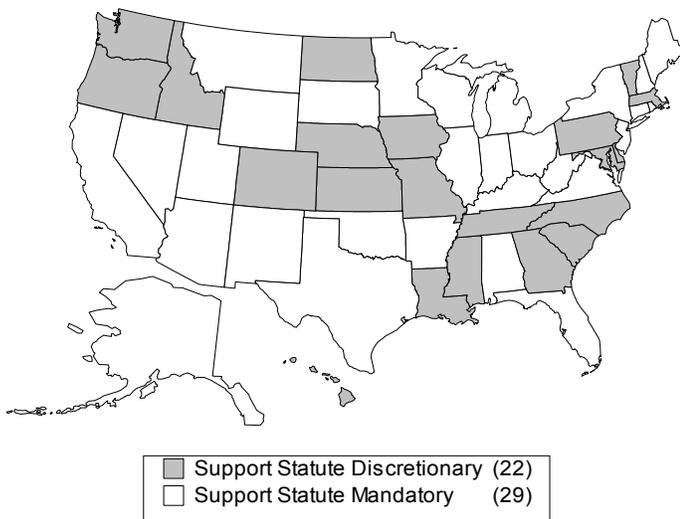


Can Parents Ever be Obligated for the Support of Their Institutionalized Delinquent Children?

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Parental Support Obligation of Institutionalized Delinquents



All states currently have statutes that make it either discretionary or mandatory for the court to require a parent or guardian to pay at least part of the support costs for a juvenile who is adjudicated delinquent and placed out of the home.

In the following 22 jurisdictions, it is discretionary for the court to order the parent or other legally obligated person to pay such support: Colorado, Delaware, the District of Columbia, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, North

Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Washington.

In the other 29 states, the court is required, by statute, to order such payment from the parent or other legally obligated person. Even when the payment is mandatory, however, payment is based on the parent's financial ability to make such payments, which is usually determined at a hearing.

In evaluating an obligated party's ability to pay, the court takes into consideration the family's income, the necessary

obligations of the family, and the number of people dependent on this income.

Several states have proposed (but not yet enacted) legislation on this issue in the 2011 legislative session.

For example, Arizona has proposed adding language that would allow the juvenile court to waive all or part of these support expenses if the court determined that extenuating circumstances existed. (Proposed 2011 Arizona Senate Bill 1559.)

Idaho also proposed amending the parental support statute to state that the obligation of the parent or legal guardian to pay current and accrued amounts would continue until paid in full, regardless of the juvenile offender's age. (Proposed 2011 Idaho Senate Bill 1004.)

Texas has proposed (but not yet enacted) legislation that would require the parent of an institutionalized delinquent to provide dental insurance for the juvenile, in addition to health insurance. (Proposed 2011 Texas House Bill 3221.)

Finally, Utah has proposed a Bill that would require the juvenile court to provide a hearing at the request of a juvenile's parent or guardian on whether they should be

required to pay child support for a juvenile being held in state custody.

Under the proposed Utah Bill, unless the court finds by clear and convincing evidence that requiring payment would produce an unjust result, the court would be required to order the obligated parent to pay child support for each month a juvenile is in custody. Such payments would not be allowed to accrue for more than 90 days. (Proposed 2011 Utah House Bill 222.)

In these times of shrinking state and local budgets, such fiscal statutes and proposed amendments take on increasing importance.

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