

## CHAPTER 8

# CHILD SUPPORT

CHRISTINA PARADISO, ESQ.  
Community Legal Aid, Worcester

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## GENERAL OVERVIEW

This chapter includes material on support for a child. A child is defined as

- a person under the age of eighteen, or a person between the ages of eighteen and twenty-one if dependent upon a parent for support; and
- a person between the ages of twenty-one and twenty-three if enrolled in an education program.

G.L. c. 208, § 28; G.L. c. 209C, § 9.

Not included in this chapter is information on alimony (support from one spouse to another), which is covered in chapter 6, Alimony, Pensions, and Other Relief. There is also a chapter in this book on an action for separate support (chapter 4) and a chapter for an action for paternity (chapter 7), which contains information on special procedures for obtaining support orders where the parentage of a child is an issue.

### What Is Child Support?

Child support is a cash payment for the expenses and needs of a child. The amount of child support to be paid is determined by a court using the Child Support Guidelines. The Guidelines look at the incomes of both parents as well as the costs of certain expenses, such as medical insurance and day care.

#### Practice Note

The 2017 Child Support Guidelines can be viewed and downloaded at <https://www.mass.gov/service-details/child-support-guidelines>.

Child support helps the custodial parent supply food, clothing, shelter, education, day care, transportation, some medical expenses, and other provisions for the child or children.

### Who Is Entitled to Child Support?

All parents are responsible for support of their child from the date of the child's birth. If you are divorced, separated, or a single parent of a child under the age of eighteen, and the child lives with you, you are entitled to receive support from your child's other parent. Grandparents, guardians, or other individuals who have custody of a minor child may receive child support for a child living with them.

You can receive child support even if you have not been married to the child's other parent. G.L. c. 209C; *Department of Revenue v. Mason M.*, 439 Mass. 665 (2003); *Doe v. Roe*, 23 Mass. App. Ct. 590 (1987). However, before a court will consider child support in those situations, the court must have evidence that paternity of the child has been established. Paternity can be established by the father signing a voluntary acknowledgement of paternity, or by a court order after genetic marker (DNA) testing of the alleged father and the child.

## Who Must Pay Child Support?

If the child lives with you, you generally do not have to pay child support. This is because, in most cases, you are already helping to meet the child's financial needs. However, if the child lives with the other parent, a grandparent, or a guardian, you are responsible for paying child support.

If your child is temporarily absent from your custody (such as in foster care or staying with a relative), you can be liable for child support, particularly if the state spends money for foster care placement for your child.

In some situations the father and mother have shared physical custody of a child. If the income of the parents is about the same and the child spends roughly the same amount of time in the home of each parent, most likely neither parent would be required to pay child support. If the time periods of the child's residence are not equal, the judge would usually make a child support order on the basis of comparative income, expenses, and living standards of each of the parents. If the incomes of the parents are very different, the court may award child support to enable the child to have a more similar standard of living in each of the homes.

### Practice Note

Claiming that the custodial parent has interfered with the noncustodial parent's parenting time with the children is not a defense in a child support proceeding. The noncustodial parent must pay child support even if he or she does not have parenting time with the children.

If you were married to the mother of a child when she became pregnant, the law presumes that you are the father and that you are responsible for support of the child unless another man is legally declared the father.

If you believe you are not the father of a child or are uncertain as to whether you are the father, genetic marker testing may be helpful in determining parentage of the child. See chapter 7, Paternity Issues, for additional information on genetic testing and paternity claims.

If you are a father and have custody of your child, the mother can be ordered to pay child support to you.

## Special Types of Support

### *Support for Children Age Eighteen and Older*

Currently the law provides that a court may order the noncustodial parent to continue to pay support beyond age eighteen in certain circumstances. If a child is not yet twenty-one, lives with a parent, and is principally dependent upon that parent for maintenance, then the court may enter orders for support and education of the child. Furthermore, children between the ages of twenty-one and twenty-three may be able to obtain child support if their primary residence is the home of a parent and the child remains dependent upon the parent due to enrollment in certain educational programs. G.L. c. 208, § 28. A child born out of wedlock has the same right to support as would a child of a marriage. *Doe v. Roe*, 23 Mass. App. Ct. 590 (1987).

### *Support for Disabled Children*

A parent can be required to contribute to the support of a disabled child over the age of eighteen who is incapable of self-support. However, this type of action requires a guardianship over the disabled person. The guardian may then petition the court for support under the guardianship. *Feinberg v. Diamant*, 378 Mass. 131 (1979); *Vaida v. Vaida*, 86 Mass. App. Ct. 601 (2014); *Saia v. Saia*, 58 Mass. App. Ct. 135 (2003). The court will consider the needs of the child as well as the parent's ability to pay.

## How Can I Get an Order for Support?

The general child support laws establish the underlying obligations to pay child support and describe the procedure for getting a court order. Some examples are as follows:

- G.L. c. 208, § 28 (support as part of a divorce);
- G.L. c. 209, § 37 (married parents living apart);

- G.L. c. 209, § 32F (married parents living apart);
- G.L. c. 209C (support for children born out of wedlock);
- G.L. c. 209A (support requested as part of a restraining order).

These laws provide the framework for most child support claims. They establish some of the rights and responsibilities parents have relative to child support. The judge will consider the claims you have made under the relevant law when deciding your child support case.

## AVAILABLE RESOURCES

If you receive public assistance benefits from the Department of Transitional Assistance (DTA), you have “subrogated” your right to collect cash child support to the Commonwealth. This means that, for families on cash assistance, a referral will be made from DTA to the Department of Revenue Child Support Enforcement Division (DOR) to begin child support proceedings on your behalf.

### Practice Note

If you fear that obtaining an order of child support would put you or your child at risk of harm, or if the child was conceived as a result of incest or rape, you may claim “good cause” to receive public assistance benefits without establishing a child support order.

You also can request that DOR assist you with establishing a child support case even if you do not receive public benefits. This process may take slightly longer than if you file the complaint yourself, but you will receive assistance from DOR as outlined in the section entitled “The Role of DOR,” below.

## HOW DO I BEGIN A REQUEST FOR CHILD SUPPORT ON MY OWN?

The first step in obtaining a child support order is to file a complaint. This is a paper outlining what you want the court to do, and stating why you believe you are entitled to the requested court orders. You may obtain child support complaint forms at the Probate and Family Court or on the court’s website. A sample complaint appears in **Exhibit 8A**.

You may file for support on your own, or you may choose to have the Department of Revenue Child Support Enforcement Division assist you with the process. See “Collection of Regular Support,” below, for more information.

### What Will I Need to Bring With Me to File a Complaint?

On the day that you go to the Probate and Family Court to file a complaint for support, be prepared to file some documents in addition to your complaint. You will need to bring a certified copy of the child’s birth certificate, issued by the city or town in which you live or the city where the child was born. If you are married to the other parent, you might also need a copy of your marriage certificate. Also bring a form of photo identification with you.

### Where Do I File the Complaint?

Usually, you should file the complaint in the court serving the county in which the child and at least one parent lives. If both parents live in a different county from the child, the complaint should be filed where the child resides.

Also, if you have a prior support order for an older child, born out of wedlock, with the same parents, you may choose to file the new complaint at the same court, even if you no longer live in that county. G.L. c. 209C, § 4. This has the advantage of having all siblings’ support cases heard at the same time.

### What Type of Complaint Do I File?

The type of complaint you file will depend upon your relationship with the person from whom you want support. Some of the complaints you can use to request a child support order include the following:

- divorce,

- separate support,
- establishment of paternity,
- support for a child born out of wedlock whose paternity is already established, and
- abuse protection.

Generally, a complaint for child support is a standard form with blanks to be completed by the petitioner.

Be sure that you fill out every applicable line, and check the boxes requesting support, medical insurance, and retroactive support for the child.

After you file the complaint, you must “serve” the other party with a copy of the complaint and a summons. You may do this by bringing a copy of the complaint, the summons, and any motions to the sheriff. The sheriff will then serve the other party with the complaint.

## HOW MUCH SUPPORT WILL BE PAID FOR MY CHILD?

The amount of the child support is determined by the Child Support Guidelines, which are issued by the courts. A sample Child Support Guidelines Worksheet is included as **Exhibit 8B**. The parent who pays support is called the “payor” and the other parent is called the “recipient.”

The basic calculations under the Guidelines are based upon the children having a primary residence with one parent and spending approximately one-third of the time with the other parent. 2017 Child Support Guidelines § II(D)(1).

The Guidelines formula recommends that the payor pay a certain percentage of his or her gross income (income before taxes and deductions) as child support. The percentage varies depending on the income of both parents and the number of children to be supported.

Guidelines calculations begin by listing the gross income of each parent and then subtracting child-care costs, health-care costs, dental and vision insurance costs, and prior orders of support paid for other children. After these deductions are made, the parents’ incomes are added together to determine family income available to support the child or children.

The amount of support to be paid is determined using a chart issued by the courts. The amount is then allocated to each parent in proportion to his or her income. The payor’s share becomes the presumed amount of child support to be paid to the recipient.

Online child support calculators are available on the court’s website.

## Special Circumstances

### *Unemployment*

Every noncustodial parent must pay some amount of child support. If the noncustodial parent is unemployed, the custodial parent can still get a child support order. Benefits such as unemployment, workers’ compensation, and some disability benefits, as well as any other income, will be considered income when calculating the Guidelines amount.

Also, if a judge finds that either parent quit a job or is voluntarily unemployed or underemployed, the judge can include an estimated amount of the person’s earning ability as income, and enter a support order based on what the parent could be earning.

### *Social Security Disability Insurance (SSDI)*

If a noncustodial parent receives SSDI, his or her minor children are usually entitled to a dependency allotment from Social Security. In most cases, this dependency allotment will be viewed as the noncustodial parent’s child support payment. Sometimes, however, a noncustodial parent might be required to pay an amount in addition to the dependency allotment.

To determine child support for a noncustodial parent on SSDI, you must add the amount of the noncustodial parent's monthly SSDI amount plus the child's dependency allotment. This is considered the income available for child support. You will use this amount of income to calculate support according to the Guidelines. If the resulting child support calculation is less than what the child receives as a dependency allotment, the noncustodial parent pays no additional support. If the resulting child support calculation is more than what the child receives as a dependency allotment, the noncustodial parent must pay support in addition to the dependency allotment. *Rosenberg v. Merida*, 428 Mass. 182 (1998).

### ***In-Kind Payments***

Occasionally, courts endorse or order in-kind child support payments. For example, divorce settlements will sometimes include a requirement that the noncustodial parent pay for the mortgage or the rent on the home in which the custodial parent and the child live. In some cases, it may be advantageous for you to ask for such an in-kind order as part of the child support obligation.

### **Will the Court Ever Order More or Less than the Amount that the Guidelines Recommend?**

The court will sometimes order more or less than the amount recommended by the Child Support Guidelines, but you must give the judge a good reason why the Guidelines should not apply to your case. For example, the judge might order more or less than the Child Support Guidelines recommended if a child or parent has ongoing extraordinary medical expenses, has travel expenses related to parenting time, applying the Guidelines would leave one parent unable to support himself or herself, or application of the Guidelines would result in an order that is "unjust, inappropriate or not in the best interests of the child." Whatever the reason, the court must find that a deviation will be in the best interests of the child. 2017 Child Support Guidelines § III(B)(1)–(13). If the court is going to deviate from the guidelines, it must make a finding and determination regarding the reasons why. See **Exhibit 8C**, Findings and Determinations for Child Support and Postsecondary Education.

## **HOW TO PREPARE A CASE FOR A CHILD SUPPORT ORDER**

Most of the information that is necessary for a court to set a child support order generally comes from the financial statements filed by the custodial and noncustodial parent. See chapter 2, Overview of the Probate and Family Court, for information on these statements. You may also need other information, particularly if the other parent's financial statement is incomplete or if you suspect it is inaccurate. You are entitled to request that the other parent produce documents such as wage records and other information that you may need in order to establish the correct amount of a child support order. Getting this information is called discovery. To get this information, make a formal, written request to the other parent. You may need a lawyer to help you write this request.

Prior to the hearing, gather whatever information you will need to prove the other parent's income and assets. This includes information about your income, such as recent paystubs; proof of the other parent's income; proof of the cost of day care; proof of the costs of a medical insurance plan; and other proof of the cost of meeting the needs of the child. If you have prior years' tax returns or W-2s, bring those to court as well.

If you will be requesting retroactive support for prior years, it is important to bring proof of both parents' incomes for the relevant years.

Be sure to bring a copy of your own financial statement for the court, a copy for the other party, and a copy for your own records.

If you know the other parent's income, fill out the Child Support Guidelines worksheet before you go to court.

## **WHAT HAPPENS AT THE HEARING ON A REQUEST FOR CHILD SUPPORT?**

When you go to the court hearing, it is important to dress in a dignified way. Also, arrive on time, as the judge will hear your case even if you are not there.

When you arrive at the Probate and Family Court, you must first find the courtroom where your case will be heard. You can do so by checking with the clerk's office or by looking at the calendar which lists court case names and assigned courtrooms in the lobby of the courthouse. When you go to the courtroom in which your case will be heard, check in with the clerk so that the court will know that you are present.

After you check in to the court, your case will probably be referred to the staff of the court's Probation Department. Those staff, called probation officers or family service officers, will meet with the parties and attempt to persuade them to reach an agreement about their case.

### **Practice Note**

When meeting with the probation officer (also known as a family service officer), be careful about what you say because anything you say can be repeated by the probation officer to the judge.

### **Practice Note**

In some circumstances, you may not want to meet with the other party. For example, if the other parent has a history of abusing you or your child, inform the probation officer and he or she should meet with you separately.

Keep in mind that the probation officer is not a lawyer and cannot give you legal advice. The officer will review the financial statements of both parties and the Child Support Guidelines worksheet. With the assistance of the probation officer, you may be able to reach an agreement on the amount of support, and any agreement should be put in writing. The agreement is sometimes referred to as a stipulation. Be sure that any written agreement is consistent with your understanding of what you have agreed upon, that it provides for an adequate amount of support for your child, and that you get a copy of the agreement. Do not sign anything that you do not agree to or have not read.

If you are able to reach an agreement, next you will usually go to the courtroom to have the judge review the stipulation. If the judge finds that the agreement is fair and reasonable, he or she will make the agreement an order of the court.

If you and the noncustodial parent do not reach an agreement, the judge might decide how much support should be paid. In the alternative, he or she might order you to provide some additional information, and schedule another court date.

Each party is given a chance to speak to the judge. Usually the party who has filed the motion that is being heard will speak first. When it is your turn to speak, speak clearly and briefly. Do not interrupt the other side or the judge. After the court issues a support order, it will put the support order in writing. You will usually receive a copy of this order in the mail approximately a week after your hearing.

## **Collection of Regular Support**

After you have an order setting the amount of support that should be paid, the judge will usually direct you to the Department of Revenue Child Support Enforcement office within the courthouse. DOR employees will ask you for some information that will allow them to administer your child support order.

According to Massachusetts law, all child support orders must be collected from the noncustodial parent via wage assignment, unless the judge specifically finds that it is in the child's best interest to have a different payment arrangement. G.L. c. 119A, § 12. DOR will notify the noncustodial parent's employer of the amount of money to be withheld from his or her paycheck. The employer is then required to send the support money to DOR. After it receives the money and makes an accounting, DOR will distribute the money to the custodial parent via electronic fund transfer, debit card, or paper check.

It is important to remember that the noncustodial parent must send the money directly to DOR until the wage assignment begins. If a support order is in effect, and your employer or another party fails to take the child support out of your check, you are obligated to send in the child support on your own. If you fail to pay support as ordered by the court, you may be held "in contempt" and may be punished by the court.

If the noncustodial parent is self-employed, unemployed, or does not have a wage assignment for other reasons, the noncustodial parent must send the child support money in a check or money order to DOR. DOR will follow the same procedures as above to send it to the custodial parent.

Note that some property and wages may be exempt from attachment under federal or state law. Generally, a certain percentage of an individual's wages is exempt from attachment, as are grant payments and bank account amounts that derive from means-tested public assistance programs. However, certain forms of Social Security, unemployment compensation, and workers' compensation can be attached.

## **WHAT HAPPENS IF THE NONCUSTODIAL PARENT DOES NOT PAY ACCORDING TO THE CHILD SUPPORT ORDER?**

### **Automated Collection of Arrearages**

In addition to wage assignments, DOR also provides other enforcement services for those who request its services. For example, if the child support debt, called arrearages, reaches a certain threshold, DOR can use its automated enforcement systems to take actions such as tax refund intercepts, lottery winning intercepts, insurance payment intercepts, driver's license revocations, passport denial, levies of bank accounts, and attachments of property to collect unpaid child support. DOR also has access to certain wage and location information not available to the public.

### **Judicial Enforcement of Child Support Orders**

If a noncustodial parent with a child support obligation is persistently behind or refuses to make child support payments, you can bring a complaint for contempt of court. A sample complaint is included as **Exhibit 8D**. You may do this on your own, by filing a complaint for contempt with the court and arranging to have a sheriff or constable serve the complaint on the nonpaying parent.

However, if your support order is being administered by DOR, you may request that DOR file a complaint for contempt on your behalf. Although this may take slightly longer than filing the complaint on your own, the benefit is that you will receive some assistance with the process. For example, in most cases DOR will serve the complaint for contempt on the nonpaying parent, schedule a court date, and have a DOR attorney available to explain the payment history and amount of arrearages to the court. For further information on contempt of court, see chapter 17.

#### **Practice Note**

If the support obligor does not make child support payments, you are not entitled to stop or change the obligor's parenting time with the child. These are considered to be separate issues. In order to stop or change parenting time, you must seek a change in the underlying order or agreement that you have regarding parenting time.

Sometimes the child support obligor receives wages in cash or otherwise works under the table in a manner that does not make it possible for DOR or you to trace the obligor's income easily. Although DOR's ability to investigate these resources is limited, you should request that DOR help you identify sources of income and present the information to the court.

### **How Long Does a Support Order Stay in Effect?**

Generally, when the court enters a child support order, it remains in effect until the child turns eighteen, unless you or the other parent obtains another court order changing the amount of the order. The court can also order you to pay support until the child turns twenty-one if he or she is dependent on the other parent for support, or until the child turns twenty-three if he or she is enrolled in an educational program. Do not stop paying the support order unless it is clear that you have the right to do so. Often, a support obligation continues beyond the child's eighteenth birthday if he or she continues to go to school and is principally dependent upon the custodial parent. If you have any questions regarding your continued obligation to pay support, talk to an attorney. You may also file a complaint for modification (see **Exhibit 8E**) to terminate the support obligation. See chapter 16, Modifications, for information on filing a modification action.



## What Happens if I Lose My Job?

If you lose your job or income, you are still obligated to pay the support order. A debt to the other party will build up if you fail to pay the support order. To avoid owing money to the other party or being held in contempt of court, you must go back to court to get the amount of the support order reduced.

If the support order is a temporary order, you can file a motion to reduce support, schedule a hearing date, and properly serve the other party with the motion, a proposed temporary order, and notice of the hearing date. A sample motion to reduce support is included as **Exhibit 8F**, and an example of a proposed temporary order is included as **Exhibit 8G**.

If the support order is part of a “judgment,” a complaint for modification as well as a motion to reduce support must be filed and properly served on the other party before the court will consider changing the support order.

Child support arrears cannot be forgiven by the court. G.L. c. 119A, § 6. At most, a judge might reduce the support order going back to the date that you served the other party with a complaint for modification.

Child support orders should be taken seriously, and you should seek legal advice if you have any problems obeying a court order. If you do not pay a support order, you may be held in contempt of court for violating the support order. The punishment for contempt may include a jail sentence, payment of penalties and interest on the child support arrears, and payment of attorney fees to the other party, among other penalties.

Also, deliberate failure to support a child is a felony and criminal charges can be brought against you by the district attorney.

## How Is a Child Support Order Modified?

A modification of a child support order may happen whenever the amount of the child support being paid is different from the amount that results from a current calculation of the Child Support Guidelines. *Morales v. Morales*, 464 Mass. 507 (2013). Practically speaking, a modification may be needed where the order is too high or too low because of changes in the payor’s or recipient’s income or resources, as well as significant increases in the needs of the child.

Once a court order for support is in effect, the only way to change the child support obligation is to have a judge consider your circumstances. To start this process, you must file a complaint for modification. A sample complaint is included as **Exhibit 8E**. You must file this complaint in the same court that issued the original order, even if you or the other parent have moved.

Federal and state law prohibit a court from lowering a child support obligation for time periods in the past. G.L. c. 119A, § 6. If a modification is called for, the change in the support order can be effective only for the period after the date the complaint for modification was served. Also, review chapter 16, Modifications, for more detailed information on modification of child support orders.

## The Role of DOR

Federal law requires all states to identify a particular state agency that will be responsible for child support enforcement. In Massachusetts, the Department of Revenue Child Support Enforcement Division has this responsibility. DOR offers a range of child support services, including services to establish a child support order (including genetic marker testing in some cases), enforce child support orders, and modify those orders. DOR also can institute some administrative remedies to enforce support, as mentioned in “Judicial Enforcement of Child Support Orders,” above. DOR provides these services to anyone who requests them. *See generally* G.L. c. 119A, § 1 et seq.

Keep in mind, however, that DOR’s lawyers do not represent individuals in the case; they are lawyers who represent the state. There is no attorney-client privilege between you and an attorney for DOR.

Also, it is important to remember that DOR’s attorneys cannot represent you on other family law issues such as the child’s custody or parenting time. Get another lawyer to help you with those issues.

Many of DOR's resources are concentrated on systems that will allow DOR to collect child support on an automated basis. Examples include processing income assignments and tax refund intercepts, attaching bank accounts and other assets of obligors, and obtaining initial child support orders. This means that DOR personnel may not be available, without a considerable wait, to conduct such activities as pursuing contempt for failure to obey child support orders, investigating possible hidden sources of income of support obligors, or pursuing child support against obligors who conduct their financial affairs under the table.

## **What Happens if My Child Receives Welfare Benefits?**

If the child for whom you have a child support order receives cash assistance from the Commonwealth, the child support payments are kept by the state up to the level of the TAFDC grant checks, except for a \$50 per month "pass-through."

Any payments received above the TAFDC level must be distributed to the supported family. In certain cases, the amount of these payments will be high enough that the family will no longer be eligible for TAFDC.

## **INTERSTATE ISSUES**

### **What if I Have an Out-of-State Support Order?**

If you already have a support order that has been issued by a court in another state, you can enforce that order by registering it here in Massachusetts or by pursuing certain administrative relief through DOR (such as a wage assignment or a tax refund intercept—see "The Role of DOR," above).

### **What if the Other Parent Lives in Another State?**

All states have a law that deals with establishment, modification, and enforcement of child support across state lines. It is called the Uniform Interstate Family Support Act (UIFSA). G.L. c. 209D.

Among other things, UIFSA provides the following important tools:

- There is increased jurisdiction to establish support orders in the state where the custodial parent and child reside, even if the noncustodial parent no longer resides in the same state. G.L. c. 209D, § 2-201.
- If Massachusetts courts do not have jurisdiction over the noncustodial parent, UIFSA allows the custodial parent to request child support in the state where the noncustodial parent lives. The custodial parent does not need to travel to the other state for the hearing. Instead, the custodial parent fills out a set of forms, usually called a UIFSA petition. This is done most effectively by working with DOR.
- UIFSA establishes a system whereby only one child support order is in existence and valid at any one time. This is called continuing, exclusive jurisdiction. G.L. c. 209D, § 2-205.
- UIFSA allows for telephonic hearings in some interstate child support matters.

Although the law technically allows a person to fill out the UIFSA forms pro se or with private counsel, this is rarely done due to the complex and highly specialized nature of the forms. In practice, it is probably best to work with DOR on interstate child support matters.

**EXHIBIT 8A—Complaint for Child Support**

**Commonwealth of Massachusetts**  
**The Trial Court**  
**Probate and Family Court Department**

Division \_\_\_\_\_ Docket No. \_\_\_\_\_

**COMPLAINT FOR SUPPORT-CUSTODY-VISITATION  
 PURSUANT TO G.L. c. 209 C**

\_\_\_\_\_, Plaintiff      v.      \_\_\_\_\_, Defendant

1. Plaintiff, who resides at \_\_\_\_\_  
 \_\_\_\_\_ (Street address) \_\_\_\_\_ (City/Town) \_\_\_\_\_ (County)  
 \_\_\_\_\_ (State) \_\_\_\_\_ (Zip), is
  - ☐ the ☐ mother ☐ father of a child born out of wedlock.
  - ☐ a child born out of wedlock.
  - ☐ the ☐ guardian ☐ custodian of a child born out of wedlock.
  - ☐ the ☐ parent ☐ personal representative of the ☐ mother ☐ father of a child born out of wedlock.
  - ☐ the ☐ Department of Social Services ☐ agency licensed under G.L. c. 28A
  - ☐ the Department of Revenue
2. The child who is the subject of this complaint is:  
 Name \_\_\_\_\_ Date of Birth \_\_\_\_\_  
 who resides at \_\_\_\_\_  
 \_\_\_\_\_ (Street address) \_\_\_\_\_ (City/Town) \_\_\_\_\_ (County) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip)
3. Defendant, who resides at \_\_\_\_\_  
 \_\_\_\_\_ (Street address) \_\_\_\_\_ (City/Town) \_\_\_\_\_ (County)  
 \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) is the ☐ mother ☐ father of the above-named child who was born out of wedlock.
4. The plaintiff and defendant are not married.
5. The mother of the child was not married at the time of the child's birth and was not married within three hundred days before the birth of the child.
6. The ☐ plaintiff ☐ defendant ☐ signed a voluntary acknowledgement of paternity ☐ was adjudicated the father on \_\_\_\_\_ (date), a copy of which is attached to this complaint.
7. Wherefore, plaintiff requests that the Court:
  - ☐ order a suitable amount of support for the child.
  - ☐ order the ☐ plaintiff ☐ defendant to ☐ maintain ☐ provide health insurance for the benefit of the child.
  - ☐ prohibit the defendant from imposing any restraint on the personal liberty of the ☐ plaintiff and/or ☐ the child.
  - ☐ grant the ☐ plaintiff ☐ defendant custody of the child.
  - ☐ grant the ☐ plaintiff ☐ defendant visitation rights with the child.
  - ☐ \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
 (Signature of attorney or plaintiff, if pro se)

\_\_\_\_\_  
 (Print name)

\_\_\_\_\_  
 (Street address)

\_\_\_\_\_  
 (City/Town)

\_\_\_\_\_  
 (State)

\_\_\_\_\_  
 (Zip)

Tel. No. \_\_\_\_\_

B.B.O. # \_\_\_\_\_ C.G.F.

CJ-D 109 (10/07)

## EXHIBIT 8B—Sample Child Support Guidelines Worksheet

Case Name James v. James Date Prepared February 06, 2108  
Docket Number 15D0000 Name of Preparer Jennifer James

### CHILD SUPPORT GUIDELINES WORKSHEET

All amounts are \$ / week, rounded to the nearest dollar

#### 1. INCOME

- a. Gross Weekly income
- b. Minus Child Care cost paid
- c. Minus Health insurance cost paid
- d. Minus Dental/Vision insurance cost paid
- e. Minus Other Support Obligations paid

Recipient	Payor
\$ 371	\$ 984
\$ ( )	\$ ( )
\$ ( )	\$ ( )
\$ ( )	\$ ( )
\$ ( )	\$ ( )

- f. Available income
- g. Combined Available Income *Recipient 1(f) + Payor 1(f)*
- h. Percent of Combined Available Income *1(f) / 1(g)*

= \$ 371	\$ 984
= \$ 1,355	
= 27 %	73 %

#### 2. CHILD SUPPORT CALCULATION

- a. Maximum combined available income *maximum 1(g) but not more than \$4,808*
- b. Combined support amount for one child *from Table A of Guidelines Chart for 2(a)*
- c. Adjustment for number of children covered by this order *from Table B*  
Number of children 2 x 1 . 2 5
- d. Total combined support amount *2(b) x 2(c)*
- e. Minus Recipient's proportional share of support *2(d) x Recipient 1(h)*
- f. Payor's proportional weekly support amount *2(d) - 2(e)*
- g. Weekly support amount as % of Recipient income *2(f) ÷ Recipient 1(f)*
- h. Payor's adjusted weekly support amount  
*If 2(g) is 10% or more, then enter 2(f) here*  
*Otherwise, enter the lesser of 2(f) OR (10% + 2(g)) x Payor 1(f)*

1,355
290
<u>1 . 2 5</u>
= \$ 363
\$ ( 98 )
= \$ 265
71 %
= \$ 265

#### 3. AVAILABLE INCOME ABOVE \$4,808 (If applicable.)

(Considered at the discretion of the Court.)

- a. Combined Maximum of \$0 or 1(g)-\$4,808
- b. Proportional share for the Recipient and Payor *3(a) x 1(h)*

= \$	\$
= \$	\$

Reset Form

TABLE A: CHILD SUPPORT OBLIGATION SCHEDULE			
All amounts are \$ / week, rounded to the nearest dollar			
COMBINED AVAILABLE INCOME FROM LINE 1(g)		CHILD SUPPORT AMOUNT (1 CHILD)	
Minimum	Maximum		
\$-	\$150	At court discretion, but not less than \$80/month	
\$151	\$319	22%	
\$320	\$750	\$70 + 22%	above \$319
\$751	\$1,250	\$165 + 21%	above \$750
\$1,251	\$2,000	\$270 + 19%	above \$1,250
\$2,001	\$3,000	\$413 + 15%	above \$2,000
\$3,001	\$4,000	\$563 + 12%	above \$3,000
\$4,001	\$4,808	\$683 + 11%	above \$4,000

TABLE B: ADJUSTMENT FOR NUMBER OF CHILDREN	
CHILDREN	ADJUSTMENT
1	1.00
2	1.25
3	1.38
4	1.45
5	1.48

Child Support Guidelines  
Child Support Guidelines Chart

CJD 304 (8/1/13 rev.) CSG

## EXHIBIT 8C—Findings and Determinations for Child Support and Postsecondary Education

<b>FINDINGS AND DETERMINATIONS FOR CHILD SUPPORT AND POST-SECONDARY EDUCATION</b>	Docket No. _____	<b>Commonwealth of Massachusetts The Trial Court Probate and Family Court</b>
Case name: _____ Payor is _____ Recipient is _____	Division _____	
<b><u>MINIMUM AND MAXIMUM LEVELS - Section II. C. of the 2017 Child Support Guidelines</u></b> <input type="checkbox"/> The combined gross income of the parties exceeds \$250,000.		
<b><u>IMPUTATION OF INCOME - Section I. D. of the 2017 Child Support Guidelines</u></b> <input type="checkbox"/> The Court finds that the <b>payor</b> has gross income that is undocumented or unreported. Accordingly, the Court imputes income of \$ _____ per _____ based on:  <input type="checkbox"/> The Court finds that the <b>recipient</b> has gross income that is undocumented or unreported. Accordingly, the Court imputes income of \$ _____ per _____ based on:		
<b><u>ATTRIBUTION OF INCOME - Section I. E. of the 2017 Child Support Guidelines</u></b> <input type="checkbox"/> The Court finds that the <b>payor</b> is capable of working and is unemployed or underemployed. <input type="checkbox"/> The Court determines that the <b>payor</b> is earning less than could be earned through reasonable effort. Accordingly, the Court attributes income of \$ _____ per _____ based on:  <input type="checkbox"/> The Court finds that the <b>recipient</b> is capable of working and is unemployed or underemployed. <input type="checkbox"/> The Court determines that the <b>recipient</b> is earning less than could be earned through reasonable effort. Accordingly, the Court attributes income of \$ _____ per _____ based on:		
<b><u>CHILD SUPPORT FOR CHILDREN BETWEEN AGES 18 AND 23 - Section II. F. of the 2017 Child Support Guidelines</u></b> <input type="checkbox"/> The Court finds that the _____ is 18 or older and attending high school, but shall not be considered to be under age 18 for purposes of the guidelines and Table B because: <div style="text-align: center; font-size: small;">(first born, second born, etc.)</div> <input type="checkbox"/> The Court finds that the _____ is 18 or older and attending high school, but shall not be considered to be under age 18 for purposes of the guidelines and Table B because: <div style="text-align: center; font-size: small;">(first born, second born, etc.)</div>		



Case Name: _____	Docket No. _____
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**CONTRIBUTION TO POST-SECONDARY EDUCATION - Section II. G. of the 2017 Child Support Guidelines**

- ☐ The Court finds that the **payor** has the ability to pay an amount higher than 50% of the undergraduate, in-state resident costs of the University of Massachusetts - Amherst because:
- ☐ The Court finds that the **recipient** has the ability to pay an amount higher than 50% of the undergraduate, in-state resident costs of the University of Massachusetts - Amherst because:

**HEALTH CARE COVERAGE - Section II. H. of the 2017 Child Support Guidelines**

- ☐ The Court determines that the additional cost paid by the **payor** to insure a person not covered by the child support order unreasonably reduces the amount of child support. The Court allows \$ \_\_\_\_\_ per week to be deducted from gross income on the guidelines worksheet.
- ☐ The Court determines that the additional cost paid by the **recipient** to insure a person not covered by the child support order unreasonably reduces the amount of child support. The Court allows \$ \_\_\_\_\_ per week to be deducted from gross income on the guidelines worksheet.
- ☐ Health care coverage is available to the **payor** through employment or other means at a reasonable cost. However, the cost of such coverage creates an undue hardship on the **payor** because:

**DENTAL/VISION INSURANCE - Section II. I. of the 2017 Child Support Guidelines**

- ☐ The Court determines that the additional cost paid by the **payor** to insure a person not covered by the child support order unreasonably reduces the amount of child support. The Court allows \$ \_\_\_\_\_ per week to be deducted from gross income on the guidelines worksheet.
- ☐ The Court determines that the additional cost paid by the **recipient** to insure a person not covered by the child support order unreasonably reduces the amount of child support. The Court allows \$ \_\_\_\_\_ per week to be deducted from gross income on the guidelines worksheet.



Case Name: _____	Docket No. _____
------------------	------------------

**DEVIATION - Section IV. of the 2017 Child Support Guidelines**

The guidelines are applicable in this case. The amount of the child support order that would result from the application of the guidelines is \$ \_\_\_\_\_ ☐ Weekly ☐ Bi-weekly ☐ Monthly ☐ Other(specify) \_\_\_\_\_

However, the Court finds the presumptiveness of the guidelines has been rebutted because, after considering the best interests of the child, the application of the guidelines would be unjust or inappropriate.

The specific circumstance of the case which justify departure from the guidelines are:

- ☐ the parties agree and the Court has reviewed and approved their agreement dated \_\_\_\_\_
- ☐ a child has ongoing special needs or aptitudes with financial consequences
- ☐ a child has ongoing extraordinary mental, physical, or developmental needs with financial consequences
- ☐ a parent \_\_\_\_\_ has ongoing extraordinary mental, physical, or developmental needs with financial consequences  
Name
- ☐ a parent \_\_\_\_\_ has extraordinary expenses for health care coverage  
Name
- ☐ a parent \_\_\_\_\_ has extraordinary travel or other expenses related to parenting  
Name
- ☐ a parent \_\_\_\_\_ is absorbing a child care cost that is disproportionate in relation to his or her income  
Name
- ☐ a parent \_\_\_\_\_ provides substantially less than one-third of the parenting time for a child or children  
Name
- ☐ the payor is incarcerated and has insufficient financial resources to pay support
- ☐ application of the guidelines, particularly in low income cases, leaves a parent \_\_\_\_\_ without the ability to self support  
Name
- ☐ application of the guidelines would result in a gross disparity in the standard of living between the two households such that one household is left with an unreasonably low percentage of the combined available income
- ☐ application of the guidelines may adversely impact reunification of a parent and child where the child has been temporarily removed from the household in accordance with G. L. c. 119
- ☐ absent deviation, application of the guidelines would lead to an order that is unjust, inappropriate or not in the best interests of the child, considering the Principles of the 2017 Child Support Guidelines
- ☐ this is a modification of an order that deviated from the guidelines at the time it entered and the facts that gave rise to the deviation still exists, deviation continues to be in the child's best interest, and the guidelines amount would be unjust or inappropriate under the circumstances
- ☐ other: \_\_\_\_\_

Case Name: _____	Docket No. _____
------------------	------------------

**FOR COURT USE ONLY**

After hearing, at which \_\_\_\_\_ and/ or \_\_\_\_\_  
Name Name

was present, the Court entered an order dated \_\_\_\_\_.

\_\_\_\_\_ was ordered to pay child support in the amount of  
Name  
 \$ \_\_\_\_\_ ☐ Weekly ☐ Bi-weekly ☐ Monthly ☐ Other(specify) \_\_\_\_\_

Date \_\_\_\_\_  
 \_\_\_\_\_  
Judge of the Probate and Family Court

**THIS FORM MUST BE FILED AND DOCKETED WITH THE CASE**



**EXHIBIT 8D—Complaint for Contempt**

**Commonwealth of Massachusetts**  
**The Trial Court**  
**Probate and Family Court Department**

Division \_\_\_\_\_ Docket No. \_\_\_\_\_

**COMPLAINT FOR** ☐ **CIVIL** **CONTEMPT**  
☐ **CRIMINAL**

\_\_\_\_\_, Plaintiff v. \_\_\_\_\_, Defendant

1. Plaintiff resides at \_\_\_\_\_  
(Street address) (City/Town) (County) (State) (Zip)

2. Defendant resides at \_\_\_\_\_  
(Street address) (City/Town) (County) (State) (Zip)

3. By ☐ judgment ☐ order of the Court, dated \_\_\_\_\_ defendant was ordered

☐ to pay ☐ alimony and/or ☐ support for minor or dependent child(ren) in the sum of  
\$ \_\_\_\_\_ ☐ weekly ☐ monthly .

☐ to grant visitation rights with \_\_\_\_\_

☐ not to impose any restraint on the personal liberty of plaintiff

☐ to pay health insurance premiums for ☐ plaintiff and/or ☐ child(ren)

☐ to pay reasonable medical and dental expenses for ☐ plaintiff and/or ☐ child(ren)

☐ \_\_\_\_\_

and said ☐ judgment ☐ order is still in force.

4. Defendant has not obeyed that ☐ judgment ☐ order and

☐ is in arrears of court-ordered support payments.

☐ there now remains due and unpaid to plaintiff the sum of \$ \_\_\_\_\_ plus such further amounts as may accrue to the date of hearing.

☐ plaintiff has been denied parenting time on \_\_\_\_\_

☐ has violated the order on \_\_\_\_\_  
by \_\_\_\_\_

5. Wherefore, plaintiff requests that defendant be required to appear before this Court to show cause why defendant should not be adjudged in contempt of Court and for such other relief as the Court deems just.

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of attorney or plaintiff, if pro se)  
\_\_\_\_\_  
(Print name)  
\_\_\_\_\_  
(Street address)  
\_\_\_\_\_  
(City/Town) (State) (Zip)  
Tel. No. \_\_\_\_\_  
B.B.O. # \_\_\_\_\_

CJ-D 103 (10/07) C.G.F.

**Family Law Advocacy for Low and Moderate Income Litigants, 3rd Edition 2018**

**EXHIBIT 8F—Motion to Reduce Child Support**

Fill in the name of the  
County where the Court is

(County) Division

**Commonwealth of Massachusetts**  
**The Trial Court**  
**Probate and Family Court Department**

Fill in your docket number

Docket No. 99D1000-D1

YOUR NAME

Plaintiff/Petitioner

v.

**MOTION FOR**

TO REDUCE CHILD SUPPORT

THE OTHER SIDE'S NAME

Defendant/Respondent

Now comes YOUR NAME  
(name of moving party), the plaintiff/defendant/petitioner/respondent,

GIVE  
THE  
REASON  
WHY  
SUPPORT  
SHOULD BE  
REDUCED

in this action who moves this Honorable Court as follows: to reduce my child support order because

I was laid off from my job and I have less income because I am collecting Unemployment

Benefits. A letter from my prior employer verifying my layoff and a copy of my

Unemployment Benefits check are attached.

**NOTICE OF HEARING**

This Motion will be heard at the Probate & Family

Court in WHERE COURT IS LOCATED  
(city)

on DATE OF HEARING (WRITE IN)  
(month/day/year)

at  
(time of hearing)

(signature)

PRINT YOUR NAME

(PRINT name)

PRINT YOUR ADDRESS

(street address)

PRINT YOUR Town

(city or town)

(state)

(zip code)

Date: Tel. No. ( )

The within motion is hereby **ALLOWED — DENIED.**

Date

Justice of the Probate and Family Court

**INSTRUCTIONS**

1. Generally, refer to Mass.R.Civ.P./Mass.R.Dom.Rel.P. 6 and 7; Probate Court Rules 6, 29, and 29B.
2. If the opposing party is represented by an attorney who has filed an appearance, service of this motion **MUST** be made on the attorney.
3. Certificate of Service on Reverse side must be completed.
4. All motions shall be accompanied by a proposed order which shall be served with the motion.

CJ-D 400 (4/98)

## EXHIBIT 8G—Proposed Temporary Order

### SAMPLE PROPOSED TEMPORARY ORDER

A proposed temporary order must be filed with any motion you file for a temporary order. The proposed order tells the Judge what you want the Court to order. Type the proposed order or write it very neatly so the Judge can read it.

COMMONWEALTH OF MASSACHUSETTS  
THE TRIAL COURT  
PROBATE AND FAMILY COURT DEPARTMENT

*Fill in name of county  
where the Court is located*

*Fill in your docket number*

[County], ss

Docket No. 98D0017

\_\_\_\_\_  
THELMA ANN KLEIN

Plaintiff

v.

PROPOSED TEMPORARY ORDER

JUSTIN TYME,

Defendant  
\_\_\_\_\_

Until further order of the Court, it is ordered that:

1. Justin Tyme shall pay child support to Thelma Ann Klein in accordance with the Child Support Guidelines in the amount of \$350. per week by immediate wage assignment;
2. Justin Tyme shall maintain his HMO Blue health insurance coverage for Thelma Ann Klein and the parties' minor child, Calvin Klein.

Submitted by:

Date: April 1, 1998

\_\_\_\_\_  
Thelma Ann Klein  
123456 Whatever Street  
Parkplace, MA 12345  
(012) 345-6789

Certificate of Service

I certify that on April 1, 1998, I mailed a copy of the above proposed temporary order to Justin Tyme at 12345678 Mall Avenue, Someplace, MA 12345.

\_\_\_\_\_