease and efficiency and is required by State law. Payments can also be walked or mailed to the St. Joseph County Clerk of the Court located at 101 S. Main Street, South Bend, Indiana 46601. All payments must include both the names of the custodial and non-custodial parents and the case number.

How do I check to see if my child's father has paid support?

You can contact the Indiana KIDS Line at 1-800-840-8757 to check on payments. Be advised, the Child Support Division will not release any information regarding payments. The Child Support Division does not process payments. We neither receive nor distribute money.

I was never married to my child's father, how do I prove he is the father?

You must take legal action to establish paternity.

What is "paternity"?

Paternity is fatherhood. When paternity is established, the biological father is made the "legal" father.

The father signed the birth certificate, does that establish paternity?

Yes and No. If the father's name appears on the birth certificate, then he may have signed a paternity affidavit at the hospital at the time of birth. This paternity affidavit does legally establish paternity. However, it does not afford the father with any rights to visitation or custody, nor does it require him to pay support. These issues must be determined by the courts.

Why should I establish paternity?

If you receive state aid (TANF or Medicaid), then you must cooperate with our office in establishing paternity. You have no choice in this matter. The State of Indiana acts in the best interest of the child in all cases, and the State believes that both the parents and the child have a right to a parent-child relationship.

However, there are also a number of other reasons why you should establish paternity. First, it is important for children to know who they are. Knowing both parents gives every child some identity. Secondly, both parents have an obligation to support their children. Children supported by one parent often do not have enough money for their needs. Thirdly, children may become eligible for inheritance, social security, and veteran's benefits based on their legal paternity. Finally, it is important medically speaking that children have access to both parent's medical histories. Many health problems can be genetic and inherited.

What are the benefits to the father for establishing paternity?

The father has the opportunity to be a father to the child. He has a legal right to establish and maintain a relationship with the child, and the opportunity to financially support the child.

What if the father or mother is under eighteen?

Age of the mother or father is not relevant in paternity hearings. However, our office generally requires that a parent or guardian accompany any participant under the age of 18 in appointments or court hearings.

What happens if I am not sure who the father is?

When more than one man could be the father of the baby, each will be required to submit to genetic testing. These tests are extremely accurate and it is almost always possible to determine the real father.

If genetic tests are necessary, who pays for them?

If the mother receives State aid, the State will pay for genetic testing. If the test identifies the father, he will have to repay the State. If the father is excluded, it will be up to the judge to determine whether or not the mother will be required to repay the State.

Even though the genetic test proved he was the father, he refuses to accept it. Will my case be closed?

NO. If blood tests prove he is the father, a court hearing will be set for support matters. If the other party fails to appear, judge will enter an order without him. We enforce the order of the court even if the father continues to deny paternity.

Once paternity is established, does the father have a right to see or visit the child?

Yes. Visitation can be a mutual agreement between parents or can be court ordered. The father does have the right to seek court-ordered visitation and custody.

Can paternity be established, or a child support order enforced, if the father moves out of state?

Yes. Federal laws allow us to work with other states to establish and enforce child support. There is no state that will shelter an individual dodging his responsibilities to his

children. However, interstate actions are time consuming. It is not uncommon to take months and sometimes years to achieve a result.

How do you find the non-custodial parent if I lose touch with him?

Unfortunately, there is no magic computer where we can enter his social security number and his employment and a location automatically appears. We use many different types of records including unemployment, taxes, law enforcement, motor vehicles, and social security records to locate a non-custodial parent. It can take years to locate an individual should he choose to hide. Our office will continue to aggressively pursue all obligors.

I am receiving TANF and/or Medicaid benefits and the DFC caseworker said I had to cooperate with the child support division. Why?

As a condition of eligibility for State aid, you must cooperate and help the child support division establish and/or enforce a child support order. You have no choice in this matter. If you do not cooperate, you will be "sanctioned." That means you may lose your public assistance benefits for both yourself and your children.

Cooperation includes keeping appointments with the child support division and supplying all paperwork requested (birth certificates, social security cards, your identification, all information regarding the father) by the caseworkers, and to do so in a timely manner.

Do I get to collect both state aid and child support?

No. If you receive a TANF benefit, any child support paid will be kept by the state. Whatever support is paid will be held at the State to help repay the cost of public assistance. If, for some reason, you find that you are receiving both, bring it to your DFC caseworker's attention immediately. It is a criminal offense to keep the child support when you receive public assistance. Your DFC caseworker should explain this to you.

My child's father works irregularly and is paid in cash. A wage withholding order won't work. What can your office do to enforce my support?

There are a number of administrative enforcement options we can take in cases. These include notices of delinquency, credit bureau reporting, contempt proceedings, and tax refund interception.

I found out that my child's father has a new job. Should I report it to your office?

YES. Even if you believe we may already have the information, any time you find out anything regarding the non-custodial parent's employment or address, please contact our office. It may be that we have not yet received the information through conventional methods. Also, any time you may find out about property, an inheritance, or settlement that the non-custodial parent may be getting, please inform our office. Many things are out of our reach, but some of these items may be attachable for arrearages. You can report information in writing, by telephone, or by using the website.

Can I have wage withholding applied to the existing child support order?

Yes. Most court orders now allow for income withholding. Be advised, however, that there are limits to how much we can withhold from a paycheck.

My child's father owns a nice home and several pieces of property. Can you force him to sell them?

No. We can place liens against many types of properties, but not all. The lien merely prohibits him from selling them without our approval.

My child's father lost his job and is collecting unemployment. Can child support be deducted?

Yes. If you become aware of unemployment, or any other state or federal benefit, that the non-custodial parent may be receiving, please contact our office.

If I am not satisfied with the Child Support Division, what legal alternatives do I have?

Any person with legal needs is encouraged to seek the advice of private counsel. While the Child Support Division may attempt to help you with your child support enforcement matters, we are not permitted to act as your attorney.

Because of limited staff and a caseload in excess of 20,000, our office cannot give daily attention to every case. Emergencies excepted, cases are handled on a first come first serve basis. A private attorney may be able to provide personalized and quicker services. Of course, they will charge for their services.

Does the Child Support Division get involved in custody or visitation issues, or settle disputes?

NO. You will need to seek the advise of a private attorney for those matters.

Does the Child Support Division get involved in property settlement issues (medical bills, college expenses, dental expenses, ownership or disposition of property, etc.)?

NO. You will need to seek the advise of a private attorney for those issues.

Does the Child Support Division act as my attorney?

NO. The Child Support Division represents the interests of the State of Indiana and your child. In situations where conflicts arise between the interest of the State and the interests of the Custodial or Non-custodial Parent, the interests of the State and the child will take priority.

What if the non-custodial parent refuses to work, or "earns money under the table"?

Non-custodial parents can make it very difficult to enforce a case. Our office will make every attempt to find the method that works best to convince the non-custodial parent to comply with his court order. The below chart gives some level of expectation of success:

Whereabouts of the Non-Custodial Parent

		Known and in Indiana	Known but out Of Indiana	Unknown because moves around a lot	Unknown and no idea where to look
<u>Income of Non-Custodial Parent</u>	Salaried with steady employment	<i>Good likelihood of payment</i>	<i>Good likelihood of payment</i>	<i>Good likelihood of payment</i>	<i>Medium likelihood of payment</i>
	Some income or assets known; possibly self-employed	<i>Medium likelihood of payment; months</i>	<i>Medium likelihood of payment; months</i>	<i>Medium likelihood of payment; possibly years</i>	<i>Medium likelihood of payment; possibly years</i>
	No income or assets known; self-employed	<i>Medium/low likelihood; months</i>	<i>Medium/low likelihood; years</i>	<i>Medium/low likelihood; years</i>	<i>Medium/low likelihood; years</i>
	Unemployed; works for cash, possibly dependent on drugs or alcohol	<i>Low likelihood; months</i>	<i>Low likelihood; months</i>	<i>Poor likelihood; years</i>	<i>Poor likelihood; years</i>
	No idea whatsoever	<i>Poor likelihood; months to years</i>	<i>Poor likelihood; months to years</i>	<i>Poor likelihood; years to many years</i>	<i>Poor likelihood; many years and perhaps never</i>