

**TEN THINGS (+1)
EVERY DOMESTIC VIOLENCE AND
SEXUAL VIOLENCE ADVOCATE
SHOULD KNOW ABOUT
TENNESSEE CHILD SUPPORT**



1-Private vs. Public

<https://www.tn.gov/content/dam/tn/human-services/documents/Child%20Support%20Program%20Fact%20Sheet%20-%202018%20Updated%20links.pdf>

Basically, there are two “paths” to accessing the Tennessee courts for paternity and child support orders. One path is hiring a private attorney who represents you and files your case in a district court. The other path is applying for services with the Tennessee Department of Human Services (TDHS), Child Support Program which will then prepare legal documents to establish paternity and child support. Title IV-D of the Social Security Act requires all states to have a child support program. The Child Support Program is sometimes referred to as the IV-D program for this reason. The program promotes parental responsibility to meet the financial needs of children and their families.

Private System (Non-IV-D):	Public System (Title IV-D):
Pros	Pros
<ul style="list-style-type: none"> • Private attorney represents your interests • Able to file a divorce order as well as paternity, child support, custody/visitation • Able to divide property and assets • Parenting plans with visitation schedules • Able to modify custody/visitation orders • Generally smaller court dockets in District Courts 	<ul style="list-style-type: none"> • Free/low cost – includes low-cost DNA testing, limited court costs, \$35 annual fee on cases that have not received TANF benefits and if the state agency collects at least five hundred fifty dollars (\$550) in child support payments on behalf of the family in a given fiscal year • Extensive locate resources and enforcement tools – administrative and court-based • Interstate enforcement resources • Connection to broad range of other public services (e.g. Medicaid, SNAP, Child Care, etc.)
Cons	Cons
<ul style="list-style-type: none"> • Costs – for the attorney, court costs, and other fees (e.g. DNA testing, service of process, locate) • No administrative enforcement remedies – most enforcement actions require court filing • Some private attorneys have limited experience with non-marital cases and child support guidelines 	<ul style="list-style-type: none"> • No divorce orders and no division of property – married couples may get child support and custody/visitation addressed in separate orders • District Attorneys, private contractors and program staff do not represent either parent, they represent the State • Title IV-D courts have large dockets – may have 20 - 100 other parents in court on the same day • No authority to address custody or visitation in conjunction with support orders • Large caseload in the public system – limited staff time for each case and customer service staff generally handle parent case non-legal questions

Consideration – Most people would use a private attorney if they could afford one, though in all situations, child support orders follow the child support guidelines outlined in the Tennessee Codes Annotated (state law) with some deviations if the cases warrant this.

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<ul style="list-style-type: none"> • Hospitals must offer the opportunity to voluntarily establish paternity to all unmarried parents at the time of their baby’s birth. • Although paternity can be established through the Voluntary Acknowledgment of Paternity until the child reaches age 19, it is in the best interest of the child to establish paternity as soon as possible. Most hospitals can facilitate this process, or the form can be completed at a health department or child support office. 	<ul style="list-style-type: none"> • You can submit an agreed paternity order to the court on your own, with the help of a private attorney, or by working with the child support program. • Apply with the child support program and ask about the child support order and paternity establishment processes. • Visit the child support program’s website to learn more about applying for child support services at https://www.tn.gov/humanservices/for-families/child-support-services/child-support-applying-for-services.html 	<ul style="list-style-type: none"> • You can obtain court ordered paternity on your own, with the help of a private attorney, or by working with the child support program. • Applications may be obtained in person at any child support office or online at https://www.tn.gov/humanservices/for-families/child-support-services/child-support-applying-for-services.html
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If paternity has not been established by another method, the child support office can schedule paternity testing to determine whether the individual is the father. After positive DNA testing results are returned to the local child support office from the certified DNA lab, paternity and child support will be established through court order. Low-cost DNA testing is available for parents establishing paternity through the child support program. Please be aware that paternity orders established by the child support program must be based on DNA test results obtained through a State contracted testing lab.

Key Points on Paternity Establishment:

- The VAoP has the same legal impact as a court order determining the relationship of parent and child.
- The child support program will not provide DNA testing in cases where paternity has already been established by marriage or the signing of a VAoP.
- Either parent can file a petition (on their own or with the help of a private attorney) or open a case with the child support program to establish paternity.
- An unwed father does not have the same rights as a father who was married to the mother. Those rights are only legally obtained via an order signed by a judge. Paternity is the first step necessary to file for other rights.

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3-Public Benefits and Cooperation with the Child Support Enforcement Program

<https://www.tn.gov/humanservices/for-families/families-first-tanf.html>

<p>What types of benefits may require cooperation?</p>	<ul style="list-style-type: none"> • Families First *<i>Tennessee’s Temporary Assistance for Needy Families (TANF) program</i> • Medicaid 	<p>When a custodial parent applies for and receives Families First cash assistance and/or Medicaid for a child and the other parent of that child is not in the household, cooperation with the child support program may be required. Part of the application process for public assistance includes identifying the non-custodial parent.</p>
<p>What is considered cooperation?</p>	<ul style="list-style-type: none"> • Taking action that is essential for establishing paternity and/or child support 	<p>Examples of cooperation include:</p> <ul style="list-style-type: none"> • Completing necessary documentation in full • Providing information about the non-custodial parent • Submitting yourself and/or child to DNA testing • Appearing for court hearings when required • Directing support payments to the child support program • Refusing to accept direct payments from the noncustodial parent (NCP)
<p>Why do I have to cooperate?</p>	<ul style="list-style-type: none"> • Assignment of Rights 	<p>The acceptance of Families First benefits creates an assignment of rights to repay the state and federal governments for public assistance money you receive for your family in accordance with federal distribution.</p> <p>The Families First program determines the monthly unmet need amount for the household. Child support payments collected up to the amount of the unmet need will be distributed to the custodial parent.</p>
<p>What if I do not cooperate?</p>	<ul style="list-style-type: none"> • Families First benefits may be denied 	<p>If there is no good cause for not cooperating with the child support program to establish paternity and/or child support, the DHS office that issued the benefits will be notified, future months of TANF will be denied, and the child support case will be closed. Eligibility to receive TANF will not be granted until there is cooperation with the child support program.</p>
<p>What if cooperating may put myself or my child in danger?</p>	<ul style="list-style-type: none"> • Good cause for not cooperating may be claimed • The child support program also has procedures for pursuing child support safely 	<p>The Families FirstF application process allows for a claim of good cause for not cooperating with the child support program in pursuing child support or establishing paternity. Examples of good cause include:</p> <ul style="list-style-type: none"> • The child was conceived as a result of rape or incest • Legal proceedings for adoption of the child are pending before a court • Cooperation in establishing paternity or securing support may result in physical or emotional harm to yourself or the child • A child support case can be opened with a family violence indicator alerting program staff to take precautionary measures including redacting the applicant’s address from documents

<p>What happens when I am no longer receiving TANF?</p>		<p>When TANF benefits stop, the child support case will remain open unless the recipient of services notifies the child support program that services are no longer needed and there is no assigned balance owed to the state. Case closure does not terminate the support obligation. If there remains an active order, the case will become a Non-IV-D case for payment processing and federal reporting requirements only.</p>
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4-Opening a Child Support Case

<https://www.tn.gov/humanservices/for-families/child-support-services/child-support-applying-for-services.html>

https://www.tn.gov/content/dam/tn/human-services/documents/cs_handbook.pdf

<p>Why apply for child support services?</p>	<ul style="list-style-type: none"> • Help with locating an absent parent. Custodial parents may want help locating the noncustodial parent to receive financial support. • Paternity testing – many unmarried mothers and fathers want the certainty that DNA paternity testing brings – and it may be that the parents have no questions, but they know others may question paternity. • Formal, enforceable child support order – informal agreements between parents may work in some situations, but couples parenting in separate households can benefit from the structure that a court order for child support and medical support provides. Custodial parents are more likely to receive a consistent amount of support with a formal order and noncustodial parents know that their support is documented. • If the other parent resides outside of Tennessee, the child support program has tools and resources available for working with child support programs in other states, territories, tribes, and specific countries.
<p>Who can apply for services?</p>	<ul style="list-style-type: none"> • Anyone, regardless of income or residency, who would like to establish paternity, child support, or have child and medical support enforced for a child may apply. • Custodial parents or noncustodial parents can apply and be considered the “recipient of services.”

5-What Happens After a Parent has Applied for Services?

<p>Case Set Up</p>	<p>The information supplied by the parent applying for services will be reviewed for completeness. The child support program will then schedule a date and time to interview the applicant.</p>
<p>Locate</p>	<p>The child support program will try to locate the other parent – based on information provided by the applying parent and additional information available through state and federal locate databases.</p>
<p>Information Gathering</p>	<p>After locating the other parent, the child support program will contact them to gather information needed to continue processing the case.</p>
<p>DNA Testing</p>	<p>If paternity has not been established by marriage or VAO, paternity testing will be scheduled by the child support program. An Administrative Order for Genetic Testing will be sent to the parties advising of the date and time for paternity testing. The appointments can be scheduled at different times when safety is a concern.</p> <p>Upon receipt of the paternity test results, a copy will be mailed to each party. The results cannot be provided to either party over the phone.</p> <p>Positive test results alone do not establish paternity. A court order must be entered.</p>
<p>Service of Process</p>	<p>The nonapplicant will be served legal documents with the date, time, and location for a court date. Some jurisdictions offer a time prior to court to allow the parties to agree to an order. When safety is a concern, these discussions can be held with the parties separately.</p> <p>Both parties are sent an Affidavit of Income and Expense. The information requested is needed to determine the appropriate amount of child support based upon Tennessee’s child support guidelines. This information needed with support documentation includes the following for the parent completing the form:</p> <ul style="list-style-type: none"> • Number of days with the child(ren) per year • Gross Monthly income • Monthly premium for health insurance (credit is given only for the child(ren)’s portion) • Monthly recurring medical expenses for the child(ren) • Monthly work-related childcare cost for the child(ren) • Identity of children in home not related to the case but whom there is a legal responsibility • Identity of children not in home, not related to the case, but whom there is a legal responsibility – including amount of child support paid on other child support orders. This includes biological children, adopted children, but not foster care children or other children to whom you have legal custody (unless biological or adopted). <p>The nonapplicant has 30 days from the date they are served to respond.</p> <p>The applicant is sent a letter with the date and time for the court hearing.</p>

Court	The child support program takes precautions when safety is a concern. Some courts allow appearance by electronic means. Some courts provide a court officer to escort those with safety concerns to their mode of transportation. The local child support office should be contacted for their specific options. https://www.tn.gov/content/dam/tn/human-services/documents/345915%20What%20to%20Expect%20in%20Court%2002-19.pdf
Enforcement	Once an order has been finalized, it is entered into the child support program system and enforcement actions are initiated as needed. (See #10 below for additional information.)

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6-How are Child Support Order Amounts Established?

Child support is calculated using the child support guidelines found in Title 36 of the Tennessee Codes Annotated (state law). Information on the guidelines, including a free child support calculator may be found at <https://www.tn.gov/humanservices/for-families/child-support-services/child-support-guidelines.html>

Calculating the amount of child support based on the guidelines can be complex. Tennessee no longer uses a set percentage of gross income to determine the amount of support all parents are responsible for. Multiple factors may be taken into consideration such as the income of both parties; an ability to pay support; and the basic needs of the child. Other factors that may impact the amount of support ordered include childcare costs, health insurance costs, special education needs and the legal responsibility the parties may have to support other children.

What About Retroactive Support?

What is retroactive support?	Retroactive support refers to child support for the period of time before an ongoing support obligation is established.
How far back does retroactive support go?	In Tennessee, retroactive support is limited to 5 years from the date the action for support was filed unless the court determines that a different award of retroactive child

	support is in the interest of justice. This determination would be based upon proof provided by the custodial parent to the court. It can be less than or more than 5 years; depending upon the circumstances and evidence of the case.
What about medical support?	All support orders established by child support program must include a provision for medical support. Medical support includes private health insurance or a public health plan such as Medicaid. Either parent can be ordered to provide medical support. The cost of the child(ren)'s portion of the health insurance is a factor in the child support guidelines. Any plan of insurance must be accessible for the child and be reasonable in cost. Reasonable in cost is considered to be not more than 5% of the monthly gross income of the person providing the coverage.

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7-Will I Have to Go to Court?

Do all cases go to court?	Some jurisdictions offer a time prior to court to allow the parties to enter into an agreed order. If there is a disagreement or if either party has requested a hearing, the case will be set for court.
What if we DO need to go to court?	Prior to going to court, each parent will be notified of the place, date, and time of the hearing. Courtrooms throughout the state have different processes so any special instructions will be included.
What happens in court?	In most courtrooms, each parent will be sworn in and sit in front of a judge or magistrate. The case details and recommendations for support, if all applicable information has been received, will be presented by a child support program attorney. The judge or magistrate may ask clarifying questions and give each party the opportunity

8-What About Visitation, Custody, and Parenting Time?

<https://www.tncourts.gov/programs/self-help-center>

Can the child support program help with custody and visitation?	In Tennessee, the child support program does not have the legal authority to establish, mediate or modify custody and visitation orders.
Can support be established without a custody and visitation order?	Yes. A custody and visitation order is not required and it is common for unmarried parents to have an open child support case without a formal custody agreement in place.
How does the amount of time each parent spends with the child impact child support?	The child support guidelines are designed to take individual family dynamics into consideration. The actual amount of parenting time each parent is spending with their child(ren) is used in calculating child support. There is also case law that applies a different formula if parents have equal custody of a child, or substantially more or less than the other parent.
What if the amount of time each parent has the child changes?	If there is a significant change in a custody and visitation schedule that has not been addressed in the child support order, either party may request that the support obligation be reviewed for a change in circumstances. If the change meets certain criteria, the support amount may be adjusted to reflect the current circumstances.
How do I get a custody and visitation order?	<ul style="list-style-type: none">• Married parents shall include a custody and visitation agreement in a Parenting Plan as part of a Divorce Decree.• Unmarried parents can petition the court for an order addressing custody and visitation. This action also requires the establishment of paternity.• There are programs available in parts of Tennessee who assist with access and visitation. https://www.tncourts.gov/sites/default/files/docs/access_visitation_grantee_list_fy_2020-2021_-_10-13-2020_final.pdf

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9-What Happens After a Parent Gets a Support Order?

After a child support order has been established:

- Once a support order has been finalized, it is legally binding. If either parent does not follow the court's order, he or she could be brought back to court and face several penalties, including jail time.
- If a person is not satisfied with their child support order, the case can be contested. An appeal must be filed with the district court within the time stated in the court order.

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10-How is Child Support Enforced?

The first step the child support program takes to enforce child support is through direct contact with a noncustodial parent's employer to withhold child support from his/her paycheck. A noncustodial parent should pay directly to the Tennessee State Disbursement Unit until the employer withholds wages to honor the Income Withholding Order. Wage withholding is not optional in IV-D cases, – it is required. <https://www.tn.gov/humanservices/for-families/child-support-services/child-support-payment-information/paying-child-support.html>

Other measures the child support program may take if a noncustodial parent gets behind in child support include:

- calls and delinquency letters to the noncustodial parent
- intercepting federal income tax refund checks, lottery winnings, or other money that may be due from state or federal sources
- filing liens against his or her property or other assets
- suspending driver, professional, and hunting and fishing licenses
- placing a hold on his or her passport
- reporting the non-payment to credit reporting agencies
- filing contempt against the noncustodial parent asking the court to enforce its order - a judge may enter a judgment for past due child support and/or sentence a nonpaying parent to jail. Incarceration is a last resort option.

If a custodial parent is not receiving child support payments as ordered, the first step they may want to take is contacting the local child support office to inquire on the case status. Any information the custodial parent can provide to the office to help with enforcement (e.g. name and address of the noncustodial parent's employer, address and phone number for the noncustodial parent) is very helpful. Custodial parents should be persistent and expect the child

support staff to answer their questions with respect and accuracy. If a custodial parent is not able to get questions answered by the representative they are talking to, they can ask to speak to a supervisor or the office manager.

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11-Modifications, Arrears, Payments, Case Closure ...

What is a modification?	A modification, also known as a Review and Adjustment, is when a support order is evaluated to make sure it still follows the state guidelines.
Who can request a modification?	The custodial parent, the noncustodial parent, the third-party caretaker, or child support program can a request a review of the order. Not all requests for review will result in a modification. If the child support program determines a modification is not appropriate, both parties will be notified and have the right to file a petition to modify the order through the judicial process, either on their own or with the help of an attorney.
When can an order be modified?	<p>The child support program will conduct a review:</p> <ul style="list-style-type: none"> • Every 3 years upon the request of either party in a non-assistance case • Every 3 years if there is an assignment of support rights (TANF) • Upon learning that a noncustodial parent will be incarcerated for more than 180 days • When a substantial change in circumstances exists • When medical support needs to be addressed
What is considered a “significant” change in circumstances?	<p>A change of 15% or more in the gross monthly income of the obligor is the most common reason parents request a modification, however, there are other potential basis for requesting a review that may require a court to make a final determination.</p> <p>The results of the review could be an increased obligation, decreased obligation or no change.</p> <p>https://www.tn.gov/humanservices/for-families/child-support-services/review-and-adjustment.html</p>
What are arrears?	Child support arrearages build up with each month that the full amount of current child support is not paid and may include any unpaid retroactive judgment. Child support arrearages can also accrue interest charges as determined by the court. https://www.tn.gov/content/dam/tn/human-

