

Child Support

Child support is usually based upon the income of both parents. Some states calculate based upon the adjusted gross income of the non custodial parent <http://www.supportguidelines.com/main.html> is a web site that has the child support statutes for each state. Many states will consider the amount of time the non-custodial parent has with the child in determining the amount of child support.

In Virginia, child support is calculated based upon the combined gross income of both parents. Virginia includes all pretax income from all sources. For military that means pay, allowances, bonus ... (ALL INCOME). Once the combined gross income is calculated the percentage contribution is determined. For example: two E-6s making \$3000.00 per month have a combined gross income of \$6000.00. The percentage contribution for each is 50 percent ($3000 / 6000 = .5$). The last step is to go to the chart in [VA Code Section 20-108.2](#) to determine the total amount of child support and the amount the non-custodial parent should pay. If they had two children total child support would be \$1186.00. The non-custodial parent would pay his percentage contribution of the total support amount or \$593.00 as child support. Day care expenses incurred because of the custodial parent's employment are added to the support amount and divided the same way as child support. If the visitation per year is more than 90 days, courts use a shared custody calculator. This modification in the calculation recognizes that where there is extensive visitation the non custodial parent must assume some of the costs of housing, food, transportation etc..... . The forms for calculating child support in Virginia can be found at www.courts.state.va.us/forms/district/jdrcourt.html

The problem faced by many in the military is that most civilian laws do not contemplate military life which includes involuntary transfers, deployments, and mobilizations. For most of society once an order is issued it stands. For the military every time we transfer, deploy or mobilize there is a material change in circumstance that can warrant a review of the previous Order. In the case of child support, each of the three mentioned events could impact the support amount. A transfer could impact visitation and if the amount of time spent with the child was determinative of the amount of support, an adjustment may need to be made. Likewise if the new location has an increase or decrease in pay or allowances that may be a basis for an adjustment. The challenge is processing the changes before there is an arrearage. Planning is the best weapon against arrearages due to reduced income. When planning is impossible because of short notice it is best to advise the court and request an expedited hearing.

Notify the child support agency or the court as soon as possible. If you will be earning less income when you are recalled to active duty, you can request to have your child support order modified. The procedure for seeking a modification varies among the states. 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* 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. It is important to start this process as soon as possible because there may be delays due to court calendaring or agency workloads.

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>