

14. I HAVE CHILD SUPPORT ARREARS

1. You can enter into a monthly re-payment plan through the court or the child support office.
2. The Department of Child Support Services also has two programs to help parents with past-due child support payments.

Compromise of Arrears Program (COAP)

- You may qualify if you owe \$501 or more to the government (welfare or foster care).
- You have not been convicted or had a contempt of filing for failure to pay child support in the last six months.
- You are not disputing the arrears.
- <http://www.childsup.ca.gov>

Compromise of Arrears Family Reunification Program

- You may qualify if you owe arrears to the government (welfare or foster care) that accrued while your child resided with neither parent.
- Your child is now living with you more than 50% of the time.
- Your net income is less than 250% of the poverty level.

3. File a request for Judicial Determination for arrearages form FL-676

15. I JUST RECEIVED A PETITION FOR CHILD SUPPORT AND I AM INCARCERATED

- 1) You must answer complaint within 30 days.
- 2) If you are not sure you are the father, you must contest paternity when you answer the complaint.
- 3) You must also inform the court that you are incarcerated and have no income.
- 4) If you are found to be the father, request custody and /or visitation.
- 5) If you need help, write the Family Law Facilitator in the county where the case was filed or call our office for a referral to an attorney.
- 6) An attorney may be appointed to you if there is an issue of paternity.

For more information about child custody and incarceration, check out:

<http://www.f2f.ca.gov/res/pdf/KnowYourRightsManual.pdf>

Please note: If you have a current child support order and become incarcerated, contact child support services and have them modify support to zero or file a modification with the court as soon as possible.

I WANT MY CHILD TO HAVE MY LAST NAME

- 1) Establish Paternity; 2) File a Petition for Change of Name (form NC- 100) and Order to Show Cause (form NC 120) with supporting declaration to inform the court why a name change is in the child's best interest; and 3) Serve other parent within 30 days of the hearing.

For Family Law Forms check out:

- 1) <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>
- 2) www.icandocs.org/ca/

The court's "primary concern" is to assure the child's health, safety and welfare." Ca Fam § 3020(a)



Great Beginnings
for
Black Babies, Inc.

For the past 20 years GBBB has successfully reduced the infant mortality rate for both African-American and Latino babies. The Fatherhood Initiative program is funded through a grant from The California Endowment with a mission of equipping fathers with the necessary skills to play an active role in the care and support of their children.

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GREAT BEGINNINGS FOR BLACK
BABIES, INC.
FATHERHOOD INITIATIVE



15 THINGS FATHERS SHOULD KNOW ABOUT CHILD SUPPORT & CUSTODY

The mother and presumed father of a minor child are **EQUALLY** entitled to custody of the child. Fam. Code § 3010

This brochure is produced by Great Beginnings Fatherhood Initiative and is not intended as legal advice. Every case and factual situation is different and a court might rule differently from the guidelines suggested in this brochure. For advice about your specific situation, please contact a legal professional or call our office at (310) 677-7995 for a referral.

1. WHAT IS CHILD CUSTODY?

A court's determination of which parent, relative or other adult should have physical and/or legal control and responsibility for a child under 18 years old.

2. TYPES OF CUSTODY

Joint Custody - means joint physical and legal custody.

- a. **Joint legal custody** - both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.
- b. **Joint physical custody** - each parent has significant periods of physical contact with the child. This is to assure a child has frequent and continuing contact with both parents.

Sole Custody - one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

- a. **Sole legal custody** - one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.
- b. **Sole physical custody** - a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.
- c. **Modified Legal Sole Custody** - Court grants non-custodial parent decision-making authority for major medical procedures.

Non-parent Custody - custody may be granted to a nonparent (who will have exclusive responsibility for the child's care and control); the parents, at most, will have reasonable rights to visitation.

3. WHAT IS A NON - CUSTODIAL PARENT?

A non-custodial parent is a parent who does not have physical or legal custody of his/her child. A non-custodial parent may be entitled to visitation. In order to receive visitation, the non-custodial parent must establish paternity and file an Order to Show Cause (form FL-300) with a supporting declaration, requesting a visitation order.

4. WHAT IS A PATERNITY SUIT?

A lawsuit, usually by a mother, to prove that a named person is the father of her child (or the fetus she is carrying). Once paternity is established it creates a financial and moral responsibility to take care of the minor child.

5. MY GIRLFRIEND WILL NOT LET ME SEE OUR CHILD

First, establish paternity and a legal right to a child by 1) voluntary declaration of paternity or 2) file Petition to Establish a Paternal Relationship (form FL-200). If there is a dispute about who the father is, the court will order a DNA test to establish paternity. Additionally, if the county orders a non-custodial parent to pay child support, there is already a presumption that he is the "presumed father." **Second**, file an Order to Show Cause or Notice of Motion for child custody or visitation (form FL-300 or FL-301) and supporting declaration in the county where the child lives.

6. HOW DOES HISTORY OF DOMESTIC VIOLENCE (DV) OR DV RESTRAINING ORDER AFFECT CUSTODY?

- 1) It creates a presumption that awarding custody to perpetrator is not in the best interest of the minor child.
- 2) You can overcome this presumption by proving a series of factors that the court may consider. For a list of factors see Fam. Code §3044.

7. HOW DOES CUSTODY/VISITATION AFFECT MY CHILD SUPPORT PAYMENTS?

- 1) Both parents have the duty to support a minor child.
- 2) Child support is determined by a statewide uniformed guideline. Among other factors, the guideline takes into account both parents income, and level of physical responsibility for the child.
- 3) A person cannot be denied custody or visitation for failure to pay child support.
- 4) However, a support order can be modified or increased if a parent fails to exercise their custody or visitation order.

8. WHAT IS AN ORDER TO SHOW CAUSE (OSC)?

A type of court order that requires one or more of the parties in a case to justify, explain, or prove something to the court. **To file an OSC for Family Law, use form FL-300.**

9. WHAT IS MEDIATION AND DO I HAVE TO PARTICIPATE?

- A) Family law mediation is a process where a neutral person facilitates communication between parents to assist them in reaching a mutually acceptable custody or visitation agreement.
- B) Parents must attend meditation before the court will hear their custody/visitation case.

10. WHAT IF I AM SERVED A SUMMONS AND COMPLAINT?

Summons and Complaint is a written notification to a party that a lawsuit has been filed against them. In a family law case, blank answer forms are supplied with the Summons and Complaint. These forms and/or other legal responses must be filled out and filed with the Superior Court within 30 days. You can work with the family law facilitator in your county free of charge to fill out the necessary forms.

11. I CANNOT AFFORD TO PAY THE COURT ORDERED CHILD SUPPORT AMOUNT

Either parent can request a modification of their child support order if there is a change in circumstances. Contact your **child support agency in writing immediately**, if they are enforcing the court order, and request a **modification** or file for a **modification** in court. If your support order is not enforced by a child support agency, file for a **modification** in court. To file for a modification go to 600 Civil West at 600 S. Commonwealth Ave, Los Angeles Ca 90005

12. MODIFICATION OF A CHILD SUPPORT ORDER

A support order can be modified to increase or decrease child support payments. In order to modify child support, the requesting party must prove that there has been a significant change in circumstances. Court looks at many factors to determine whether a change in circumstance exists. Some factors are:

- A decrease or increase in either parents wages
- A change in custody or the amount of time the child spends with each parent
- A change in any factor that would affect the child support guideline
- If you become disabled, or lose your job, get a new job, or go to jail, contact your local child support agency as soon as possible
- If you become incarcerated have someone contact the child support agency in charge of your case immediately or file for a modification of your support order.

13. I AM PAYING CHILD SUPPORT FOR A CHILD LIVING WITH ME

You may be able to reduce child support or begin receiving child support:

First, make sure you have an existing custody or visitation order. If your current custody or visitation order does not reflect the child's current living situation, have the order modified.

Second, contact the child support agency in charge of your case and inform them that the child lives with you and request a modification. If a support agency is not involved with your case, file a modification of a support order with the court.

Just because a child lives with you, does not mean you will not have to pay child support or that your support will be modified. The court will still look at the guidelines and factors listed above to make that determination.