

# Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas

[www.kansaslegalservices.org](http://www.kansaslegalservices.org)

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## FAQs About Child Support

### What is the Kansas Payment Center? Where can I go to see if child support was paid to me?

The payment of child support under all Kansas child support orders is paid through the Kansas Payment Center.

- Any payment not paid that way is not recorded and may not be seen as a real payment under the Court Order.
  - Make your payments through the KPC to make sure they are recorded.
- Either parent can review the payment records on the Kansas Payment Center website at [www.kspaycenter.com](http://www.kspaycenter.com).
  - It will show when the payment is received and when it is paid to the other parent.

### **NEW** How do I get child support to stop?

If you are currently under a child support order, but believe that you shouldn't be paying child support, you need to get the child support order modified. If the reason you believe child support should stop is a change in the parenting time (custody) of the child, then that order must be changed, also.

You can use this form, **Motion to Modify Child Support**, to change or stop the child support order.

You can use the Motion to Modify Parenting Time form to change the custody/parenting time order to match the current situation. Here are the **Instructions for the Motion to Modify Parenting Time** form.

You should do this soon after the circumstances change, since it is not possible to go back in time and reset the child support due.

Another reason for child support to stop is the age of the child.

- If one child has turned 18 (and it is July of the year the child finished high school), but there are other children under 18, there is an automatic reduction in the amount of support, based on the % reduction in the number of children. If there were three children and now the support is for only two children, the amount of support due is automatically reduced by one-third. You can complete a child support worksheet and see if support should be reduced by more than that. If so, you should file a motion for a modification of the child support. The number and age of the children are factors in determining the amount of support.
- If all children are 18 and it is July of the year that child finished high school, you should investigate why an income withholding order hasn't been stopped. If there is unpaid support from the past, the order can stay in place until all support is due. You will have to do some calculations to determine that.

## **Can the retirement monies of noncustodial parent way behind in child support be garnished?**

Generally, retirement funds held in an IRA or employer retirement account are not available for attachment.

## **It would be nice if we could get info on how to find out what you owe in back support. I wanted to learn more about Child Support payments in arrears.**

There is not a simple way to answer this question. You can contact the Kansas Child Support Services during regular business days toll free at 1-888-757-2445 (TTY 1-888-688-1666, for the hearing impaired). They can provide some information to you. However, if you don't agree with the answers, you can use these questions to come up with the amount of arrears:

1) What month was child support first ordered? What amount?

Multiply the dollar amount by the number of months since the initial order.

2) Have any changes been made in the amount of child support? Use this to modify your calculation.

3) Determine the amount of all payments made. A complete list should be linked to the county and case number and found at <http://www.kspaycenter.com/>.

4) If you are aware of tax refunds intercepted or other payments that didn't get recorded through the payment center, you may need to research those and add them to your calculation.

This should give you the amount of the arrears. If an order has been entered to allow interest on the money due, you would need to calculate that as well. Interest is set in Kansas law at 10% a year. (KSA 16-204).

## **Can I get my child support put directly into my bank account?**

There are forms on the Kansas Payment Center website ([www.kspaycenter.com](http://www.kspaycenter.com)) that can alert the payment center of your bank account. This will allow direct deposits to be made.

- This will speed up your receipt of the payment.
- Use the link for forms on the KPC website.

## **I changed banks, what do I do?**

If your payments are direct deposited to your account, you can change the account by completing the form at [www.kspaycenter.com](http://www.kspaycenter.com).

- The form requires some information from the bank and a VOIDED check (which cannot be a starter check without your name).

## **What is an Income Withholding Order?**

When a Kansas court issues a child support order, the order allows the recipient of the child support to obtain an Income Withholding Order.

- This Order can be served on the employer of the person who has to pay child support.
- Once served, the employer should start taking the child support amount out of the employee's pay and sending it to the Kansas Payment Center.
- The Income Withholding Order is specific to each case.

## **The payer of child support changed jobs. How do I get the new employer to pay me child support?**

An Income Withholding Order needs to be "served" on the new employer.

- If an Income Withholding Order has been signed by the Judge, you can get a copy from the Clerk of the District Court.
- It can be mailed to the employer; it is best to send it by certified mail, so there is proof that it was sent.
- The new employer must file an answer with the Court within 30 days of service.
  - The withholding of funds from wages and payment of child support should start within 30 days.
- Often the Court Trustee or Child Support Enforcement agency will help serve an Income Withholding order, based on information provided by the parent who receives child support.

## **How do I change the amount of child support that is paid to me? When can I ask for a change in support?**

Specific circumstances must exist as a reason for a change in the amount of child support paid:

1. An increase or decrease in the amount of income of one of the parents,
2. A significant change in the amount paid for child care or medical insurance for the child, or,
3. A change in the age bracket of the child.

- Under most circumstances, the change in child support must be at least a 10% change up or down.
  - You will know if the amount of change is enough by completing a new child support worksheet.
- You can complete a new child support worksheet on an interactive form created by KLS here: [Child Support Worksheet](#).
  - A list of the information you need to complete the worksheet is there.
  - The interactive interview does the calculation and creates the worksheet.
  - This interactive interview only works for situations where the combined income of the parents is less than \$50,000.
- This link is also available for you to purchase access to an online program where you can create worksheets if the parents make more than \$50,000 a year combined.
- The actual change in support must be made by a Court Order.
  - See the question below on how to seek a change in the amount of child support.

**NOTE:** A parent should be aware that efforts to increase child support may result in the inclusion of the costs of children born to the paying parent after the date of the prior calculation of child support. (SEE PARAGRAPH BELOW ON CAUTIONS)

- This could end up reducing the amount you get. Be careful to really consider the possible outcomes before making such a request. It may not always go your way.

> The rules for this are at Section V of the Kansas Child Support Guidelines (Pages 1 -37), page 23.

### **Are there any cautions about filing a motion to increase child support?**

When a parent receiving support files a motion to increase support, the payer of support can include the fact that there are “after born” children (those would be younger children that were not considered when support was previously set).

- The inclusion of those children can reduce the amount of support paid.
- The costs of these children are only considered when a parent seeks an INCREASE in support.
- If this is your situation, obtain the financial information first (and separately) and consider the effect of these children (using the multi-family adjustment) before filing the motion to increase support.

### **Where do I go to get help collecting child support?**

The lack of child support is a major reason that children live in poverty. Therefore, government programs assist families in collecting child support.

Every district court in Kansas has an arrangement for helping families collect child support.

- To contact Child Support Services during regular business days, call the Child Support Call Center (CSCC) toll free at 1-888-757-2445 (TTY 1-888-688-1666).
  - A child support representative can discuss how to apply for services, support services

in general, or answer questions about an existing child support case.

- Parents may also hire an attorney to assist them.
- In some counties, services are also available from a Court Trustee.
  - You can check the website for the District Court in which your case is filed, to see what alternate support collection services are available. The websites are listed here. Look for listings for a Court Trustee.

## **What is the connection between child support and seeing my children? Can I stop paying because the mother won't let me see my children?**

Kansas law is specific regarding this question. There is no "right" to see your child that is earned by paying child support. Alternatively, there is no "right" to withhold parenting time because a parent does not pay child support.

- Research suggests that parents who have a close relationship with their child, developed by seeing the child regularly, are far more likely to pay their child support.
- Both child support and parenting time can be a part of Court orders, issued by a Judge who has jurisdiction over the parties.
  - Failure to follow the Court orders can expose the parent to a finding of "contempt of Court," with the possibility of a fine, jail time or other sanctions (punishment) that the Court can grant, after a hearing.

## **Why does the State of Kansas keep part of the child support I pay?**

If a child receives benefits from certain Federal programs, including TANF and Medical Assistance (Health Wave or KanCare), the parent applying for benefits must assign their right to collect child support to the State of Kansas.

- When child support is paid, the state keeps all of the support while the children are still on public benefits.
- When the children are off public benefits, the State of Kansas keeps a portion of the child support to repay the State for the money spent to support the children while the parents were not able to support the child/ren.

## **Why does the Court Trustee keep part of the child support I pay?**

An enforcement fee equal to a small percent of the child support order is added to the child support amount.

- A small amount is added to the sum paid by the payer. The same amount comes out of the amount due the person receiving the child support.
  - In this way, each parent pays ½ of the enforcement fee.
- This enforcement fee funds the Court Trustee office, which is available to assist in collecting child support, should that service be needed in your case.

## **I make less than when my child support amount was set. How do I change the amount I pay?**

The Court must order a reduction of child support, based on a request of the parent. This request is called a motion, which must be filed with the Clerk of the District Court and set for a hearing.

- You can read more about how to prepare and file that motion from this question: *How do I file a motion to change the amount of child support, up or down?*

As you consider a change in child support, remember that the Court will always assume you can make minimum wage, full time (about \$1256 a month).

- This is called imputed wages. It is used whether you have no earnings, or earnings less than this amount.

If you left a higher paying job voluntarily (rather than due to a lay-off) or if you were terminated for misconduct:

- The Court may continue to use your higher wages as the basis for figuring your child support.

You should determine if you qualify for a change. Look at the answer to questions:

- How do I change the amount of child support that is paid to me?
- When can I ask for a change in support? and
- Are there any cautions about filing a motion to increase child support?

## **What is a Child Support Worksheet?**

Child Support in Kansas is determined by rules contained in the Kansas Child Support Guidelines , pages 38 - 96. These guidelines set up some math formulas for determining certain ratios and set child support based on the ages of the children and income of the parents.

A Child Support Worksheet is completed to show the calculations involved and the amount of child support to be paid. You can use this program below to complete a child support worksheet for your situation. This is a free service of Kansas Legal Services.

- Child Support Worksheet (Use this Kansas Legal Services interactive form when the combined income of both parents is less than \$50,000)

## **What does “Arrears” mean?**

Arrears is the amount of support that has become due every month and is unpaid. No Judge can make the arrears go away.

- It may be possible to obtain an order that small monthly payments on the arrears be added

to the current payments.

## **What does “Imputed Income” mean?**

The Court will always assume that each parent can make minimum wage, full time (about \$1256 a month). This is called imputed wages/income. It is used whether the parent has no earnings, or is earning less than this amount. You can read more about that rule [here](#).

## **My income went down three months ago, but I didn’t think about my child support until just now. Can the Judge change support for the past?**

No, every month that ends creates a final legal judgment of child support due. Any motion seeking a change in child support can only change support beginning in the next month after the motion is filed.

## **How do I file a motion to change the amount of child support, up or down?**

If you qualify, you should file your motion seeking to change the amount of child support as soon as possible. You can use the interactive interview [here](#).

- Child Support Worksheet (Use this Kansas Legal Services interactive form when the combined income of both parents is less than \$50,000). This is a free service of Kansas Legal Services.
- A commercial provider is one option for obtaining a child support worksheet for combined incomes higher than \$50,000. You can learn about that [here](#) Child Support Worksheet from [childsupporttools.com](#). You must pay a fee to use this form.

If the amount that child support should decrease or increase is more than 10% of the total support, you can use this interactive interview to create the necessary paperwork to file your request in Court.

- Find the interview [here](#): Modification of Child Support in Kansas. There is a filing fee of \$42 for filing the motion to reduce child support, as of February, 2013.

## **I give my girlfriend everything she wants for the baby, but she is still asking for child support. Do I have to pay?**

The payment of child support covers expenses like housing and utility costs, insurance and transportation. Paying for the diapers, formula and clothes are important, but they are not the only costs of providing for the baby.

- You are better off paying child support and only buying those “extras” when you want to.

Another problem with not paying child support is that the State of Kansas may request that you reimburse the support they, the state, are providing the child through benefits like TAF (Transitional Assistance to Families), so you may give money to your girlfriend regularly and still have to reimburse the State of Kansas.

- Paying under a Court Order, through the Kansas Payment Center, is, partly, for your protection and to have proof that you have paid your obligation.

### **My husband and I just had a baby. He pays child support to other children. Can we reduce the support he pays them, so we can afford this baby?**

A baby born after child support is set by the Court is NOT a change of circumstances that justifies a decrease of child support.

(See page 8, Multiple Family Application, Kansas Child Support guidelines [here](#).)

- The theory behind this rule is that the costs of the oldest children should be taken into account when the decision was made to have the new child.
- The costs of the new baby should not decrease the standard of living of the older children.

### **Who claims the child as a dependent on their tax return?**

This matter should be determined in a Court order as part of the divorce decree, if the parents are married. The parties should be careful to follow that Court order.

- The *usual* situation is for the parents to alternate who takes the dependent deduction for the children.
- If there is one child, it is usually alternated each year, with one parent taking the child in odd years and the other in even years.
  - The “year” refers to the year that the income was earned, not the year the tax return is filed.
- If there are two children or an even number of children, the parents can each take a portion of the children for the dependent care deduction.
  - The parents should be clear about which children each is claiming, as the child’s name and Social Security number is a part of the information provided to the IRS.
- A parent should be careful to modify their W-4 each year, so that the correct amount is withheld from their earnings.
  - That form should be turned in to their employer early in the year. The form is located on the IRS website [here](#).
- If one parent chooses not to “share” the income tax deduction, then the Court may modify the amount of child support paid or collected to compensate for the failure to share the deduction.
- The alternated deduction is **ONLY** the dependent deduction. Other deductions including the Head of Household, Child Care Tax Credit and Earned Income Tax Deduction are covered by rules of the IRS for who can claim the child/ren.
- If there is No Court order, then the residential parent (the parent with whom the child lives

with more than ½ the nights of the year) may claim the child as a dependent on their income tax return.

- There are IRS rules that allow the non-residential parent to claim the child **only if** the parents lived completely separately for the final 6 months of the tax year, the child lived with and was supported by the parents and the parent's agree that the non-residential parent will take the dependent deduction. (This might occur where the residential parent has no income, so there is no advantage to claiming the child as a dependent.)
- The residential parent must sign an IRS form that can be found here. This form is attached to the tax refund of the parent claiming the deduction.
- More information can be found here about the IRS rules.

## **Where can I find out about the Child Support services provided by the Kansas Department for Children and Family Services?**

You can read more about those services [here](#).

## **My child is in state custody. What about child support?**

When a child is in the custody of the state, as part of a Child in Need of Care (CINC) action, the Judge should set an amount of child support owed by each parent.

- That money is due to the state, since the state may be paying the person who is caring for the child.

If the Court does not have or use correct income information in setting support, a parent can file a new Child Support Worksheet and seek to have the monthly support amount decreased. However, don't delay in doing this. Once each month passes, the Judge cannot change the Court order for support. It becomes final.

## **What is a Domestic Relations Affidavit (DRA)?**

This Court form is required to obtain financial and other information needed by the Court to make certain decisions. The form can be found [here](#).

In some situations, the Court requires less information contained in a mini-DRA or Short form –DRA. One example of a Short Form Domestic Relations Affidavit can be found among the forms on this page. Forms available on some County Court websites include the mini-DRA preferred by that Court.

## **How can I find out how much money my former spouse is making?**

In advance of a motion to modify child support, you may request financial information from the other party. You can word your request something like this:

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I am making a written request for information about your current earnings. Please supply me

with a copy of the following: *(Check what you believe you need to see, based on the circumstance of the other party)*

\_\_\_\_\_ Current Pay Stub

\_\_\_\_\_ Last Year's Tax Return including schedules

\_\_\_\_\_ W-2

\_\_\_\_\_ Written Proof of Day Care Cost

\_\_\_\_\_ Written Proof of Insurance Costs

Under the Kansas Child Support Guidelines (Section V.B.), you have 30 days to provide me this information. If you refuse to provide it, the Court may make you responsible for the costs and expenses, including attorney fees, which I must spend to obtain this information from you.

Sincerely, *(Name)*

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- Although not required, you may wish to file a copy of your dated and signed request with the Court.
- If you don't get the information you request, you can consider filing a motion in the Family Law case asking for a court order to obtain the information. It is also possible to subpoena this information from the employer. You may want to use an attorney to file the subpoena.
- Although you can file a motion to increase child support and request the needed financial information, you should use caution, if the payer of support has children younger than the children for which you seek support.
  - When a parent receiving support files a motion to increase support, the payer of support can include the fact that there are "after born" children (those would be younger children not considered when support was previously set). Those children can reduce the amount of support paid.
  - The costs of these children are only considered when a parent seeks an INCREASE in support. If this is your situation, obtain the financial information first (and separately) and consider the effect of these children (using the multi-family adjustment) before filing the motion to increase support.

### **How is support figured if I or the adverse claims to have no income?**

Child support guidelines assume that anyone can earn minimum wage, on a full time basis. Therefore, child support is set on that basis, even if that is not the true situation. This is called "imputing income." (See imputed income above)

The circumstances under which income is not “imputed” to a person with little or no income is when the parent receives TAF (Transitional Assistance to Families ) benefits from the Department of Children and Families or receives SSI (Supplemental Security Income) from the Social Security Administration.

### **Can imputing income to the residential parent increase my child support?**

The rules say that income can be imputed to the residential parent, but it should not increase the child support of the non-residential parent.

(See Page 3, Kansas Child Support Guidelines here.)

### **Where can I read Kansas law on Child Support?**

The Kansas Statutes contain the laws about child support. You can read them on the Kansas Legislature website here.

The Child Support Guidelines, pages 1 - 37 and pages 38 - 96, provide the better explanation of the method of calculating child support.

### **Where can I read the Kansas Child Support guidelines?**

The complete Kansas Child Support Guidelines, pages 1 - 37 and pages 38 - 96, are published on the Kansas Supreme Court’s website and are also available on this website.

### **How does the parenting time for the children affect the amount of child support?**

The Child Support Guidelines, pages 1 - 37 and pages 38 - 96, allow a reduction in child support, if both parents are accepting a substantial amount of the expenses of the children by providing for them (having parenting time) a substantial amount of time.

- This is calculated by tracking the amount spent with each parent. For an explanation of making these computations, see the explanation here.

-Once the calculations are made, this chart will show the percentage decrease in child support that is based on the parenting time split of the parents:

Nonresidential Parent’s Parenting Time	% of Child’s Time Adjustment
35%-39%	-5%
40%-44%	-10%

45%-49%	-15%
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- This reduction is included in the Child Support Worksheet, on line E 2.

### **My child is 18. Do I still owe child support?**

Child support does not end until June 30 of the year following your child's graduation from high school, provided the child is still attending high school. You can read the Kansas law [here](#).

- The child support should end automatically.
- However, if an income withholding order is in place, a motion to terminate or reduce child support may be required.
  - You can find an interactive interview to create the necessary motion/paperwork [here](#).
  - The Court order will modify or terminate the Child Support order and the Income Withholding Order that is used to collect the child support.

### **One of my children has graduated from high school. Should I seek modification of child support?**

Some people think that if they have two children and one reaches an age that child support is no longer owed, their child support should reduce by one half. **THIS IS NOT TRUE.**

- A motion to modify child support, looking at the age, health insurance costs, etc. must be filed to determine the amount of child support due going forward.
- A new child support worksheet should be completed to determine the amount of child support that is due under the Kansas Child Support Guidelines.
  - You can complete this worksheet [here](#), for circumstances where the combined income of the parents is \$50,000 or less.
  - The page lists all the information needed to complete the worksheet. The link to the interactive interview is at the bottom of the page.

### **What if I am disabled and can't pay support?**

Under Kansas Child Support Guidelines, money received from SSI (Supplemental Security Income) is *excluded* as income in computing Child Support.

- This has the effect of making a person who *only* receives SSI pay no child support.

Any *other* person who is disabled will have the actual amount of income they receive considered in computing child support. This could be from Social Security disability or a private disability policy.

- A person who is not working, due to disability, will likely have their child support computed

based on the rules that impute minimum wage, full time income to all parents, even when actual income is below that.

If child support has been set and either the payer of child support or the parent receiving child support begins receiving Supplemental Security Income:

- That parent can return to Court and seek a reduction of child support.
  - This can be done using the forms and instructions available here.
  - You should use the Motion to Modify Child Support interactive interview.

The federal Social Security disability program makes payments to dependents of the disabled person. This can include a spouse and minor children.

- Once a parent has been approved for disability, the custodial parent should apply for dependent benefits at the Social Security Administration.

These payments are credited monthly as if the disabled parent had paid child support.

- If the payment is less than the monthly child support, then the disabled parent owes the difference.
- If the disability payment to the child is more than the support amount due, the full monthly support is deemed to have been made. The disabled parent does not get any credit for the extra in future months.

## **Where can I find information and forms to modify or establish parenting time?**

Those forms are available here.

## **Is it a crime to fail to pay child support?**

The payment of child support is done under a Court order.

- Failure to follow that order can be punished as contempt of Court.
- Among the penalties possible are a jail sentence.
- It is the goal of the legal system to require compliance with orders. A jail sentence imposed for failure to follow court orders can be avoided by complying with those orders.

If the order is for payment of support, then paying support will avoid the jail sentence.

- Often the Judge will approve a plan that pays current support and a regular payment on the past support (arrearage), to avoid a jail sentence.

Kansas law creates a lien on any vehicle, boat or aircraft owned by someone who is at least 30 days behind in paying child support.

- This lien can be enforced by forcing the sale of the property subject to the lien. In addition, this lien can delay the sale of the property and cause the proceeds of the sale to be used to

pay the lien.

Child support due and unpaid can be reported to credit bureau.

- The Kansas Department of Children and Families Child Support Enforcement division can report unpaid child support and attach a Federal or State income tax return due to a payer of child support.

The process for contempt of Court (read about it here) also allows a court to suspend the driver's license of any person who is behind in support more than 6 months, and has the means to pay that support.

Kansas law KSA 21-5606 sets out the crime of Criminal Non-support.

Federal criminal charges are occasionally filed against a parent who leaves one state *specifically* to avoid paying child support.

## **Can I hire an attorney to do just part of a case?**

You can hire an attorney just to subpoena financial information from the opposing party or to review or prepare a child support worksheet.

Some attorneys are willing to provide "limited scope representation," where the amount of work the attorney does is determined in writing, between the client and the attorney.

- This limitation on attorney work (or rather sharing of tasks between the client and the attorney) is authorized by Kansas Supreme Court rules posted here.

To find an attorney who will provide limited scope representation, use these hints:

- Some Kansas Court Clerks have lists of attorneys interested in doing limited scope representation. The Johnson County list is here.
- Kansas Legal Services provides some types of limited scope representation for low and moderate income persons.
  - Use the application within the online documents to apply for services of this type from Kansas Legal Services.
- Using the term "limited scope representation" in an online search may help you find an attorney in your area who does this type of work.
- The KLS Intake Specialists at our application line can help you find an attorney to help you - 1-800-723-6953.

More information on limited scope representation is available here.

 Child Support Guidelines pages 1 - 37.pdf

 Child Support Guidelines pages 38 - 96.pdf

 2-18 INSTRUCTIONS FOR PRO SE MOTION TO MODIFY PARENTING TIME.pdf

 Domestic Relations Affidavit (9-2016)\_0.pdf

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<http://www.kansaslegalservices.org/node/1576/faqs-about-child-support>

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