



Region Legal Service Office, Mid Atlantic Legal Assistance Department

Virginia: Child Support

- 1. Summary:** A child support order directs a parent to pay for the care of his or her children. The order is often entered as part of a divorce proceeding, but it may also be entered under other circumstances such as a determination of paternity or when parents are separated. Typically, one parent will be ordered to make a regular payment to the other parent, either directly or through a state agency. Child support is usually based on the combined income of the parents, but some states calculate child support based solely on the income of the noncustodial parent. Additionally, many states will factor in the amount of time the noncustodial parent cares for the children. State law and calculators can be found at <http://www.supportguidelines.com/resources.html>.
- 2. Guideline to determining the amount of child support in Virginia:** The Virginia Code provides a guideline to determine the amount of child support owed. Although it is only a guideline, there is a presumption that this guideline will apply in child support cases.
 - a. Child support is calculated based upon the combined gross (pre-tax) income of both parents. For military members, this includes salary, all allowances, and any bonus or special pays.
 - b. First, add the total incomes of both parents and calculate what percentage of the total combined income each parent contributes. For example, two E-6s making \$3,000 per month have a combined gross income of \$6,000. Since each parent earns 50% of the monthly income, each parent is responsible for 50% of the child support. However, if one parent makes \$4,000 per month and one parent makes \$2,000 per month, the parent making \$4,000 would be responsible for 66.7% of the child support.
 - c. Second, using the chart set out in VA. CODE § 20-108.2, scroll down to the row listing the total combined income calculated above. Scroll across to find the column that corresponds to the number of children that couple has together. For example, in 2016, parents with a combined gross income of \$6,000 and two children were responsible for a combined \$1,226 in child support.
 - d. Third, if one parent has primary physical custody, calculate the amount that the noncustodial parent is required to pay to the custodial parent by multiplying the combined child support calculated in the previous step by the percentage of the combined total income that the noncustodial parent makes. For example, if the custodial parent makes \$2,000 per month and the noncustodial parent makes \$4,000 per month, the noncustodial parent would pay the custodial parent \$817.74 per month (multiply \$1,226 by 66.7%).
 - e. Day care expenses are a separate cost. Day care expenses are added to the support amount and divided the same way as child support.
 - f. Payments that the noncustodial parent makes for the child's health care coverage and certain other expenses may be deducted from the support amount.
 - g. If both parents spend more than 90 days with the children, courts use a shared custody calculator. This modification in the calculation recognizes that, where there is extensive visitation, the noncustodial parent assumes some of the costs. Forms for calculating child support in shared custody cases can be found at www.courts.state.va.us/forms/district/jdrcourt.html.
- 3. Child Support and the Military:** Unfortunately, civilian laws do not contemplate military life and frequent transfers, deployments, and/or mobilizations. Once a child support order is entered, it is not modified by the court unless one of the parents petitions the court for a child support modification based on a material change in circumstances. For example, a transfer could impact the amount of time each parent spends with the child and may therefore warrant adjusting the amount of child support. Similarly, changes in pay and allowances can be a basis for a modification of the child support order. Try to anticipate these material changes to each circumstance to avoid falling behind on payments. If planning is impossible because of short notice, inform the court and request an expedited hearing.
- 4. If you expect your income to change:** Notify the child support agency or the court as soon as possible. If you will be earning less income because you were mobilized, you can request to have your child support order modified. In some states, the state child support agency can assist you, including helping with translation of the order. In other states, there is a *pro se* (do it yourself) process that allows you to complete all the legal paperwork yourself. To help ensure that your petition is given highest priority, it is advisable to write "Guard/Reserve" or "Expected Deployment Date is X" somewhere on the petition or request. You should seek guidance from a legal assistance officer or private attorney.

This handout is for information purposes only and is not intended to be legal advice. If you need legal advice and assistance you may see legal advice from your Legal Assistance Office. Legal Assistance Offices can be located at <http://legalassistance.law.af.mil/content/locator.php>