



Incarceration, Re-Entry and
CHILD SUPPORT

*Information for Incarcerated Parents and
Parents Returning to the Community*

CHILD SUPPORT ■ ESTABLISHING PATERNITY ■ VISITATION ■ DNA TESTING ■ RESOURCES

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THE TEXAS OFFICE OF THE ATTORNEY GENERAL (OAG)

believes that
children need
love and support
from both
parents.

While you are incarcerated,
do everything you can to show your children
you love them, care about them
and support them.



This booklet answers common questions you may have about how to handle your child support case while you are incarcerated and what to do when you are released. The booklet also includes definitions of child support and legal terms. Terms in **boldface type** are defined in the definitions section starting on page 8.

The OAG welcomes questions about your Texas child support cases. Please check the following two lists to see what information and services we can and cannot provide while you are incarcerated.

THE OAG CAN PROVIDE:

1. Basic information about your **child support** case.
2. The terms of your **order** (such as monthly child support payments and total arrears owed).
3. A review of your case to see if you are eligible for a **child support modification** (upon your request).
4. The address and phone number of the child support office handling your case.
5. Information on how to establish **paternity** for your child if you weren't married to the other parent when the child was born.
6. The state of Texas child support guidelines (how the child support amount is calculated by state law).

In some cases, we may be able to forward a letter for your child to the **custodial parent**, if you do not know the custodial parent's address, and you have an open child support case. The custodial parent will be given your contact information. These letters should be mailed to the child support office handling your case.

THE OAG CANNOT:

1. Change custody or enforce visitation.
2. File a Termination of Parental Rights petition.
3. Give you the address of your children or the other parent.
4. Perform DNA testing if you signed an Acknowledgment of Paternity (AOP), or if there is an existing child support order.
5. Answer questions other than child support inquiries.
6. Obtain information from the court if you do not have a case with the OAG.

7. Transport you to court, for a hearing or request a bench warrant on your behalf.
8. Lift a bench warrant.
9. Stop the interest on your arrears.
10. Provide legal advice or an attorney.

QUESTIONS ABOUT PATERNITY

What does paternity mean?

Paternity means legal determination of fatherhood.



For Married Parents...

When a baby is born to married parents, Texas law automatically recognizes the husband as the father. Married couples do not do anything to establish paternity.

For Unmarried Parents...

When a baby is born to parents who are not married to each other, Texas law does NOT automatically recognize the biological father as a legal parent. Biological fathers must establish paternity to become legal parents and gain legal rights to their children.

How can the paternity of a child be established?

When the mother and father agree, they can voluntarily establish paternity by signing an Acknowledgment of Paternity (AOP). An AOP establishes the father's legal relationship with the child when it is filed with the Texas Vital Statistics Unit (VSU).

When parents do not agree, paternity can be established by the courts. Either parent can open a child support case with the Office of the Attorney General to establish paternity. DNA testing can be requested to use as evidence for the court. The judge for the child support case will rule on paternity, child support and parenting time (visitation). Incarcerated parents can request to establish paternity through the Office of the Attorney General's Child Support Division by completing the Inquiry Form on the back of this publication.

How does a father's name get on his child's birth certificate?

The father's name can be listed on the child's birth certificate, once paternity is established. Paternity is established either through a court order or when an AOP is completed and filed with the Texas Vital Statistics Unit (VSU). If the birth certificate does not list the father's name, then parents can contact the VSU after paternity is established either voluntarily (through an

AOP) or by order of the court. The Vital Statistics Unit can provide instructions on how to complete their form number VS-166, titled "Application for New Birth Certificate Based on Parentage".

What if the incarcerated parent wants to sign the AOP?

If the incarcerated parent and the other parent both agree that they want to sign an AOP, the parent who is not in prison can contact staff at the local child support office, or call 1 (866) 255-2006.

What are the legal benefits of establishing paternity?

Establishing paternity has many benefits for children and parents. The most important benefit for children is knowing that they have a father who wants to be in their life. Once paternity is established, the child has all the same legal rights to the mom and dad as a child born to married parents. For example, the **legal father's** name can be listed on the child's birth certificate, giving the child a sense of identity and the possibility of connecting with the father's family and knowing the father's family history. Establishing the legal bond between a father and his child makes it possible for a child to receive financial or medical benefits and inheritance from the father.

How do you change the child's last name to the father's last name?

If paternity is established for a very young child through the completion and filing of an AOP, a name change may be possible through the VSU. If paternity is being established through the court, parents can ask the court to change a child's last name to the legal father's last name when the paternity order is finalized. Otherwise, parents may submit a separate petition (request) to the court to change the child's name.

What if I change my mind after I sign the AOP?

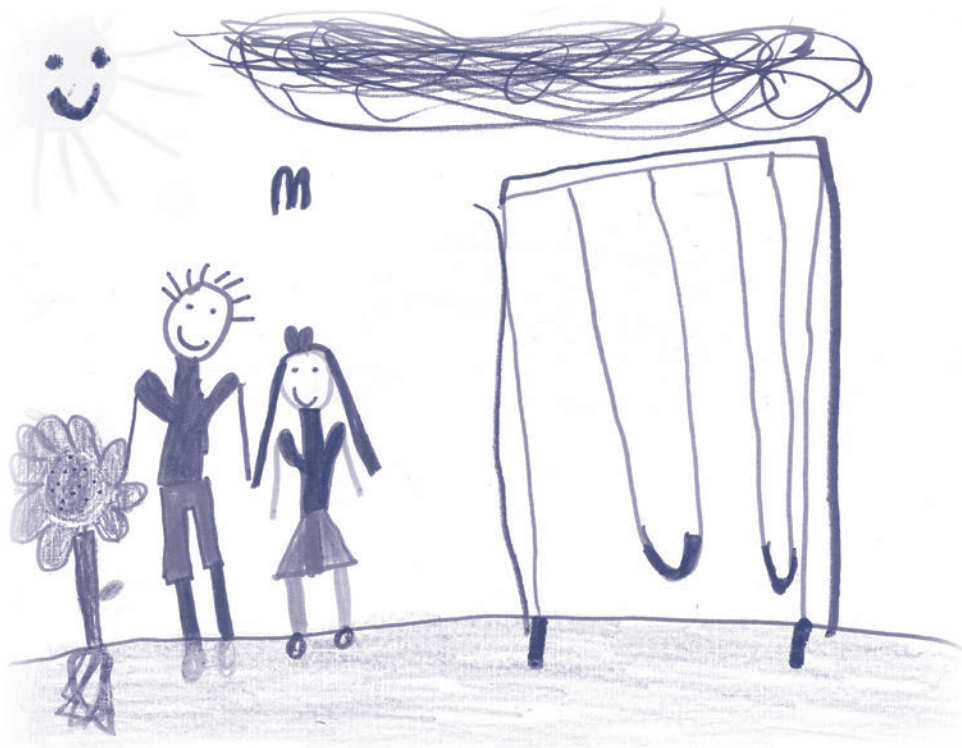
It can be very difficult for an incarcerated parent to **rescind** or challenge an AOP.

Depending on the situation, a person may be able to follow a very specific and time-sensitive process to rescind (take back) the AOP or challenge the AOP in court. If you have been recently released and wish to find out more about how to rescind or challenge an AOP, visit texaslawhelp.org, click [Families and Kids] and then click [Paternity].

What if I'm not sure who is the biological father of the child?

If either parent has a doubt about who is the child's biological father, neither should sign an AOP. Parents should get a genetic test to confirm who the child's biological father is before signing an AOP. Once parents get the results of the genetic test, they may then complete an AOP or go to court to establish the biological father as the legal father of the child.

In many instances, if paternity has not already been established, genetic testing may be provided at no cost by opening a child support case with the Office of the Attorney General (OAG). The OAG will not provide genetic testing to parents who have already established paternity through a court order or by completing an AOP. Parents who can access genetic testing through an accredited private lab or over-the-counter kit from a pharmacy may be able to identify the biological father without opening a child support case. However, over-the-counter kits cannot be used as evidence in a court proceeding.



QUESTIONS ABOUT CHILD SUPPORT

Can I open a case with the Office of the Attorney General?

The OAG accepts applications from mothers, fathers, caregivers, and alleged fathers. OAG attorneys represent the state of Texas in providing child support services for the benefit of the children and do not represent either parent in the case.

We think of ourselves as still being together as a couple, so why do I have a child support case?

A child support case was opened because the other parent and your children do not live with you. If the custodial parent (CP) applies for Temporary Assistance for Needy Families (TANF) or Medicaid, the state may proceed with a child support case even when the CP does not want child support.

How does the court decide how much child support I will pay?

Texas law sets the following general guidelines for child support payments. The percentage is applied to the **net resources** of the noncustodial parent.

- 20 percent for one child
- 25 percent for two children
- 30 percent for three children
- 35 percent for four children
- 40 percent for five children
- Not less than 40 percent for six or more children

Special rules apply if you have children in more than one household.

I have remarried, and my spouse makes a very good living. Will the child support office take my child support out of my spouse's earnings? Will my spouse's income be counted when my child support amount is calculated?

No. Child support cannot be taken out of a spouse's check or earnings. A new spouse's income will not be added to your net resources when calculating the amount of child support to be paid.

I have children with different mothers. How will the court determine the amount of child support I need to pay?

When you have children in different households, the court uses a multiple household formula to determine the amount of support you must pay. It is important that you let the judge or child support review officer know that you are legally responsible to support other children who have a different mother.

What should I do if I have a child support case when I enter prison?

If you have a child support case, provide the office that is handling your case with your current address. By doing this, you will receive monthly updates that show how much you have paid and how much you owe in past-due support. Be aware that court-ordered child support does not automatically stop when parents are incarcerated. The only way to stop or change the court ordered amount of child support is to ask the court to change the order. Some parents choose to represent themselves (pro se) and file all the necessary paperwork to ask the court to modify their order, but others may want to hire a private

attorney to help with the process. Parents with a child support case with the OAG can ask for a "review and adjustment" of their order. If you want to see if your case qualifies for a lower monthly child support payment, send in the form on page 13 of this booklet, or contact your local child support office and ask for an "Incarcerated Non-Custodial Parent Affidavit of Income/Assets."

Remember: If you are able to send in all or some of your child support payments, send payments through the State Disbursement



Unit. Child support given directly to the other parent is not automatically credited to your child support case, and courts may consider direct payments as “gifts.”

My case was established while I was in prison. What can I expect?

In 2015, the Texas Legislature passed a law stating that if an individual is confined in a local, state or federal jail or prison for a period that exceeds 90 days, the court should consider your actual income earned when setting your support obligation. Therefore, if your support obligation was established on or after September 1, 2015, and you were incarcerated when it was established, it is likely that your support obligation was set at zero dollars as long as you had no other evidence of financial resources. A copy of your court order should have been mailed to the address that the OAG had on file for you. If you did not receive a copy of your order, you may be able to receive a courtesy copy from the local office, or you can request a copy from the district clerk’s office in the county where the order was filed.

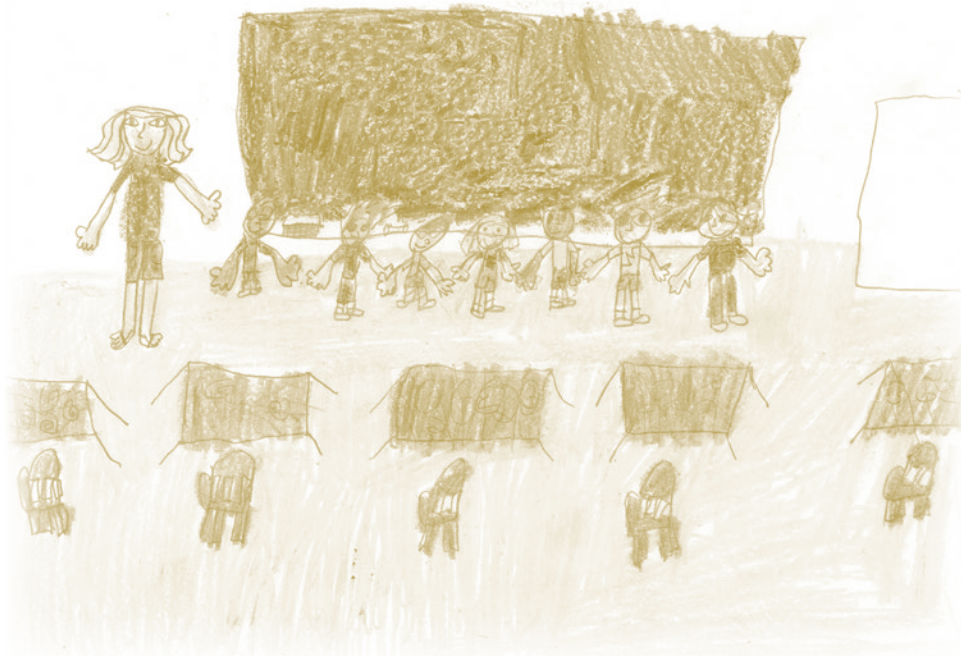
If I am in prison, I cannot work. Why doesn’t my child support order change automatically?

The OAG cannot automatically change your child support; only the court that has jurisdiction in your case can change the amount of child support you are required to pay. The court will consider changing the child support amount after the correct legal papers are filed. The court also must allow the other parent an opportunity to present evidence that can affect the court decision. Due to the 2015 legislation, incarceration greater than 90 days is considered a substantial change in circumstances. This allows the court to consider your actual earned income during the legal process to change your child support order.

How can my child support order be changed?

If you want the court to change your child support order while you are in prison, legal papers must be filed in court. One way to see if the court will change your order is by completing the OAG’s

Incarcerated Noncustodial Parent Affidavit of Income/Assets form and returning it to our office. On this form you will be asked to provide financial information and a notarized statement that can be given to the court for evidence. The completed forms do not guarantee that your child support will change, but they may get your case in front of the judge and then the court can make a decision. You can also hire a private attorney to file papers with the court.



Remember that the amount you owe doesn’t change until the court makes a ruling. Also, interest is added to child support that goes unpaid while you are in prison. If you are able to pay all or even some of the child support due while you are incarcerated, you can send payments to Texas Child Support Disbursement Unit, P.O. BOX 659791, San Antonio, TX 78265. To request the Incarcerated Noncustodial Parent Affidavit of Income/Assets, complete the Inquiry Form on the back of this publication, and mark the box that says you would like a review of your child support case.

What happens to my child support payments while I’m in prison?

If you are the custodial parent, and you do not contact the OAG, payments will continue to be sent through the payment method you selected: by direct deposit to a bank account or debit card, or by mail to the address previously provided. The OAG will continue to send your child support payments to you unless a **court order**

redirects them to another person. For example, the court may order that payments go to the person with physical custody of your children while you are incarcerated.

If you are the noncustodial parent, your child support obligation will remain the same unless a request is made by either party of the case to have the child support modified by the court.

While I'm in prison, can the child support I receive go to the person who is taking care of my children? If so, what should I do?

Yes, your child support can go to the person caring for your children. There are two ways to redirect child support to a child's caregiver. One way is by completing an "Authorization for Release of Information and Payment" and returning it to the OAG. Include the name of the person who has the child(ren) and should receive the payments.

Also, the person with physical custody can apply for child support services to ensure payments can be made directly to them. Then, the OAG will seek a child support order to direct the child support payments to that person. Caregivers must provide proof that the children live with them before the OAG can file a legal motion to redirect child support. Examples of proof include the children's school, daycare records or an affidavit of possession. The court will likely consider you as a noncustodial parent and order you to pay support as well.

Where can I get help with my child support or information about my child support case?

If you are incarcerated, the law library is a good place to start. The law librarian can give you the "Child Support Inquiry Form for Incarcerated Parents." All requests for information about child support or your child support case must be made on this form. Please allow 60-90 days for a response.

You may also allow a third party (attorney, spouse, parent, other trusted friend, etc.) authorization to receive information about your case. This person will be able to assist you by obtaining information such as the status of your case, a copy of your child support order, or payment records over the phone or at a local child support office on your behalf. You can authorize a trusted

person to take actions and receive information on your behalf by completing the "Authorization for Release of Information and Payment" and returning it to the OAG. Include the name of the person who is to receive the authorization.

QUESTIONS ABOUT CUSTODY AND VISITATION

Does the OAG handle custody and visitation problems?

The Office of the Attorney General is not authorized to handle custody or visitation disputes. After incarceration, the Access and Visitation Hotline can provide parenting time (visitation) resources that may help reunite and resume parenting time with your child(ren). The hotline number is (866) 292-4636. The hotline is answered in English and Spanish, Monday–Friday, 1–7 p.m.

Are fathers treated differently from mothers in child support matters?

No. Texas law focuses on the best interest of the child.

What should I do if I believe my child is being abused?

Call the Department of Family and Protective Services at (800) 252-5400. If you do not have access to a phone, ask someone else to make the call for you.



QUESTIONS UPON RELEASE FROM INCARCERATION

Most people need time to get on their feet after leaving prison. The OAG may be able to temporarily delay certain enforcement actions when parents provide evidence that they are looking for a job and making some child support payments. It's important to make an appointment with a child support office upon release from prison. You may request a review of your court order when you return to work, or if you reunite with your child's other parent.

Are there any services available to help me get a job so I can pay my child support?

You can go to the Texas Workforce Commission's (www.twc.state.tx.us/jobseekers) local workforce development board for job search help, skills training and employment support services. You also may dial 211 or search the Internet for referrals to educational, literacy or parenting classes; or referrals to substance abuse counseling. In some cases, the court may order a noncustodial parent who is behind on child support payments to take part in one or more of these services.

The OAG offers a program called NCP Choices that helps non-custodial parents who are unemployed or underemployed find self-sustaining work. The OAG partners with the Texas Workforce Commission (TWC) to offer noncustodial parents one-on-one services that include opportunities to participate in skills and training classes to help boost employability. Ask a child support staff person how you can be enrolled in the NCP Choices program, once released.

What can I do about my child support case once I am released from prison?

- Contact the child support office handling your case and provide your new phone number, address and employment information. If you are living in transitional housing, let the office know how much of your **income** is deducted to cover the expense. Remember that the more information you provide, the easier it is for the child support office to make informed decisions about your case.
- Pay child support regularly while you are looking for work. Even if you can't pay the full amount, pay what you can.

- Let your child support office know about your job search efforts, and find employment before enforcement action is taken.
- Notify the child support office as soon as you get a job so that the office can send an order to your employer to automatically deduct child support from your pay check, and send it to the Texas State Disbursement Unit.
- Visit the Texas Attorney General website, click on Child Support and then on Family Initiatives to find out about family-focused programs offered by the Child Support Division.

Visit www.texasattorneygeneral.gov/cs/helpful-web-sites for additional links to outside programs and resources.

My child support order was modified during my incarceration. Now that I am out, will my monthly payment change?

If your child support order was lowered while you were in prison, the court will consider your release from prison as a reason it can change your child support order. After your release from prison, the amount you pay in child support will likely increase to reflect your actual earnings or your earning capacity.

Do I have to go to court to get my child support modified when I get out of prison?

Not always. In some cases you may be eligible for the **Child Support Review Process (CSRP)**, which is one way to handle legal issues on your child support case without going to court. During a CSRP, both parents are given the opportunity to meet with a child support officer at a local child support office to establish a legal order. Ask a child support office if you are eligible.

How do I take care of my past-due child support?

If you did not pay your child support in full each month before incarceration and/or did not have your court order modified while incarcerated, you will likely have past-due child support (arrearage). The interest on unpaid support accrues at 6 percent annually even during incarceration. If your children are under the age of 18, you will have a monthly arrearage payment in addition to your current monthly child support obligation. Arrearage remains in place until paid in full.

Reach out to your local child support office, and ask to set up a manageable payment plan to pay down the arrears. It is important to communicate with the child support office anytime you have major changes to your income or financial situation. Staying straight with child support means paying on time, every month, and in full, but sending in some amount of child support on a consistent basis is better than not sending anything at all.

CONTACT INFORMATION FOR USE AFTER INCARCERATION

BY U. S. MAIL

Office of the Attorney General

Child Support Division

P. O. Box 12017

Austin, TX 78711-2017

ON THE INTERNET

website: www.texasattorneygeneral.gov

BY EMAIL

Log into CS Interactive: childsupport.oag.state.tx.us

BY TELEPHONE

Customer Service Centers (800) 252-8014

Paternity Opportunity Program (866) 255-2006

24-HOUR PAYMENT AND CASE STATUS INFORMATION

(800) 252-8014

FOR THE DEAF AND HARD-OF-HEARING

(800) Relay-TX

(800) 735-2989

CHILD SUPPORT DEFINITIONS

Accredited private lab – A lab accredited by the American Association of Blood Banks to perform genetic testing to determine whether a man is the biological father of a child

Accrual – Sum of child support payments that are due or overdue

Amend the birth certificate – A special request made to the Texas Vital Statistics Unit that allows parents to change information on a child's birth certificate

Arrearage – Past-due, unpaid child support owed by the noncustodial parent

Acknowledgment of Paternity (AOP) – A document that unmarried parents can voluntarily sign to establish legal paternity for their child without going to court. The form does not establish child support or resolve custody and visitation.

Case – A collection of people associated with a particular child support order, court hearing, and/or request for IV-D services. This typically includes: a custodial parent (CP), one or more children, and a noncustodial parent (NCP) and/or presumed father (PF). Every child support case has a unique Case ID number.

Case ID – Unique identification number assigned to a child support case

Child support modification – A court-ordered change to a child support order, which can include your child support payment amount being lowered or raised

Child support – Financial support paid by a parent to help support a child or children of whom they do not have primary custody

Child Support Review Process (CSRP) – OAG expedited administrative actions to establish, modify, and enforce child support and medical support obligations, to determine parentage, or to take any other actions authorized under Title IV-D of the Social Security Act

Court order – It is a legally binding document issued by a court of law. A court order related to child support can dictate how often, how much, and/or what kind of support a noncustodial parent must pay and how long he or she must pay.

Custodial parent (CP) – The person who has primary care, custody, and control of the child, also referred to as the obligee

Dependent – A child who is under the care of someone else. Most children are dependents. The child ceases to be a dependent when he or she reaches the age of 18, as determined by state law, but depending on the state's provisions, may remain eligible for child support for a period after he or she turns 18 years of age.

Default judgment – A judgment entered when a person fails to respond to a legal action or fails to appear in court even though the person was notified of the legal action and court date

Genetic testing (DNA testing) – Analysis of inherited factors to determine whether a man is a child's biological father

Guidelines – A standard method for setting child support amounts based on the income of the parent(s) and other factors determined by state law

Income – Any periodic form of payment to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, pension, or retirement program payments and interest

Legal father – A man who is recognized by law as the male parent of a child

Material and substantial change – A serious and meaningful change – something that makes enough of a difference to the family's situation that it justifies a review of the child support order

Monthly support obligation – The amount of money a noncustodial parent is required to pay per month

Net Resources – Income and earnings minus allowable deductions, such as federal taxes

Noncustodial parent (NCP) – The parent who does not have primary care, custody and control of the child, also referred to as the obligor

OAG – Office of the Attorney General

Obligated – A term meaning that a noncustodial parent (NCP) is required to meet the financial terms of a court or administrative order

Obligation – Amount of money to be paid as support by a noncustodial parent (NCP). It can take the form of financial support for the child, medical support or spousal support. An obligation is recurring and ongoing. It is not a one-time debt.

Order – Direction of a magistrate, judge or properly empowered administrative officer

Paternity – Legal determination of fatherhood

Rescind – To cancel – refers to a change of mind after signing an Acknowledgment of Paternity (AOP) and must be filed as a petition with the court within 60 days of filing AOP documents with the Vital Statistics Unit

Review and adjustment packet – A Texas Child Support Division forms packet. The packet may be automatically sent once every three years while the child support case is open, or may be sent when a parent requests a review of the child support obligation, and includes questions about each parent's financial and family situation.

Visitation provisions – Language in a court order that says when a parent has parenting time (visitation) with the child(ren) listed on the court order

IMPORTANT FORMS INSTRUCTIONS

Please read this page before completing any of the attached forms. These instructions describe your responsibilities, legal uses for the information received and how to properly complete and submit each for review and processing.

INQUIRY FORM FOR INCARCERATED PARENTS

Completing this form tells the OAG that you would like information on your case or are requesting the OAG review your case for possible legal action on your behalf. With this form you can request:

- the address and phone number of the child support office handling your case,
- that your existing child support case be reviewed to see if you qualify for a lower monthly child support payment, and
- to establish paternity for a child that you believe is your biological child.

The inquiry form is only the first step. Additional information and evidence will be requested from you before your case can be determined eligible to file for court.

This form should be completed by parents in city/county, state or federal custody only. One inquiry form should be completed per case. If you have more than one child support case, a separate form should be used for each case and submitted to the Office of the Attorney General. The OAG will only provide information or take action on the cases that you indicate. Return the completed form to the following address:

Office of the Attorney General
Child Support Division
P.O. Box 12017, Mail Code 038
Austin, TX 78711-2017

AUTHORIZATION FOR RELEASE OF INFORMATION AND PAYMENT

Completing the Authorization for Release of Information and Payment form authorizes the person or company (private attorney or private collection agency) that you designate to receive information about your case on your behalf or to receive child support payments that would otherwise have been directed to you. Below are some of the conditions that must be met for OAG to properly work the child support case. Failure to follow these guidelines may result in our taking appropriate action as permitted by federal regulations.

- All case information provided to a third party must be used for child support purposes only.
- All requests for information must be answered within the time frame specified. All payments must go through the Texas Child Support Disbursement Unit before being distributed to a private collection agency or private attorney.
- Any changes in arrears must be approved by our office.
- Non-cash child support must be approved by our office.
- We must be provided with the timely notice of each order, writ or lien entered in the case by your representative.

To authorize the release of information and/or child support payments to another party, complete the enclosed Authorization for Release of Information and Payment form.

Return the completed form to the following address:

Office of the Attorney General
Central File Maintenance
P.O. Box 12048
Austin, TX 78711-2048

AUTHORIZATION FOR RELEASE OF INFORMATION OR PAYMENTS

Print your current name: _____

Other names you have used: _____

Name of the other party in the case: _____

Names of all children on this case: _____

OAG Case Number (10 digit number included in OAG correspondence about this case): _____

Phone number where you can be contacted:(____) _____

- home
- work
- cell
- relative or friend

You do not have to redirect your payments in order to release information or records. The two choices provided below are independent of each other.

By submitting this completed, signed, and dated form, I authorize and request the Office of the Attorney General (OAG) to do the following: (You must place your **initials** next to each item that applies.)

Release information or records on my case
(OAG number given above)

This person is (check one)

- my attorney
- a private collection agency
- a representative that I am designating.

Initials: _____

Name : _____

Phone Number: _____

Address : _____

City, State: _____

Zipcode: _____

OR

Send any payments on my case (OAG number given above) to the person I am naming below. I understand that this may delay my receiving my payment. I also understand that this revokes any direct deposit authorization that I have already given to the Office of the Attorney General.

Initials: _____

This person is (check one)

- my attorney
- a private collection agency
- a representative that I am designating.

Name: _____

Phone Number: _____

Address: _____

City, State: _____

Zipcode: _____

I understand that this authorization automatically expires if the case is closed. I may choose to revoke this authorization at any time by submitting a completed, signed, and dated Revocation of Authorization for Release of Information or Payments.

I understand that the Office of the Attorney General of Texas is not responsible for disputes between the listed party and me as a result of this arrangement. (Please note the date of your signature is required.)

Signature _____

Date (required) _____

Address _____

City, State, ZIP _____

INQUIRY FORM FOR INCARCERATED PARENTS

Read the section below carefully before completing this form. If you have multiple cases, use one form for each case.
(Photocopies are acceptable).

(Please print)

NAME (Last, first, middle): _____ INMATE#: _____

FACILITY NAME: _____

FACILITY ADDRESS: _____ CITY/ZIP CODE: _____

SOCIAL SECURITY NUMBER: _____

ATTORNEY GENERAL CASE NUMBER: _____

COURT CAUSE NUMBER & COUNTY OF JURISDICTION: _____

OTHER PARENT'S NAME: _____

NAME OF CHILD(REN): _____

DATE OF ENTRY: _____ DATE OF RELEASE: _____

PLEASE CHECK **ONLY** THE LINES YOU WANT US TO RESPOND TO:

____ I would like the address and phone number of the child support office handling my case.

____ I have a child support case, and I am requesting that it be reviewed to see if I qualify for a lower monthly child support payment.

____ I was not married to the mother/father of my child _____ (child's name) and would like to establish paternity (legal fatherhood) for this child.

NOTE: Requests for information not listed above will not be answered. State and federal law limits the release of certain information on child support cases.

SIGNATURE _____ DATE _____

MAIL TO:

Office of the Attorney General
Child Support Division
Mail Code 038
P. O. Box 12017
Austin, TX 78711-2017



