

House Research Act Summary

CHAPTER: 164

SESSION: 2005 Regular Session

TOPIC: Child support

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Overview

This act, which is effective January 1, 2007, unless otherwise noted, reforms the law related to child support. It increases fees related to dissolution of marriage and child support. It establishes new guidelines, using the income shares model, and new calculations for determining child support obligations.

Section

- 1** **Transmittal of fees to commissioner of finance.** Amends § 357.021, subd. 1a. Adds that from the fee collected for child support modification, \$20 must be transmitted to the county treasurer for deposit in the county general fund, and \$35 must be credited to the state general fund. This section is effective July 1, 2005.
- 2** **Fee amounts.** Amends § 357.021, subd. 2. Specifies that a fee of \$55 will be charged for filing a motion or response to a motion for child support. This section is effective July 1, 2005.
- 3** **Filing fee.** Amends § 518.005 by adding subd. 6. Adds a fee of \$50 for filing the initial pleading in proceedings for dissolution of marriage, legal separation, annulment, or proceedings to establish child support obligations. States that this fee is in addition to any other prescribed by rule or law. This section is effective July 1, 2005.
- 4** **Six-month review.** Adds § 518.1781. Requires a request for six-month review hearing form to be attached to a decree of dissolution or legal separation or an order initially establishing child custody, parenting time, or support rights. If a parent requests a hearing within six months, requires the court to review, as soon as practicable, whether child support is current and whether both parties are complying with the parenting time provisions of the order. Provides that the obligor has the burden to present evidence to

establish that child support payments are current. Also requires the commissioner of human services to develop a form to submit payment information to the parties and the court.

5 **Definitions.** Amends § 518.54. Subdivisions 1 through 27 provide definitions used in this act. Included are the new definitions for support money or child support; obligor; public authority; parental income for child support; appropriated veterans' benefits; basic support; gross income; joint child; nonjoint child; parenting time; payor of funds; potential income; primary physical custody; social security benefits; split custody; and survivors' and dependents' educational assistance.

6 **Determination of controlling order.** Amends § 518.55, subd. 4. Provides that the court shall presume the latest order that involves the same obligor and joint child is controlling.

7 **Notice to public authority.** Amends § 518.551, subd. 5. Updates cross-references. Deletes the child support guidelines and calculations for child support, which are moved to new sections of this act.

8 **Providing income information.** Amends § 518.551, subd. 5b. Clarifies that in any case where child support must be determined, the parties shall serve and file a financial affidavit disclosing all sources of gross income with their initial pleadings or motion.

9 **Child support debt/arrearage management.** Adds § 518.6197. Allows the parties, including the public authority, to compromise unpaid support owed by one party to another, whether or not reduced to a judgment.

10 **Modification.** Amends § 518.64, subd. 2.

- Clarifies language and updates cross-references.
- Adds emancipation of a child as a basis for modification of child support or maintenance.
- States that it is a substantial change in circumstances if application of child support guidelines results in a court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order.
- Adds that it is a substantial change in circumstances if the gross income of the obligee or obligor has decreased by at least 20 percent through no fault or choice of the party.
- States that a child support order is not presumptively modifiable because a party becomes responsible for the support of a nonjoint child born after an existing order.
- Provides that an enactment, amendment or repeal of law does not constitute a substantial change in circumstances.
- States there may be no modification of an existing child support order during the first year following enactment of this law unless: there is at least a 20 percent change in the gross income of the obligor; there is a change in the number of joint children the obligor is supporting; the child becomes disabled; or both parents consent to the modification.
- Allows that the first modification of support under this law may be limited if it will cause hardship for either the obligee or obligor.

- 11 **Child care exception.** Amends § 518.64, by adding subd. 7. Allows the court to reduce the amount allocated for child care expenses based on a substantial decrease in these expenses as of the date the expense is decreased.
- 12 **Child support debt and arrearage management.** Amends § 518.68, by adding subd. 8. Allows the parties, including the public authority, to compromise unpaid support owed by one party to another, whether or not reduced to a judgment.
- 13 **Contents.** Amends § 518.68, subd. 2.
- Adds to the required notification form that the public authority may suspend or resume collection of child care expenses when either party informs the public authority that no child care costs are being incurred and the public authority verifies this information.
 - Adds to the required notification form that child support may be modified, increased or decreased if either the obligor or obligee is laid off or receives a pay reduction. This modification takes effect when ordered by the court and will only relate back to the time the motion is filed. The court cannot reduce support retroactively.
- 14 **Calculation of gross income.** Adds § 518.7123. Provides a nonexclusive list of sources of gross income. Defines income that is not included in the calculation of gross income.
- 15 **Income from self-employment or operation of a business.** Adds § 518.7125. Defines gross income as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operations. Provides what is excluded from ordinary and necessary expenses.
- 16 **Computation of child support obligations.** Adds § 518.713. Sets out the calculations used to determine a parent's child support obligation.
- 17 **Deviations from child support guidelines.** Adds § 518.714.

Subd. 1. General factors. Provides a list of factors the court must take into consideration in setting or modifying child support or in determining whether to deviate upward or downward from the guidelines.

Subd. 2. Debt owed to private creditors. Provides the circumstances under which debts owed to private creditors may be considered when the court establishes or modifies a support obligation.

Subd. 3. Evidence. Allows the court to receive evidence to determine if the guidelines should be exceeded or modified.

Subd. 4. Payments assigned to public authority. States the court may not impose a downward deviation from the guidelines if payments are assigned to the public authority unless the court makes specific findings that there would be an extreme hardship on the obligor.

Subd. 5. Joint legal custody. Provides that joint legal custody is not a reason for deviation from the guidelines.

Subd. 6. Self-support limitation. Allows a downward deviation if the obligor can establish they do not have enough for the self-support reserve.

- 18 **Written findings.** Adds § 518.715. Provides that the court must make written findings in every case.
- 19 **Guidelines review.** Adds § 518.716. States that no later than 2006 and every four years thereafter, the Department of Human Services must conduct a review of the child support guidelines.
- 20 **Nonjoint children.** Adds § 518.717. Provides the calculation for the credit for nonjoint children.
- 21 **Social security or veterans' benefit payments received on behalf of the child.** Defines when this benefit is considered gross income and when it is subtracted from the obligor's net child support obligation.
- 22 **Medical support.** Adds § 518.719. Subdivisions 1 through 18 address the medical support obligation, determining appropriate health care coverage, unreimbursed and uninsured medical expenses, employer and union requirements, and health plan requirements among other things.
- 23 **Child care support.** Adds § 518.72. Provides for the determination and allocation of costs for child care. Allows consideration for a low-income obligor.
- 24 **Parenting expense adjustment.** Adds § 518.722. Provides the calculations for an adjustment of basic support based on parenting time.
- 25 **Ability to pay; self-support adjustment.** Adds § 518.724. Provides the standards for determining the child support for a low-income obligor.
- 26 **Guideline used in child support determinations.** Adds § 518.725.

Subd. 1. Determination of support obligation. Instructs that the child support guideline is a rebuttable presumption. Provides the formula for determining child support if a child is not in the custody of either parent. Provides instructions for determining child support when combined parental income exceeds the guidelines.

Subd. 2. Basic support; guidelines. Sets out the table for determining basic support.

Subd. 3. Income cap on determining basic support. Allows the court to order a basic support obligation that exceeds the income limit if it finds a child has a disability or other substantial, demonstrated need and that the additional support will directly benefit the child. States the dollar amount for the cap in subdivision 2 must be adjusted July 1 of every even-numbered year to reflect cost-of-living changes.

Subd. 4. More than six children. Allows the court to derive a support order without specifically following the guidelines.

- 27 **Worksheet.** Adds § 518.729. Instructs the commissioner of human services to create and publish a worksheet to assist in calculating child support. States the commissioner must update the worksheet by July 1 each year. Also instructs the commissioner to make an interactive version of the worksheet available on the Department of Human Services website.
- 28 **Study of economic impact of child support guidelines.** Instructs the commissioner of human services to contract with a private provider to conduct an economic impact of the child support guidelines contained in this act. The results of the study are to be completed no later than January 30, 2006.
- 29 **Instruction to the revisor.** Directs the revisor to create a new chapter to be comprised of the sections of Minnesota Statutes, chapter 518, that relate to the provision of child support. This section is effective the day following final enactment.

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Appropriations.

- Appropriates \$860,000 in FY 2006 from the general fund to the commissioner of human services for implementation of this act.
- Appropriates \$450,000 in FY 2007 from the general fund to the commissioner of human services to reimburse counties for their implementation costs.
- States the appropriation base for counties in FY 2008 for grants to counties will be \$450,000.
- Makes a one-time appropriation of \$440,000 in FY 2007 from the general fund to the Supreme Court to fund implementation of this act.

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Repealer. Repeals Minnesota Statutes 2004, sections 518.171; 518.54, subdivisions 2, 4, and 4a; and 518.551, subdivisions 1, 5a, 5c, 5f.

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Effective date. Except as otherwise provided, this act is effective January 1, 2007 and applies to orders adopted or modified after that date. Sections 1 to 3 are effective July 1, 2005.