

Child Support in a Divorce

Basic Child Support: Child support is ordered in divorce cases when at least one joint child lives primarily with one parent. Basic child support is the dollar amount one parent is obligated to pay to the other parent. The calculation of this dollar amount is meant to cover the costs of a child's housing, food, clothing, transportation, education costs, and any other expenses related to the care of the child.

A payor of child support is obligated to pay the other parent monthly child support until the child turns 18 or completes high school, but not later than when the child reaches age 20. Child support can continue beyond this point in special cases involving a child that cannot self-support at age 18 due to a physical or mental condition.

Minnesota uses a child support calculator to simplify calculating child support. This calculator can be found on the Minnesota Department of Human Services website and is based upon Minnesota statutory law. The Minnesota child support guidelines can be found in Minnesota Statute 518A. When calculating child support, the child support calculator takes into consideration several factors. These include:

- The number of joint children
- Each parent's monthly gross income
- The potential income of each parent
- The monthly amount of Social Security benefits the joint children receive
- The monthly amount each parent pays for spousal maintenance
- The number of non-joint children living in the home
- The monthly cost of health care coverage for the joint children
- The monthly cost of dental coverage for the joint children
- The percentage of parenting time awarded to each parent
- The number of joint children receiving child care
- The total monthly child care costs
- The parent that incurs the child care costs
- Any Medical Assistance or MinnesotaCare received by the joint children.

Modification of Child Support: After child support has been awarded, it is possible to modify the monthly payment amount. Either party, the payor or payee, can file a motion with the court to modify the monthly child support obligation of the payor. According to Minnesota statute, one of the following circumstances must occur that makes the current child support obligation unreasonable and unfair:

- Substantially increased or decreased gross income of the payor or payee
- Substantially increased or decreased need of a payor or payee or the joint child
- Receipt of assistance under the AFDC medical program
- A change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics
- Extraordinary medical expenses of the joint child

- A change in availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs
- The addition of work-related or education-related child care expenses
- Upon emancipation of the joint child.

Deviation from the Child Support Guidelines: Deviation from the presumptive child support guidelines must be approved by the court and may require a hearing. This can include a deviation where the payor pays more or less than the monthly statutory guideline amount. To obtain a deviation, the party seeking the deviation must state the reasons for deviation and how the deviation would serve the best interests of the child. In making a decision about whether to grant a deviation, the court considers several factors. These factors include:

- The earnings, income, and resources of each parent
- Extraordinary financial needs of the joint child
- The physical and emotional condition of the joint child
- The educational needs of the joint child
- The standard of living the joint child would enjoy if the parents lived together.

Enforcement of Child Support Payments: In some cases, a payor who has been ordered to pay child support stops making the monthly payments to the payee. In these cases, the court has several ways to ensure that the payee continues to receive the payments. Among other remedies, the court can:

- Garnish the wages of the payor directly from the payor's employer
- Suspend the payor's driver's license
- Place a lien on the payor's vehicle
- Suspend the payor's recreational licenses
- Create and enforce a payment agreement between the payor and payee
- Hold the payor in contempt of court.