

## Child Support Overview

All parents have a legal obligation to support their children. The amount of child support payable or receivable post-divorce is based on a number of different factors; here's a general overview of how child support works.

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Regardless of whether or not they were ever legally married, all parents have an obligation to support their children. In situations where the marriage (or marriage-like relationship) has broken down, the non-custodial parent is usually ordered to pay child support to the custodial parent; the custodial parent is expected to use these funds to pay for the child's expenses. In this situation, "custodial parent" means the one that the children live with most or all of the time after divorce; the "non-custodial" parent would have visitation or access rights, which might or might not include a certain number of overnight stays per week or month.

The amount of child support is based on a number of different factors, including the annual income of each co-parent, the total number of children in the family, and the custody arrangements for the children.

### Child Support Guidelines

If there is one custodial parent (in most jurisdictions, this means that the children reside with this parent more than 60% of the time; ask a family law lawyer about the definition of sole physical custody in your area), then the state or provincial *Child Support Guidelines* set out the base level of child support payable for one or more children. The Guidelines are intended to cover necessities: food, shelter, clothing, healthcare, public education, etc. (For more information about the US child-support guidelines, see: [www.supportguidelines.com](http://www.supportguidelines.com). For more information about the Canadian child support guidelines, see: [www.canada.justice.gc.ca/eng/fl-df/child-enfant/look-rech.asp](http://www.canada.justice.gc.ca/eng/fl-df/child-enfant/look-rech.asp).)

You and the other parent can agree to pay for special expenses that go above and beyond what the child support guideline amounts will cover. These additional expenses generally need to be considered both necessary and reasonable by both parents: necessary because they are in a child's best interests, and reasonable in relation to both parents' incomes. (See "Special Expenses" for more information about this.)

Child support is generally payable until the children finish school or are emancipated (reach the age of majority, leave home, get married, or drop out of school). If the children are going to attend college, child support will generally continue until they obtain their degree; in some cases, courts have ordered child support to continue through a second (Masters level) degree. Make

sure your divorce agreement states when child support will end (child's age and/or of level of education).

In the case of a special-needs child who will be dependent and living with a parent for the rest of his/her life, child support may be permanent. This is a complicated situation, so make sure you get good legal and financial advice before finalizing your divorce agreement if you have a special-needs child.

### **Opting out of the Child Support Guidelines**

You and the other parent can choose to opt-out of the Guidelines and set up your own child support agreement as long as it is considered fair. If you choose to go this route, put your agreement in writing and sign it; this will reduce the risk of a misunderstanding, and it is easier to enforce a signed agreement. If you and the other parent wish to opt-out of the Guidelines, you should ask your divorce lawyer how much child support a judge would likely order to be paid in your situation and use that number as a starting point.

Before finalizing an agreement -- especially if it diverges from the Guideline amounts -- you should talk to a family law attorney. He/she can help you understand your legal rights and obligations, which guidelines apply to you, how to use those guidelines to calculate a child support amount, and provide the right documents if you go to court. You should also obtain advice from a financial professional -- particularly about your ability to pay child support above and beyond the Guideline amounts.

### **Special Expenses**

In many cases, children may have additional expenses that go beyond what the Child Support Guideline amounts will cover. As stated above, these special expenses generally need to be considered both necessary and reasonable by both parents: necessary because they are in a child's best interests, and reasonable in relation to both parents' incomes.

Special expenses could include items such as:

- **Child-care expenses.** The custodial parent incurs as a result of his/her job, illness or disability, or educational requirements for employment (e.g., returning to college to finish a degree in order to qualify for a job).
- **Medical and/or dental insurance.** The portion of the custodial parent's medical and dental insurance premiums that provides coverage for the children.
- **Healthcare not covered by insurance.** Examples might include medication, orthodontics, counselling, elective surgeries, eye exams and glasses, etc.
- **Extracurricular activities.** For instance, extra fees for sports, music, arts, and school trips.

- **Private school or tutoring.**
- **Post-secondary education.** Usually, this is for a first degree; however, it could include a second (Master's level) degree.

If both parents agree that additional expenses are both reasonable and necessary, then they will usually each contribute to them in proportion to their incomes -- but they may also agree to an alternate division in which one parent pays anywhere from zero to 100% of the expense in question. Both parents are free to decide if a special expense is reasonable and necessary and how much each of them will contribute to them.

For instance, Frank and Judy have agreed to split expenses for their two children's private school tuition proportionate to income. However, they disagree about ballet lessons for their daughter and hockey for their son, so Frank has agreed to fund 100% of the hockey and Judy will fund 100% of the ballet lessons.

In your divorce agreement, you can list special expenses that you expect to incur today, in the near future, or many years later. For example, you can specify who will pay for what proportion of uninsured orthodontic expenses, your children's daycare, and your children's college tuition.

### **What if you and your Ex Can't Agree?**

Special expenses are often a hotly-contested area. If you can't agree on whether an expense is both necessary and reasonable, ask an objective financial professional to analyze your situation and let both of you know whether you can truly afford the additional expense. You should also speak to a family law attorney about how judges in your area are ruling on special expenses -- and how the judge would likely rule if you took your case to court.

If you still can't reach agreement, you could hire a divorce mediator to help you resolve your differences, retain divorce lawyers to advise and assist in your negotiations, or go to court and ask a judge to decide.