

Many New Yorkers familiar with the child support laws, either by being thrust into the arena or voluntarily entering the ring, think they know enough to present their case or defend their position without the need to consult with an expert. However, many of the common beliefs about child support are misconcepted, misunderstood or misguided. I have chosen to disspell some of the most coommon myths, misconceptions and confusion about one of the most significant areas of law.

Here are some:

1. The support obligation is for a child up to he/she reaches 21 years unless he/she becomes emancipated before that age by marriage, full-time employment earning enough to be self-sufficient, enlisting in the armed forces, abandoning the parents' home without reason or consent or some other act where the child becomes self-supporting.
2. Step parents are obligated to support step children if the children would otherwise become recipients of public assistance. However, that obligation ends once the step parent and the biological parent divorce or dies.
3. If both parties have joint physical custody, the non-custodial parent still has an obligation to provide financial support. The only circumstances where the courts would apportion support is if there is split custody, where one child lives with one parent and his/her sibling(s) lives with the other.
4. Parents can legally enter an agreement regarding the amount of support without court's intervention as long as the amount is not less than \$25.00 per month and both parties review the Child Support Standards Act ("CSSA") and determine what the support obligation would be based on the statute. These provisions should be included in the agreement to be enforced by the court.
5. If the custodial parent is on public assistance, the Human Resources Administration ("HRA") can sue the non-custodial parent for support. If the court directs an Order of Support of \$25 per month, then they will give the entire amount to the custodial parent plus entitled benefits. If the Order of Support is \$50 or more, the custodial parent will get the first \$50 dollars only plus entitled benefits. If the Order of Support is more than the entitled benefits amount, then public assistanc will be terminated and replaced by the Order of Support.
6. Once child support arrears have accumulated, the court cannot reduce or wipe out arrears. The court only has the authority to amend the amount of arrears if there is a modification petition before it and it addresses the arrears that accumulated from the date of filing the petition. Most issues concerning arrears must be directed to the Office of Child Support Enforcement or the Support Collection Unit.
7. Cost of Living Adjustments ("COLA") are disputable. In non-public assistane cases the enforcement agency will review the Order of Support every two years to determine if the amount should be

adjusted based on the cost of living for the area the child resides in. Once the non-custodial parent receives notice that such adjustment has been made, he/she has thirty (30) days to object. Once an objection is made the case must go before a Family Court Support Magistrate for review.

8. Failure to pay child support, pursuant to court order, for a child 16 years or under is a class A misdemeanor. If there is such failure more than once within a five (5) year period then it is a class E felony.

9. You may still have an obligation to provide financial support for your children after your parental rights were terminated. Your obligation ends once the children are actually adopted.

10. Additional children born after your Order of Support is not a basis to reduce the support obligation unless the additional children live in the household with you. If the additional children's other parent lives in the household, then his/her income will be considered and if the amount of income of both parents that is available to the additional children is less than the amount that is available to the previous children then your Order of Support may be reduced.

Knowing your rights and obligations before the children are born would be ideal but knowing your rights and obligations once they are here could certainly make life less tumultuous. Be sure to seek legal advice, refer to the plethora of resources or just ask questions before you dare to enter the courtroom.