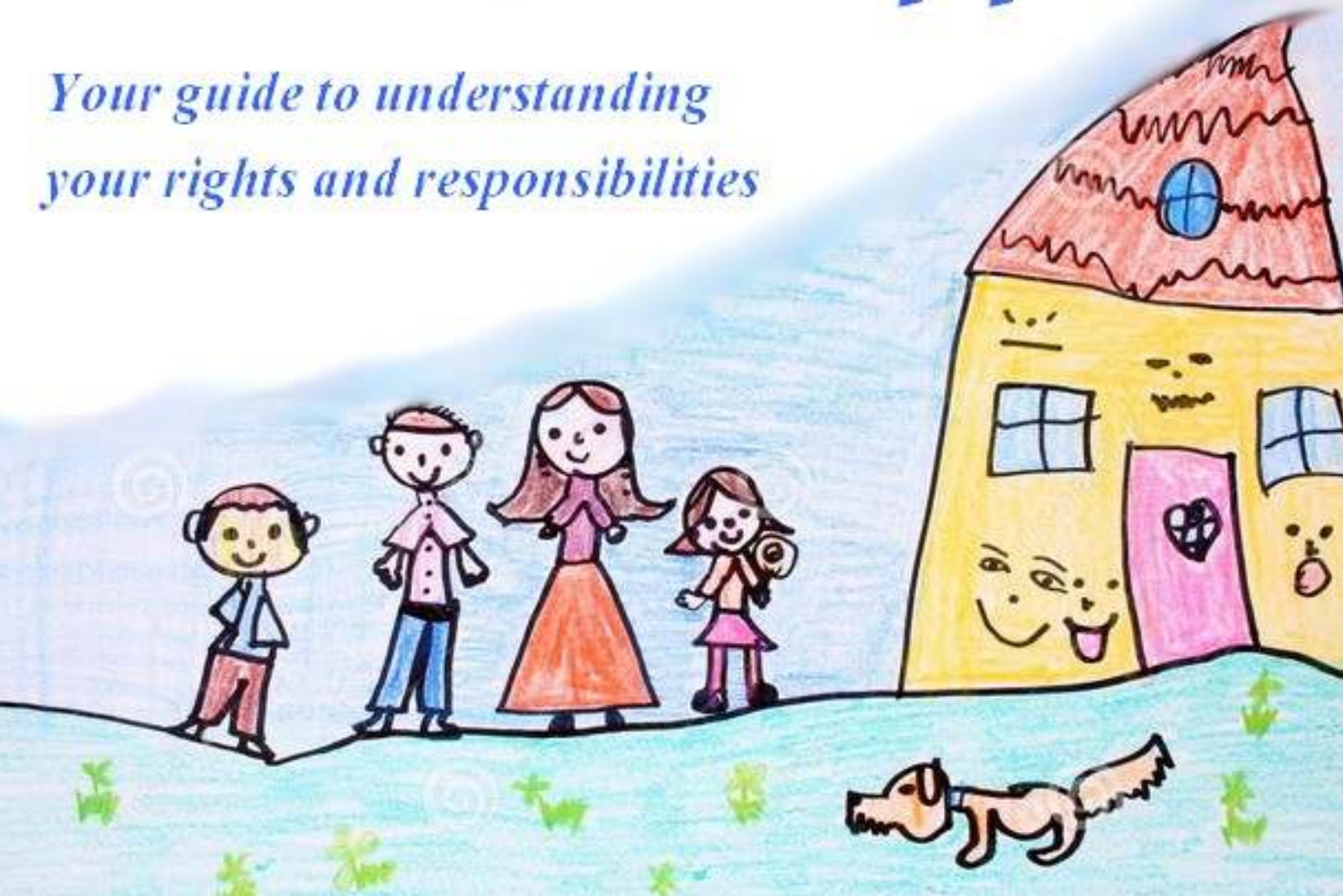


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Understanding Child Support

*Your guide to understanding
your rights and responsibilities*



UNDERSTANDING CHILD SUPPORT © 2015

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Why is there child support?

Public policy - that's why.

Tennessee public policy says that children will be supported. You have a child with the love of your life. She and you decide y'all cannot stand each other. You split up so that's it right? Wrong! You have children and Tennessee public policy is that you support your children. What does that mean? This means that the state legislature writes the law. If you want a change in the law look for your state representative or representative (<https://www.tn.gov/topics/Elected+Officials>).

In Tennessee we have many programs to help people, such as Families First, Medicaid / TennCare, and Food Stamps. But just because we have these programs does not mean that we should support your children for you. Let me give you an example:

You are working 40+ hours a week trying to take care of your family. Your buddy at work gets laid off. You would help him out right? Of course! You might get his kids some groceries or connect him with the food bank at church. You want to help.

After three months you go check on your buddy to see how his job search is coming along. He is sitting on the couch playing his X-box. You ask about his job search – he says, “what search?” He says “I like you providing for me.” The kids are fed, rent is paid, and he gets to lie around and play X-box. You say “wait, I did not take you on to raise!” (A southern phrase meaning I do not want to support you and your children). It violates your personal policy of everyone taking care of their own. It violates your policy of not spending your money the way you want to.

The Bible commands us to take care of our family first. Tennessee law makers are not preachers or rabbi's but they have decided they agree. Your first job is to take care of your kids. If you cannot Tennessee will not let your children starve on the street but we expect you to take care of your kids. If you and the child's other parent do not live together, "taking care of your kids" means paying child support.

Why is there child support?

They are your kids! The other reason you should pay child support is because they are your kids. Remember you chose the Mom or Dad for your child. Your child did not pick you. Two human cells create a new human being – your child. Remember high school biology? If not there are pamphlets at the county health department that will give you all the details (<http://www.naccho.org/about/lhd>).

A question might come up – is this your child? Well sure! The Momma said it was so there you go right? Wrong! She wanted me there when the baby was born and she told me to sign the birth certificate so I am the father right? Not necessarily. If you have a young child, if the child is not born yet, you might want to ask for a paternity test. The test looks at your DNA and the child's DNA and determines whether you are or are not the father.

How much do you trust this wonderful young lady who is now taking you to court? Would you believe her if she said you should sign up for an 18 year jail sentence? No Way! If there is ANY doubt take a test. It's just business.

Why is there child support?

Children need support. What does it cost to raise a child from birth to 18? That all depends. Some websites tell us that it costs hundreds of thousands of dollars.

(<http://money.cnn.com/2014/08/18/pf/child-cost/>) Children come in three basic stages, young, pre-teen, teen and then they are gone.

When they are young the world is exciting and they are exploring everything. They will eat lots, go to the doctor often, require mountains of diapers and eat a truckload of formula. When they are young they will go off to school. Some of your expenses will go down. Many of your expenses will go up.

When kiddo becomes a pre-teen there will be band uniforms, field trips, fall festivals and so forth. As your children get older you will find hundreds of ways to spend money on them.

When kiddo is becomes a teen ager you will never again refer to him or her as kiddo. You will not acknowledge them in a crowd. You will drop them off a half mile from school and leave before anyone associates them with an adult. You will provide them with the latest of cell phones, a BMW and a valid master card whenever they want to go to the mall. You will do this because “All the other kids parents” do that. My response was always – “great get adopted by that family.”

Then they are gone. Enjoy them now because every day they walk a little farther down the road of freedom from Mom or Dad. Enjoy the trip.

When my children were young I wanted to change my name from Dad to ATM. This is the reason for child support. Your children have every right to expect you to provide for your child. Tennessee has every right to expect you to provide for your children.

What is the average child support amount?

In another life I was a statistician. That is the geeky kind of guy you see hiding behind coke bottle glasses concerned about the mean and the median and the percentages. But, enough about me. What is the average child support amount? (http://www.tn.gov/humanserv/cs/cs_main.html). I would not want to pay child support but suppose I was ORDERED to pay \$500 a month. Look at what your money is buying – rent or house payment for your child's share of the expense, food for kiddo to eat. As they reach teenage years they will eat \$500 a month. This is what your child support is designed to pay for.

What about extra expenses for my child?

By the letter of the law you do not have an obligation to provide for your child above and beyond the child support amount. Your little girl tells you she was selected for the ballet recital but she needs some new point shoes. You can say “I am ordered to pay this amount. See your Mom about the shoes.” You could say this. Please don't. Think about things this way – if you and the child's other parent were still together would you do everything you could to help your child get those ballet shoes? The child, your child, did not ask to have a Mom and Dad in two different places. The most important thing in your world is that child.

Support is financial and time. Finally remember the word “Support” means more than money. Your child needs two parents. It is in your best interests and the best interests of the child that you and the other parent learn to work together. Remember you should have parenting time with your child. Parenting time is not “visitation.” You have “visitation” at a funeral home you have “parenting time” with your children. No matter what you think of the other parent there will be years of Christmas, Thanksgivings, proms, football games and band performances,

family funerals and one day, if you're lucky, being part of your child's selection of a parent for his or her own children. Be the best parent you can be, it will make being a grandparent a lot more fun. If you need help being a better parent check this link (<http://lifebridgetn.com>).

How Much?

There are factors that determine the amount. Do you know how many times some fine young man has come in my office and said "my child support is too much." How much is too much? Child support in Tennessee is based on the Tennessee Child Support Guidelines. The guidelines are kind of like a menu. You go to a restaurant and think I want the prime rib special, salad, baked potato, and the works. Sounds great. Your taste buds are waiting. The waiter brings the food and it is GREAT! You even have some leftovers for tomorrow. Wonderful! Then the waiter brings the bill. What do you mean the meal was \$30.00? That's too much. I can't pay that much. I didn't work a full shift this week. How do I know you used the right cut of beef? The chef doesn't love me anymore? Who cares? NO ONE. You wanted to enjoy the roast beef and now you object to the price. Too bad so sad!

Go back in time, a couple years ago. The moon was full, your hormones were racing, the night was young, you were young, and nothing could change this magical moment. A few months later you are told good afternoon Dad! Sounds OK. I will have a grandkid to show Mom, I will be the dad at the basketball game, we will be wonderful parents. You say "I will take care of my child." What do you have in mind? The child will need diapers and formula so I will buy a box of diapers and a can of formula each and every couple weeks when I think about it if she tells me to. Wrong Buckaroo. You will pay regular child support. "Well she

said she doesn't need my money." Too bad! The day she goes to receive food stamps, Families First or TennCare the State of Tennessee will tap on your shoulder and tell you what a fine baby you have. They will whip out the Tennessee Child Support Guidelines and put the figures in the right place. A number will be created and this represents the "presumptive" child support. It is presumed the guidelines are correct that this is the amount you should pay. "Well I think I should pay less." Unless your reasons are found in the Guidelines your opinion means squat. I think I should pay more! The guidelines tell you the minimum you must pay. If you want to provide the best for your child(ren) then do so. Your children will be the better for it.

There is also a minimum and a maximum child support. Several times folks have tried to convince me they only make a couple hundred dollars per week. Well I can only get 15 hours a week at my job. Have you looked for another one or two jobs? This is a good time to start. Again imagine that you and the other parent were still together. Would you have a job with only ten or fifteen hours a week, look into the eyes of your hungry little girl or boy and say, "well well, can't get more hours, too bad for you?" Of course you would not. You would ask for more hours. You would pick up more work. You would do whatever you had to do to provide for your child(ren). So tell me, why is your child supposed to take the punishment just because you and the other parent could not agree to be together? Ask for more hours. Get two jobs at twenty hours per week. There are seven days in a week. There is not a constitutional right to have a weekend off. You wanted to be a parent, or at least you wanted the action that it takes to become a parent, now you have to step up to the plate and provide for your little one. I know you want to. I know you can.

Suppose you are blessed to have an exceptional job or business. You make several million dollars per year. Before you say “no way” let me assure you there are people that make multi millions of dollars per year. For those folks yes there is a maximum dollar amount for calculating child support. The maximum amount is based on (look at child support guidelines). If you make more than 11,000 per month the child support amount maxes out. You cannot be charge child support on amounts of income over this amount.

How?

The best way to pay your child support depends on your situation. You and the child’s other parent can reach an agreement that you are going to help by paying X amount each week or month. You go along with this “agreement” until one day one of you gets mad at the other and says lets go to court. You will come before a judge or juvenile magistrate and say “we had an agreement.” If you had an agreement to pay an amount that is not up to the Tennessee Child Support Guidelines then you will owe the amount of the guidelines minus the amount you have paid for the time the child began receiving child support. Let’s come up with an example.

John and Jane have a child. They are so happy. Two months after the little one arrives they agree to separate. She says “just send me \$200 a month.” Everybody is happy. He sees her once a month and gives her \$200 cash. Two years later he comes to pay his \$200 cash and she introduces him to her new boyfriend who the child is calling Daddy. You go ballistic. Words are passed. Police are called because y’all are yelling and screaming. She says “I’ll just take you to child support court.” “Great,” you say. About a month later you, kiddo and mom are in juvenile court in Nashville. The judge, or child support services, looks at your

income, mom's income, how much time you spend with the child, who pays for health insurance, who pays for day care and any expenses of a chronic medical problem with the child. The guidelines finally say you are to pay \$425 per month. "Wait! We had an agreement!" IF she remembers you made cash payments – and with no receipts it up to her memory so good luck, you can get credit for the payments you made so you are OK right? Wrong! You owe \$425 from the day baby girl came into the world – 24 months ago. That is \$10,200.00. You have paid \$200 each month for the last 24 months so you have paid \$4800.00. You are in arrears for \$5400.00. "But we had an agreement?" No the state of Tennessee had guidelines. The Guidelines trump your agreement. You will owe child support plus an amount of money to pay down your arrears.

Let's talk about paying to the baby momma versus paying through child support services. Should you pay the other parent personally or should you pay through Tennessee Child Support Services? Everybody will have an opinion. This e-book is not meant to replace good legal advise. With any legal question ask a competent lawyer. If you pay through Tennessee Child Support Services you will have someone else verifying every time you make a payment. The Child Support Services office does not know you, doesn't care about your new girlfriend or boyfriend. They are just adding up numbers. When the organic matter hits the oscillating device (think poop and a fan) would you rather have your freedom being held by a lady who now cannot stand the ground you walk on or some disinterested accountant who says judge he paid this amount on these dates? There have been many, many times that I have asked someone about their child support and they said, "but I paid her." How did you pay? "Cash! Is there a problem." No there is not a problem until we go to court and she/he cannot remember any of those alleged payments you made.

“What happens if I never knew I was the parent of a child?” Well by the question I take it that a man is asking. A woman would remember the event of some wonderful little child coming into the world. Let’s look at another example. Boy meets girl. Boy falls madly in love with girl or at least he is too drunk to know the difference. He finds himself at her house the next day, swears he will call her soon, says he is going out for cigarettes and is never seen again. Whew! He got away from that bad situation, right? Wrong! A few months later he meets the young lady again and she is obviously pregnant. Is this my baby? Oh no. Whew! He is happy today and buys a lotto ticket to celebrate. Twelve years later the girl that was so pretty when he was so drunk bumps into him at the local grocery. What are you doing? Oh nothing, just getting dinner for our child! What! You did not tell me I was the father of a child! You’re right. She did not tell you. She did not have to tell you. Did you ever go to Juvenile Court and demand that she prove you were or were not the father of a child? Of course not. You were just thrilled to not be the father of a child. Well, okay you will have to pay child support – how much can that be now? I have a new family to take care of; I have a house, car payments and the premium package in cable. Too bad, so sad.

Remember our old friend the Tennessee Child Support Guidelines? Let’s look at your income, her income, child care costs, medical insurance, how much time you spend with the child and the figure is \$500.00 per month. Okay, I will start paying my \$500 per month and I will complain and moan every month. At least the child is twelve and I only have to do this for six more years. Wrong, big guy. Child support payments of \$500.00 per month, twelve months a year \$6000.00 for twelve years \$72,000.00. Remember our buddy Mr. Arrears. You and Adam Arrears will become best friends for years to come. You will pay the \$500 per month. When and if you are to ever get a tax refund you will get a receipt that says Mr. Arrears

thanks you. Six years from now when the child is 18 you will through a party to celebrate your last child support payment. Who will you invite, how about Mr. Arrears? He will have a seat at the head table because you and he will know each other for years to come. You will pay child support arrears until the 72,000 is paid in full. Ain't fair? Talk to your legislature. It's real.

If you think you are the father of a child demand to be named or excluded as the father. You will thank yourself years from now.

Agreements

We don't have to go to court?

You talk to your baby momma and she says just bring me some money each week to me. If you do that we will not have to go to court. We will take care of our baby – right? Wrong! You love your child and you will take care of the child but please don't fall for the “we don't have to go to court” trick. One of two things will happen. You two will have a wonderful relationship as a separate but equal family. That will happen until you come to pick up junior and introduce your child's mother to the beautiful young thing you are now dating. At that time you will be introduced to a concept we call – “I don't want you but I don't want anyone to have you.” Your wonderful baby's momma rushes down to the local juvenile court and files a petition to establish child support. She says “he has never provided for the child.” What is your evidence that you have ever provided for the child? Do you have receipts? No you “provided for your baby.” Do you have someone who will say you provided for your child like, the child's mother? Well no, she is the one saying you never provided? You have nothing! You are going to get slammed.

What else is going to happen? Choice two is that your baby's momma wants to go to get welfare benefits like Families First. Maybe your little momma only wants to provide for the child so she applies for Food Stamps or SNAP. Your child has what they need but your job does not provide dependant health insurance so your child needs TennCare. What will momma do? She will apply for services and during the application she will sign her name to a document that says the state now stands in the place of the parent regarding child support. She will say "I didn't take you to court" and she is right. She does not ever have to take you to court – the state will. Tennessee Child Support Services will fight for the right to child support. Remember what I said earlier – the public policy of the state is that you will support your child. If you want the state to provide for them child support services will hunt you down so get ready.

What if things change?

Petition the court to modify child support. Do you have a job right now? You do? Great! You don't? I am sure your looking and you will find a job soon. If you have a job do you expect to make the exact amount of money three years from now that you make right now? Of course not! Let's say you get hired at the ABC Construction company. They hire you for nine dollars an hour. Ninety days from now you pass the probation period and they give you a raise to ten dollars. When you have been with them one year they give you a raise to eleven dollars an hour. After a year and a half your supervisor retires and the boss says you ought to be the supervisor and now you're getting paid fifteen dollars an hour. Life is great! Your lifestyle is improving. You get a new car, you move into a better apartment or house. You go on vacation. Should your child support stay the same? Sure right? You were told to pay a certain amount and you did. Here is the question – when your pay goes up do you spend more? Of course! If you make more money why

should your child still have the same income or support? Your child should benefit from your increase in pay. Welcome to providing for your child. When a family financially does better the children get to enjoy more income.

So how does your child get more support. Someone files a Petition to Modify Child Support. Believe it or not either parent can file a petition to modify. You can decide you want to provide for your child and since you are making more money your child should have a share in your blessing. More likely than not the Petition to Modify will be filed by the other parent of your child or by the Tennessee Child Support Services. In a petition to modify someone will be asking the court to increase your ordered amount of child support.

So a petition to modify can only move the child support amount up right? No, anyone can ask to change the child support which means your support payment can go up or DOWN. You may not believe it but you would be wrong. Suppose you were making the fifteen dollars an hour as a supervisor at the plant. Life is good, you pay your bills and you are current with your support. Then one day the plant manager announces the company is moving to Singapore! You start looking for a new job but the child support amount is certainly not fifteen dollars an hour. Your child support gets more and more behind each month. You need to file a petition to modify as soon as you can. If something happens out of your control, like a job situation, you need to file a petition immediately. I have represented many guys who were behind in child support and they would tell me “well six months ago XYZ happened” and I could not make my payments. The first question from a judge will be when did you file a petition to modify your child support? Your answer will make a huge difference. Tennessee law has set out that you CANNOT change child support retroactively. Let me put this in simple terms. You lose your job. You look for another job but you can only get a job paying half

as much money. You get far, far behind in child support and one day you get a loving invitation to come see a judge. The invitation is delivered by a uniformed man who invites you to have lunch at the local jail. Lousy right? When you go to court the judge says, “Mr. X you’re right you cannot pay this amount of child support and I am going to lower the child support payment beginning today. Great right, your child support is lowered back to the time you lost your job – NOT! Tennessee law has said you cannot go back in time and change the amount of your child support. You still owe the larger amount from the time you began getting behind to the time the judge changed your child support amount.

Filing fee and indigence

I need to reduce my child support because I lost my job and I am making NO money. I will go down to the court clerk’s office or the juvenile court clerk and file a petition to modify child support. Great, I have a plan! Tomorrow I march down to the clerk’s office; one problem, there is a filing fee. In Nashville the juvenile court will charge you \$99.00. So be ready to spend a hundred dollars to ask the court to lower the amount of money you spend on child support.

Wait, you don’t have the money to pay your child support right? How in the world are you going to come up with an “extra” hundred dollars? Until you ask (no guarantee) for the chance to reduce your child support amount you cannot reduce your child support. You gotta ask! What do you do if you do not have the money to pay the filing fee? When you go to the court clerk or juvenile court clerk ask about an “affidavit of indigency.” Do not let anyone tell you there is no such form. There is! Fill out the form and ask that it be reviewed. You are asking to be allowed to file the petition and come before the court then let the judge either forgive your fee or let you pay the filing fee later in court costs. Either way you have to ask for the

“affidavit of indegny.” Remember what happens if you never file anything – the amount of child support does not change and you get deeper and deeper in the child support hole. If you file a petition and the judge lowers your child support you save money each month thereafter. File your petition. Ask for an affidavit. Do it and stay out of trouble.

What if I get behind?

You are in child support contempt – OK say you get behind in your child support. At some point someone will file a Petition charging you with being in “contempt.” Charging you with being in contempt can be CIVIL or CRIMINAL.

If you are charged with Civil contempt the saying is that you have the keys to your cell. You are charged with being two hundred dollars behind in child support. You say – “I could pay it but I ain’t gonna.” “OK,” says the judge. “Go away with the deputy and come back to court when you are ready to pay your support.” I have found that even a person most angry with their other parent will decide that a night or two staying with the sheriff is more painful that paying some money to your co-parent / baby momma. Civil contempt means you got yourself in this trouble and you can get yourself out.

Criminal Contempt is more common and is different. In criminal contempt you have the rights of being a criminal defendant. You cannot be forced to testify against yourself. You can subpoena folks into court if you need to. You have the right to a lawyer and if you cannot pay a lawyer one will be appointed to you. Finally and most importantly you must be found guilty of criminal contempt “beyond a reasonable doubt.”

For me to find you guilty of criminal contempt I have to show that there is a valid court order. The court order says pay X amount of money for the support of

your child, alimony or medical support. The next step of proving you guilty of criminal contempt is to prove that you had the ability to pay the support and, finally, that you did not pay the support. The first and the last keys to proving you guilty are not that difficult. Let's say the state Child Support Services is bring charges against you saying you are in criminal contempt. Child Support will provide the court with a certified copy of a child support order saying John must pay X amount of child support each week, every other week or each month. If payments were supposed to be made through the child support services office the prosecutor would show the history of your payments and notice that several payments were not made as ordered. The real fight usually comes in the area of "could have" paid the support. You can show my company moved to Canada and I lost my job. Be prepared to say more than that like, I looked for a similar job, I looked for two part time jobs to replace the money or anything similar. Saying something like – the plant closed down so I stayed home on the couch and hoped somebody would call me – get ready to go to jail. Many times I have heard judges say "well during that time did you eat? Did you wear clothes? Did you pay your electric bill? You children need food, clothes and heat so why are your needs more important than theirs!"

How can you survive a child support contempt hearing? First do not let a petition for contempt be filed, instead file a petition to modify child support as soon as your income takes a radical fall. If you have a change of income, collect proof. If you are laid off keep documents like separation papers, news releases etc. If you were injured and unable to work apply for any relief like workers compensation or any other available benefits. Keep copies of documents you file so, when asked, you can say here is the evidence that I have tried to keep my child support payments up. Another survival skill will be paying some of your support

payment. Let's say you are ordered to pay \$200 a month in child support. You lose your job, get hit by a truck and spend two months in the hospital. You didn't know you could ask to reduce your child support so you don't pay child support for three months and a Petition for Contempt is filed against you. You are charged with being behind three months. In our story you can hope for some love from a judge who will consider your difficult circumstances. On the other hand if you come to the court and say, "no I did not pay the \$200 each month but I was able to scrape together \$110.00 one month, \$130 another month and \$97 the third month." You might have someone come testify for you that they took you to job applications. You could bring medical records of your accident. Bring anything you think will explain that you could not make the payments and that you tried to obey the court's order. You may be charged with contempt of court but you may survive the experience.

Child Support and Visitation

Do not confuse child support and visitation. First do not talk about "visitation." You and someone else are parents of a child. As parents you are blessed with 24 hours in a day and 365 days in a week. The question becomes how much time you spend with the child. If you spend every other weekend, share the holidays and a couple weeks in the then you probably spend 80 days a year with your child. The other parent then spends 285 days with the child. The amount of child support you pay calculates in the amount of time you spend with your child. If you spend little or no time with your child your support payment will increase. If you spend a third of the year with your child or even every other week your child support will be less because you are having more time than the "usual" with your child.

The biggest way this issue of parent time (remember not visitation) comes into play in court is when someone is hauled into court on a contempt petition. For an example let's say a guy is brought into court after he is charged with not paying his child support as ordered. When he gets in front of the judge or juvenile magistrate he says "but she won't let me see my kid." Not getting to see your kid may be the absolute truth but the question is "what are you in court about?" You are in court based on a petition for contempt saying you did not pay your child support at all or on time. If this sounds unfair think of this; you go to watch a baseball game and you don't like a call of the umpire. You say, "but ump at work we had to work overtime last week." The ump says, "What?" The two topics don't have anything to do with each other. It's the same way with child support and visitation. You were ordered to pay child support. The fact that the other parent is not letting you see your child does not mean you get to not pay child support. Do you have an Order that says when you are supposed to see your child? If there is not one file a petition in circuit court or juvenile court. If you do not have an Order about parenting time then you cannot complain to a judge that you are not getting to see your child. When you complain the first question a judge is going to ask is "where is your order?" If you have a parenting time (visitation) order you can file a petition for contempt saying she or he is not following the order. You have the right to enforce an order as much as anyone else. Stand up for your rights and the rights of your child.

Why is my child support so much? Your child support amount is based on a computer program called the Tennessee Child Support Guidelines. To complete a child support guideline you have to enter information. You enter the Mom's name, the Dad's name, the child's name and the court name. You enter the amount of time each parent spends with the child.

You enter the amount of gross income for each parent. The gross income is the amount you get paid before any withholdings like income tax, social security, 401k, savings plans, insurance payments etc. If you get paid ten dollars (\$10) and you work 40 hours a week you gross \$400.00 a week. The child support guidelines need you to write down how much you get paid per month so how often do you get paid. Do you get paid each week, every other week, on the 15th and 30th, or once per month? Go back to our example of somebody making \$10 an hour and working 40 hours a week. One way to calculate your monthly income is to say 40 hours a week, 52 weeks a year is 2080 hours times the \$10 an hour means that you make \$20,800.00 a year. When you divide \$20,800 by 12 months you get \$1733.33 each month. Remember you have been making \$400 a week so you don't ever remember making \$1733.33 a month. What happens if you make some odd figure like \$11.73 an hour? Your work job works you eight hours a day but only four days a week so you work 36 hours a week. The easiest thing to do is figure 36 hours times 52 weeks. Suppose you work 36 hours a week nine months a year and then 50 hours a week in the summer because your job is busier during some times of the year. Use math to decide how much of the year is made up of the time you work 36 hours and the percentage of time you work 50 hours a week. Multiple the two times then add them together. When you get a total figure divide this by 12 and you get a monthly income figure.

After entering information about the amount of income you have and the amount of time you spend with the child there will be an initial amount of money the child should be able to expect from each parent. The next phase of the Child Support Guidelines is to enter information about insurance, medical problems, and work related child care. Do you pay for child support to take care of your child? If you do you ask your insurance supplier, or human resource department, how much of

what you pay covers the child. Here is an example; you may say you pay \$125 a month for health insurance and it covers you and your child. This amount covers two people. The insurance office or human resources office will be able to tell you if the child's portion is most of the \$125, half the \$125 or very little of the \$125. You have the obligation to find out and tell the court or your attorney. Enter this amount when the Child Support Guidelines ask about the amount you pay for health insurance for your child.

After calculating the amount of medical insurance you pay the next question becomes, "does the child have chronic medical problems." While it is important for you, as a parent, to know that your child has a chronic medical problem the question for child support is does the child have chronic medical problems THAT ARE NOT COVERED BY INSURANCE. Do you and or the other parent have to pay for medical problems, pay out of your own pocket? If you can show that you pay for medical needs out of your pocket, on a regular basis, because your child has a chronic medical problem you can show this as an amount that will affect your child support.

Is your child in day care? Great! Day care can be a good opportunity for your child to grown educationally. Who takes care of the child most of the time? For an example let's say that the mother takes care of the child most of the time. Why does the child go to daycare? Who provides the daycare? What does the daycare cost?

First why does the child go to daycare? As I write this we have had several days of snow and ice and the kids and I have been locked in the house. Would I like some daycare about now? Heck yeah! The question still is why is the child going to daycare? If the child is going to daycare because the mom goes to work or

school the amount of daycare goes into the Tennessee Child Support Guidelines. Your lawyer will want to investigate and perhaps see some proof that the mom works or goes to school and needs the daycare for that purpose. There have been hearings when the mom has been found to be trying to prove that she pays daycare so she can go to work then you find out that there is no money being paid for daycare at all. Defend yourself. Make the other side prove their case. Ask more questions.

Who provides the daycare? When I say daycare you probably think of Little Kids College or Kiddie Castle or something like that. Daycare can be the house of a neighbor that watches the child while mom goes to work. Daycare can be provided by a family member nearby. If the other parent wants you to be charged with some of the costs of daycare they need to prove this. Mom says I paid \$140 a week for daycare. Prove it! Defend yourself. There is nothing wrong with asking for receipts of the daycare center. There is no problem with asking for proof of payments and who is providing the service. Unfortunately folks can tell some of the truth or none of the truth. Suppose the grandmother of the child watches the child and the mother then says she pays \$140.00 a week. Your lawyer may demand proof of the expense and find out that there is nothing in writing. Is it believable that mom is paying grandma for watching junior? Defend yourself. Make the other side prove their case. If no actual money is being paid why should you have to pay extra child support for daycare that costs the mom nothing? Fight! Get a good lawyer and fight!

When does it stop? Okay, you have an Order telling you to support your child. When will it stop? The first answer to this question is NEVER! I have children from teenagers to grown adults. Is there ever a time when you are not Dad? NO! There will always be an opportunity to do something, buy something or offer some

words of guidance. Support your children in any way possible. It is your obligation and your opportunity. In this e-book we are considering the question of when does your ordered child support end. You owe child support until the child turns 18 or graduates from high school, whichever occurs last. Here is an example; junior comes into the world. You and mom go to court, establish paternity and set child support. You begin paying child support each month. For our example let's say the amount does not change and you never skip a payment. Kiddo grows up and heads off to elementary school, junior high then begins high school. Children start school based on the child's birthday so junior could turn 18 in the spring of his senior year, the summer after he/she graduates or his/her junior year. Take these examples one by one. Example one child turns 18 in the spring of their senior year. In this example you will owe child support until the child finishes and graduates from high school. Example two child turns 18 the summer after he/she graduates from high school. Maybe your child's birthday that allows him to begin school later. Junior is always the older student in his class. When he turns eighteen it is the summer between his junior and senior year. In that situation you owe child support until junior graduates from high school so he will be closer to 19 when your child support ends. Lesson for the day – you owe child support until the child graduates from high school OR he/she turns 18 whichever occurs LAST.

Another lesson – when you notice that you just got an invitation to juniors' high school graduation. You are so proud of him. As you prepare for a graduation gift you remember that you have to get a birthday present for junior because his birthday is four weeks after graduation. File a motion to terminate child support a month or so before junior turns 18 or graduates. If you plan correctly the child support payments might end just around the time that it should end. Until you are told to stop paying child support PAY child support! What happens if I pay a

month or two and the support should have stopped? Maybe you continued to pay because your motion had not been heard yet; what can you do? If you paid after you should have stopped paying support you can ask for a judgment against the person to whom paying was being paid. Fight for your rights. You will never win if you don't fight.

Can you appeal? Yes. If you disagree with the decision of a court you can always appeal. Appeal does not mean that you get a new trial or hearing. In child support circumstances where you appeal depends on where you began. Did you have a hearing in Circuit Court? If you disagree with the Circuit Court you would appeal to the Court of Appeals. If you had to appear in Juvenile Court before a magistrate you would appeal to the Juvenile Court Judge. What happens in an appeal? That depends on from where you are appealing. If you are appealing to a Juvenile Judge you would get a new hearing. Whatever happened in the first hearing does not count. You can put on your proof again or you can bring in new evidence. If you are appealing the decision of a Circuit Court to the Court of Appeals you are only appealing legal conclusions. You can say the judge made the wrong decision because I was trying to pay not ignoring the judge. This kind of decision is a "question of fact." The judge looks at the proof, sees any witnesses testifying and makes a decision.

The Court of Criminal Appeals has said that even if they do not like the decision of a judge if it is a question of fact they will not change a decision. Sometimes the judge says that he or she sees some evidence and believes or "finds" that the law says he should do a certain thing. When a judge does this he or she is deciding a "question of law." When you appeal to the Court of Appeals you are saying that the court applied the wrong law or made the wrong decision according to the law. Remember when someone accuses you of being in contempt of a court order, the

person that accuses you has the “burden of proof.” They must prove beyond a reasonable doubt that you did what they say you did. When you appeal a judge’s decision the judge is considered to have made the correct decision and YOU have to prove that he or she made the wrong decision. The burden of proof then changes. Remember you always can represent yourself but appeals are really tricky so if there is a time to have a lawyer this is that time. When you appeal also remember something called rules of procedure. Some rules have specific timelines. For example if you are in court with a juvenile magistrate and you want to appeal you have five days to file an appeal. If you are in front of a juvenile judge or circuit court judge you have to file an appeal within 30 days. By the words “file an appeal” I am saying you have to file a document saying you are appealing. In the office of the juvenile or circuit court clerk there should be a form called “Notice of Appeal.” Ask for this form and fill it out to the best of your ability. Make the decision whether or not to appeal and do what needs to be done within the time required. If you do not you can have a wonderful, beautiful appeal and not be allowed to tell anyone. You could face a case where the judge says, “I’m going to rule against you because you used to fish in my pond when you were a boy and I said I would get you back one day.” That’s crazy, right? So you say I’m going to appeal and you file a Notice of Appeal on the 32nd day after the court made its decision. Great, you have a wonderful appeal that you should win! Unfortunately no one will ever know.

Maybe you ignore the time and file the appeal anyway. The state will file a Motion to Dismiss and you will lose. “But the judge made a terrible decision.” Yeah and you waited too late! Let me give you an example that may be easier to understand. You are playing baseball. You are up at bat. The pitcher throws once. You swing and miss, strike one. Another pitch comes. You swing and miss again.

The ump says “strike two, you’re out.” Well that’s not right! You walk off to the dugout. Two days later in another game you strike out and say wait I want another swing because two days ago the umpire made a bad decision. You are absolutely correct according to the rules of baseball. You are two days late to say anything about it. Your right and you lose. Remember appeals have STRICT timelines. Get a good lawyer that has filed an appeal. If you don’t have a lawyer read the rules and file your appeal before the end of the appeal time. Fight for your rights and you can win.

Do I have to tell the other parent how much I make? That depends; do you have a parenting plan? If you are ordered to pay child support from the circuit court you probably have a parenting plan. One of the sections in the parenting plan says you must provide the other parent a copy of your tax form each year so they can be informed about your income. Don’t get too excited about this because they have to provide the same information to you. You may say “I don’t want to do that,” or “it’s none of his/her business what I make.” Actually you do have to comply with this because the parenting plan is a court ORDER. Actually it is the other parents business because the amount of child support can change. Remember our earlier example. Suppose you got a 20% raise one year. Shouldn’t your children benefit from your increase in income? Of course! Because of that you need to know the income of both parents goes into the calculations of child support. Suppose the other parent gets a 20% raise as well. Your child support could change. The Tennessee Child Support Guidelines are available for either parent. Do the calculations yourself. Don’t take the other parents word for the child support numbers. It’s your money obligation. It’s your child. Make sure it’s right.

What is an ORDER? An Order is the way a court or judge speaks. Many folks have come to my office and said “the judge ordered...” After they leave I want to

make sure my client is doing the right thing and I go to the court clerk's office to look at the court records. I am looking for an ORDER. Guess what? Sometimes there is no Order. What? How can this be? The judge said "blah, blah, blah," and so that was the Order right? Wrong! The court speaks through its orders and minutes. Come to court sometimes. Let's say you go to court and see two attorneys arguing for their different clients. The judge announces "I rule in favor of the plaintiff or defendant. Then the judge says one person is supposed to do something. The judge tells one of the lawyers, "Attorney so and so, draw an order that says the plaintiff has a judgment for some amount of money." The attorney goes back to his or her office and writes a document that spells out what the judge said. The winning lawyer has to send the document to the losing lawyer so the other lawyer can say "yes that is what the judge said" or "no that is not what the judge said."

Sometimes the losing lawyer will write a document that he or she thinks is what the judge said. The judge will look at the document and, if it's correct, will sign the document and the court clerk will file it. When the judge has signed the written document and the clerk has filed it the document becomes the ORDER of the court. Before there was a document the judge said words which are important. The judge may remember what he or she said. The important part of the ORDER is that if the other person does not follow through with what the judge said you cannot charge them with violating an ORDER if it is not written down. So the first thing about an ORDER is that it is written.

Next thing about an ORDER is that it is an Order! "Well duh," you say! Not so, wait a minute. Do you know how many folks have been in my office saying they have not paid child support? Why I ask? Well I didn't think the judge wanted me to do XY or Z. The other parent did not follow the order so I don't have to either. I could not pay that much and still keep up my premium cable package so the judge

will have to understand. Wrong oh! An ORDER of the court is an Order. An ORDER of the court is not “A few kind thoughts from kindly old judge Bubba.” An ORDER is not a suggestion from someone who cares about you. An ORDER is a command for you to do or not do something. If your mom orders you to bring home a jug of milk you may do it. If you come home and say you picked up orange juice instead you have made mom mad but life will go on. She will get ticked off but she cannot call the police and say take him to jail. When a Judge ORDERS you to do something, like pay child support, you cannot say no thanks judge.

Let’s make up an example. Suppose a Juvenile Court judge says pay your child support in payments of \$100.00 each Friday. You pay but then get mad at the other parent because she won’t let you take junior to see your family out of state. You decide that you will pay if she makes you. In our example she files a petition for contempt and you get summoned to court. You bring \$400 dollars with you and say, “Well the judge will have to understand.” Guess what? The judge will not “have to understand.” The judge will only understand that the court ORDERED you to do one thing, pay \$100 each Friday and that you did not pay \$100 each Friday. That’s simple right? Right! Will the judge “have to understand?” Yes he will. He will understand that every Friday that the other parent did not get \$100 will cost you a \$50 fine, plus court costs, plus 10 days in jail. That is easy to understand. ORDERED to pay, didn’t pay, he will stay (in jail). Easy peezy. The lesson; an ORDER is an ORDER. Follow it. I have represented many, many folks before judges in several Tennessee counties. I would ALWAYS rather be standing next to the person who read the Order and followed the Order. Do it! Fight for your freedom by following the ORDER of the court.

Who gets child supports? The mom! Well not always. The person who has the greater amount of time with the child receives the child support. There are two

important terms you will want to learn. The terms are “primary residential parent” and “alternative residential parent.” If you spend six months and one day with your child you are the “primary residential parent.” If you spend five months and 29 days with your child you are the “alternative residential parent.” If the child lives with mom and you have the child every other weekend, shared holidays and some in the summer she probably has 285 days a year and you have 80 days a year. She is the primary, you are the alternative. Who gets named primary and secondary is not magic or based on your gender. Men can be primary and women can be alternative. The judge will make that decision based on what is in the best interest of the child. After you find out who is the primary residential parent your attorney or you yourself can complete the Tennessee Child Support Guidelines. The Guidelines will show which person is to receive the child support. Sometimes the mom has the child most of the days of the year. In that case the mom receives the child support. Sometimes the dad has the child most of the days of the year. In that case the dad receives the child support. Life can get strange at times. Suppose mom is supposed to care for the child but cannot and dad is not in a position to take care of the child. Maybe the court finds out that grandma and grandpa are good people, will take care of the child and can financially take care of the child.

Wonderful! problem solved. They can financially take care of the child and tell the parents, “its okay we don’t need your money.” Not so fast! Remember our public policy in Tennessee? You are the parent of a child and you should support your child. The judge will probably issue an ORDER that says the grandparents are supposed to get support for the child and the mom and dad are supposed to pay their share to the grandparents. Take another example mom is using drugs and cannot take care of the child and dad was killed in a car accident. The grandparents love the child but they are not able to help. Enter the state who finds a wonderful

foster family to help raise the child. The state is big and has lots of money so problem solved right? Wrong! You are the parent of a child. You should support your child. A judge ORDERS you to pay child support. Who the child lives with does not change the fact that your child lives somewhere, eats food, needs shoes and must be provided for. You created junior you pay for junior. It's simple right? Right!

What if she doesn't spend the money on the kids? Child support is not income for another parent. Child support is for the child. Great! You have an out! One weekend you find out that she is spending the child support on other things and not on the child. When the child came to see you this weekend he said he wanted a new Xbox and mom would not buy it. That rotten woman! You pay child support and she is not even buying the kid what he wants! Wow. You will show her. You buy an Xbox for junior and hold the money out of the next weeks child support. This plan will work out very well for you. When you are at the jail you will be able to tell all the guys how to play Xbox. Would it help the child if he or she did not have a place to live? Of course not! When the other parent takes your "child support" and puts more money with it and pays rent that benefits the child. When the "child support" is put into the same pot and food for everyone in the family is bought it benefits the child. Remember the word ORDER and follow it. You were told to pay. You were not told to manage the money of the other parent. Care for your child and support your child. Follow the ORDER and stay out of jail.

I will just do for my child. I am okay as long as I spend the same amount of money right? Not right! Remember our example about an ORDER. A judge says pay \$100 each Friday to the mom by way of the Child Support Services office. You decide to pay \$200 every other Monday. Two weeks later you find out that she is living with your best friend from high school so you decide you will just

make sure you spend \$100 a week on things for your child. When your friends and family ask about your plan you say “everything is great, I still pay \$100 in support I just decide, myself, what to spend it on.” Great plan! You are not following the ORDER but the judge congratulates you for taking care of your child. If those congratulations ever happen, it will be a pat on the back by the jailer as you put your hands behind your back. “I will just do for my child.” Your right! You will do the right thing by your child because you are a good parent. You will do the right thing by following the ORDER of the court. When you and the other parent are raising your child you will have many opportunities to tell the child what to do – pick up your room, take out the trash, do your homework. All these things are important and you tell your child what to do because you love your child and want the best for them. The judge tells you what to do in the best interest of the child. When you decide to say, judge I like what you said, but I thought it would work better this way; things will not work out well. Most judges do not seat in a special chair and wear a black robe because they like to hear their own words. They mean business and they mean to have their orders carried out. Follow the Order. Take care of your child by following the Order. Defend yourself and fight for your freedom by following the Order.