

What to Do and Say When They Won't Pay... How to Get Your Ex to Pay Child Support.

One of the most common issues that my clients ask me about is child support. I know all too well how stressful and difficult getting an ex-spouse to pay child support can be. I am often asked questions relating to the termination of custody and visitation for nonpayment of support. These are some of the most asked questions:

My ex-husband is late on his child support. Do I need to let him see the child?

As child support and child custody are deemed to be separate matters in California, the custodial parent still needs to make the child accessible to the non-custodial parent even where no support has been paid. While many parents believe that if someone is not supporting the children, they shouldn't get to see the children, the courts do not agree with this view. In fact withholding visitations could be deemed a change in circumstances to warrant a change of custody to the non-custodial parent. Child custody is based on what is in the best interests of the child and one of the factors that the courts look at is which parent is most likely to facilitate a relationship with the non-custodial parent. While it is hard to see a parent who refuses to pay their support continue to have rights to custody and visitation, visitation rights belong to the children and not your ex-spouse.

What do I do when my ex-spouse won't pay support to me?

There are several remedies available for a non-paying spouse. The custodial parent may seek the assistance of Child Support Services for enforcement of their support order. Child Support Services may take actions such as intercepting income tax returns, revocation of passports and licenses and filing garnishment orders.

You may also file a contempt action and request that the court award attorney fees as punishment. If the circumstances warrant it, a judge may even order jail time for the non-paying parent. If you have the information for the non-custodial parent's employer, you may request that the court make orders for a garnishment of wages.

I had to resort to that last method when my own ex-husband would not pay his child support. I needed to seek out the assistance of the District Attorney to compel him to pay child support. Due to the delays in recovery by the District Attorney, I closed my case and took private action to enforce the support orders. When my child support was modified years later, I was able to collect the new amount by filing a wage assignment. Once the wage assignment was served on his employer, I finally received the support owed to me. Since that time, I have always received the full amount of child support in the form of a direct deposit in my bank account.

All unpaid support accrues interest in the amount of 10% per year. When I was experiencing my own difficulties in getting child support a woman at child support services told me that while things were hard then, I should look at the time that the support was unpaid as a savings plan for my children's college education. She reminded me that no other savings plan would offer an interest rate such as 10% accruing

interest. In cases where there is a large accumulation of past due support, the custodial parent may end up receiving 1/2 of the net pay of the non-custodial parent until the arrears has been paid in full.

Sometimes getting a spouse to pay child support requires a little extra effort, but with a little help from an attorney and the right amount of self-motivation, you can still receive the support that is owed to you.