

# UNDERSTANDING CHILD SUPPORT IN TENNESSEE

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When the parents of a minor child decide to end their marriage, or in the event the parents were never married at all, the issue of child support will come up. The State of Tennessee, like all states, wants to make sure that both parents of a minor child contribute to the care and maintenance of the child until the child is old enough to care for himself/herself.

Whether you are the parent paying child support or the parent receiving child support it is important to have a thorough understanding of the Tennessee child support laws, including how a child support order is calculated, how child support is enforced, and how to modify a child support order. Although specific questions should be discussed with an experienced Tennessee family law attorney, the following provides a general overview of child support in the State of Tennessee.

## What Is Child Support?



Child support is intended to be paid by a non-custodial parent, also referred to as the “Alternative Residential Parent (ARP)” to a custodial parent, or “Primary Residential Parent (PRP)” for the care and maintenance of a minor child.

Contrary to what many people believe, the right to receive child support belongs to the *child*, not to the custodial parent. Expenses intended to be covered by the Basic Child Support Obligation (BCSO) include things such as housing, food, clothing, and transportation.

## When Is Child Support Ordered?

If the parents of the child are legally married, child support will be ordered if the parents get divorced or file for a legal separation. If the parents of the child were never legally married, child support will be ordered when paternity of the child is legally established.



## How Is a Child Support Order Calculated?

Calculating the BCSO can be complicated; however, it starts with the gross income of both parents. Both earned and unearned income is included. Allowable "credits" are then subtracted from the gross income of each parent. Court ordered support paid to another child, for example, is a "credit." The combined

adjusted gross income (AGI) of both parents is then used to determine how much money is available for the support of the child each month. For instance, if your (AGI) each month is \$2,000 and your spouse's AGI is \$4,000 there is \$6,000 available for the support of your child. The Tennessee Child Support



Schedule then determines how much income should be allotted for the child each month. For a combined AGI of \$6,000, for example, the Schedule allots \$900 for one child of which you would be responsible for one-third,

or \$300 and your spouse would be responsible for two-thirds, or \$600 based on your relative incomes.

Once the BCSO is calculated, additional adjustments may be made for things such as parenting time, medical insurance premiums, and child care expenses.

## Can a Parent Waive Child Support?

No. Because child support belongs to a child, not to a parent, a parent cannot waive child support. A parent may agree to a downward deviation from the Child Support Guidelines; however, a judge would have to be convinced that there was a good reason for the deviation.

## How Long Must a Payor Pay Child Support?

As a general rule, child support must be paid until a child reaches the age of 18, or graduates from high school, whichever happens *last*. Child support can end early, however, if a child is legally emancipated. Child support can also continue beyond the age of 18 if the child is disabled or may extend through college by agreement of the parties.



## How Is a Child Support Order Enforced?

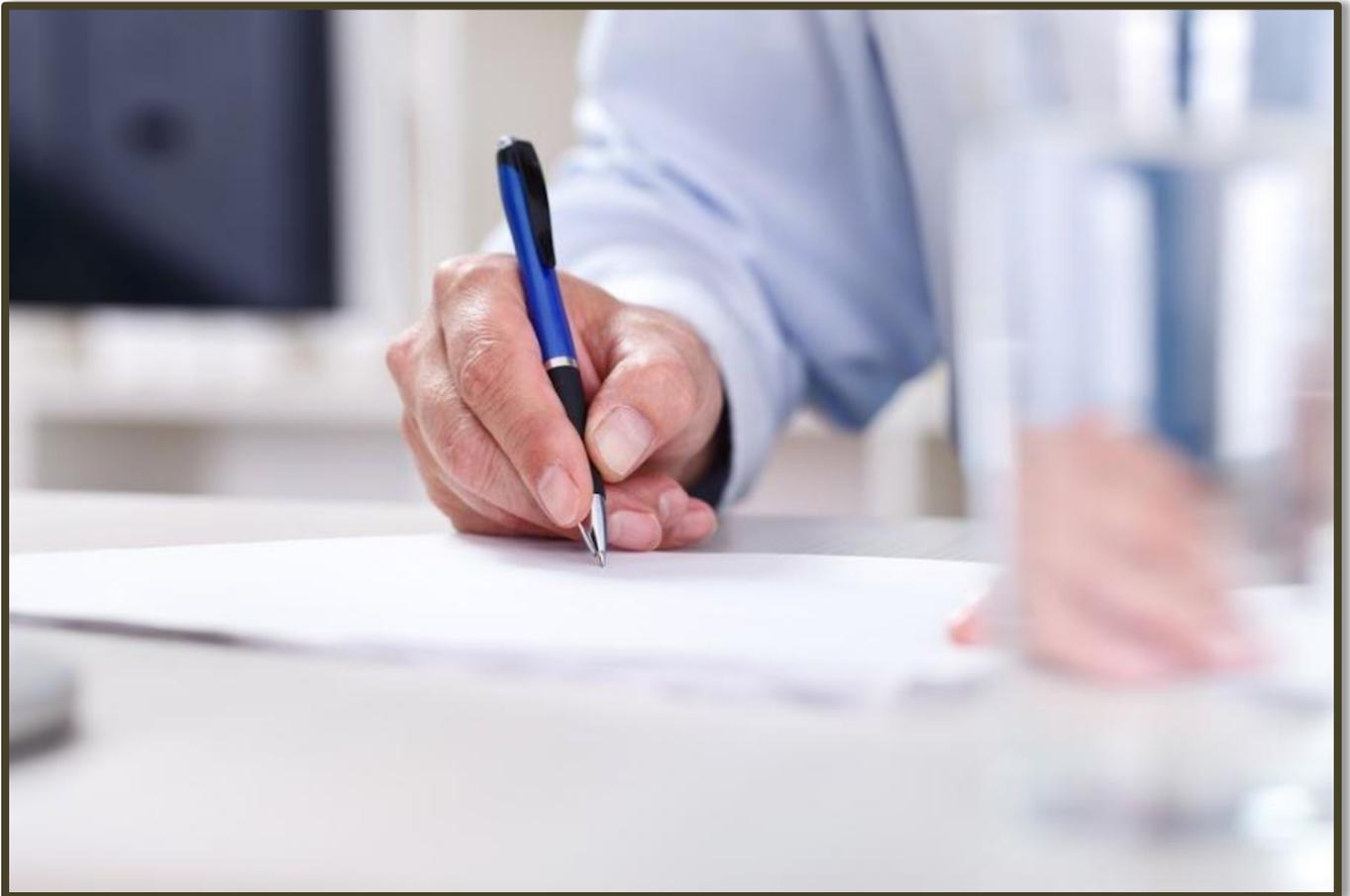
In most cases the court will order child support payments to be deducted automatically from the payor's wages through a voluntary, or involuntary, wage garnishment. Doing so increases the likelihood that payments will be made in a timely manner. If, however, child support payments fall into arrears, there are several methods that can be used to enforce the order, including, but not limited to, the following:

- Find the payor in contempt of court
- Add additional fines and costs
- Revoke the payor's driver's license
- Seize (or "freeze") a bank account
- Intercept tax refunds
- Deny a payor's passport
- Report the debt to credit bureaus
- Order the payor to spend time in jail

## Can Child Support Be Discharged in a Bankruptcy?

No. Child support is one of several types of debts that cannot be discharged in bankruptcy. Moreover, when child support remains unpaid it becomes a judgment in Tennessee and the amount owed cannot be reduced.

## What If the Payor Quits His/Her Job to Avoid Paying Support?



Quitting a job or accepting a voluntary reduction in hours and/or pay is not the way to get out of paying child support. As a general rule a judge will not reduce

a child support order because the payor quit a job or voluntarily reduced his/her income. Moreover, the court will presume that a payor is capable of earning money unless the payor can provide proof to the contrary. As such, the court will expect an out of work payor to participate in job search activities and may even require the payor to report to the court with proof of his/her job search efforts.

## Can A Child Support Order Be Modified?



It is common for the financial circumstances of one (or both) parent to change down the road after the initial child support order is entered. In addition, as a child gets older it is also likely that the child will become involved in extra-

curricular activities that add additional expenses to the monthly cost of raising the child. Tennessee law does allow a child support order to be modified; however, before a court will consider a modification the party requesting the modification must show that a "Significant Variance" exists.

The definition of "Significant Variance" depends on the facts and circumstances of the case. In most cases where the original BCSO was entered after 2005 it means that at least a 15 percent change between the amount of the current support order (not including any deviation amount) and the amount of the proposed presumptive support order.

If you have specific questions or concerns regarding child support in the State of Tennessee you should consult with an experienced Tennessee family law attorney right away.

Tennessee Department of Human Services, [Child Support Guidelines](#)

State of Tennessee, [Child Support Worksheet](#)

Tennessee State Codes, [Alimony and Child Support](#)

## About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.