

HOUSE RESEARCH

Bill Summary

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Overview

This bill creates new child support guidelines, including a basic child costs schedule, that would replace the child support guidelines in current law.

Section

1 **Child support.** Adds § 518.571. Creates new child support guidelines that would replace the guidelines in current law.

Subd. 1. Basic support obligation. Provides that both parents have an equal duty to pay for the actual costs of supplying for the reasonable needs of their children in proportion to the parents' respective incomes and resources. Provides that a child's best interests are met when this obligation is fairly satisfied as far as practicable after taking into account each parent's self-support needs.

Subd. 2. Support guidelines. (a) Requires that the support guidelines be used in all child support cases. Specifies when and how the court may deviate from the guidelines. Also specifies 13 factors a court may consider in deviating from the guidelines.

(b) Establishes a self-support reserve to ensure that obligors have sufficient income to maintain a minimum standard of living. Sets the self-support reserve at 133 percent of the federal poverty guidelines for one person.

(c) Provides that the basic child costs schedule in paragraph (m) is based on economic data that represents estimates of total expenditures on child-rearing costs to age 18, including health insurance and health care costs, but excluding child care and educational costs. Also specifies that the expenditures are for a single-parent

household with income equal to the average of both parents' income.

(d) Defines income for purposes of this section as a parent's gross income or potential income if unemployed or underemployed. In addition, this paragraph:

- ▶ defines what is included and excluded from gross income;
- ▶ specifies how to determine income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation;
- ▶ permits a court to determine potential income of a parent who is voluntarily unemployed or underemployed;
- ▶ excludes from income child support received for any other legally dependent child;
- ▶ requires maintenance payments to be determined before determining a child support obligation, and also requires maintenance to be counted as income to the receiving parent and as a deduction from income for the paying parent; and
- ▶ requires the parents' income to be verified with documentation of both current and past income.

(e) Provides that the basic child support obligation includes typical medical expenses. Also specifies that, if a court orders one or both parents to pay for medical insurance, the amount paid must be deducted from the basic support obligation depending upon the parents' share of parenting time and must be attributed as an expense to the parent incurring the cost. Provides that, if an employer provides coverage, only the employee's portion of cost may be included. Also specifies that annual uncompensated medical or dental expenses in excess of \$250 per child must be divided between the parents in proportion to their respective adjusted after-tax income.

(f) Specifies that child care and educational costs are not included in the basic child costs schedule in paragraph (m).

(g) Requires that child support payments for dependent children who are not a part of the instant action be deducted from income. Also requires a parent's financial responsibility for natural or adopted children living in the parent's household who are not involved in the instant action to be deducted from income. Finally, requires maintenance to be deducted or added to a parent's income.

(h) Provides that the presumptive child support award not exceed an amount that would leave an obligor with income less than needed for basic living needs. Also requires that the award not exceed a level that causes income deduction orders to exceed any withholding limit established by the federal Consumer Credit Protection Act.

(i) Specifies six circumstances in which a parent's duty to provide support for a minor child automatically ends.

(j) Provides that the enactment of this section constitutes a significant material change in establishing and calculating child support orders. Specifies that in an order two years old or older, an increase or decrease of 15 percent or more between the amount of the existing order and amount of child support resulting from application of the guidelines is presumed to constitute a substantial change in circumstances warranting a modification.

(k) Specifies that, if a parent paying child support suffers an involuntary termination of employment, has an extended involuntary loss of average weekly hours, is involved in

an organized strike, suffers a loss of health, or similar involuntary adversity resulting in a loss of income of 25 percent or more, the portion of child support attributable to that lost income does not accrue.

(l) This paragraph specifies the 17 steps required to determine a presumptive child support award. These steps include calculating:

- ▶ each parent's monthly gross income;
- ▶ each parent's monthly adjusted after-tax income;
- ▶ a self-support reserve for basic living needs;
- ▶ each parent's monthly income available for child support;
- ▶ each parent's share of the combined monthly income available for child support;
- ▶ the parents' basic child costs, as determined by the schedule in paragraph (m);
- ▶ medical and life insurance costs;
- ▶ each parent's relative percentage of time that the parent has primary physical responsibility for the children and prorating basic child costs by each parent's share of parenting time; and
- ▶ each parent's tax benefit attributable to the children and offsetting that amount from the amount of support ordered.

This paragraph also provides that, depending upon the parents' relative incomes, each parent's share of parenting time, and the size of the child-related tax benefits, either parent may be an obligor.

(m) Specifies the schedule of basic child costs for a single-parent household, excluding child care and education costs, using the average of the parents' monthly adjusted gross income.

(n) Requires orders issued on or after July 1, 2003, to include the birth dates of the dependent children for whom the obligor is having income deducted. Also requires orders to include the dates on which each dependent child is 18 years old, on which date the income deduction order is no longer valid without a showing that the child is still in secondary school and not yet 19 years old.

(o) Requires the Department of Human Services to ensure that income deduction orders end when the obligation ends, regardless of whether the case was initiated by the Department. Also requires the Department to develop an administrative procedure for obligors to file a petition to administratively stop income deduction orders when the support obligation ends. Also requires overpayments to be refunded to an obligor. Any overpayments resulting from the Department's failure to administratively terminate an income deduction order within 90 days bears interest payable to the obligor at the existing judgment rate.

Subd. 3. Conflict of law. Provides that this section governs in any case involving a conflict with a Minnesota law in effect on the effective date of this section.

- 2 **Special relief.** Amends § 518.64, by adding subdivision 7. Permits an obligor or obligee to make a motion to modify child support if the obligor or obligee can demonstrate that the child support order unjustifiably deviates from the amount defined in section 518.571 (section 1 of this bill). Also provides that in any criminal or civil proceedings regarding nonpayment of child support, an affirmative defense is available to the extent that child support previously ordered exceeds the amount defined in section 518.571.
- 3 **Instruction to revisor.** Requires the Revisor of Statutes, in consultation with House

Research and Senate Counsel and Research, to report to the legislature by December 31, 2003, on portions of Minnesota law that conflict with sections 1 and 2 and recommend amendments and repealers required to resolve the conflicts.

4 **Repealer.** Repeals section 518.551, subdivisions 5 (child support guidelines) and 5f (subsequent children).

5 **Effective date.** Makes sections 1 to 4 effective the day following final enactment.