



THINGS THAT YOU SHOULD KNOW ABOUT PAYING CHILD SUPPORT



CHILD SUPPORT IS FOR THE CHILD

Child Support is not for the parent, it is for the child. This means that the child is entitled to support and it is important that the child has certainty and predictability about that support. While there needs to be flexibility because of the fact that incomes change, it is important to remember that child support is not something that parents can bargain away because it's not their support, it's the child's.

YOU AND YOUR CO-PARENT HAVE A FINANCIAL CONNECTION

When you and your co-parent separate, you each have obligations to each other in relation to child support. Remember, appropriate support is the right of the child. That's why you have to tell your co-parent information about your financial situation.

WHAT DOES THIS MEAN?

It's important to remember that if your income changes you have an obligation to let your co-parent know and to take steps to pay appropriately. This is the case whether you start to make more money or less money. This obligation applies to both parties if you are in a shared parenting arrangement or if you share special expenses.

DID YOU KNOW?

The law says that even if your order doesn't say you have to share income information, you have a legal obligation to do so. This includes providing legal documents to show the change such as tax returns or pay stubs.

WHY?

You have an obligation to let your co-parent know your financial circumstances. This is important because they have a right to know so they can consider whether they want to go to court to take steps to have the order updated, even if you don't. If you don't tell them of changes, this may be considered something called "blameworthy conduct." That means that you have legally done something wrong.

WHAT MIGHT BE CONSIDERED BLAMEWORTHY CONDUCT?

Aaron got a promotion at work. His salary went up by \$15,000 two years ago, but he never told his co-parent because Aaron thinks he shouldn't have to pay more child support. In fact, Aaron has lied to his co-parent several times when she asked how his work was going.

Ling asked her boss to start paying her under-the-table so that there wouldn't be a record of how much money she was earning. She actually lied to her co-parent and told her she lost her job and wasn't making any money at all.

John knows his co-parent Padma received a promotion from work and hasn't been honest about her new income. When he asks Padma about it, she says that if he tells the court about her promotion she will not allow him to have parenting time with their two children.

DID YOU KNOW?

If you have arrears in child support or if you have paid too much child support, the law in Canada says that the court should only waive those arrears or address the overpayment in exceptional circumstances because child support payors have an obligation to take steps to pay appropriate support. This means that there is a **presumption** that unpaid or overpaid child support cannot be waived or set aside. If you want to go to court to change your support arrears and ask to be repaid over-paid child support, you will have to show the court why it is appropriate to make a change after the fact. This means that if you wait years to try and get your support obligations updated when your income changes, the court may end up saying you have to pay the amount based on your original order. This means that even if you didn't earn as much money as your order says you did, or if you paid more than you should have, the court may not set aside the arrears or the overpayment because you did not take steps sooner. When making this decision, the court will consider whether any of your conduct is blameworthy. **It is important to take timely steps to pay the correct amount of support.**

If you have safety concerns about sharing information with your co-parent because of family violence, you can contact the Child Support Services Office for assistance at (902) 368-6220.



For more information, please contact the Family Law Centre at (902) 368-6940 or visit www.princeedwardisland.ca/familylaw

DID YOU KNOW THAT THERE ARE FREE SERVICES AT THE FAMILY LAW CENTRE TO ASSIST WITH CHILD SUPPORT MATTERS?

Maintenance Enforcement Program (MEP)

MEP is a free, voluntary program that assists with the collection and disbursement of support payments. MEP can take steps to enforce support orders including garnishing wages and intercepting tax refunds. It's important to remember that MEP is not just for parents who are having problems receiving support. Using MEP also makes sure both parties have a legal record of the payments being made for child support. This can be helpful in the event a record of payments is needed in the future to assist with a court application. For more information about MEP, please call (902) 894-0383

Administrative Recalculation Program

You may be eligible to have your child support administratively recalculated each year. For eligible support matters, this means that your child support obligation will be updated based on your income (or a deemed amount) each year. If you have an eligible order or agreement, you can enroll in this service. For more information about Administrative Recalculation, please call (902) 368-4109

Child Support Guidelines Officers (CSGO)

The CSGO provides information and assistance with applying to the Court to seek a child support order or to apply to vary a child support obligation. A CSGO can work with you to assist with completing the paperwork required to go to court. For more information about the CSGO, please call (902) 368-6220

TIPS:

1. **DISCLOSE, DISCLOSE, DISCLOSE:** Understand that having a child support obligation means that your co-parent is entitled to know details about your financial situation until your children are no longer dependent.
2. Keep your co-parent in the loop about your financial situation - be honest and transparent if your income changes.
3. If you are in a shared parenting arrangement or share special expenses, remember that the obligation to disclose changes applies to both parents - if you have a change in your own income, you must let the payor co-parent know.
4. If your income changes and you and your co-parent don't agree on what the appropriate support should be, don't wait - take steps to ask the court to consider your support obligations including considering contacting the Child Support Services Office or your lawyer.
5. Pay support based on your income and support obligations - you can check on your child support obligations by using the Child Support Look Up table.
6. If you are not comfortable providing all the details about your financial information to your co-parent because of family violence concerns, you can consider contacting the Child Support Services Office for assistance.
7. Consider enrolling in PEI MEP - even if you and your co-parent get along, having a legal record of your support payments can help avoid disputes in the future.
8. Remember that the law in Canada says that there's a presumption that arrears and overpayments cannot be waived or set aside if you don't take steps to try and deal with them in a timely fashion.

CHILD SUPPORT LOOK UP TABLE: <https://www.justice.gc.ca/eng/fl-df/child-enfant/2017/look-rech.aspx>

IMPORTANT COURT DECISIONS TO READ IF YOU HAVE A CHILD SUPPORT OBLIGATION:

Colucci v. Colucci: <https://www.scc-csc.ca/case-dossier/cb/2021/38808-eng.aspx>
Michel v. Graydon: <https://www.scc-csc.ca/case-dossier/cb/2020/38498-eng.aspx>