

F 3.405(O)(1)

CHILD SUPPORT, CUSTODY & PARENTING TIME

COMMONLY ASKED QUESTIONS AND ANSWERS*

1. WHAT IF I DO NOT THINK THIS IS MY "BIOLOGICAL" CHILD?

ANSWER: Normally, once a court has established paternity, the Court cannot set this finding aside. In other words, once you are found to be the parent, you are financially responsible to support the child or children. If you wish to contest this, you will need to file a motion yourself or employ a lawyer to do so for you.

2. WHAT IF MOTHER AND FATHER STILL LIVE TOGETHER OR HAVE RECONCILED OR THE CHILD(REN) IS LIVING WITH ME?

ANSWER: You should move to change the order for child support to reflect the actual residence of the child. It is the duty of the parents (parties) to prepare and present this order. The Court will not change the order on its own. You will need to file a written motion with the Court or prepare an agreed order to be filed. A form (F3.405M) for this motion can be obtained from the Clerk of the District Court, Domestic Department.

3. WHAT IF MY CHILD SUPPORT ORDER IS TOO HIGH?

ANSWER: Your attorney, or you on your own without an attorney, can file a motion to request a reduction of your child support. You will have to pay a filing fee, unless you qualify to file the motion with a poverty affidavit. Forms (F3.405M & N) for this motion can be obtained from the Clerk of the District Court, Domestic Department.

4. WHY SHOULD I PAY CHILD SUPPORT WHEN I DO NOT GET PARENTING TIME?

ANSWER: Child support and parenting time are two separate issues. Your duty or obligation to pay child support does not depend upon whether you are receiving parenting time. Your parenting time rights should not be based on whether you are actually paying your monthly child support payment. If you are being denied parenting time, you have right to file a motion to enforce this right. You do not need a lawyer to file this motion. You may get a form (F 3.405K) for this motion from the Clerk of the District Court, Domestic Department. It is important to have the other party's address.

5. WHAT IF I CANNOT WORK BECAUSE OF A DISABILITY?

ANSWER: You will need to provide the child support agency with written documentation (usually medical) regarding your health and disability including any documentation concerning your workers' compensation claims, social security or any other disability agency's determination. It is important to file a motion with the court to review your child support. This procedure is explained in paragraph three above.

6. WHY DO I HAVE TO PAY CHILD SUPPORT IF THE OTHER PARENT IS NOT WORKING?

ANSWER: Kansas has a statewide guideline to govern child support amounts. Under these guidelines, both parents are financially responsible for the child(ren). Often when a parent (party) is not employed or is under-employed, the Court when issuing the child support order will impute income to that unemployed or under-employed parent. That means that the Court will assume for the child support guideline purposes that the parent can work 40 hours a week at a minimum wage job, at least.

7. WHAT IF THE RESIDENTIAL PARENT IS NOT SPENDING THE MONEY ON THE CHILD(REN)? AREN'T I ENTITLED TO KNOW HOW THE MONEY IS SPENT?

ANSWER: Normally, the Court does not require an accounting from the residential parent showing how child support monies are spent. Child support is not just for direct needs of the child, such as food, clothes, school expenses, and entertainment. It is also to be used for housing, utilities, transportation, and for other indirect expenses related to the day-to-day care and well-being of the child.

8. ARE SERVICES AVAILABLE WHERE THE OTHER PARENT AND I CAN GET HELP IN RESOLVING OUR CUSTODY/PARENTING TIME PROBLEMS?

ANSWER: Yes. You should file a motion for conciliation. This motion will be placed on a motion docket and a judge can refer you and the other parent to a Court Services Domestic Relations Counselor or to a mediator. Your financial circumstances will determine what cost, if any will be incurred.

* This information is supplied as a courtesy by enforcement and defense counsel and is intended to be helpful. However, all parties are advised and encouraged to consult their own attorney for individual advice in specific cases.