

# Child support and incarcerated parents

## **Author**

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## **Last Review Date**

December 1, 2025

Incarcerated parents - and people they pay child support to - can ask for a temporary reduction in child support payments. Learn who can make that request and how to ask.

## **Should I read this?**

Yes, you should read this if you live in Washington State and one of these is true:

- You're entitled to receive child support from someone who is in jail or prison (is incarcerated) for at least 6 months and who has no income or assets to pay child support, **or**
- You're the person in this situation who owes the child support.

Either of you can ask that the child support payments be temporarily lowered to \$10.00 per month. This reduction is called "**abatement**."

The law allowing this temporary reduction took effect on February 1, 2021. That date is important. The law applies to both court orders and administrative orders from the Division of Child Support (DCS) (<https://www.dshs.wa.gov/esa/division-child-support>).

An administrative order is a "Notice and Finding of Financial Responsibility", a "Notice and Finding of Parental Responsibility" or an "Initial Decision and Order." Here's what the top of the first page (the caption) might look like:

 <p>Washington State Department of Social &amp; Health Services <i>Transforming lives</i></p>	<p>STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES DIVISION OF CHILD SUPPORT (DCS)</p> <p><b>Notice and Finding of Financial Responsibility</b></p>	<p>DCS CASE NUMBER: [REDACTED]</p>
<p>[REDACTED] Noncustodial Parent</p> <p>[REDACTED] Custodial Parent / Physical Custodian</p>	<p>) ) ) ) )</p>	
<p>Purpose of This Notice</p>		

In Washington, a court order is a **Child Support Order** from a **Superior Court**. It will say this on the first page, towards the top.

<p><b>Superior Court of Washington, County of _____</b></p>	
<p>In re: Petitioner/s <i>(person/s who started this case)</i>: _____  And Respondent/s <i>(other party/parties)</i>: _____</p>	<p>No. _____ Child Support Order <input type="checkbox"/> Temporary (TMORS) <input type="checkbox"/> Final (ORS) Clerk's action required: WSSR, <b>1</b></p>

**An incarcerated parent sentenced to 6 months was released early. Can that parent keep the abatement?**

**Yes.** A parent qualifies for the abatement if they were incarcerated for **or** sentenced to 6 months.

**What if my child support order is dated before February 1, 2021?**

- **If you have a court order of support**, and DCS is collecting it for you, which is common, contact DCS right away (<https://www.dshs.wa.gov/esa/division-child-support/contact-division-child-support>).
- **If you have a court order of support and no DCS involvement in your support case**, we recommend you apply with DCS using the KIDS system (<https://www.dshs.wa.gov/esa/division-child-support/call-dcs%E2%80%99s-kids-line-800-442-kids-5437-access-your-case-information>) or in person

([https://www.dshs.wa.gov/office-locations?field\\_geofield\\_distance%5Bdistance%5D=100&field\\_geofield\\_distance%5Bunit%5D](https://www.dshs.wa.gov/office-locations?field_geofield_distance%5Bdistance%5D=100&field_geofield_distance%5Bunit%5D)) to collect support for you. DCS can help collect support for you.

- **If you have an administrative order from DCS**, you should ask DCS to review your child support order for modification.

### **Will every incarcerated parent owing child support get this abatement?**

No, but the law favors the incarcerated parent. The law presumes that an incarcerated parent cannot pay what they were ordered to pay.

If the paying incarcerated parent asks for the abatement, the parent who gets the support or DCS has a chance to prove that the paying parent in fact can pay despite being incarcerated.

### **When should I ask for an abatement or contact DCS to let them know the paying parent is incarcerated or is going to be?**

You should get started right away.

The earlier you ask for abatement, the sooner an abatement can happen. Abatement won't happen if the incarcerated parent is released from custody before the process can be completed.

### **I pay support under 3 different orders. Do I have to make 3 separate abatement requests?**

Maybe not.

If you owe child support under multiple orders because you have children with more than one other person, you may only need to make one request for abatement with DCS. Your one request will apply to **all support orders being enforced by DCS**. DCS will still look at each individual order to see if abatement is appropriate for each.

### **The children don't live with the person who is supposed to be getting support under our order. Does it matter?**

Yes. Any other person entitled to get support for the children must also get notice and a chance to be heard about the potential abatement of support.

### **When does the person go back to paying more support?**

The new law eases the person back into paying higher amounts gradually:

1. **Starting the 1st day of the 4th month after the person's release**, the support obligation becomes one-half the original amount ordered. It must be at least \$50 per month per child.
2. **Starting one year after release**, the support amount goes back to the original amount ordered.

**If the paying person asks for the abatement**, the person who gets the support is entitled to notice and a chance to be heard.

### **What if I need to pay less support for longer than a year?**

Abatement is temporary. Getting a court to order a change to (a modification of) your child support orders can get you more long-term relief. This may also make more sense if you support children under different orders.

If you decide after reading this to move forward to try to change your support order, answer a few questions on our Get family forms tool to get the right forms.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.