

National Conference on Special Needs Planning and
Special Needs Trusts



Duty of Support for Minors

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STETSON LAW

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Overview of Child Support

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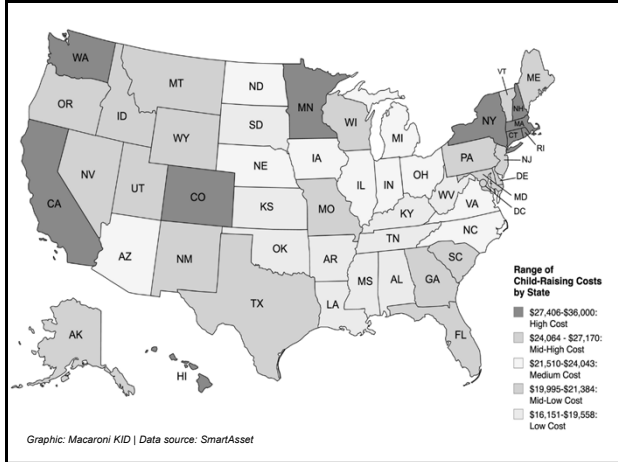
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How much does it cost to raise a child?




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Overview of Child Support

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Who is Eligible for Child Support

- Children until the age of majority are usually eligible for child support.
- Child support can be **extended beyond the age of majority for children with special needs**.
 - The majority of states permit extending support if a child's disability prevents them from being able to care for themselves and meet their daily needs upon turning 18, which is the age of majority, the court can require the parent obligated to pay child support to continue making support payments.
 - For example, Florida law permits the court to extend a child support obligation beyond the child's 18th birthday if the child is dependent on their parents due to a "mental or physical incapacity which began prior to such person reaching majority."

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Defining Child Support

- Child support is a **legal obligation** for parents to provide financial assistance for their children.
- Child support is for the child's financial benefit, though it is paid to the custodial parent to be used for the child's needs.
- The payments are intended to provide the child with necessities like **housing, food, clothing, healthcare, and educational expenses**, ensuring the child maintains a standard of living similar to what they would have had if the parents were together.
- The non-custodial parent makes payments to the custodial parent, who has the legal responsibility to manage and spend the money for the benefit of the child.

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Overview of Child Support

- Parents have a shared responsibility to support their child, regardless of the custody arrangement.
- The amount of custody time each parent has influences the determination of child support according to state guidelines.
- These guidelines assume that the primary caretaker will provide a larger financial contribution for the child's support.

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Goals of Child Support

- Financial Support for the Child
- Maintain Standard of Living
- Shared Parental Responsibility

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Objectives of Child Support

- Reduce Child Poverty and Insecurity
- Decrease Reliance on Public Assistance
- Promote Noncustodial Parent Involvement
- Support Positive Child Development

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Child Support Authority

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Parental Responsibility and Authority

Parental responsibility is the legal status that grants a person all the rights, duties, and authority over a child and their property, including making decisions about the child's education, health, and welfare.

Parental authority is the legal right and responsibility parents have to care for, raise, and make important decisions concerning their minor children until the child reaches adulthood or is emancipated.

- This includes duties such as providing for the child's well-being, education, and safety, as well as rights like deciding on major medical treatments, schooling, and residence.

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Child Support Authority

Both **state** and **federal laws** allow states to establish child support. While states primarily manage family law matters, federal legislation sets requirements for state programs and ensures enforcement across state lines.

- For example, in Florida, the **Department of Revenue (DOR)** is the primary state agency responsible for collecting and enforcing child support, with legal representation provided by the Attorney General's Office or other state-supplied attorneys in certain counties.
- The federal government, through the **Office of Child Support Services (OCSS)**, partners with state and local governments to administer and enforce child support orders.

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States and Child Support

- States derive their authority over family law matters like child support from their **general police power**, the authority to regulate for the health, safety, and welfare of their citizens. The U.S. Constitution does not explicitly address family law, so this power is reserved for the states.
- **State laws**, passed by legislatures and enforced by state courts, govern how child support is determined. A state's laws outline the specific guidelines, worksheets, and enforcement procedures to be used by its courts and state agencies.
- State **courts have continuing jurisdiction** to modify the amount of child support if it is found to be in the **"best interests of the child,"** based on changes in the parties' circumstances.

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States and Child Support, *continued*

Establishing and enforcing orders:

States and local entities are responsible for the day-to-day administration of child support, including establishing paternity, creating child support orders, and enforcing them through various legal tools such as motions for contempt and wage garnishment.

Modifications:

They also handle the modification of existing child support orders when a parent's circumstances change significantly.

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Federal Government and Child Support

The federal government plays a limited but essential oversight role in child support, primarily by providing financial support and establishing uniform national standards for state-run programs. It also intervenes on cases crossing state or international borders and penalizes the most serious offenders.

- An example of federal involvement was the Child Support Enforcement (CSE) program, which was enacted in 1975.
- It was established as a federal-state program under Title IV-D of the Social Security Act, with the primary goal of reducing public assistance costs by ensuring noncustodial parents provided financial support for their children.

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Determining Child Support

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Child Support Models

- The state designates a specific model for calculating child support.
- There are three child support models used in the U.S.
 - Percentage of Income Model
 - Income Shares Model
 - Melson Formula

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Percentage of Income Model

This model involves the non-custodial parent paying a set percentage of their income to the custodial parent.

- **For example**, in Mississippi, the non-custodial parent pays 14% of their adjusted gross income for one child, 20% for two, and so on.

One child	14% of AGI
Two children	20% of AGI
Three children	22% of AGI
Four children	24% of AGI
Five or more children	26% of AGI



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Income Shares Model

This is the most widely used model, which combines both parents' incomes to determine the total amount of child support required.

- The necessary amount is then divided between the parents based on their proportional share of the combined income.
- This ensures the child receives financial support in proportion to the combined resources of both parents.
- It assumes the parents would have contributed to the child's needs if they were together.



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Income Shares Model

The court then considers other factors, BEFORE the final child support order, including:

- **Adjustments made for time-sharing.** The court will adjust the child support amount to account for the extra expenses incurred by the parent with more time.
- **Adjustments made for other costs.** Other expenses like health insurance premiums, childcare costs, and unreimbursed medical expenses are also considered when calculating the final child support order.
- **Adjustments made for a child's special needs.** such as the child's special needs or extraordinary medical expenses, can also lead to deviations from the standard guideline amounts.



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Melson Model

The Melson Formula is a complex child support calculation method.

It is a complex version of the income shares model that includes an adjustment for a standard of living adjustment (SOLA).

- Used in three states: Delaware, Hawaii, and Montana



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Special Needs and Child Support

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Children with Special Needs

According to parent-reported data from the National Survey of Children's Health (NSCH), in 2018 roughly 13.6 million children in the United States, or 18% of all children under the age of 18, had a special healthcare need.

Depending on the nature and severity of a child's health condition, parents of children with disabilities are likely to have additional financial obligations related to a child's healthcare needs, supportive services or educational needs and, sometimes, higher costs for other general services.

A child's disability may also mean that the child may rely on parental support into adulthood, extending a parent's responsibility for economic and caregiving support well beyond the child's eighteenth birthday.

Source: Molly A. Costanzo, Institute for Research on Poverty University of Wisconsin-Madison and Maternal and Child Health Bureau, 2021



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Children with Special Needs and the Role of Child Support

According to a study by the Institute for Research on Poverty:

Custodial parents raising a child with a disability or special healthcare needs often bear additional economic and caregiving responsibilities compared to other custodial parents. This can result in increased economic insecurity for these families, making the receipt of child support even more important.

Source: Molly A. Costanzo, Institute for Research on Poverty University of Wisconsin-Madison



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Post-majority Support for Children with Special Needs

Only state statutes can require parents to support their child past the age of majority. However, parents can agree to provide support.

The majority of states contain provisions for child support to continue past the age of majority in special circumstances, including when the child has a disability.

Rationale for extending support past majority:

First, the custodial parent may continue to provide financial support for the child because the child may be unable to work. As a result, the non-custodial parent's financial obligation also continues.

Secondly, if parents stop providing for their child as they enter adulthood, and the child is unable to work due to a disability, the child is likely to rely on public benefits.

Source: Molly A. Costanzo, Institute for Research on Poverty University of Wisconsin-Madison



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Post-majority Support for Children with Special Needs - Process

- Parents or caregivers seeking continued support often file a formal request **before** the existing order terminates.
- The petition highlights the child's continued reliance on others for financial and personal support.
- Courts generally require detailed evidence, including professional evaluations, educational assessments, and proof of the child's long-term prognosis. Demonstrating the child's inability to work or manage essential tasks independently is an important part of this process.
- If the court finds sufficient evidence of prolonged need, it may modify or extend the original order.

Source: Source: Special Needs Children Under Child Support Laws, Child Custody and Support Center, Justia, 2025.



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Post-Majority Support for Children with Special Needs – **Expert Witnesses**

- When parents differ on whether a disability justifies extended support, testimony from medical professionals, mental health experts, or vocational specialists is typically introduced.
- These experts often assess the individual's functional capacity, daily care requirements, long-term needs, and realistic prospects for work or independent living.
- This testimony helps the court determine whether continued financial assistance is necessary.

Source: Source: *Special Needs Children Under Child Support Laws*, Child Custody and Support Center, Justicia, 2025.



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Post-Majority Support for Children with Special Needs - **Expenses**

- **Medical and Therapeutic Care:** This encompasses a wide range of costs, from doctor's visits and prescription medications to specialized therapies such as physical, occupational, and speech therapy. It can also include the cost of medical equipment, assistive devices, and home health care.
- **Educational and Vocational Needs:** This includes costs for necessary educational resources not provided by the public school system. Examples range from specialized tutoring and private schooling for a minor to vocational training, life skills programs, and post-secondary education for an adult.
- **Home and Vehicle Modifications:** To accommodate the individual's disability, modifications to a home or vehicle may be necessary. These significant one-time or ongoing expenses can be considered part of the support obligation.

Source: Source: *Special Needs Children Under Child Support Laws*, Child Custody and Support Center, Justicia, 2025.



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Post-Majority Support for Children with Special Needs – *Expenses, continued*

- **Specialized Personal Care and Supervision:** This care involves non-medical assistance with daily activities and ensuring the individual's safety. Costs often reflect the need for providers with specialized training and the level of intensive or one-on-one support required.
- **Transportation Costs:** Frequent transportation to medical appointments, therapy sessions, vocational training, or day programs can result in significant costs. These can include fuel expenses, vehicle wear-and-tear, or fees for specialized transport services.

Source: Source: *Special Needs Children Under Child Support Laws*, Child Custody and Support Center, Justicia, 2025.



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Special Needs Trusts and Child Support

A special needs trust (SNT) is crucial for managing child support for a child with disabilities, as it separates payments from the child's personal income to protect eligibility for government benefits like SSI and Medicaid.

- A court can order child support payments to be made directly into the SNT instead of the custodial parent, which is especially important if the child has support obligations that continue past the age of 18.
- This prevents the child support from being counted as income, thus safeguarding their access to essential aid. However, some courts may allow for a reduction in child support payments if a significant amount of the child's needs are met by the trust.

Source: Anne St. Clair, Special Needs Trusts, Autism Speaks, 2025.



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Special Needs Trusts and Child Support, *continued*

Expenses to plan for with the special needs trust:

- ✓ Medical, dental, or surgical expenses not covered by government benefits
- ✓ Enrichment programs for educational or recreational experiences
- ✓ Psychological or behavioral counseling and support
- ✓ Personal caregivers
- ✓ Transportation for medical and recreational purposes
- ✓ Entertainment such as magazines, movies, classes and gym memberships
- ✓ Physical therapy not covered by insurance or benefits

Source: Anne St. Clair, Special Needs Trusts, Autism Speaks, 2025.



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Children with Special Needs and Child Support, *Takeaways*

- ✓ Contact the child support enforcement agency to discuss modifying a child support order to address the child's disability-related expenses or post-majority support needs.
- ✓ Utilize legal aid organizations and disability advocacy groups to navigate the legal system and understand the rights of children with special needs, as well as their parents or guardians.
- ✓ Understanding the appropriate type of Special Needs Trust for child support is essential, along with the terms associated with these trusts.
- ✓ Since state laws and specific trust types can differ, it is crucial to consult with an experienced attorney for proper planning. This will help protect the child's eligibility for benefits and ensure their long-term financial stability.

Source: Anne St. Clair, Special Needs Trusts, Autism Speaks, 2025.



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THANK YOU!



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