

**Potter County District Attorney's Office**  
**CRIMINAL NON-SUPPORT INSTRUCTIONS AND INFORMATION**  
**(Please print or type and fill out completely)**

The following information and instructions will help custodial parents who are not receiving child support understand how to file a criminal non-support complaint. Law enforcement personnel will be happy to assist with questions.

**INFORMATION ABOUT CRIMINAL NON-SUPPORT COMPLAINTS**

Section 25.05 of the Texas Penal Code defines the offense of criminal non-support. This offense occurs when a parent intentionally or knowingly fails to provide support for either his/her child younger than 18 years of age or for his/her child for whom he was ordered by a court to provide support. This offense is classified as a State Jail Felony and carries a punishment of 180 days to two years incarceration in a State Jail Facility. The defendant may have a defense if he/she can prove he/she was unable to provide support, such as through disability, illness, etc.

Before the District Attorney's Office can prosecute a criminal non-support case, certain criteria must be met to both comply with the letter of the law and the practical application of the law. The requirements are set out below. If your case does not meet these criteria, it may not be accepted for prosecution by the District Attorney's Office. If the case is accepted, the District Attorney may attempt to reach a payment agreement with the defendant or may present the case to a Grand Jury for a determination of whether an indictment should be returned for felony prosecution of the case.

- There are two (2) affidavits that must be completed and signed in front of a notary. The affidavits are included in this information packet and must be submitted along with other required documents for the District Attorney to consider the complaint. The complaint cannot be accepted until both affidavits are signed and notarized.
- The children who are the subject of this criminal action must have lived in the county for at least six months prior to filing of the complaint.
- The defendant should be at least three months behind in support payments after September 1, 1994. This requirement is twofold. First, only cases that occurred after the law went into effect on September 1, 1994 can be accepted. Secondly, there must be a cut-off point on the number of cases accepted due to constraints on personnel and funding.
- The defendant should be at least \$1,500.00 behind in support payments after September 1, 1994. This is to insure that the non-payment of child support is not a temporary problem caused by a job change.
- At least one attempt to collect past-due child support must have been made through a private attorney, the Office of the Attorney General or other civil means.
- The District Attorney's Office will not collect insurance, medical support, interest, or attorney fees ordered in any court order. The DA only has jurisdiction to pursue actual child support amounts.
- There is a three-year statute of limitations on criminal non-support. If the youngest child subject to the court order is 21 years of age or older, the District Attorney cannot pursue collection of past-due support. If the youngest child subject to the court order is between the age of 18 and 21, the District Attorney can only pursue collection of child support due within the past three years.

## INSTRUCTIONS FOR FILING A CRIMINAL NON-SUPPORT COMPLAINT

1. Complete the affidavits in this packet and **have your signature notarized** on each one.
2. Obtain a copy of the **ORIGINAL DIVORCE DECREE, ANY OTHER ORDER(s) MODIFYING the decree, and a copy of the DEFENDANT'S PAYMENT RECORD**. The payment record may be obtained from the Clerk's Office to which the defendant has tendered his/her child support. If the defendant has made payments to the Office of the Attorney General, a pay record from that office must be submitted. The Office of the Attorney General is located at 301 S. Polk, Suite 200, Amarillo, TX 79101 and the phone number is 806-376-4471.
3. Attach to the affidavits the copies of the decree, orders, any documents in your possession showing an effort to collect past-due child support, and pay records and any other documents you feel may be helpful in reviewing the case.
4. Submit the affidavits and all other required documents to the Amarillo Police Department located at 200 SE 3<sup>rd</sup> Avenue, Amarillo, TX 79101.

### WHAT HAPPENS WHEN A COMPLAINT IS FILED?

When the law enforcement agency receives all of the above information, a report will be filed and submitted to the District Attorney's Office. The District Attorney's Office will send a certified letter to the defendant giving him/her thirty (30) days to make contact with the District Attorney's Office. If, at the end of the thirty (30) day period, the defendant has not contacted the District Attorney's Office to make arrangements to pay his/her past-due support payments, the District Attorney's Office will decide whether to file a criminal complaint and whether the defendant should be arrested. At some point the case may be presented to a grand jury. If the defendant is indicted by the grand jury, the case will be assigned to one of the five District Courts in Potter or Randall County and a trial date will be set.

The District Attorney's Office may enter into an agreement with the defendant for payment of past-due child support. This agreement will allow the defendant to pay the money he/she owes in monthly installments. If an agreement is reached, installments will be paid through the appropriate District Clerk's Office or the State Disbursement Unit. The District Attorney's Office will not enter into a child support agreement with the defendant unless you approve the agreement. Please understand that the ultimate disposition of any felony case is determined by the District Attorney's office.

DATE RECEIVED: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

COMPLAINT #: \_\_\_\_\_

INDICTMENT #: \_\_\_\_\_

**CRIMINAL NON-SUPPORT INFORMATION AND AFFIDAVIT**

Before me, the undersigned authority, on this day personally appeared the undersigned affiant (complainant), who, after being duly sworn by me, made the following statement under oath: " I have good reason to believe and do believe that:

\_\_\_\_\_ (Full name and any alias of person failing to provide child support) hereinafter called the accused, did commit the offense of criminal non-support. My belief is based on the following facts, as shown by the appropriately completed information as set out below."

**FACTS ABOUT THE ACCUSED** (person ordered to pay child support)

DL: #: \_\_\_\_\_ State: \_\_\_\_\_ DOB: \_\_\_\_\_ Place of birth: \_\_\_\_\_

SSN: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair: \_\_\_\_\_ Eyes: \_\_\_\_\_

Home address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Business address or employer: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone #( ) \_\_\_\_\_ Work Phone #( ) \_\_\_\_\_ Other/Cell Phone( ) \_\_\_\_\_

Former business address or employer: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Marital status: \_\_\_\_\_ Name of current spouse: \_\_\_\_\_

Military service: Yes \_\_\_ No \_\_\_ Branch: \_\_\_\_\_ Dates of service: \_\_\_\_\_

Type of discharge: \_\_\_\_\_

Physical or legal disability rendering accused unable to provide support for child(ren): \_\_\_\_\_

Government benefits receiving: \_\_\_\_\_ Amount: \_\_\_\_\_ How often?: \_\_\_\_\_

**FACTS ABOUT THE COURT ORDERED CHILD SUPPORT**

Court issuing order: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

Cause #: \_\_\_\_\_ Date divorce decree filed: \_\_\_\_\_ Date of any modification: \_\_\_\_\_

Number of children receiving child support under this order \_\_\_\_\_

**FULL NAME, SEX, DATE OF BIRTH, AND SOCIAL SECURITY NUMBER OF CHILD(REN)**

\_\_\_\_\_  
\_\_\_\_\_

(List additional children on the back of this page—be sure to note that there is additional information on the back)

Permanent custody of child(ren) awarded to: \_\_\_\_\_

Has accused had any extended physical possession of child(ren) other than ordered visitation rights? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list dates of possession: \_\_\_\_\_

Amount of child support accused is ordered to pay: \_\_\_\_\_ How often: \_\_\_\_\_

Amount owed to date: \_\_\_\_\_ Amount paid to date: \_\_\_\_\_

Have you received any payments directly from the accused that have not been processed by a child support office (the Attorney General or the Clerk's office)? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list dates and amounts of any child support payments received directly from accused not processed by a child support office:

\_\_\_\_\_

Have you pursued any civil action in an attempt to collect past-due child support? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what action did you pursue?: \_\_\_\_\_

Do you currently have a case pending with the Attorney General's Office to collect past-due child support? Yes \_\_\_\_\_ No \_\_\_\_\_

Did the accused live in \_\_\_\_\_ Potter County \_\_\_\_\_ Randall County when he/she became delinquent in child support payments?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If no, do you know where the accused lived when he/she became delinquent? \_\_\_\_\_

**FACTS ABOUT THE COMPLAINANT** (person who receives child support)

Complainant's full name: \_\_\_\_\_

Home address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

DOB: \_\_\_\_\_ DL #: \_\_\_\_\_ State: \_\_\_\_\_ SSN: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Place of Employment: \_\_\_\_\_

Home phone #:( ) \_\_\_\_\_ Work phone #:( ) \_\_\_\_\_ Other/Cell phone#:( ) \_\_\_\_\_

County of residence: \_\_\_\_\_ Length of residence in the County: \_\_\_\_\_

Although not obligated to do so, do you wish to give the accused monetary credit for accused's physical possession of

Child(ren) Yes \_\_\_ No \_\_\_ ? If yes, list amount: \_\_\_\_\_

"I am the managing conservator of the above referenced child(ren) and the payee to whom the accused was ordered to pay child support in the above referenced court and cause number. Attached and incorporated herein for all purposes is a copy of the divorce decree and any modification order entered by said court ordering the accused to support the above referenced child(ren). I have also attached and incorporated herein for all purposes a copy of the pay record showing all payments the accused has made to the District Clerk and/or The Office of the Attorney General for the court ordered support of the above referenced child(ren). The accused committed the offense of criminal non-support by intentionally and knowingly failing to provide support for his/her above referenced child(ren) younger than 18 years who is/are the subject of the above referenced court order requiring the accused to support said child(ren). I am at least eighteen (18) years of age and competent to execute this affidavit. The facts contained in this affidavit are true and correct."

\_\_\_\_\_  
Printed Name of Affiant (Complainant)

\_\_\_\_\_  
Signature of Affiant (Complainant)

Date \_\_\_\_\_

SUBSCRIBED AND SWORN to before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public, State of Texas

**Note: The complainant should NOT accept any child support payments directly from the accused; the accused should be referred to the child support registry of the court and the District Attorney's Office. Notify the District Attorney's Office at (806) 379-2325 if your address or telephone number changes.**

**AUTHORIZATION FOR RELEASE OF INFORMATION**

“My name is \_\_\_\_\_ . My child support case number assigned by the Office of the Attorney General is \_\_\_\_\_ . I hereby authorize and request the Office of the Attorney General of Texas to disclose to:

47<sup>th</sup> District Attorney’s Office  
501 S. Fillmore, Suite 1A  
Amarillo, TX 79101

Amarillo Police Department  
200 E. 3rd  
Amarillo, TX 79101-1514

Potter County Sheriff’s Department  
608 S. Pierce  
Amarillo, TX 79101

Armstrong County Sheriff’s Department  
110 W. 1st  
Claude, TX 79109

Randall County Criminal District Attorney  
501 16<sup>th</sup> Street  
Canyon, TX 79015

Randall County Sheriff’s Department  
9100 S. Georgia  
Amarillo, TX 79118-5073

any information or records in its possession or control that would be disclosed to me under applicable laws or rules. I understand that this authorization will automatically expire if the case is closed and that I may revoke this authorization at any time by submitting a completed Form 1722, “Revocation of Authorization for Release of Information.” I further understand that the District Attorney’s Office is not responsible for disputes that may arise between me and any party as a result of this arrangement.

I certify that there is no court order in effect that prohibits release of the information, and that this information will only be used for child support purposes.”

\_\_\_\_\_  
Printed Name of Affiant (Complainant)

\_\_\_\_\_  
Address of Affiant (Complainant)

\_\_\_\_\_  
Date

Signed \_\_\_\_\_  
Affiant (Complainant)

STATE OF TEXAS                   §  
COUNTY OF POTTER           §

SUBSCRIBED AND SWORN TO before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas