

# **ENFORCEMENT OF THE CHILD SUPPORT ORDER**

## **What Happens if the Paying Parent fails to Follow a Child Support Order:**

- A Child Support Order issued by the Court is effective until modified by the Court. Parents do not have the right to modify the order themselves. If unanticipated changes of circumstances have occurred so that the amount of child support should be changed, a Petition to Modify Child Support must be filed with the Court. Ask for Form 803, "Petition to Modify Child Support"(See #32 Modification of Child Support).
- If the paying parent fails to pay child support, the children involved will suffer. Our laws require that court ordered child support be withheld from wages if any child support due under an order is late seven days or more. In addition, the law provides that child support orders can be enforced in several other ways.

## **How to Enforce a Child Support Order:**

- Failure to follow a court order is a serious matter. If one parent stops making child support payments ordered by the court, or begins paying less than what the court ordered, the following options exist for enforcement:
  - The parent entitled to support can go back to the court that issued the order and file a Petition for Enforcement. (Ask the court clerk for Form #823, "Motion to Enforce.") In some cases, where failure to pay has already been brought to the court's attention in the past, you can ask the court to find the other parent in contempt of court. The difference between enforcement and contempt is discussed below.
  - Rather than going back to court on your own, you can ask the Office of Child Support for assistance. 1-800-786-3214. Or go to website: [www.osc.state.vt.us](http://www.osc.state.vt.us)

## **The Office of Child Support and Enforcement of Child Support Orders:**

- The Office of Child Support (OCS) can assist a parent in collecting back support if a request is made for their services and a written application is completed. There is no fee for the service and all parents involved in child support matters are eligible. (See #7 Child Support for how to get help from the Office of Child Support.)
- As the State's child support agency, OCS has the authority to intercept (catch) the income tax refunds of the parent obligated to pay support if the back child support owed is at least \$500. If the back child support is at least \$1,000, OCS can report the amount of child support owed to credit bureaus so that the obligated parent will have difficulty getting loans unless the support is paid. OCS can also capture lottery winnings.
- If the parent who pays support has a professional license or other certification within Vermont, OCS can also report the parent to the licensing authority and, unless the parent can show he or she is current in the child support obligation, or has made a plan to become current, the license should not be renewed or will be suspended. This includes recreational licenses (hunting and fishing) as well as driver's licenses.
- All these steps can be taken without going back to the court. In some cases, OCS will also file a Petition to Enforce the Child Support Order, although OCS will not be your lawyer and will not represent you in court. At the court hearing, an OCS representative will be there to represent the State's interest in the well being of children.

## **What is a Petition Motion to Enforce?**

- A Petition Motion to Enforce is a written request that the court enforce the support order. (Ask the Court Clerk for a Form #823) The Petition Motion to Enforce should state how much support is owed and ask the court to enter a judgment and repayment. If the failure to pay is intentional, the petition can request that the court add a penalty of up to 10% of all support that is overdue by 30 days or more.
- An affidavit (sworn statement) must be attached to the Petition that outlines how the other parent has violated the order. If the child support has been paid by wage withheld through the Office of Child Support Registry, a completed copy of the payment record which OCS has maintained on the case since the last court order should be attached to the Petition Motion. If child support has been paid directly between the parents, records showing how the back support was calculated should be attached.
- As with any other request to the court, the other parent must be served with the Petition Motion to Enforce, Affidavit and other paperwork before a hearing can be held. (See #25 Serving the Divorce Papers.)

## **What Happens at an Enforcement Hearing?**

- The court will ask whether support has been paid as ordered, and if not, how much is due. If there is a dispute about who paid what, the parents will be asked to show records, such as copies of canceled checks or other proof of payment. Once the court has determined the amount of support that has not been paid, repayment will be ordered. If the paying parent has the ability to pay all the back support, a lump sum payment will be ordered. If a lump sum payment cannot be made, the court will order a repayment plan. A judgment will be entered for the unpaid support. Interest of 12% per year accumulates on all unpaid portions of a judgment.
- If the paying parent is unemployed at the time of the enforcement hearing, the court can order the parent to seek work immediately and report to the court, or the other parent, or the Office of Child Support, on a weekly basis regarding the efforts to find work. If the parent fails to look for work the court can find the parent in contempt.
- If the court determines that the paying parent deliberately failed to pay the support as ordered, the court can order up to a 10% penalty on amounts overdue by more than 30 days. The court can also order the delinquent parent to reimburse the parent who was entitled to the support for attorney fees or other costs incurred for having to come to court to enforce the child support order.

## **What is Contempt?**

- Contempt is willful disobedience of a court order when the paying parent had the ability or capacity to comply with the order. If a parent has done everything in his/her power to pay what the court order requires, but still has been unable fully comply, the Court will not find the parent in contempt. But if the Court determines that a parent willfully failed to comply and could have, the parent can be jailed until such time as the support owed, or a portion, is paid. Contempt is the last resort to make a parent comply with an order. Contempt is a matter with serious consequences. Motions for contempt are heard by the Family Court Judge.

(Please note that even if a non-custodial parent fails to pay court ordered child support, that is **NOT** a basis to refuse the parent parent-child contact. Conversely, if a custodial parent refuses to honor the non-custodial parent's visitation rights, that is also not a basis for the non-custodial parent to stop paying child support. To do either of these things will place you in danger of being found in contempt by the court.)

**You can obtain helpful information, as well as court forms at:  
[www.VermontJudiciary.org](http://www.VermontJudiciary.org).**

