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**Overview of DE-Amendment to HF 980**  
**House Judiciary Finance and Civil Law Committee**  
**Thursday, February 25, 2021**

The Ramsey County Attorney's Office worked with partner organizations to support legislation that will provide more equity and transparency for families in Minnesota. The legislation is based in part on the work of the Child Support Guidelines Task Force established by the Minnesota Legislature in 2016.

The Task Force first met in September 2016 and worked on recommendations for over two years. The final report was issued in October 2019. The Task Force reviewed research and data on child support, engaged experts and conducted outreach to the public. The Task Force spent substantial time and effort reviewing how to revise the child support basic support table. This legislation reflects the work of the Task Force as it relates to updating the basic support table found in Minn. Stat. § 518A.35.

The outline below provides an overview of the legislative changes included in the DE-Amendment to HF 980.

**Changes to Child Support Guidelines**

**Basic Child Support Table**

**Issue:** The Child Support Basic Support Table ("the Table") has not been updated since 2007 and is based on economic data that is almost 20 years old. The current Table has significant negative effects on low income child support obligors as well as larger families and obligors with multiple children. This implicates that a higher percentage of lower income families of color are affected by the inequities of the low-income calculations. In its final report, the Child Support Guidelines Task Force recommended updating the Table to bring it in line with the current economic conditions relating to the cost of raising children. The recommendations also included an expanded low-income adjustment, increasing the current limit of \$15,000 of combined Parental Income for Child Support (PICS), and other minor changes. Updating the Table will help to benefit families as child support orders will be more realistic based on the current economy.

**Proposal/DE-Amendment to HF980:** The DE-Amendment includes the Task Force recommendations along with some additional changes. These changes were included in similar legislation that passed the House Civil Law and Judiciary Finance Committee last year. Negotiated changes are reflected in notes where applicable.

1. **Update the Table:** The Table is found at Minn. Stat. § 518A.35, subd. 2. Based on the recommendations of the Task Force, the Table was updated to bring Minnesota's guidelines in line with current economic conditions relating to the cost of raising children and to make the guidelines more equitable and transparent.<sup>1</sup>
2. **Low-Income Adjustment** – The expanded low-income adjustment makes basic support obligations more manageable for low income obligors.

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<sup>1</sup> **NOTE:** Section 4 of the 2021 bill updates the Table recommended by the Task Force due to changes in the Federal Poverty Guideline since 2018.

3. **Increased Limit** – An increase to the limit of the Table provides for greater uniformity for families at higher incomes by increasing the current limit of \$15,000 per month to \$20,000 per month of combined monthly PICS, which is the parents’ combined “gross income minus deductions for nonjoint children.” (See Minn. Stat. § 518A.26, subd. 15).<sup>2</sup> The limit has not been updated since 2007.
4. **Deviation Factor for Limited Circumstances** – During the 2020 legislative session, an additional deviation factor was added to the bill for the limited circumstance when the only change in circumstances is that the custodial parent’s income has increased, and the noncustodial parent’s income is low.<sup>3</sup>

Proposal/DE-Amendment to HF980 includes other recommendations made by the Task Force and partner organizations which are not directly tied to the Table but achieve modernization of the guidelines and achieve more equitable treatment for all children of the parents.

1. **Deducting court-ordered support obligations when determining PICS** - Currently the parents’ deductions for non-joint children are subtracted at different steps in the child support calculation depending on whether there is a court-ordered support obligation. The proposal is for both deductions to occur at the same step in the calculations process.
2. **Increasing the cap on the deduction for nonjoint children** - Currently the nonjoint child deduction is capped at two children regardless of how many nonjoint children the parent is supporting in their household. Additionally, there is no limit to how many court-ordered child support obligations may be deducted from the parents’ income. Thus this step in the calculation can be inequitable. The proposal is to increase the cap from two to six nonjoint children.
3. **Applying the nonjoint child deduction to all legally recognized nonjoint children** - Currently the guidelines do not provide for a deduction for all of the nonjoint children that a parent is supporting without a court order. The current child support guidelines limit this deduction to children who live in the parent’s household. To allocate support more fairly, the proposal applies the deduction for all legally recognized non-joint children without a court order whether or not the children live in the household of the parent.
4. **Increasing the calculation of the nonjoint child deduction from 50% to 75%** - Currently the nonjoint child deduction is calculated at 50% of the guideline amount. However, 50% has been economically proven to not equalize support available for all children for whom the parent is legally responsible to support. Minnesota is the only state that has such a deduction that uses 50%, while states with a similar deduction use 75%.
5. **Changes in the self-support reserve (SSR)** - Currently the SSR is applied by subtracting the SSR from a parent’s gross income. This can result in disparate outcomes because the deduction for children in the parents’ home is not included when calculating their gross income. The proposal to subtract the SSR from the PICS instead of gross income would remedy this inequity. This allows parents with court orders for non-joint children and parents with non-joint children in their home to be treated similarly.
6. **Calculate support for caretaker** - Clarifies Minn. Stat. § 518A.35, subd. 1(d) relating to how to calculate support for a caretaker who has a child living in his or her household when at least one of the parents

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<sup>2</sup> **NOTE:** The original Task Force recommendation was to increase the limit to \$30,000, but in 2020 it was negotiated to have the limit be \$20,000 which is consistent with economic data but does not go further based on credible extrapolations of that data. (Section 3 of bill)

<sup>3</sup> **NOTE:** The negotiated deviation factor applies when the only change in circumstance is an increase to the custodial parent’s income, the parties combined gross income is \$6,000 or less, the obligor’s income is \$2,000 or less, and the basic support would increase if the order is modified. (Section 8 of bill)

has statutory or court-ordered custody, but the caretaker does not have court-ordered custody of the child. How the statute is currently worded causes confusion and different interpretations.

7. **Child care expenses:** In 2020, language was added to clarify how child care support and increase transparency and ensure childcare expenses are accurately reflected in child support orders. It requires communication between parents and the childcare provider and requires the parent who pays for the childcare to notify the other parent of the termination of childcare expenses and the date of that termination. It is a clarification of existing law and policy.<sup>4</sup>

### **Changes to Consumer Credit Reporting**

**Issue:** Federal law provides that States must have a mechanism to report child support arrears to consumer credit reporting agencies (credit bureaus). Minnesota’s law is found in Minn. Stat. § 518A.685<sup>5</sup>, which states that arrears shall be reported to the credit bureaus when an obligor has not paid current monthly support plus any required arrears payment for three months. Once arrears are reported, there is no further communication with the credit bureaus until additional arrears are added or no arrears are left owing by the obligor.

Because credit bureaus do not allow positive reporting of payments, counties should have the discretion to decide whether and when to report the arrears to the credit bureaus. This is important because credit bureau reporting has an adverse impact on obligors. Reporting can impede the ability to obtain a mortgage or rental housing, purchase a reliable vehicle, obtain lines of credit, and employment. The adverse impact may hinder the obligor’s ability to exercise parenting time, pay child support, and otherwise provide for and parent the child. The negative consequences of credit bureau reporting have a significant impact on low income obligors and obligors of color, who are over represented in the child support system and are more likely to experience barriers to employment, housing and bias in credit reporting already.

**Proposal/DE-Amendment to HF 980:** Minn. Stat. § 518A.685 requires the State to report to the credit bureaus when an obligor has not paid current monthly support plus any required arrears payment for three months. The proposal is to simply change “must” to “may” to allow the counties discretion to only report appropriate cases in which credit reporting is likely to be an effective enforcement tool. The proposal also provides an avenue for negotiation and communication between the county and the obligor by adding language to allow an obligor to prevent credit bureau reporting by entering into a written payment agreement.

### **Changes to Interest on Child Support Arrears**

**Issue:** Federal law provides that States have the option to implement a collections tool of charging interest on child support arrears. Minnesota elected to do so in the 1990’s with the assumption that interest charging would encourage the child support obligor to pay timely. This decision was made before many of the enforcement remedies used today were available. For many obligors, charging interest on arrears has made their arrears payments nearly impossible to meet, sometimes having interest payments being higher than monthly obligations owed. Counties are aware of this and some frequently request for interest charging to be stayed, or they use the child support debt and arrears management statute found in Minn. Stat. § 518A.62 to forgive the interest on public assistance arrears.

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<sup>4</sup> **NOTE:** Changes #1-5 are modifications to the child support guidelines and were not specifically recommended by the task force. Changes #6-7 were recommended by Ramsey County and partner organizations.

<sup>5</sup> DHS pursued a bill that reflected the limitation in credit bureaus’ reporting limitations which was enacted in 2020, but did not pursue allowing discretion in whether and when an obligor should be reported to the credit bureau.

Interest charging contributes to unpayable support obligations and mounting debts. Some child support obligors fall behind in their obligations because the order exceeds their ability to pay. The most recent major study of how interest on child support payments effects child support arrears was issued by the U.S. Department of Health and Human Services in 2007. "Assessing Child Support Arrears in Nine Large States and the Nation,"<sup>6</sup> recommended that states revise policies governing interest on child support arrears to ensure application of interest does not result in ever-increasing arrears balances that can never be paid in full.

**Proposal/DE-Amendment to HF980:** In the past several years, some states have either eliminated or have moved towards eliminating interest charging. Since the Federal Government has made the interest collections tool optional at the State level, we propose eliminating interest charging on child support arrears in Minnesota. This will allow both the State and County IV-D child support programs to focus on collecting current support and arrears.

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<sup>6</sup> <https://www.urban.org/sites/default/files/publication/29736/1001242-Assessing-Child-Support-Arrears-in-Nine-Large-States-and-the-Nation.PDF>