Child Support Information

California Family Code § 3900 codifies the general obligation of both parents to support their minor children "in the manner suitable to the child's circumstances." [Ca Fam § 3900]

All minor children of the parents--whether natural or adopted, or born during marriage or out of wedlock--are owed a statutory duty of support. The obligation is not tied to the existence of a marriage.

In determining the appropriate amount of child support (whether by way of an initial pendente lite or "permanent" order or modification of an existing order), all California courts must adhere to the "statewide uniform child support guideline" (Ca Fam § 4050 et seq.). [Ca Fam §§ 4051, 4052] and may depart from the guideline only in the special circumstances set forth in this article" (Ca Fam § 4050 et seq.). [CA Fam § 4052]

In implementing the statewide uniform guideline, the courts shall adhere to the following principles . . ."

1. Support duty commensurate with parents' economic circumstances: "A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life." [Ca Fam § 4053(a)]
2. Mutual support duty: "Both parents are mutually responsible for the support of their children." [Ca Fam § 4053(b)]
3. Formula reflects income and responsibility: "The guideline takes into account each parent's actual income and level of responsibility for the children." [Ca Fam § 4053(c)]
4. Obligation tied to ability to pay: "Each parent should pay for the support of the children according to his or her ability." [Ca Fam § 4053(d)]
5. Child's interests of paramount importance: "The guideline seeks to place the interests of the children as the state's top priority." [Ca Fam § 4053(e)]
6. Award to reflect parents' standard of living--even if custodial parent incidentally benefits: "Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children." [Ca Fam § 4053(f)]

7. Award to reflect increased household costs because of time-sharing; equalized household standards of living: "Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes." [Ca Fam § 4053(g)]
8. Priority on "private" funding of child support: "The financial needs of the children should be met through private financial resources as much as possible." [Ca Fam § 4053(h)]
9. Presumptive support contributions by primary caretaker: "It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children." [Ca Fam § 4053(i)]
10. Settlements favored: "The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation." [Ca Fam § 4053(j)]
11. Formula amount presumptively correct: "The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula." [Ca Fam § 4053(k) (emphasis added); see also Ca Fam § 4057(a), ¶6:178]
12. Award to reflect State's "high" living standards and child-rearing costs: "Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states." [Ca Fam § 4053(l)]

The statewide uniform guideline displaces a good body of earlier case law dealing with "discretionary" child support; "a trial court no longer has the broad discretion in ordering child support which it had prior to the enactment of the new statutory scheme effective July 1, 1992." Nonetheless, legislative history indicates it was never the intent to eliminate family law judges' traditional discretionary authority to adjust child support orders in individual cases where fairness so requires. Thus, whether "fairness" permits the exercise of discretion in fixing a particular child support award itself must be determined with reference to the statutory guideline factors and policy directives as applied to the parties' circumstances as a whole.

The California Child Support Guideline

The guideline formula for computing child support is stated algebraically (Ca Fam § 4055(a)):

CS = K [HN -(H%) (TN)]

where . . .

CS = child support amount;

K = amount of income to be allocated for child support as set forth in Ca Fam § 4055(b)(3);

HN = high earner's net monthly disposable income;

H% = approximate percentage of time high earner has or will have primary physical responsibility for the children compared to the other parent (where the parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner spends with each child);

TN = total net monthly disposable income of both parties. [See Ca Fam § 4055(b)(1)]

"Add On" Amounts

The § 4055 formula theoretically yields an amount of child support commensurate with each parent's "circumstances and station in life" and "ability to pay" (see Ca Fam § 4053(a) & (d)). However, the formula does not alone account for "special" child care expenses and child rearing costs. To accommodate such circumstances, § 4050 et seq. provides for two tiers of "add-on" child support amounts, both "mandatory" and "discretionary." [Ca Fam §§ 4061 & 4062]

Mandatory add-on items: The following expenses "shall" (must) be ordered as additional child support (Ca Fam § 4062(a)):

1. Parent's employment/educational/job training-related child care costs: Child care costs related to employment or reasonably necessary education or training for employment skills. [Ca Fam § 4062(a)(1)]
2. Uninsured health care costs: "Reasonable" uninsured health care costs for the children as provided in Ca Fam § 4063

Discretionary add-on items: The court "may order" (discretionary) the following items payable as additional child support (CA Fam § 4062(b)):

1. Educational or other special needs expenses: Costs related to the children's educational "or other special needs." [Ca Fam § 4062(b)(1)]
2. Visitation travel expenses: Travel expenses for visitation. [Ca Fam § 4062(b)(2)]

When an apportionment of child support add-ons is needed, those expenses "shall be" divided one-half to each parent . . . unless either parent requests a different apportionment and presents documentation demonstrating such alternative apportionment "would be more appropriate." [Ca Fam § 4061(a)]

California Procedure To Obtain Child Support Orders:

The parties may - and are encouraged to - enter into a written stipulation (agreement) on custody and support issues.

If the parties cannot agree, support orders may be made at any time after the filing of an underlying divorce, paternity, or domestic violence action and may be modified at any time until the child(ren) turn eighteen. In contested cases, they are most commonly made:

1. At the time of the filing of the initial documents in a "Temporary Restraining Order"
2. Within a few weeks of the filing at a hearing on application for "Order To Show Cause"
3. At the time of tria

Child Support Modification In California

Child support may be modified until the period of the order terminates (generally age 18 or 19 if the child is a full time high school student). To obtain a modification the moving party must show that there have been significant "changed circumstances" since the last order to justify the modification.

"Changed circumstances" which may justify a child support modification include:

1. An increase or decrease in the income of the party receiving support.

2. An increase or decrease in the income of the party paying support
3. A modification of visitation which results in an increase or decrease of visitation time.
4. New special needs of the child(ren).