

Child Support: Basic Questions

When is child support ordered?

If a married couple with minor children are divorced or obtain a legal separation, a court must order one or both parents to pay child support. If a child's parents are not married, generally paternity must be established before a court will order child support. Paternity can be established by court order or by the parents voluntarily executing a document called the Recognition of Parentage.

What does child support include?

Child support includes, at a minimum, basic support, which is an amount intended to feed, clothe, and shelter the child; medical support; and work- or education-related child care costs. Child support also may include support arrears or reimbursement of public assistance payments made on behalf of the child.

Who pays child support, and who receives it?

"Obligor" is the legal term for the parent who pays money to the other parent or anyone else for the child's support. "Obligee" is the parent or other individual or entity who receives money on behalf of a child. Usually the obligee is the parent with whom the child lives, and the obligor is the other parent. But sometimes parents have joint custody, each parent has custody of one or more of the couple's children, or the child is not in either parent's custody.

How is the child support amount calculated?

For actions or motions filed after January 1, 2007, the basic support obligation is calculated based on the gross income of both parents. Gross income includes any form of periodic payment. Excluded from gross income are child support payments received by a party, public assistance, and in specific circumstances, overtime pay. Gross income does not include the income of an obligee's or obligor's spouse.

A deduction from gross income is allowed when a nonjoint child resides in a parent's household, and the parent is not obligated to pay child support. The resulting amount is the parental income for child support.

After each party's parental income for child support is determined, the amounts are combined. The court must compare the total to the child support guidelines in statute. Each parent is responsible for the percentage of the basic support obligation represented by his or her percentage share of the combined parental income for child support. The obligor is allowed a parenting expense adjustment, based on the percentage of parenting time granted by the court.

After determining the support amount under the statutory guidelines, the court must consider several statutory criteria that allow it to depart from the guidelines amount. These criteria include the parents' earnings, income, resources, and debts, the child's needs, the child's living standard before the dissolution, and which parent receives the dependent income tax exemption. The court may reduce support payments for a low-income obligor.

What are the roles of federal, state, and local governments and the judiciary in setting child support?

Federal Government. Minnesota Statutes have long provided for child support in cases where parents divorce or have never married. In 1975 the federal government also became involved in this issue. Congress enacted laws aimed at establishing uniformity across states and setting minimum standards in state child support enforcement systems. The goal was to reduce the demand for public assistance by more effectively enforcing child support orders. The federal government provides funding to states with child support systems that meet certain federal requirements.

State Government. The legislature sets child support policy in Minnesota. State policy is greatly influenced by the federal requirements that are prerequisites to receiving federal welfare and child support funds. However, the federal requirements are often general in nature, leaving the details up to the legislature.

The Department of Human Services (DHS) is the primary executive branch agency responsible for overseeing Minnesota's child support system. The agency:

- ▶ provides training and assistance to the counties;
- ▶ operates Minnesota's centralized child support payment center;
- ▶ runs the statewide computer systems and maintains statewide data on child support;
- ▶ manages and disburses federal and state child support funding; and
- ▶ provides overall guidance for Minnesota's child support system.

Counties. Counties do a lot of the hands-on work in Minnesota's child support system. Counties deal directly with the families involved. Child support services are typically located within the county human services or social services department. The caseworkers that work on child support cases are called child support officers (CSOs). They work closely with the county attorney, who provides legal advice and represents the county (not the child or parents) in child support actions.

Judicial Branch. The judicial branch interprets and applies the child support laws in individual cases.

How is support enforced if payments are not made?

The state has several mechanisms in place to enforce child support, including parent locator services; the work reporting system; income withholding; occupational license sanction; driver's license suspension and motor vehicle title liens; recreational license suspension; civil judgments, real property liens, and liens against financial accounts; creditor's remedies; contempt of court; reports to credit agencies; intercepting tax refunds; denying passports; seek employment orders; and criminal charges.

For more information: Anyone affected by a child support order can call his or her county child support office or the automated DHS Child Support Help Line at 651-296-2542 or 1-800-657-3954. See also the DHS child support web site at www.dhs.state.mn.us/main/id_000160. See the House Research Department publication *Minnesota's Child Support Laws: An Overview* for more information about the law.

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