

## Changes to Guidelines Support in Minnesota

Several changes to the way that child support is calculated in Minnesota are effective January 1, 2023. The changes are the result of a multi-year inquiry into the guidelines by the Child Support Task Force. The changes were passed during the 2021 legislative session.

### Summary of Changes

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#### Changes to the Guidelines Table

The table used for setting basic support<sup>1</sup> represents what it would cost to raise children in an intact family. The table was originally created with data of family spending from 2001. The table is updated with data from 2017. In addition to updates based on new data, the table was adjusted down from the 2017 data for combined incomes of less than \$6,000. For those lower income families, support would otherwise have been set at a very high percentage of income creating unpayable orders. For some income levels, support will increase. For other income levels, support will decrease. To see impacts across all income levels and numbers of children, consult [Laws of Minnesota 2021, chapter 30, article 9, section 65](#).

Cases where the guideline table changes are likely to result in significant changes include cases where the custodial parent has no income (for example if the parent is on TANF) and cases where the obligor makes just more than minimum wage. Changes will be greatest when there is no parenting expense adjustment to offset the table change.

Example 1: Chris and Sam have one joint child. Chris has had custody since birth and there is no parenting time order. Chris earns \$2,000 per month and Sam earns \$1,800 per month. Basic support before the guidelines table changes is \$205 per month. After January 1, 2023, Sam's order would be set at \$61.

Example 2: Lindsay has custody of one child. The other parent, Pat, has no custody or parenting time. Lindsay earns \$3,000 per month and Pat earns \$3,200 per month. The pre-change guideline basic support would be \$473 per month. The amount in 2023 will be \$519.

#### Eligibility for Nonjoint Child Deductions

Under the pre-2023 guidelines, a parent was eligible for a deduction from income only if they were ordered to pay support, or if the nonjoint child primarily resides in the parent's household. The deduction for court ordered support will remain unchanged. However, for parents not paying support, a deduction based on the

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<sup>1</sup> Minn. Stat. § 518A.35

guidelines table will now be available based on the legal responsibility of the parent.<sup>2</sup> This means that a parent will be eligible for the deduction if parentage is established, including with a validly filed Recognition of Parentage. The residence of the children, custody, or parenting time are not relevant to the deduction.

### Amount of Nonjoint Child Deductions

When parents are eligible for a guideline table based deduction, the pre-2023 deduction amount was equal to 50% of the table amount for the parent's income and the number of children only up to 2 children. Starting in 2023, the amount of deduction will be 75% of the table amount, and the deduction will be allowed for up to six nonjoint children.<sup>3</sup>

Though the percentage is higher and now allows for credit for more nonjoint children, in some cases the deduction may actually be reduced. This will occur when the guidelines table amount itself was reduced. For example, a parent earning \$2,400 with two legal nonjoint children may have received a deduction of \$447 in 2022 ( $\$893 \times 0.5 = \$447$ .) Beginning in 2023, the same parent could get a deduction of \$236 ( $\$315 \times 0.75 = \$236$ ).

### Self-Support Reserve

A self-support reserve<sup>4</sup> is subtracted from the obligor's income to determine their ability to pay. The self-support in 2023 will remain 120% of the federal poverty level (currently \$1,359/month). However, parents will now receive their income deductions for all non-joint children before the self-support reserve is subtracted to calculate ability to pay. Prior to the change, only deductions related to court ordered support were taken before the ability to pay calculations.

Example: Sam is in court having support set for one child. Sam has an income of \$1,800. Sam also parents two other legal nonjoint children. Sam's ability to pay before the changes is \$410 ( $\$1,800 - \$1,359$ ). In 2023, Sam will get credit for the other legal nonjoint children prior to subtracting the self-support reserve, leaving Sam with an ability to pay of \$328 ( $\$1,800 - \$113 - \$1,359 = 328$ ).

The self-support reserve will also now apply to both parents. This change will not be reflected in the guidelines calculations, but will appear on the web calculator, allowing the court to also see how much the custodial parent has for their own needs.

### Minimum Order

The minimum order for low income obligors will be changed slightly. Whereas the pre-2023 minimums were \$50, \$75, or, \$100, the new minimums will also begin at \$50, but will increase \$10 for every additional child up to six.<sup>5</sup> This change will make a maximum of \$10 difference in a given order.

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<sup>2</sup> Minn. Stat. § 518A.33

<sup>3</sup> *Id.*

<sup>4</sup> Minn. Stat. § 518A.42

<sup>5</sup> *Id.*

A further clarification in the minimum order statute also establishes that if the basic support is below the minimum because of application of the parenting expense adjustment.

## Navigating the Changes

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Many parents may believe that they will automatically benefit from a change in the law. The most important thing to communicate to parents is that there will be no automatic change to court ordered obligations.

### Modifications

Minn. Stat. § 518A.39, subd. 2(j) provides that the change in law constitutes a substantial change in circumstances for the purposes of modifying support when it meets the standards for modification. In most cases, that standard will be a change of at least 20% and \$75 from the previous order, a presumptive standard found in Minn. Stat. § 518A.39 Subd. 2(b). Families could be eligible for a modification by this standard even if nothing else on the case has changed. However, Subd. 2(k) allows discretion to limit the amount of the modification if the full variance would create a hardship for either parent.

Example: Parents have two joint children. Parent A earns \$2,000 per month. Parent B earns \$1,000 per month and is on MFIP, so no additional income is imputed. In a prior order in 2020, the court awarded \$641 (the guideline amount of \$643 was slightly reduced for ability to pay). If the parties return in 2023 with no changes, the court may order \$347, representing the new guidelines. The change of \$294 is a change of 49%. Because of the significance of the variance, the court may find that the modification is a hardship to the obligee and could order an amount between \$347 and \$641.

### New Deviation Reason

Because the table was artificially adjusted downward for combined incomes below \$6,000, at those income levels it is possible that an increase in income for the obligee only can lead to increased support. A new deviation reason at Minn. Stat. § 518A.43, Subd. 1b allows a court to avoid this outcome when a modification request is made and the only change is increase to custodial parent income.

Example: Early in 2023 the court set an order for \$358 for the parties' three children. At that time, the obligor earned \$2,000 and the obligee earned \$700 and was on MFIP. The obligee requests a modification in 2024. Now the obligee is off MFIP and is earning \$1,400 and the obligor still earns \$2,000. The guidelines basic support calculation is now \$443, a 24% increase which would otherwise be a presumptive reason to modify. The obligor requests that court deviate based on the new deviation reason.

