

What do I do now that I have a Wage Assignment? (Child and/or Spousal Support Orders)

Step 1

There is a small fee to make copies

Copies: Make 2 copies of the file stamped

- FL-195 Order/Notice to Withhold Income for Support
or
- FL-435 Earnings Assignment Order for Spousal or Partner Support (not for child support)

If you don't have a copy, go to the Records department at the Clerk's Office in the courthouse where your case is located and ask the clerk to make a copy of the original for you. If you are not sure where your case file is located ask at any Family Law Courthouse. *Note: The copies don't need to be "certified".*

Step 2

Service: After making the copies -

- **Keep 1 filed copy for your records**
- **Serve by mail** - 1 filed copy of the FL-195 or FL-435 and a blank *Request for Hearing Regarding Earnings Assignment* (form FL-450).

"*Serve by mail*" means **someone, NOT YOU**, who is at least 18 years old, must mail a copy of these forms to the other party's employer. **Note: You cannot serve these forms yourself and the court will not serve the employer for you.**

- It's a good idea to call the employer in advance to learn the name of the person or department that will process the wage assignment. That way you can have your server mail the wage assignment directly to where it needs to go and your payments won't be delayed.

Whoever serves the forms must complete the *Proof of Service by Mail* (form FL-335) and give it back to you. File the original and a copy of this form at the Clerk's Office, the clerk will file stamp the copy and give it back to you. Keep this copy for your records.

Please turn over for important information 

What is a Wage Assignment (“garnishment”) and why do I need one?

- A **support order** is an order that one party (the paying party) pay the other party (the receiving party) support.
- A **wage assignment** is an order that the paying party’s employer send money from the paying party’s paycheck to the receiving party.
- If there is only a support order and no wage assignment then the paying party is to pay support directly to the receiving party.

Why don’t I have a Wage Assignment already?

A wage assignment is supposed to be prepared and filed along with all *child support* orders. Sometimes the parties agree that they don’t want a wage assignment, the paying party is self-employed, the parties have a wage assignment but don’t realize they have to send it to the employer or it is simply a mistake that a wage assignment was not prepared.

The court will order that wages be garnished for *spousal support* on a case-by-case basis.

Does the Court serve the paying party’s employer?

The receiving party is responsible for having the wage assignment served on the paying party’s employer. The Court does not serve wage assignments on employers.

What if the paying party won’t pay and is self-employed?

There are other ways to collect money besides a wage assignment but the process is challenging.

(1) You can study “collection” techniques at the **Law Library** if you want to collect the support on your own.

(2) The State **Department of Child Support Services (“DCSS”** - www.childsup.cahwnet.gov) can help you collect child support. They will also help collect spousal support but only in cases where there is child support, too. Some advantages of working with the DCSS are that they:

- Send monthly statements keeping track of all payments and totals owed;
- Track the past due support (“arrear”) and calculate interest for you;
- Have other collection methods available to them that you don’t. For example, they can direct the DMV to suspend a person’s driver’s license or they can take their tax refund.
- They have information available to them that can locate the paying party’s employer.
- They can refer the issue of arrears to the Federal level. When arrears reach a particular dollar amount the paying party will not be able to use their passport.
- They can file contempt motions. You can, too, but it’s difficult.

(3) You can contact the Santa Clara County Bar Association **Lawyer Referral and Modest Means Panel** at 408-971-6822 (www.sccba.com) for a low-cost, 30 minute consultation with an attorney about how to collect on a support order.

HOW CAN I GET THE FORMS?

You can:

- Get the forms online at the state’s website (www.courts.ca.gov);
- Visit the Self-Help Center/Family Law Facilitator’s Office in person, Monday through Thursday, starting at 8:30 am. Please go to www.scscourt.org for details on how to sign up for help at our office. **Please note: the Self-Help Center cannot help people who have attorneys.**

Self-Help Center/Family Law Facilitator’s Office
Superior Court, County of Santa Clara
99 Notre Dame Avenue, San Jose, CA 95113
(408) 882-2926

www.scscourt.org
Superior Court, County of Santa Clara

www.courts.ca.gov/selfhelp
State of California Courts Self-Help