A smiling man and a laughing young boy. The man is in the background, slightly faded, and the boy is in the foreground, wearing a blue shirt and a tie. The background is a mix of dark green and maroon colors.

What

Non-Custodial Parents

Need to Know

About

Child
Support

Child Support Is...

All About Children

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Why should I read this pamphlet?



Child support is all about children.

Unfortunately, many people do not understand the intent of child support. Child support is not intended to punish or inconvenience either parent, but to make sure that children get financial support from both of their parents.

This pamphlet was written to help parents understand what happens when

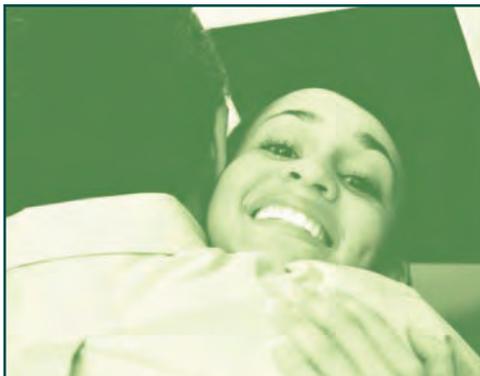
one or both parents seek child support services. This pamphlet will help you understand:

- ▶ who is the legal father of the child;
- ▶ how the court process works to establish legal fatherhood and get a child support order;
- ▶ how child support money is collected; and
- ▶ what happens if child support is not paid.

What is child support?

Every child is entitled to financial and emotional support from both parents. This is true even if the child's parents do not live together and were never married.

If you are the parent of a child, New York State law says you are responsible for



the financial support of that child until the child is 21, even if you have never lived with the child or do not live with the child now.

If the child does not live with you, you will have to make child support payments to the other parent or to the person who is taking care of the child. This support should start the day your child is born.

What is the child support enforcement agency?

There is a government agency called the child support enforcement agency. This agency helps people get child support orders, collect child support payments, and take actions against people who should pay child support and are not paying. There are offices in every county in New York State and in each borough in New York City. Every state has child support offices and many foreign countries do too. All of the states and foreign countries help each other to collect child support.

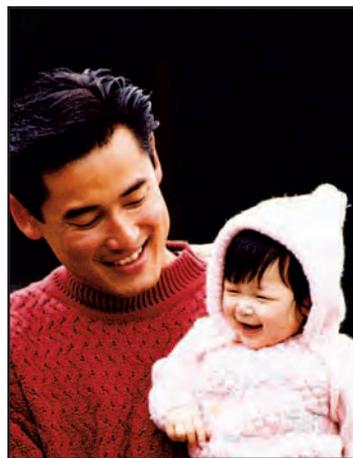
When a person who is a single parent or guardian of a child applies for temporary assistance, that person is automatically sent to the child support enforcement agency for child support services. A person can also get the agency's help just by going into its offices and filling out an application.

The child support enforcement agency is separate from the family court. There are some things that only the court can do.

Am I the legal father of my child?

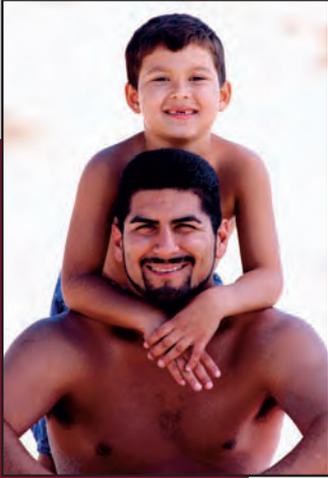
Even though you and your child's mother know that you are the father of your child, unless you and the mother are married, you are not the **legal father** of your child. That means that unless you do certain things, you will not be the legal father of your child and your name will not be on your child's birth certificate.

The easiest way to become the legal father of your child is for you and the mother of your child to complete a form called a voluntary Acknowledgment of Paternity. This form can be completed any time after your child is born, at a hospital, clinic, child support office, family court, or birth registrar's office. If the mother was married at any time during her pregnancy or at the time of birth, you must go to court to establish paternity.



Why Should I legally acknowledge paternity?

The most important reason to legally acknowledge paternity is to show respect for your child. Your child will know that you cared enough to become their legal father. Also, your child will be able to have benefits that are available through you, as their parent, such as health insurance through your employer and money from social security.



Completing the Acknowledgment of Paternity will also give **you** legal rights as a parent. It will allow you to have your name on your child's birth certificate, to seek court-ordered visitation and custody, and to have a say in adoption proceedings. By signing the voluntary Acknowledgment of Paternity form, you also take responsibility for supporting your child until they turn 21.

What if I am not sure or do not think the child is mine?

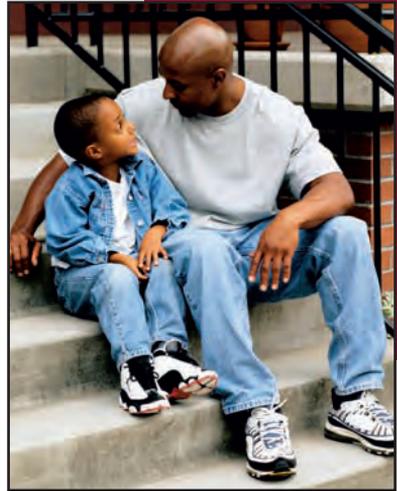
If you are not sure or do not think you are the father of the child, **do not** sign the Acknowledgment of Paternity form. You or the person taking care of the child can start a court action to decide the issue of paternity. If this action is taken, you will have to appear in court. You do not need a lawyer for this, but you can hire one if you want.

When you appear in court, the court will order you, the mother, and the child to submit to certain genetic or DNA tests. These tests are simple to take and they will tell how likely it is that you are the child's father. These tests are very accurate, and if you are not the child's father, these tests will show that you are not the child's father.

Based on the genetic or DNA tests and other evidence, the court will decide whether or not you are legally the father of the child. If you are not the father, the court will dismiss the action brought against you and will not hold you responsible for paying child support for the child. If you are the father, the court will issue an order that says you are the child's father. This is called an order of filiation. After the order of filiation is issued, the court will decide how much you will have to pay for child support.

If I am the legal father, when do I have to go to court?

If you are the legal parent of a child and do not live with the child, you or the other parent or the person who is taking care of the child can go to court to get a court order for child support. The court order will set the amount you have to pay for child support.



If someone besides you starts a court action to get you to pay child support, you will find out about it by getting two documents. These documents are a **petition** and a **summons**. The **petition** shows that someone has asked a court to make an order against you. The **summons** tells you that you must come to court for a hearing about this. The **summons** also tells you where you have to go, when you have to be there, and what, if anything, you have to bring with you. You may get these documents in the mail, someone may give them to you in person, or they may be left at the door where you live or work.

What happens at court?



When you go to court, you do not need a lawyer for the hearing, but you can hire one if you want.

At court, a hearing will be held to find out if you are the father, if necessary, as well as to figure out how much you will have to pay for child support. You should bring your latest tax returns, W-2s, paycheck stubs, and everything else you have to show your current income. The

judge or hearing examiner will use this information and other information presented by other parties to figure out what you should pay for child support for your child.

What if I do not go to the court hearing?



If you do not appear in court at the time the court expects you to, the court can make an order that you are the father of the child and order you to pay child support even if you are not there.

If you are not there, the judge or hearing examiner will decide how much you have to pay for child support, without knowing how much you really make. The judge or hearing examiner will also determine how

much you owe in past child support for the child, without knowing how much money you made during that past period of time.

If you do not go to court and show the judge or hearing examiner your financial situation, the amount the court orders you to pay may be more than you think you can afford. ***Because you did not show up, the court based the order on what it thought you earned, or on the needs or standard of living of the child, whichever is greater.*** As far as the law is concerned, that is what you owe. If you do not pay what you owe, steps will be taken to collect the money from you. The court may also enter a warrant for your arrest. Remember that ***these steps will not be taken if you show up at court when you are supposed to, with all the documents you need to show what you earn.***

How much will I have to pay for child support?

To make sure that the amount a person has to pay for child support is fair, the court uses a standard guideline to figure out what a person should pay based on how much they make in a year. Remember that you will not be ordered to pay an amount that is unfair under the law.

Besides support payments, you may also owe support back to the time your child was born. You may also have to pay for your child's: childcare costs; uninsured health care; and education expenses. If health insurance is available for your child through your employer, it is likely that you will also have to get health insurance for your child through your employer.

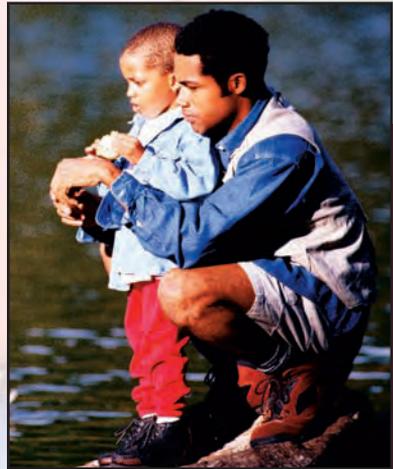
Your basic child support responsibility is based, in part, on your gross income. If you have certain deductions, your income for child support purposes is reduced or “adjusted.”

The court multiplies your “adjusted” gross income amount by the guideline percentage for the number of children for which you are ordered to pay. These percentages are:

- ▶ 17% for one child,
- ▶ 25% for two children,
- ▶ 29% for three children,
- ▶ 31% for four children, and
- ▶ at least 35% for five or more children.

In each case, a share of child care, medical, and educational expenses are added to the appropriate percentage and the resulting number is the basic child support amount.

The guideline was put in the law to make sure that people pay an amount for support that is actually close to what it costs to care for a child. The guideline was not meant to take as much money as possible from a person who has to pay support, and it is not based on what the person who has to pay thinks should be enough.



You have to pay child support even if you receive unemployment benefits, disability benefits, social security payments, or worker’s compensation payments.

After the court determines the amount you should pay for child support, the court then looks to see how much income you will have after child support is deducted. If your remaining income would be less than or equal to the poverty line (\$8,350 per person for 2000), an order for a lower amount (for example \$25 per month) may be issued. This amount may then go up when your income increases, after review by the court.

Also, if your income is less than or equal to the poverty line, there is a limit on the amount of unpaid child support arrears that can be accrued (built up). The amount that you owe when you are at these income levels cannot build to more than \$500.

If your child is receiving temporary assistance from social services, the first \$50 of any current child support payment you make will be given to the person taking care of your child, in addition to the monthly temporary assistance grant.

What happens after the court hearing?



When the judge or hearing examiner signs an order, you will get a copy. The order will tell you the amount you have to pay, the date that payments must start, and where to send your payments.

If you have a job, the child support agency will send a notice to your employer who will take the amount you have to pay directly from your paycheck. This will save you the time and trouble of getting bank checks or money orders, and paying for stamps to mail your payments. Your employer will send the

payments directly to the child support enforcement agency. Child support keeps track of how much you owe and how much you have paid. It is child support's job to see that you make payments regularly and on time and to take action if you do not pay.

If you do not have a job, or are self-employed, you will be provided billing coupons and information about where and when to mail your child support payments. Your child support order will also tell you that you must tell the child support agency if you change jobs or lose your job. If you do not do this, you could fall behind with your payments and then have to pay not only the current support amount, but also an additional amount to make up the payments you missed. If you fall behind on your payments, the child support agency will take enforcement actions to collect what you owe.

Will the amount that I owe change?

The amount that you owe for child support may change over time based on cost of living adjustments and changes in the amount of money you earn.

Every two years the child support enforcement agency automatically reviews each child support case to determine whether the amount to be paid should be increased due to cost of living increases. If

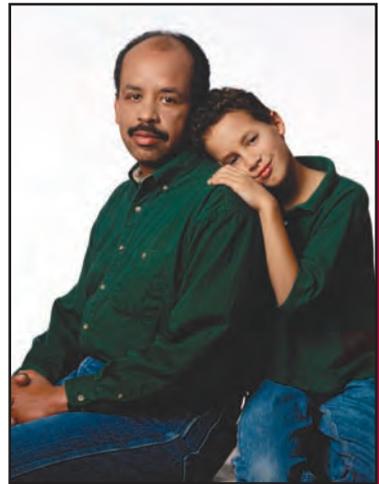


the cost of living has increased by more than ten percent during the two years, your order amount will increase by the amount that the cost of living changed. For example, if the cost of living changes by fifteen percent, your order amount will be increased by fifteen percent.

Please note that the child support enforcement agency can make these cost of living increases to your order amount without going to court. However, before any change goes into effect, you will receive a notice telling you of the change and what you need to do to challenge the change.

What if my situation changes?

If there is a change in your income (for example, if you are laid off, or get a different job that pays less than you were making before), or there are other circumstances that affect your ability to pay your child support, you should go back to court **immediately** and file a **petition for modification**. The petition for modification is filed with the court that originally issued the child support order.



After the petition for modification is filed, a hearing date will be set. At the hearing you will have to present information, including documents about your change in income or other changes, to the judge or hearing examiner. Based on the new information, the court may change your order. If it does, the change will go back to the date that you filed the petition. You will also get credit for whatever you have paid since then. That is why you should ask for a modification immediately when you have a change in income. It is also why you should keep paying as much as you can.

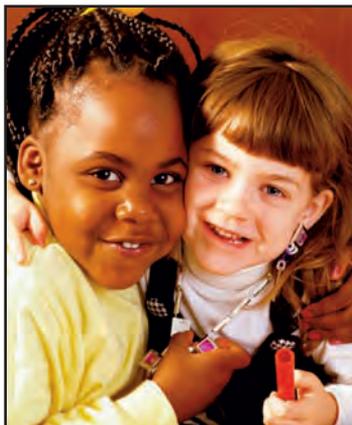
Remember that **only the court can change the amount you owe**. Until it does, under the law you still owe the amount of support in the original court order. If you do not keep paying that amount until it is changed, steps will be taken to collect that amount from you. If you cannot pay all that you are supposed to, you should keep paying as much as you can until the court changes the amount. **The worst thing you can do is not pay anything at all.**

What if I move?

Once you are under a court order for child support, you must notify the child support enforcement agency if you change your residential and/or mailing address, telephone number, social security number or driver's license number.

What happens if I do not pay what I am supposed to pay?

Your obligation to support your child begins when your child is born. If you do not start paying support when your child is born, or do not pay what you owe for pregnancy or birth expenses, the amount you should have paid starts to add up. Even if you start paying later, you will still owe money from the time before you were paying. This is another reason why it is best to pay support right from the beginning.



The child support enforcement agency keeps track of the money you owe. Amounts you owe that you have not paid are called **arrears**. If you have **arrears**, the agency will take steps to collect that money. These steps can include taking your tax refund, taking lottery winnings, taking your bank accounts, suspending your driver's license, and notifying credit reporting agencies about your debt. If you do not pay support, you can also be sentenced to time in jail.

You will get a notice in the mail before any of these things happen. The notice will tell you exactly what you have to do to stop them from happening. For example, if you get a notice that your driver's license is going to be suspended, you can keep your license by making an arrangement with the agency to pay what you owe.

If you try to avoid being found, the child support enforcement agency will use many ways to find you, even if you go to another state. All states have child support enforcement agencies, and they all work together to find people who are not paying child support. Once you are found, enforcement actions will begin to collect all the money you owe.

What about visitation and custody?

Visitation and custody issues are separate from child support. If there is a support order and the other parent or guardian does not allow you to visit the child, you still owe child support. If you are having problems with your visitation rights or you have physical custody of your child, but do not have court-ordered custody, you need to go to court to get a court order stating that you have legal custody or to establish or enforce visitation rights. In the meantime, you must still pay the amount of child support that you have been ordered.

How can I help my child and myself?

Being a parent brings many responsibilities. Being a parent will also be the hardest and most rewarding job you will ever have. In fact, the benefits, rewards, and memories of being a parent are limitless and will last a lifetime and beyond. By showing your child that you care enough to be there for them, both emotionally and financially, you are showing them your love and respect. You are also teaching them what it means to be a parent - a skill they may one day pass on to their children.

How do I contact the local child support agency?

The telephone number and address of your local child support office is available by calling (800) 846-0773. Or, you can look in the telephone book under your county Social Services Department.

What else do I need to think about?

Were both your parents there when you grew up?

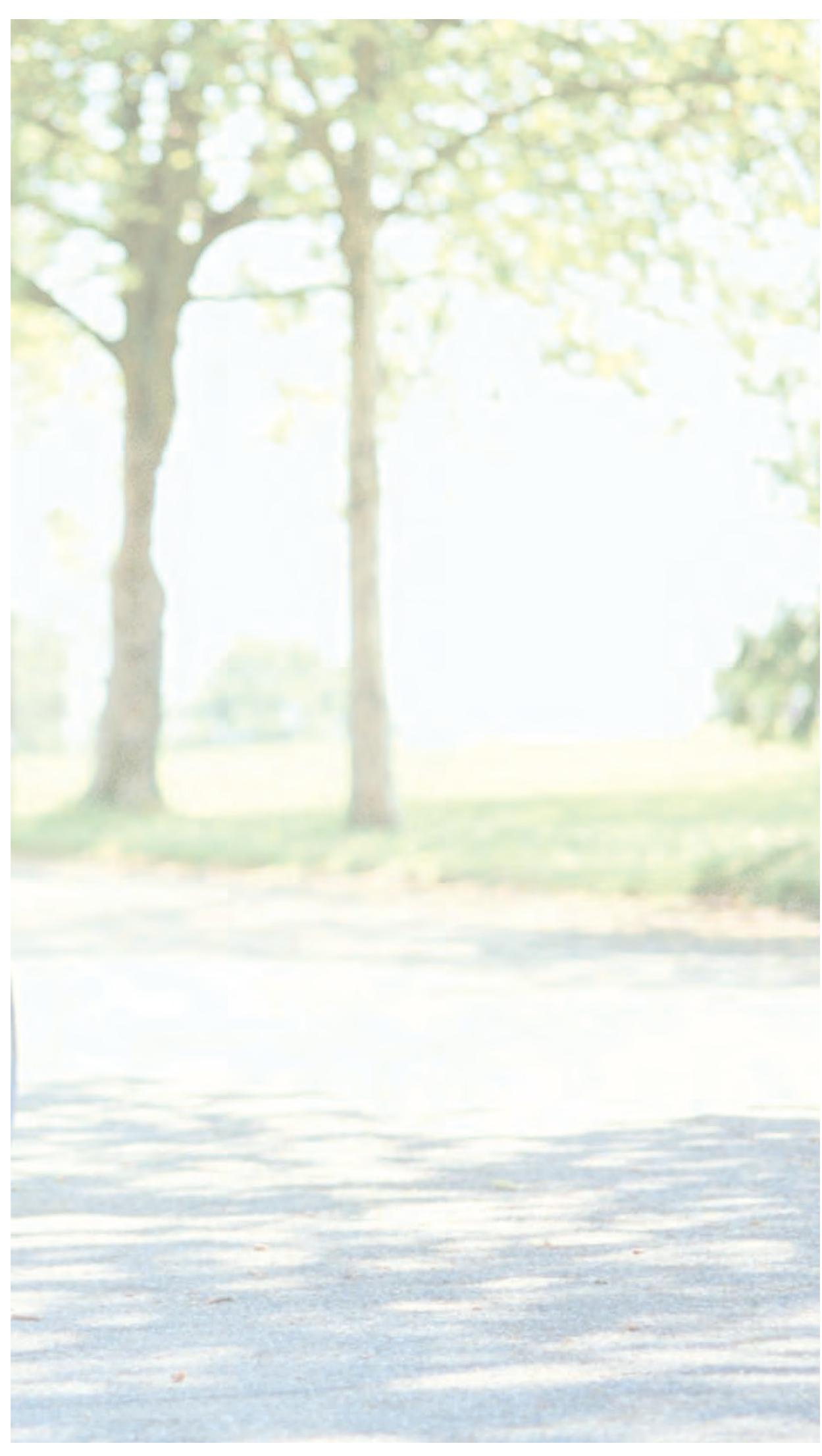
How did it feel?



Take care of what counts.

Be there for your child.





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NYS Office of Temporary & Disability Assistance
Division of Child Support Enforcement

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