

Child Support and Domestic Violence

A Guide for Courts

Center for Court Innovation

520 Eighth Avenue
New York, NY 10018
p. 646.386.3100
f. 212.397.0985
courtinnovation.org

Author

Kate Wurmfeld
Center for Court Innovation

Darren Mitchell
Consultant, National Council of Juvenile and Family Court Judges

Acknowledgements

This project is supported by grant 2015-TA-AX-K023 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of the U.S. Department of Justice.

Table of Contents

Overview	3
General Guidance and Key Elements	3
Leadership	
Collaboration	
Multiple Entry Points	
Cultural responsiveness and meaningful access for all	4
Procedural Justice	
What Courts Can Do	5
Consider co-location with child support agencies	6
Train judicial officers about child support	
Increase self-represented survivors' understanding of and access to child support	
Enhance judicial officers' response to requests for child support	7
Enhance judicial officers' ability to monitor compliance and facilitate	8
Take steps to ensure the safety of the child support process for survivors	
Examples in Practice	9
Alaska	
California	
Hennepin County (Minneapolis), Minnesota	
Miami-Dade County, Florida	
Pickens County, Georgia	10
Texas	
Washington, D.C.	
Resources	10
Endnotes	11

Overview

WHY INCREASING SAFER ACCESS TO CHILD SUPPORT IS SO IMPORTANT FOR SURVIVORS OF DOMESTIC VIOLENCE

Economic insecurity plagues many domestic violence survivors, long after they have separated from their abusive partners. Lack of financial resources undermines survivors' ability to leave and begin a new life. In many cases, survivors have a hard time achieving financial independence after enduring economic abuse by partners who have sabotaged their jobs, encumbered them with debt, or ruined their credit scores.

In addition to jeopardizing the safety of survivors and their children, economic insecurity may lead to additional adverse outcomes, including poor health and housing instability.¹

For survivors with children, child support can help them to achieve financial stability and independence. For those with income below the poverty level, child support represents nearly half of custodial parents' income.² Unfortunately, obtaining a child support order and subsequent enforcement may be fraught with difficulty. At best, the child support system is complex and confusing. At worst, it requires survivors to take steps that endanger them and their children.

This guide outlines how courts can work with child support agencies to provide domestic violence survivors with the support they need to make informed, voluntary decisions about whether to pursue child support, and to make the process safe and effective for those survivors who choose to pursue it.

Key Elements

LEADERSHIP

Improving a process as complicated as child support demands the concerted effort of a diverse group of partners. Strong, effective leadership is critical to garner the necessary buy-in and to manage and sustain the effort. Such leadership does not have to come exclusively from the court or child support agency—ideally, they can partner with other provider agencies to assume joint leadership of the work.

COLLABORATION

No single individual or agency is in a position to assess current practices and develop and implement effective changes alone. We suggest that as a community begins to develop a plan to assess and improve its child support system's response to domestic violence, everyone with a stake should be identified and recruited to join the effort. Participants should have a full seat at the table and be encouraged to contribute meaningfully to the work, in an environment of mutual respect and trust. Early meetings can focus on the shared goals of facilitating safe access to child support and understanding the challenges in the system for survivors of domestic violence.

MULTIPLE ENTRY POINTS

Domestic violence survivors have multiple possible entry points into the legal system. Everyone working with survivors, whether they are part of the justice system or a community-based organization, should be able to provide survivors with information about how to take advantage of protective measures if they choose to pursue child support. In addition,

they should be able to provide or refer victims to legal representation or other assistance, so that no matter what entry point they choose, survivors can obtain the support they need.

CULTURAL RESPONSIVENESS AND MEANINGFUL ACCESS FOR ALL

To be accessible to all families seeking child support, everyone in the system must be welcoming and responsive to individuals from all cultures. Individuals from underserved or marginalized groups may have legitimate distrust of the child support system and perceive it as punitive and unsympathetic to their financial struggles.³ Agencies should work with culturally specific community organizations and take steps to assess and improve their cultural responsiveness. Agencies must also strive to provide meaningful access to community members with limited English proficiency, who are deaf or hard of hearing, and whose physical and/or cognitive disabilities impair their ability to pursue legal relief.

PROCEDURAL JUSTICE

Procedural justice refers to litigants' experience of court and other justice-system procedures. Research demonstrates that litigants feel more positive about court outcomes when the following elements of procedural justice are present: voice, respect, neutrality, understanding, and helpfulness. Studies in a variety of court contexts have established that ensuring procedural justice can produce positive outcomes, including enhanced compliance with court orders, greater public trust, and reduced recidivism. In the child support context, incorporating procedural justice principles in court programs can increase child support payments, reduce negative consequences, and build healthy parent-child relationships.⁴

What Courts Can Do

Courts, whether as part of a civil protection order case or in long-term family court cases (e.g., paternity or divorce/dissolution), play a primary role in providing parents with safe and effective access to child support. Courts foster informed participation by litigants in the child support system, help keep parents and children safe throughout the process, and monitor compliance with and facilitate enforcement of support orders.

Courts are obliged to remain neutral and impartial in the administration of justice. However, this obligation does not prevent coordination with other participants in the child support system or providing information to the parties to further the effective administration of justice. We encourage courts to explore creative approaches to coordination and increasing litigants' understanding of their rights and obligations in child support cases, in a transparent, even-handed manner that preserves the neutrality and the perception of neutrality among all participants and the public. We recognize that this is not always easy to do. Given the way the child support process is structured and kept separate from other case types, there may be challenges to understanding the context of a case or to working with child support agencies in a collaborative way.

This section outlines steps and suggestions of how to do so. At the end of the toolkit, there are additional examples that serve as useful models for how courts are working with child support agencies in different states and counties.

STEP 1 CONSIDER CO-LOCATION WITH CHILD SUPPORT AGENCIES

Courts can provide child support agency staff with space within the court to meet with litigants involved in civil protection order and other family court cases, including in specialized court units addressing domestic violence. In many jurisdictions, child support hearings may take place in a completely different part of the courthouse from other case types, which can make providing information more challenging. Agency staff can be located at court intake centers, including domestic violence intake centers, self-help centers, and even within individual courtrooms in which child support issues may arise (including civil protection order courtrooms).

Educate judicial officers about safeguards for victims available under federal and state laws, highlighting the “good cause” waiver, which exempts parents receiving public benefits (including Temporary Assistance for Needy Families (TANF), Medicaid and, in some states, Child Care Assistance and SNAP) from the requirement that they assist child support agency efforts to collect support from the other parent. Judicial officers should be aware of the local child support agency’s approach to implementation of the good cause waiver (for instance, judicial officers may be asked to sign an order to terminate an existing child support order at the behest of the child support agency).

STEP 2 TRAIN JUDICIAL OFFICERS ABOUT CHILD SUPPORT

Also, educate judicial officers about the Family Violence Indicator (FVI) and how it operates in your jurisdiction. Setting the Family Violence indicator on a parent and child in need of protection triggers confidentiality mechanisms that can prevent the abusive parent from using the child support system, and specifically the Federal Parent Locator Service, to discover the location of the victim-parent or child. Agency staff should educate judicial officers on their potential role in ensuring that an Family Violence Indicator is set and communicated to key agencies in cases involving domestic violence. In some instances, a judicial officer would be called upon to make the determination about whether a parent and child's identifying information should be protected that would lead to application of the FVI by child support agency staff.

The federal Office of Child Support Enforcement, United States Department of Health and Human Services, has developed a judicial bench card on this issue. It is available at https://www.acf.hhs.gov/sites/default/files/ocse/domestic_violence_and_child_support.pdf.

Judicial domestic violence benchbooks from Pennsylvania and Texas also provide information on the FVI:

TEXAS FAMILY VIOLENCE BENCHBOOK, P. 861-862

"[Federal Parent Locator Service] confidentiality determination. When called upon, the court handling the child support, custody, visitation, or abduction case must make a determination about whether or not to disclose the information in the FPLS based on potential for harm to a party or child."

PA DV BENCHBOOK, PP. V-7 TO V-8

"In Pennsylvania, information is safeguarded in the Pennsylvania Child Support Enforcement System (PACSES) by placing an FVI on the victim's electronic file. When an FVI is placed in the PACSES file, the domestic relations office is instructed to remove the victim's address and phone number, employer information, the child's school information, whether the victim is in a shelter, and the amount of benefits received."

Judicial benchbooks addressing domestic violence should contain a section devoted to child support, including specific information and guidance regarding protections built into the child support process for domestic violence victims (such as the good cause waiver and the family violence indicator).⁵

STEP 3 INCREASE SELF- REPRESENTED SURVIVORS' UNDERSTANDING OF AND ACCESS TO CHILD SUPPORT

Courts should provide domestic violence survivors with user-friendly information about obtaining and enforcing child support orders in both civil and criminal cases. Courts can disseminate information about how to obtain child support safely at every point at which survivors interact with the legal system through court-based intake and self-help centers, on court websites, and instructional information disseminated with petitions and other forms. They can also inform parties that any child support included as part of a civil protection order terminates upon expiration of the protection order and that a new order would need to be obtained to ensure that support continues.

Informational materials and support by court staff should include information about how a victim can assert that she is a victim of domestic violence and seek omission or non-disclosure of personally identifying information on pleadings and court orders. Legal services and advocacy organizations in many communities have developed user-friendly, domestic violence focused information materials for victims, which can be made available in the courthouse.

STEP 4

ENHANCE JUDICIAL OFFICERS' RESPONSE TO REQUESTS FOR CHILD SUPPORT IN CASES INVOLVING DOMESTIC VIOLENCE

Judicial officers should consider adapting the following practical suggestions when issuing child support orders for survivors of domestic violence, consistent with local law and best practice:⁶

- In the absence of better information, especially if the obligor party (the parent responsible for child support) does not appear, impute a minimum wage or use recent wage reports provided by child support enforcement attorneys to calculate a bare minimum obligation and get the order in place.
- Issue orders that prevent the need for any contact between the survivor and the obligor, including by:
 - Using income deduction orders, where authorized, to require payments to be deducted directly from the obligor parent's paycheck and transmitted to the payee through the public agency that processes child support
 - Requiring payment to the state disbursement unit if the obligor does not have a regular income, which will transmit the funds to the parent or other payee; this can eliminate opportunities for an abuser to make contact

with the survivor using the pretext of child support payment

- Refusing obligors' proposals to make direct deposits into the survivor's bank account; such orders could allow the abuser access to the survivor's banking information and also result in disputes over whether payments were made
 - Avoiding orders for the obligor to make direct payments to the survivor, which could subject the victim to undue contact and forms of abuse
 - Ordering that payments for insurance for the home or car be paid directly to creditors, with evidence of payment produced on demand, rather than involving the survivor parent.
 - Ordering direct payment of health care costs, including insurance and uncovered expenses, to the relevant entity, rather than to the survivor
- Strongly consider ordering temporary support in protection order and long-term family court cases (divorce/dissolution and paternity). Such orders can provide survivors with immediate financial support and reduce the burden on them to make multiple court appearances.
 - Where authorized, determine if the respondent/defendant has employer-provided medical insurance and, if so, order that the coverage continue or be put in place for the survivor and children.
 - Develop a mechanism to inform judicial officers deciding child support about any existing support orders, to avoid the issuance of conflicting orders.
 - Ensure that any child support awarded as part of a civil protection order or other court order is in compliance with the jurisdictional and other provisions of the federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B, and the issuing state's Uniform Interstate Family Support Act (UIFSA).⁷

STEP 5 ENHANCE JUDICIAL OFFICERS' ABILITY TO MONITOR COMPLIANCE AND FACILITATE ENFORCEMENT OF CHILD SUPPORT ORDERS

Courts should consider several strategies to ensure that obligor parents comply with support orders and that victims have ready access to enforcement processes, including:

- Provide litigants with oral and written information on how to enforce child support orders and on any compliance review mechanism that is implemented by the court. For instance, Texas' [getchildsupportsafely.org](http://www.getchildsupportsafely.org) website includes information for victims, including a video, on modification and enforcement of child support orders (<http://www.getchildsupportsafely.org/video-view/21>).
- Implement a compliance review process to ensure that all obligations are satisfied; consider cancelling the hearing if the obligor parent provides proof of compliance within an established time frame; inform the custodial parent that her participation in the hearing is voluntary.
- Provide information to litigants about the required forms and process for filing a motion for contempt due to noncompliance with a support order.
- Ensure that the forms and process are accessible and understandable to litigants by seeking feedback from self-represented litigants, victim advocacy organizations, and legal services providers.
- Ensure that the court provides prompt relief in cases where there is a finding that the obligor parent is in contempt. This can include enforcement mechanisms, but also assistance for parents who have barriers to making payments.

STEP 6 TAKE STEPS TO ENSURE THE SAFETY OF THE CHILD SUPPORT PROCESS FOR SURVIVORS

Courts can incorporate practices and procedures in cases addressing child support to safeguard survivors and their children by:

- Facilitating telephone or video participation in court hearings by survivors;
- Alerting court security in advance to cases involving domestic violence;
- Informing survivors about address confidentiality programs;
- Providing referrals to domestic violence advocacy programs that can assist with safety planning and with navigating the court process.

If security and safety measures are not routinely implemented by the court hearing child support matters, the following measures should be put in place in cases involving domestic violence:

- Establish separate entrances and exits, waiting areas, and other means of maintaining physical separation of the parties, both inside the courthouse and within courtrooms;
- Permit the survivor to depart from the hearing first, followed by the abusive parent after a waiting period;
- Offer survivors the option of having security staff escort them to their vehicles or other form of transportation.
-
-
-
-
-

Examples in Practice

ALASKA

The Alaska Court System’s document for self-represented litigants in protection order cases, “How to Represent Yourself in Alaska’s Domestic Violence Protective Order Process,” provides specific instructions regarding requests for child support as part of that process. (<https://public.courts.alaska.gov/web/forms/docs/pub-22.pdf>)

CALIFORNIA

- The California courts’ online informational materials about restraining orders including specific instructions regarding requests for child support as part of the process, including instructional videos on how to complete the necessary paperwork (<http://www.courts.ca.gov/1264.htm>)
- Yolo County, California: Empower Yolo, the local victim services agency, has been collaborating with the local child support agency since 2015. Empower Yolo reached out to the agency and requested that an agency worker participate in a weekly family law clinic to provide information and support in a confidential location. Caseworkers can provide myriad services, including checking on a case’s status, assisting with modifications of support orders, completing new income/expense declarations, and explaining the court process and available safety measures.⁸

HENNEPIN COUNTY (MINNEAPOLIS), MINNESOTA

- In Hennepin County (Minneapolis), Minnesota, there are ongoing efforts to have a child support agency representative present at the Domestic Abuse Services Center for any victims considering

child support court. Once a victim has completed the child support application, it is sent to the child support agency. A child support officer will be present at the initial civil protection order hearing, where the officer can assist in setting support at that first hearing.

- The child support agency, with court collaboration, has trained domestic violence victim advocacy organizations, including those based at the Domestic Abuse Service Center and community-based organizations on the available child support services in Hennepin County, how to complete necessary paperwork, and on what the implications and subsequent actions when a request for child support is initiated (aimed at enabling advocates to explain and problem-solve/safety-plan with victims); also developing a quick reference guide for victims on these topics to facilitate informed decision-making in topics to help enhance access to justice, such as trauma, procedural justice and implicit bias. Consider technical assistance to help in identifying topics, faculty and planning training for courts.

MIAMI-DADE COUNTY, FLORIDA

During implementation of the Miami-Dade Parenting Time Opportunities for Children (PTOC) program, the lead agency (the State Attorney’s Office’s Child Support Program) and its partners, including local domestic violence service providers and the Florida Coalition Against Domestic Violence) determined that individuals seeking child support who disclosed that they were domestic violence survivors should not participate in the mediation process intended to create parenting time plans. Instead, the collaborative team designed and implemented several strategies intended to protect abused parents seeking child support, including

comprehensive and ongoing training of child support staff about domestic violence and effective screening and protocols for referral of survivors to domestic violence service providers and other needed services. An independent evaluation report on the program concluded that as a result of an evidence-based violence screening tool and specific trainings, more cases of family violence in Miami-Dade County were more readily identified. Child Support Program staff were able to assist these families with referrals to obtain necessary services, and they received the immediate assistance essential to ensuring better lives and safer environments for themselves and their children.⁹

PICKENS COUNTY, GEORGIA

In Pickens County, Georgia, a Child Support and Domestic Violence Court hears petitions for civil protection orders, issues child support orders, and monitors compliance with such orders.

TEXAS

The Texas Office of the Attorney General's Child Support Division and the Texas Council on Family Violence partnered to develop a website, instructional videos, and other resources for litigants in domestic violence cases, available at getchilddupportsafely.org. Resources include worksheets for advocates assisting survivors with child support that address such topics as whether child support is right for the victim (risks and benefits), pre-court logistics (evidence gathering, transportation to court, seeking safety measures and accommodations at court, etc.), and obtaining safe and workable court orders (documenting domestic violence, custody and visitation issues, address nondisclosure).¹⁰ The Texas Attorney General's office also maintains a comprehensive

list of frequently asked questions about child support and domestic violence at <https://www2.texasattorneygeneral.gov/faq/cs-information-for-survivors-of-family-violence-frequently-asked-questions>, as well as an informational brochure for victims at https://www2.texasattorneygeneral.gov/files/cs/get_cs_safely.pdf

WASHINGTON, D.C.

In the District of Columbia Superior Court, the child support agency has a support enforcement specialist within the court's Domestic Violence Intake Center in the courthouse. Victims can speak with the specialist, who gathers the information necessary to open a child support and/or paternity establishment case in Superior Court.

Resources

ACCESS TO JUSTICE

<https://www.courtinnovation.org/access-justice-domestic-violence>

<https://www.courtinnovation.org/publications/effective-court-communication-assessing-need-language-access-services-limited-english>

ACCESS TO JUSTICE

<https://www.courtinnovation.org/publications/integrating-procedural-justice-domestic-violence-cases-practice-guide>

<https://www.courtinnovation.org/publications/fact-sheet-integrating-procedural-justice-domestic-violence-cases>

Endnotes

1. See, for example, Baker, C. K., Billhardt, K. A., Warren, J., Rollins, C., & Glass, N. E. (2010). Domestic violence, housing instability, and homelessness: A review of housing policies and program practices for meeting the needs of survivors. *Aggression and Violent Behavior*, 15(6), 430–439; Goodman, L. A., Smyth, K. F., Borges, A. M., & Singer, R. (2009). When crises collide: how intimate partner violence and poverty intersect to shape women’s mental health and coping? *Trauma, Violence & Abuse*, 10(4), 306–329.
2. In 2008, child support payments lifted a million people from poverty; the increase in child poverty without child support would have been 4.4 percent. See <https://www.urban.org/sites/default/files/publication/29421/412272-Child-Support-Plays-an-Increasingly-Important-Role-for-Poor-Custodial-Families.PDF>.
3. For a discussion by the Urban Institute about these challenges and how the child support system can harm low-income African-American noncustodial fathers and children, see <https://www.urban.org/urban-wire/child-support-enforcement-can-hurt-black-low-income-noncustodial-fathers-and-their-kids>.
4. Liberty Aldrich, “Increasing support payments through court partnerships,” *Child Support Report*, Vol. 37, No. 6 (July 2015), Office of Child Support Enforcement, U.S. Department of Health and Human Services, available at https://www.courtinnovation.org/sites/default/files/documents/july_2015_child_support_report.pdf.
5. The Center for Court Innovation has developed a protocol for Integrated Domestic Violence courts that includes a set of best practices for integrating child support into courts’ process and practices. This guidance is may be adapted to all courts hearing domestic violence matters. The Protocol may be found at https://www.courtinnovation.org/sites/default/files/child_support.pdf.
6. Adapted from Hon. Lynn Tepper, “Finding Balance: Domestic Violence and Child Support,” in *Synergy: The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody*, National Council of Juvenile and Family Court Judges (Fall 2016) (available at https://www.ncjfcj.org/sites/default/files/NCJFCJ_Synergy_Newsletter_Fall2016_Final_11142016.pdf).
7. For more information on UIFSA, see <https://www.uniformlaws.org/committees/community-home?CommunityKey=71d40358-8ec0-49ed-a516-93fc025801fb>.
8. The director of the child support agency has described the role as follows: “The Yolo County Department of Child Support Services recognizes the complex issues facing victims of domestic violence and sexual assault. Our role as a Department includes supporting families to improve the well-being of their children and the self-sufficiency of families. We believe partnering with Empower Yolo is important in achieving this mission. Individuals escaping violence often need additional support and we are honored to be a part of the safety net to aid them on this journey.” See <http://empoweryolo.org/empower-yolo-partnering-with-the-department-of-child-support-services/>.
9. More information about this project is available at http://www.ncdsv.org/OCSE_Child-Support-Report-Florida-’Parenting-Time’-Project_10-2014.pdf.
10. To obtain copies of these materials, ...

**Center
for
Court
Innovation**

520 Eighth Avenue
New York, NY 10018
p. 646.386.3100
courtinnovation.org