

Disabled Veteran – Child Support Obligation

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Do I have an obligation to pay child support if I am a disabled veteran?

Maybe. A court may order either one or both parents to provide financial support to a child until (1) the child turns 18 or graduates from high school (whichever occurs later), (2) the child marries, or (3) the child dies.

Information Not Legal Advice

This pamphlet is for informational purposes only and is not a substitute for the advice of an attorney.

What if the court does not order me to pay child support?

A parent has no legal duty to provide financial support to a minor child until a court orders it.

When might a court order me to pay child support?

If the minor child receives State support, like food stamps, Medicaid or WIC and other services, the State may seek a court order requiring you to pay child support to offset the child's State supported services. The court might also order child support when parents divorce or separate.

How much will the court order me to pay for child support?

Generally the court will award a percentage of your monthly net resources. Unless special circumstances exist, the court applies the following schedule:

- 1 child 20% of your monthly net resources
- 2 children 25% of your monthly net resources
- 3 children 30% of your monthly net resources
- 4 children 35% of your monthly net resources
- 5 children 40% of your monthly net resources
- 6 or more children Not less than the amount for 5 children

How will the court calculate my net resources for the purpose of determining child support payments?

You will be asked to provide information on all your resources. This includes information on wage and salary income, overtime pay, tips, bonuses, commissions, self-employment income, interest, dividends, royalty income, net rental income, severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security income [other than supplemental security income], unemployment benefits, disability and workers' compensation benefits, interest income, gifts, prizes, spousal maintenance and alimony.

Public Assistance Benefits, Temporary Assistance for Needy Families (TANF) and foster care payments are not included in calculating your child support payments.

Is my VA disability pay included in my net resources?

Yes. But only a VA disability benefit that is actually being received by you should be included in your net resources. You should never agree to include VA disability benefits that you have applied for, but have not received – even if you believe you will receive the benefits.

Is my monthly Social Security Disability Insurance [SSDI] pay included in my net resources?

Yes. But only a SSDI benefit that is actually being received by you should be included in your net resources. You should never agree to include SSDI benefits that you have applied for, but have not received – even if you believe you will receive the benefits.

Is my Supplemental Security Income [SSI] or VA pension included in my net resources?

No. SSI benefits and VA pension is not included in your net resources.

How will the court calculate additional resources received for dependent children of a disabled person?

First, the court will determine the amount of child support that you are obligated to pay under the child support guidelines. Then the court will subtract from this amount the total amount of benefits or the value of the benefits paid to or for the child as a result of your disability.

I agreed to an amount of child support based on disability benefits that I thought I was going to receive but never got. What should I do?

You must return to court and request a modification of the child support agreement to reduce the amount of child support that you are ordered to pay. You must provide sufficient financial documentation to prove that your circumstances have materially and substantially changed before the court will consider a reduction to your future child support obligation.

I owe back child support payments that I can't afford to pay because I was not awarded disability benefits that I thought I would receive. What should I do?

This child support arrearage generally results from your commitment of disability benefits prior to an award of benefits by the Department of Veterans Affairs and the Social Security Administration. You should never agree to include disability benefits that have yet to be awarded to you.

If your child support agreement is based on disability benefits that have not been awarded by the Department of Veterans Affairs and the Social Security Administration you must return to court and request a modification of the child support agreement to reduce the amount of child support that you are obligated to pay. You must provide sufficient financial documentation to prove that your circumstances have materially and substantially changed before you can be granted a court order to reduce your future child support obligation.

Unfortunately, you are still obligated to pay the child support arrearage. You can request that the court allow you additional time to pay the child support arrearage but the court will generally not forgive an amount that is past due.

For more information...

The Attorney General of the State of Texas website has useful information about child support. Go to <https://www.oag.state.tx.us/cs/index.shtml>.

Texas Law Help has useful information on many areas of the law. Go to www.texaslawhelp.org.

Veterans' Legal Assistance Project: 1-800-622-2520

Call our attorney-staffed legal hotline. Advice is free for low to moderate income Texas veterans earning up to twice the federal poverty limit, as well as their spouses, dependents, and survivors.