

FREQUENTLY ASKED QUESTIONS

CHILD SUPPORT CASES

BARNSTABLE PROBATE AND FAMILY COURT

BARNSTABLE, MA



3195 Main Street

Prepared by:
The Commonwealth of Massachusetts
Department of Revenue
Child Support Services Division



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Child Support Court Hearings

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Frequently Asked Questions when your child support case is scheduled for Barnstable Probate and Family Court, Barnstable, MA

Getting ready for a court hearing:

1. Someone just dropped off a complaint and summons at my house; did I miss a court date?

No. These documents tell you about an action against you. Keep these documents as your record of what is on file with the court. When an action is filed in court against you, you must get notice of it. The way you get notice is to have a copy of the complaint and a summons served on you – one way that is done is to have a process server (a constable or deputy sheriff) mail copies to you and leave copies at your home.

Unless the summons lists a hearing date, no hearing date has been scheduled yet. You will get notice of the date of the hearing in the mail.

IMPORTANT: If the documents order you to go to court on a contempt action, you must go to court on the date listed. It is important that you provide the court with information about your ability to pay your child support. If the court determines that you failed to pay child support while you had the ability to pay, you may be found in contempt and could be placed in jail until you pay a certain amount of money. If you don't show up for court for a contempt action, the court can issue what is called a "capias" and a deputy sheriff or constable may be sent to bring you to court.

2. Will DOR represent me or do I need to hire a lawyer?

DOR lawyers represent only DOR. They don't represent either parent. The DOR lawyers must present all facts to the court, no matter which parent the facts benefit. You may hire your own lawyer to represent you and DOR will work with your lawyer.

3. Do I need to bring any paperwork with me to court for my court hearing?

Yes. Before the day of the court hearing on your case, DOR will mail you a Financial Statement form. You must fill out that form and bring it with you to court.

Make sure to use **weekly** amounts on the form— divide monthly amounts by 4.3. (For example, if your monthly phone bill is \$100, divide by 4.3 to get the weekly amount which is \$23.26.) You should also bring the following information:

- How much you pay for health insurance right now
- How much it would cost you to pay for health insurance for your children
- Copies of your income tax returns from last year
- Your last 3 pay stubs
- Any benefit assistance award letters (for example, Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) benefits). If you have applied for any type of benefit, but haven't received a decision yet, bring a copy of your application for benefits.

If paternity needs to be established in your case, you must also bring the following:

- 1 photo ID, such as your driver's license or passport
- 1 other form of ID, such as your Social Security card or birth certificate

4. Can I bring my children with me to court?

The courthouse is not a place for children. We strongly advise that you make childcare arrangements since you may be in court all day. If you must bring children with you to court, keep in mind that children cannot come in the courtroom with you.

If you are scheduled to come to court for paternity testing (also known as genetic marker testing), you need to bring the child who is going to be tested with you.

(Please refer to questions 30 – 36 for parentage information.)

Courthouse information (location, lunch, bathrooms, Clerk's office):

5. Where is the Barnstable Probate and Family Court?

The Barnstable Probate and Family Court is located at 3195 Main Street, Barnstable, Massachusetts.

6. What time is lunch?

DOR will notify you when the court is in recess. This usually happens around 1:00 p.m. If your case has not been heard before the recess occurs, please do not leave the courthouse since DOR continues to conference cases while the court is in recess. DOR will notify you when the judge returns.

7. Where are the bathrooms?

The bathrooms are located on the 2nd floor. When facing DOR's office, turn left, walk down the hallway, go up a short flight of stairs and turn right. The ladies room and men's room are on your right. There are bathrooms located on the basement floor of the courthouse too. When facing DOR's office, turn around and take the stairs (or the elevator) down to the basement and go through the double doors. Both the ladies room and men's room are on your left.

8. Where do I go if I want to file paperwork for a modification or contempt or to get copies of my court order?

You must go to the Clerk's office located on the 2nd floor when filing forms, filling out forms, or requesting copies of court orders regarding your child support case.

When filing paperwork or forms with the Clerk's office, make sure you inform the staff at the Clerk's office that this is a DOR case, as information the Clerk's office receives about your case must be forwarded to DOR.

Check-in for a hearing with DOR:

9. What time do I need to be in court?

The letter you get from DOR will tell you the date and time to come to court. A court hearing is a formal proceeding, so remember to dress appropriately. Do not wear t-shirts, shorts, tank tops, etc.

10. Once I get to court, where do I go?

When you arrive at court, you will have to pass through security. Once you go through security, take the stairs located on your right and walk up to the 2nd floor. You may also take the elevator to the 2nd floor by passing through security and walking straight into the lobby. The elevator is on your right.

If you take the stairs, turn right when you reach the 2nd floor. You will see a small lobby area. Walk into the lobby and DOR's office is on your left. If you take the elevator to the 2nd floor, exit into the lobby and DOR's office is directly ahead.

Before 8:30 a.m., you will check-in with DOR personnel. After 8:30 a.m., you will need to check-in with the Register. DOR personnel will tell you where to go.

11. Do I need to let DOR know that I have arrived?

Yes. You must check in with DOR staff or the Register (see question 10 above).

12. Will I need to fill out any forms when I arrive at court?

Yes. You will have to fill out another Financial Statement form if you do not complete and bring the Financial Statement form that was mailed to you. There may be other forms that you have to fill out and DOR staff will tell you what those are.

13. What happens after I check-in?

A DOR staff member will talk to you about your case. DOR staff may talk to you and the other parent together.

If you and the other parent reach an agreement about child support, DOR staff will help you put the agreement in writing. Once your agreement is in writing and you sign it, you may not have to stay to see the judge. The DOR staff will let you know if you can leave.

If you do not reach an agreement, you have a right to go before the judge and the judge will make a decision on child support. The DOR attorney will

usually make a recommendation to the judge. Both parents will have a chance to speak to the judge and ask for what they think is appropriate.

Important: If you have safety concerns related to the other parent, please call DOR before your hearing date to let us know and DOR staff will meet separately with you and the other parent.

14. What happens if the other parent doesn't show up?

If the other parent in the action does not come to court on the day of the hearing, DOR will still discuss your case with you and decide whether the case will go forward. In most cases, it will go forward, with or without the other parent.

Court hearing information:

15. When will the judge hear my case?

DOR cannot control when a judge will hear your case, so it is possible that you may be at the courthouse all day. Since you may be in court all day, if you have children in school, please make arrangements to have someone pick up your children from school.

16. What do I do if I need to leave the courthouse for a brief time before the judge hears my case?

You must tell DOR staff if you need to leave the courthouse so your case is not called while you are away. If you don't tell DOR that you need to leave the courthouse, your case may be brought to the judge and the judge may make a decision even though you are not there.

17. What happens if the judge does not get to my case?

This rarely happens. If it does, DOR will reschedule your court hearing.

18. What's a docket number?

A docket number is the number the court assigns to your case. It is used to identify all the documents filed on your case.

19. What if the other parent harasses or threatens me at court?

Notify court officers and DOR staff immediately so appropriate action can be taken.

Courtroom procedures and judge's decision:

20. What should I do when my case is brought before the judge?

DOR will call your name when the judge is ready to hear your case. Before entering the courtroom, you must turn off all cell phones and pagers. When entering or leaving the courtroom, please be quiet since other cases may be before the judge.

Until your case is called, you must remain quiet and seated in the courtroom. Only the parties to the action go up to the judge. Once your case is called, you will stand and face the judge. If the judge asks you a question, you answer the judge; otherwise you may speak only at the judge's request or with the judge's permission. Do not speak directly to a party or lawyer while before the judge. When the judge or the other party before the judge is speaking, do not interrupt. If a lawyer is representing you, your lawyer will speak for you.

21. When will the judge make an order on my case?

In most cases, the judge will tell you about the order at the end of the hearing. The court will send you a copy of the judge's written order a few days later.

22. If the judge takes my case "under advisement," what does that mean?

Occasionally, a judge will take a case "under advisement." This means that the judge will make a decision on your case at a later date and the court will notify you when the judge has made a decision.

Parenting time and custody:

23. Can DOR help me with parenting time or custody issues?

No. DOR can help with actions related to parentage and the establishment, enforcement, or modification of child and medical support orders, but cannot help with parenting time or custody issues. If both parents are at the courthouse, the court's Probation Office staff may help with parenting time and custody issues if they are properly before the court.

The Probation Office area is located on the 2nd floor of the courthouse. To get to the Probation Office area, turn left when facing DOR's office and walk straight ahead. Turn right and walk up a short flight of stairs. The Probation Office is on your right. The office closes each day at 4:00 p.m.

How are payments made and received?

24. How do I make payments?

- **By income withholding:** This is when your employer takes part of your paycheck and sends the money to DOR. Your child support order may require income withholding to be started immediately or it may provide that it be suspended. If it is suspended, DOR will activate it if payments aren't made or if either party asks us to activate it. It takes some time to set up income withholding and you will have to pay DOR directly until you see the payments coming out of your paycheck. You can pay DOR directly in the following ways:
- **Online** at www.mass.gov/css. You can use a credit card or make the payment directly from your bank account.
- **Over the phone** with a credit card
- **By mail** with a check or money order. Make the check out to the Commonwealth of Massachusetts and include your Social Security number on the check.
Send your payments to:
DOR
P.O. Box 55144
Boston, MA 02205-5144

You can get payment stubs at the court or you can find payment stubs and information on our website at mass.gov/css.

Pay DOR; don't pay the other parent directly. We can't give you credit for child support you pay directly to the other parent. If you pay the other parent instead of DOR, we won't have a record of your payment. We'll assume you didn't pay, and we will try to collect the money in different ways, including:

- Taking money from your bank accounts
- Suspending your driver's license and other licenses
- Taking your federal and state income tax refunds

25. How do payments get to the other parent?

If the child support payments are going to the other parent, DOR sends payments to him/her by direct deposit to the parent's bank account or by way of a debit card. DOR doesn't send checks except in very limited circumstances.

If the other parent is receiving public assistance from the Department of Transitional Assistance (DTA), then the child support payments go to the Commonwealth.

If the other parent is in another state and DOR is providing services to the other state, the payments may go to the child support agency in the other state, and that agency will take care of sending the payments.

26. I was ordered to provide health insurance coverage for my children. How do I do that?

If your employer provides health insurance, DOR will send what is called a National Medical Support Notice to your employer. This notice tells your employer that the court ordered you to provide insurance coverage for your children and your employer is required to enroll your children.

What happens if payments aren't made?

27. What happens if a parent doesn't make payments?

There are a lot of things DOR can do if a parent doesn't pay the child support ordered by the court. For example, DOR can take money from bank accounts, take federal and state income tax refunds, suspend drivers' and professional licenses, and prevent renewal or issuance of a passport. DOR can do all these things without going back to court.

In some cases, DOR may decide to file a court contempt action. At a contempt hearing, a court may order the parent to make a lump sum payment or may order the parent to go to jail until payment is made (see question 28). A judge may also order the parent to look for work. The judge will decide what to do.

28. In a contempt action, if the judge orders a purge amount, what does that mean?

During a contempt hearing, a judge can order that a parent be incarcerated for failure to comply with the court's order to pay child support. If a judge orders incarceration, the judge will set the amount the parent must pay before he/she can be released. This is known as the "purge amount." The amount is based on the judge's assessment of the parent's ability to pay.

29. What happens if the court orders a parent to go to jail?

Usually the parent is held in custody at the court for some time before being taken to the Barnstable County Correctional Facility in Bourne. He/she may be provided access to a telephone to try to obtain the purge amount set by the judge.

Parentage information:

30. What is parentage?

Parentage means being the legal parent of a child. If you and your child's other parent are not married to each other, you can establish parentage by:

- Signing a Voluntary Acknowledgement of Parentage form in the hospital at the time of the child's birth, at the city or town clerk's office in the community where the child was born, or at the Registry of Vital Records and Statistics (RVRS) in Dorchester, or
- Asking a court to establish parentage.

31. What is a paternity test?

Paternity tests (also known as DNA tests) are used to determine whether it is likely a man is the biological father of a child. The tests are quick and easy – a cotton swab is rubbed inside the mouth of the person being tested. The DNA in the cells taken is compared in a laboratory. After reviewing the test results and any other relevant information, the judge will decide whether or not the man is the father of the child. If the judge finds that the man is the child's legal father, the man's name will go on the child's birth certificate as a parent.

A judge may establish paternity of a child without paternity tests. If the man named as the father refuses to show up for testing, the judge can consider that as well as the mother's testimony. Also, paternity testing may be completed even if the mother is not available.

If the mother and the man named as the father want to agree that he is the father and don't want paternity testing, DOR will have them tell the judge that they want to do that.

32. How will I know when to go for paternity testing?

DOR will send you a letter when you are scheduled for paternity testing. The letter will tell you where you need to go for testing. You may also be tested on the day of your hearing if the court orders you to do so.

33. Do I need to bring anything with me to a paternity test?

Adults must bring 2 forms of identification and their Social Security number. One form of identification must be a photo I.D. such as a driver's license or passport. For children, bring the birth certificate and Social Security card for each child being tested.

34. Who pays for the tests?

If the tests show that it is likely the man is the child's biological father, he may be required to pay for the tests. If the tests show that he is not the father and DOR is providing services to the family, then DOR pays the costs.

35. When will I know the results of the paternity test?

Test results will be mailed to you 6 to 8 weeks after specimens are taken from all parties. Therefore, it is very important that you give us your correct mailing address before leaving the courthouse.

36. I was married to someone else when my child was born. Does that matter?

If a woman is married at the time a child is born (or was married within 300 days of the birth), the law requires that her spouse get notice if there is a court action to declare another man as the child's father. This is because the law presumes the mother's spouse to be the other legal parent unless it is shown otherwise.