

What if an incarcerated parent has no income or assets to pay child support?

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- ❖ Read this only if you live in the state of Washington.
 - ❖ You can find the fact sheets and packets we link to at WashingtonLawHelp.org.
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Should I read this?

Yes, if

- you are entitled to receive child support from a person who is incarcerated for at least 6 months and who has no income or assets to pay child support.

OR

- you are the person in the scenario above who owes the child support.

In either case, you can now ask that your child support payments be temporarily lowered to \$10 per month. This reduction is called “**abatement**.”

This is a new law as of February 1, 2021. It applies to **existing** child support orders and **new** – post February 1, 2021 – child support orders. It applies to superior court orders and “administrative” orders of the Division of Child Support (DCS).

An incarcerated parent who was sentenced to 6 months was released early. Does that parent lose the abatement?

No. A parent needs to have been incarcerated **or** sentenced for 6 months. Early release does not disqualify a parent.

I have a child support order dated before February 1, 2021. How do I ask for this abatement?

It depends.

- If you have a court order of support, and DCS is collecting it for you (this is common), contact DCS right away.
- If you have a court order of support and no state involvement in your support case, you can apply with DCS to collect support for you or you can file a new court case on your own. You will probably find it easier to apply for DCS' services.
- If you have an administrative order from DCS, see [Asking DCS to Review Your Child Support Order for Modification](#).

Abatement will not happen if the incarcerated parent is released from custody before the process can be completed.

This abatement process is new. There will probably be many requests. It may take time for DCS to process your request.

Will every incarcerated parent owing child support get this abatement?

No, but the law favors the incarcerated parent. The new law presumes that an incarcerated parent cannot pay what they were ordered to pay.

If the paying incarcerated parent asks for the abatement, the parent who gets the support or DCS has a chance to prove that the paying parent has the ability to pay despite being incarcerated.

When should someone ask for an abatement or contact DCS to let them know the paying parent is incarcerated or is going to be?

Right away. The earlier abatement is requested, the sooner an abatement can happen.

I am paying support under 3 different orders. Do I have to make 3 separate requests for abatement?

Maybe not. If you owe child support under multiple orders because you have children with more than one other person, you may only need to make one request for abatement with DCS. Your one request will apply to all support orders **being**



enforced by DCS. DCS will still look at each individual order to see if abatement is appropriate for each.

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- ❖ Abatement is temporary. Getting a court to order a modification of your child support orders can get you more long-term relief. A modification may make more sense for you than abatement if you support children under different orders. See our [File a Petition to Modify a Child Support Court Order](#) packet.
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The children are not living with the person who is supposed to be getting support under our order. Does it matter?

Yes. Any other person entitled to receive support for the children must also get notice and an opportunity to be heard about the potential abatement of support.

When does the person go back to paying more support?

The new law eases the person back into paying higher amounts gradually:

- 1. Starting the 1st day of the 4th month after the person's release,** the support obligation becomes one-half the original amount ordered. It has to be at least \$50 per month per child.
- 2. Starting one year after release,** the support amount goes back to the original amount ordered.

If the paying person asks for the abatement, the person who gets the support is entitled to notice and an opportunity to be heard.

For legal help:

- **Outside King County:** Call the CLEAR Hotline at 1-888-201-1014 weekdays from 9:15 a.m. - 12:15 p.m.
- **In King County:** Call 2-1-1 for referral to a legal services provider weekdays from 8:00 am – 6:00 pm.
- **Apply online with [CLEAR*Online](https://nwjustice.org/get-legal-help) - nwjustice.org/get-legal-help**



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- **Persons 60 and Over** can call CLEAR*Sr at 1-888-387-7111, statewide.
- **Deaf, hard of hearing or speech-impaired callers** can call CLEAR or 211 (or toll-free 1-877-211-9274) using a relay service of your choice.

CLEAR and 211 will provide free interpreters.

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