

## **Frequently Asked Questions (FAQs) in South Carolina Family Courts**

**WARNING:** You are strongly encouraged to seek the advice of an attorney in any legal matter. If you move forward without an attorney, it may negatively affect your legal rights. If you have questions about your legal rights or the law that affects your case, please talk with an attorney.

**DISCLAIMER:** The general information provided in these FAQs is not legal advice, cannot be cited as legal authority, and cannot replace the advice of an attorney licensed in South Carolina. The information in these FAQs is accurate as of the date of publication. If you decide to bring a lawsuit in a South Carolina court without an attorney, you are responsible for researching the law on your own. Please note that the presiding judge in each case decides what law applies in that case.

### **Family Court Questions:**

#### **How do I get an increase in child support?**

If your case is a South Carolina Department of Social Services (DSS) case, contact the DSS Child Support Enforcement Division. In all other cases, you must file a “Support Complaint” ([SCCA431](#)), check the box marked “increase support,” and pay the \$150 filing fee.

#### **How can I reduce my child support payments?**

If you have had a substantial change in circumstances and would like to ask the Court to reduce your child support payments, you can file a “Support Reduction Complaint” ([SCCA451](#)). You must serve the Family Court Coversheet, the Support Reduction Complaint, Summons and Notice, Financial Declaration and Verification on the custodial parent. You must also pay the \$150 filing fee.

## When can I stop paying child support?

You may stop paying child support when you receive a signed order from a family court judge ending your responsibility to pay child support.

You can request to stop your child support payments because your child is emancipated (e.g., your child has turned 18, is married, becomes self-supporting, etc.). Emancipation is defined by S.C. Code Ann. [§ 63-3-530\(17\)](#). You must provide the Court with proof of emancipation, which may include a birth certificate, marriage license, graduation commencement program, etc.

**NOTE:** In some counties you may have to file a “Motion and Affidavit in Support of Termination of Child Support Based on Emancipation” ([SCCA440](#)) along with the documentation. This form is available on the South Carolina Judicial Department’s website, [www.sccourts.org](http://www.sccourts.org).

If you are requesting to stop your child support payments because you have reconciled with the Custodial Parent, the Custodial Parent can file a Motion and Order to Dismiss Support ([SCCA442](#)), but **only** if money is not owed to the State for prior public assistance (welfare/Medicaid). If funds are owed to the State, the Custodial Parent should contact his/her DSS Case Worker.

## How do I get custody of my child?

Getting custody of a child is a complex and difficult legal process. You are strongly urged to speak to an attorney regarding any custody issues. The section of the South Carolina Code that explains custody is called “Child Custody and Visitation,” and it begins at S.C. Code Ann. [§ 63-15-10](#).

## How do I get or modify visitation?

To get “Visitation” or a “Modification of Visitation” requires paperwork filed in the Family Court. The paperwork includes a Family Court

Coversheet, Summons, and Complaint, and you must pay a \$150 fee to file it with the Court. You must also follow the South Carolina Rules of Civil Procedure to serve the Summons and Complaint on the defendant properly.

If you still have questions, additional contacts include:

- The South Carolina Bar's Lawyer Referral Service (LRS) at **1-800-868-2284** statewide (toll free), **(803) 799-7100** (Richland and Lexington Counties) or online at <http://www.scbar.org/PublicServices/FindaLawyer.aspx/>;
- The South Carolina Legal Aid Telephone Intake Service (LATIS) at **1-888-346-5592** (toll free); or
- The South Carolina Center for Fathers and Families at <http://www.scfathersandfamilies.com/>

## How do I file for divorce?

To protect your legal rights, you are strongly urged to talk with an attorney if you plan to file for divorce. If you choose to file for divorce without an attorney, the South Carolina Supreme Court has approved the "Self-Represented Litigant Simple Divorce Packet." The packet with instructions is available online at:

<http://www.sccourts.org/forms/indexSRLdivorcepacket.cfm>.

Please read the instruction in the divorce packet carefully to determine if the packet is appropriate for your situation. Keep in mind that you will be required to pay the \$150 filing fee when you file for divorce.

**NOTE:** Some counties require mediation, which is a process that encourages communication between the parties so they can reach an agreement. The Family Court Coversheet includes a list of counties that require mediation.

## How do I get an emergency hearing if my case involves domestic abuse?

Judges can grant emergency hearings in many types of family court actions. If your case involves domestic abuse, you must file a “Petition for Order of Protection” ([SCCA425](#)), which can be found at the Clerk of Court’s office or on the South Carolina Judicial Department’s website:

<http://www.sccourts.org/forms/searchType.cfm>.

On Page 2 of the “Petition for Order of Protection,” check box “L” which reads “hold an emergency hearing within 24 hours.” You do not have to pay a fee to file this petition.

**NOTE:** Some counties have domestic violence shelters and organizations to help you complete this process. Check with your local law enforcement office or South Carolina Coalition Against Domestic Violence and Sexual Assault (SCCADVASA) at: <http://www.sccadvasa.org/>.

## How do I file for a name change for my child or myself?

The requirements for name change are found at S.C. Code Ann. [§ 15-49-20](#). In the case of name change for a minor child, you should consult an attorney. In all other cases, you must file an action for a name change by filing the Family Court Coversheet and paying the \$150 filing fee. You must also provide the Court with the following documents:

- The results of a fingerprint and criminal background check by the South Carolina Law Enforcement Division (SLED); and
- A sworn statement or affidavit stating whether you are under an order to pay child support or alimony; and
- A screening statement from SLED stating whether you are on the sex offender registry; and
- A screening statement from DSS stating whether you are on the Central Registry of Child Abuse and Neglect.

## **How can I get DNA testing?**

If you need a DNA test to establish paternity in a child support matter, you may contact the DSS Office of Child Support Enforcement for assistance. Otherwise, there are several locations in South Carolina where you can have a DNA test. Contact your local health department to learn where you can get the test. Often there is a fee for this service.

## **Has a bench or arrest warrant been taken out on me?**

Check with your local law enforcement office or visit your county Clerk of Court's office to learn if a bench or arrest warrant was issued against you.

## Resources

- If you do not understand the information in these FAQs, you may want to contact an attorney.
- To find an attorney who practices law in this area, please contact the South Carolina Bar's Lawyer Referral Service (LRS) at 1-800-868-2284 (toll free). LRS offers a referral by the location and by type of law. The lawyers who sign up with LRS are in good standing with the South Carolina Bar and must maintain malpractice insurance coverage. The lawyers also agree to a 30-minute consultation for no more than \$50. After the 30-minute consultation, the fees will be the lawyers' normal fees. Once you receive a referral, you will be expected to contact the lawyer by telephone to make an appointment.
- If you cannot afford an attorney, you may contact the South Carolina Legal Aid Telephone Intake Service (LATIS) at **1-888-346-5592** (toll free) or **803-744-9430** (Columbia area). Eligibility for assistance will depend on your income and assets and the type of problem you have. The income limit to be eligible for LATIS is 125% of the Federal poverty level, which changes every year in April. There is also an asset (money in bank accounts, property, etc.) limit. Additionally, the problem you have must be within the list of problems with which LATIS can help.