

# Mullins Law LLC

## CHILD SUPPORT

Welcome to our E-Pamphlet on Child Support and Parenting Time.

I have put together this e-pamphlet article to provide some basic information on child support and parenting time to help you make more informed decisions in determining what some your rights and obligations are concerning these subjects. We recommend you seek personal advice from an attorney as this is a basic over-view and not specific to any situation or circumstances.

### Child Support Calculation

❖ Child support amounts is based on each parent's:

- Gross weekly income

Gross weekly income and what is included or excluded seems to be the most confusing item in calculating child support for parents.

Gross weekly income is either the actual weekly income received, potential income if the parent is unemployed or under employed or imputed income.

Public assistance programs are excluded from gross income.

Social Security and Veteran benefits are generally excluded from gross income. Because there are many types of Social Security received the court will include or exclude based on what type of benefit is received and to whom The benefit is paid. This is a very complex area and you should consult an attorney on this issue.

Survivor benefits paid to a prior born child(ren) are excluded from gross income, although the court can consider including a portion.

Self employed individual, rents received and royalties paid are included minus actual expenses incurred considered reasonable and necessary by the court.

Benefits that reduce living expenses are included (like company car or residence).

Self employed individuals can deduct one-half of the FICA taxes they pay.

Irregular income received, like overtime, commissions, bonuses etc... are included. However because the circumstances in which this income is received is very fact sensitive as to the regularity in which such income is received and the court can decide to exclude this income or a portion there of.

- Health insurance weekly costs  
The child(ren's) portion only is used.  
The parent providing health insurance for the child must provide the insurance information to the other parent.
- Day care costs  
The day care can be provided by a day care business, organization (such as church provided) or by an individual.  
Day care cost can be deducted for child support actually paid if the parent is unemployed but seeking employment.  
When the parent is unemployed a day care deduction cannot be taken.  
When a parent claims day care expenses on their tax returns, the tax benefit or savings received can be deducted from the amount claimed paid when calculating child support.
- Parenting time  
Only those days where the child is kept over-night is used in the calculation.  
Where all other deductions are based on a weekly amount parenting time is based on an annual amount.



- Subsequent and prior born children  
A percentage is used and multiplied against the gross income as an adjustment to the gross weekly income.
- Child support ordered for prior born child.  
A deduction from gross weekly income can be taken for annual post secondary costs paid for a prior born child living away from home and divided by 52.
- Legal duty amount for another child  
The parent is allowed to deduct support or funds actually paid for a prior born child.  
A custodial parent with a prior born child living in their home can deduct what the child support amount would be if they were ordered to pay as the non-custodial parent as an adjustment to the child support amount.  
Legal duty deduction cannot be taken for a stepchild.
- Alimony or maintenance  
Alimony or maintenance paid to a prior spouse can be deducted from child support if it is court ordered.  
This does not include periodic payments made to a prior spouse as property settlement payments.

## Modification

- ❖ Child support can be modified if it has been at least one year since the last child support was ordered and it would change the prior child support amount by 20%. The 20% change can be an increase or decrease in child support from the prior court ordered amount.
- ❖ However you may be able to ask the court to modify child support earlier than one year if the circumstances is “substantial and continuing.” What does this mean? The circumstances vary but an example would be losing your job and it has be “continuing” that you are unable to obtain employment, or the child(ren) have now moved from the custodial parent’s home to your home to live.
- ❖ You should seek to modify child support as quickly as the circumstances appear to be “continuing” as the court will usually modify child support back to the date you asked for the modification not back to the beginning of the changed circumstances.

## Emancipation

Child support obligation stops at age 19. Unless an order was issued before the child reaches age nineteen for additional education costs after high school. However a child can be emancipated by court order in several other situations.

These other situations include;

- The child is married and not living with the custodial parent.
- The child is supporting themselves.



- \* The child is serving in the armed services.
- \*The child is not under the care of either parent.

- There may be other situations where a court will emancipate a child based on the facts of the specific situation.

This e-pamphlet is a general over-view of some child support points and is not meant as a exhaustive discussion and in particular it is not to be taken a legal advice, as everyone’s circumstances are unique and require a one-on-one discussion with an attorney to apply the general child support guidelines given above to your particular circumstances. We recommend that you seek legal counsel from an attorney before making any child support decisions.