

# **CHILD SUPPORT AND SPOUSAL SUPPORT IN CALIFORNIA**

## **CHILD SUPPORT**

### CALCULATING CHILD SUPPORT

Child support is calculated with a formula that uses the incomes of both parents, and the percentage of time that the child spends with each parent. Usually the parent that has the child more time receives child support, but if the parent that has the child for more time has a lot higher income than the other parent, that high-earning parent may be required to pay child support to the low-earning parent. There is a calculator online that can estimate the amount of child support at the website of the California Department of Child Support Services: <http://www.childsup.ca.gov/default.aspx>.

### ESTABLISHING CHILD SUPPORT

Child support is generally ordered in family court as part of a divorce or parentage case. If you want just child support you can also go to the County Department of Child Support Services (DCSS) and have a special child support case opened. (If you also want orders for custody or visitation, you may need to file a separate case in family court.) DCSS in Santa Clara County is at 2851 Junction Avenue, San Jose. They can also be reached by phone (408) 503-5200, or through their website at [www.sccgov.org/portal/site/dcsc](http://www.sccgov.org/portal/site/dcsc).

### COLLECTING CHILD SUPPORT

Some couples agree that the person ordered to pay child support will pay it directly to the other parent, by check, direct deposit, or cash (make sure you get a receipt for cash). The receiving parent can also choose to have the support paid by wage assignment (garnishment). All wage assignments now go through the California DCSS in Sacramento, and can be paid by direct deposit into the receiving parent's bank account. If the paying parent is self-employed or unemployed, collection can be more difficult. The County DCSS or a private attorney or can help with the collection.

### MODIFYING AND TERMINATING CHILD SUPPORT

Once the amount of child support is established, it can be modified later by showing a change of circumstances (pay went up or down or the time-share changed). Child support for each child generally continues until that child is 18, but if the child is still going to high school and is living with a parent, support can continue to a maximum of 19 years of age. If you have been supporting two children, and one of them reaches the maximum age for child support, your order may state how much is to be paid for each child. If not, the order will need to be modified for one child, using the current incomes of the parties. The support is not just divided in half. The formula is based on the assumption that the cost of raising one child is about 60% of the cost of raising two children.

If child support is being collected from you with a wage assignment, the wage assignment won't stop automatically when your child has reached the maximum age. The parent receiving child support can sign an agreement that the child is now over 18 and is no longer in high school. If the custodial parent is not cooperative, you may need to file a motion in court to stop the wage assignment.

## **SPOUSAL SUPPORT**

### **TEMPORARY SPOUSAL SUPPORT**

Spousal or partner support (formerly called alimony) may be owed from one spouse or domestic partner to the other during and/or after a dissolution of marriage or domestic partnership (divorce). Spousal support is gender neutral, and is payable by the higher earning spouse or partner. While a dissolution action is pending, temporary spousal/partner support can be ordered, with the goal of maintaining the status quo between the parties. There is a guideline formula for temporary spousal/partner support, which is 40% of the net income of the high earner, minus 50% of the net income of the low earner. If child support is also being paid, the calculation of the “net income” takes into account the amount of the income of the parties that is assumed to be going to the support of the children.

### **PERMANENT SPOUSAL SUPPORT**

Spousal/partner support after the dissolution process is completed is called permanent spousal/partner support (although it doesn't necessarily continue indefinitely). If there is no agreement between the parties, and a judge determines permanent spousal/partner support, the judge is not supposed to use the temporary support formula. The judge is required to consider all the factors, which include the income and earning capacity of each party, the age and health of the parties, the extent to which one party stayed away from their career to take care of children, or helped the other party with their education.

### **DURATION OF SPOUSAL SUPPORT**

For a short-term marriage, which is considered to be less than 10 years, the rule of thumb is that spousal/partner support may continue, if needed, for up to ½ the length of the marriage. The supported party is required to make their best efforts to become self-supporting. If it is long-term marriage of 10 years or more, the support can continue indefinitely, depending on the circumstances. The termination date is sometimes negotiated and included in the divorce agreement. Other agreements are open-ended. In that case, if the paying spouse/partner thinks that the spouse or partner is or could be self-supporting, they can file a motion in court to terminate spousal/partner support.

### **COLLECTION OF SPOUSAL SUPPORT**

If there is also an order for child support, the Department of Child Support Services can also help to collect spousal support. If there is an order for only spousal support, and there is a problem with the support being paid regularly, DCSS will not be involved. However, a wage assignment for spousal support can be obtained from the court. It is then served on the employer, and the employer directly pays the receiving spouse.

SALLY COOPERRIDER  
JOHNSON AND NIXON  
142 GEORGE ST.  
SAN JOSE, CA 95110  
(408)287-7717