

# Child Support Basics



Eighth Edition – 2018

## PREFACE

This booklet provides basic information about how child support is set, collected and changed. It has information on Minnesota's child support guidelines called "Income Shares."

Remember, this booklet is a guide and is not meant to answer all questions. The information may or may not apply to your situation. The laws talked about in this booklet change often, so check for changes.

If you are low-income you can get a free copy of this booklet from your local Legal Services office. You can also find it online at [www.LawHelpMN.org](http://www.LawHelpMN.org) to view or print out. Others can purchase the booklet for \$7.48 (which includes applicable sales tax, postage, and handling). Booklets are available for purchase from

Legal Services State Support  
Midtown Commons, Suite 101B  
2324 University Ave. W.  
St. Paul, MN 55114

Discounts are available on bulk orders by calling the Legal Services State Support office at 651-228-9105, ext. 6911.

For free information about this and other civil legal topics, visit [www.LawHelpMN.org](http://www.LawHelpMN.org).

You can also find fact sheets on different legal subjects online at the website listed above or from the Education for Justice Program of the Minnesota Legal Services Coalition. Please call (651) 842-6915 for a list.

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**NOTE: The laws for child support have terms and meanings you need to know. If you see a new term or one you do not understand, look for it in this glossary.**

## **GLOSSARY – Terms and Definitions**

<b>Basic Support</b>	The amount paid for a child’s basic expenses. Basic expenses are things like food, clothing, housing and other costs that have to do with the child’s care. The court sets this amount by using the child support guidelines.
<b>Child Care Support</b>	The amount ordered by the court to help pay for work or education related child care costs.
<b>Child Support</b>	The money paid to help raise a child. It is a combination of basic support, medical support, and child care support.
<b>Custodial Parent</b>	The parent or person that a child primarily lives with.
<b>Federal Poverty Guidelines</b>	A chart showing the level of poverty for different income levels and household sizes. The federal poverty guidelines are used to determine the child support “self-support reserve.”
<b>Gross Income</b>	Gross income for setting child support is different than gross income for tax purposes. For child support it includes your “Monthly Income Received,” <b>plus</b> social security or veteran’s benefit paid to a child because of a parent’s disability, <b>plus</b> potential income, <b>minus</b> spousal maintenance or child support ordered to be paid.
<b>Income Available for Support</b>	The amount of gross income above the “self-support reserve.”
<b>Joint Child</b>	The child of both parents in the support case.
<b>Legal Custody</b>	<b>Sole legal custody</b> means only one parent has the right to make decisions about the child. <b>Joint legal custody</b> means both parents make decisions together.
<b>Medical Support</b>	Medical support is the amount of support ordered by the court to help pay for medical insurance premiums, a contribution toward Medical Assistance, or costs not covered, including payments owed.

<b>Monthly Income Received</b>	Any form of regular payments, like wages and salaries. It can also be income from self-employment, worker’s compensation, unemployment, some pension and disability payments (such as RSDI or veteran’s pension or disability retirement payments), retirement benefits, and spousal maintenance. Monthly income received may also include “potential income” if a parent works less than 40 hours per week. Monthly income received does not include public assistance benefits (like MFIP payments). It is calculated before any pre-tax deductions.
<b>Non Custodial Parent</b>	The parent that the child does not primarily live with.
<b>Nonjoint Child</b>	The child of one, but not both parents in the support case. For example, a child from a different relationship. There are 2 ways that nonjoint children affect child support. (1) A nonjoint child mainly lives with the parent involved in the support case and that parent is legally obligated to support the child. Then a deduction is given from gross income to calculate child support in the new case. (2) A nonjoint child who does not mainly live with the parent in the support case, but the parent is ordered to pay child support for that nonjoint child. Then the amount of that child support order is deducted from the parent’s monthly income for support to calculate child support in the new case.
<b>Obligee</b>	A person who gets child support or spousal maintenance.
<b>Obligor</b>	A person who pays child support or spousal maintenance.
<b>Parental Income for Determining Child Support (PICS)</b>	A parent’s gross income minus any deductions for nonjoint children. This number is used to figure out the amount of basic support, child care support, and medical support.
<b>Parenting Time</b>	The time a parent spends with a child. It does not matter who has custody. Parenting time used to be called visitation.
<b>Parenting Expense Adjustment</b>	The amount of money that is subtracted from basic support for money spent during parenting time. For setting child support, parenting time can be determined by the number of overnights the child spends with a parent, or the court can determine parenting time using days if the child spends significant time with that parent but does not stay overnight.

<b>Physical Custody</b>	<b>Sole physical custody</b> (or Primary physical custody) means that one parent provides the primary home for a child and is responsible for most of the day-to-day decisions about the child. <b>Joint physical custody</b> means that the child lives with both parents.
<b>Potential Income</b>	If a parent works part-time but is able to work full-time, the court can calculate what they could make if they worked more. This is called potential income and can count as income in setting child support.
<b>Self-Support Reserve</b>	The amount of income that is reserved for an obligor's living costs each month. This means that the amount of child support will not leave an obligor with less than this amount to live on, unless a minimum order applies. The self-support reserve is 120% of the federal poverty guideline for one person, which is \$1,188 for 2016.
<b>Social Security and Veteran's Benefits</b>	If a parent is retired or disabled and getting Social Security or Veteran's benefits (other than SSI), the amount of the parent's benefit is part of his or her income. If there is a benefit payment to the child because of the parent's disability or retirement, the amount paid to the child is added into the retired or disabled parent's child support column, and later deducted from child support.
<b>Spousal Maintenance</b>	The money a person is ordered to pay to a spouse in a divorce case. Also called "alimony."
<b>Tax Intercept</b>	When the Internal Revenue Service (IRS) or the Minnesota Department of Revenue take a parent's tax refund for child support.

### **A Note on Safety:**

**I am on public assistance but I do not want the county to try to collect child support because I am afraid of being hurt by the other parent of my child. What can I do?**

In certain cases, where a parent has been abused, raped, or harassed by the other parent, a legal case for child support might make the situation worse. In this case, you can ask for a "good cause exception." If you have a good cause exception, the county cannot bring a legal case for child support against the other parent without your permission. See page 25 for more information.

**If you have concerns for your safety or the safety of your children**, there is help available. The Minnesota Domestic Violence Crisis Hotline can be reached 24 hours a day at **(866) 223-1111**.

## What if I am not on public assistance and have safety concerns for myself or my children, and I want help setting or collecting child support?

You should contact your county child support office about child support services, and talk with them about ways they can help you safely establish child support. You should also contact the Minnesota Domestic Violence Crisis Hotline 24 hours a day at (866) 223-1111 and ask them about resources in your area. Domestic violence resources can help you with safety issues, including ways to safely collect child support.



### CHILD SUPPORT BASICS

#### What is child support?

Child support is the money that a parent pay to help support a child that does not primarily (mainly) live with them. The child might live with the other parent, or might live with someone else. Every child has a right to be supported by both parents.

The term “child support” actually has three parts:

- 1) Basic support
- 2) Child care support
- 3) Medical support

**Basic support** is the child support that takes the cost for raising children and divides the cost between the parties based upon their incomes. The parent with less parenting time (often called the noncustodial parent) gets a parenting expense adjustment to account for money they spend during parenting time. The amount at the end of that calculation (called the “guidelines”) is basic support.

If the child lives primarily with one parent, that parent is the “obligee” for basic support, and the other parent is the “obligor.” If parents share custody equally (45.1% or more parenting time), the parent with the higher income is the basic support obligor.

The next part of child support is **child care support**.

Minnesota’s child care calculation assumes the parent with whom the child primarily lives (often called the “custodial parent”) pays the child care provider. The other parent is ordered to pay the custodial parent back for a portion of those costs. If the county helps with child care costs, the child care amount is paid to the state, not the other parent.

The final part of child support is **medical support**. This includes paying toward the cost of health insurance for the children, and also splitting costs that aren't covered by insurance. Minnesota law assumes the custodial parent provides health coverage, and a portion of that cost is reimbursed by the noncustodial parent. However, it is possible that either parent could have insurance, and so either parent could owe reimbursement. The parents are also ordered to share expenses not covered by insurance, and reimburse each other for expenses.

It is possible for a parent to be both an obligee and an obligor in the same case. For example, the custodial parent may be the obligee and receive basic support and child care support, but be required to pay the noncustodial parent for the costs of providing health insurance coverage.

## How do I get child support?

A parent, a custodian, or the county must bring some type of legal action to get an order for child support. A Judge or Magistrate can order child support in a

- divorce
- paternity action
- domestic abuse case
- child custody action

There can also be an action for just child support.

Most people need the help of an attorney or the local child support agency to start the legal action to get a child support order. Your local child support office can help you get a child support order, using the Child Support Expedited Process starting on page 20. You can also find self-help services through the courts. For an online listing of self-help legal services by court district, go to the state courts website at <http://www.mncourts.gov/selfhelp/>

## Do I have to be the child's parent to get child support?



**No.** You do not have to be a child's parent to get child support. If a child lives with you and depends on you for support, you may be able to get child support from either or both parents.

For example, grandparents raising their grandchildren may get child support from the parents. This booklet talks mostly about parents, because parents are usually the people paying and child support, but the information in this booklet can be used by grandparents and other people caring for children.



## What if I have gotten papers asking me to pay child support?

If the other parent or the county have given you legal papers that ask you to pay child support, you will need to file a response with the court soon. Most people need the help of an attorney or other resources to file this response, which may be called an “Answer” or a “Responsive Motion.” The courts have self-help services, including online resources. For an online listing of self-help legal services, go to the state courts website at <http://www.mncourts.gov/selfhelp/>.

## THE MONTHLY CHILD SUPPORT PAYMENT

Minnesota uses guidelines to help set the amount of child support. Minnesota’s guidelines are called “income shares.” “Income shares” looks at the gross income of both parents and sets support based upon each parent’s proportion of income. Gross income for child support includes more than just a parent’s wages or earnings. Things like other children living in the home, other child support or spousal maintenance orders, and potential income are also looked at when figuring out gross income.

Child support is usually set at the guideline amount. But a Judge or Magistrate can set child support above or below the guideline amount if there are special circumstances. For example, child support may be set above the guidelines if the child has special health or education needs. It may be set below the guidelines if paying the set amount of child support would be too hard for the person paying child support.



You can use the online child support calculator created by the Department of Human Services at <http://childsupportcalculator.dhs.state.mn.us/>, to help figure it out. You will need to know your gross income, and the other parent’s gross income to use the calculator. If you use the online child support calculator, you can print and bring the worksheets from the calculator to a child support hearing.

## How is the amount for basic support figured out?

Basic support looks at parent’s gross income from all sources. This is income **before** any pre-tax deductions like a pension plan. Income may include potential income if a parent works less than full-time but could be working full-time. If a parent gets spousal maintenance (alimony) or benefits because of a disability or retirement (other than SSI), that is also included as income for child support.

If a parent is paying spousal maintenance in a different case - or ordered to pay it in this one - the amount of support is deducted from the income. If the parent is paying child support in

another case, that amount is deducted. There may also be deductions for nonjoint children living in a parent's home.

Each parent's share of the combined income is calculated. The parents' combined incomes are applied to the guidelines chart, and together with the number of joint children they have, a number is taken from the chart. The chart estimates the cost of raising children at different combined income levels. The number taken from the chart is divided by each parent's percentage of combined income.

**There may be a deduction for costs that come up during parenting time.** This is called the "parenting expense adjustment." The amount of the deduction depends on how much parenting time the court orders.



## **What are the different kinds of custody and how do they affect child support? What about Parenting Time?**

There are two kinds of custody in Minnesota. Legal custody is the right to make decisions concerning the children. A court can award sole legal custody to one parent, meaning only that parent makes decisions. Usually, the Court will order joint legal custody, meaning that both parents make the decisions together. Legal custody does not affect child support in any way. The amount of child support ordered will be the same, whether the parents have joint legal custody or one parent has sole legal custody.

Physical custody is **where** your child lives. In some cases, one parent has primary (sometimes called "sole") physical custody which means that the child lives primarily (mostly) with them. In some cases, the Court will award joint physical custody. This usually means the child lives some of the time with each parent.

Under the law, an order giving physical custody may determine who pays or receives child support, but having physical custody does not change the child support **amount**. Determining the amount of child support does include the amount of **parenting time** each parent has. In other words, a parent may be a "custodial parent," which means the child lives primarily with them, and they usually receive child support. However, being the "custodial parent" is not considered in determining the **amount** of child support that will be paid.

## **How does Parenting Time change child support?**

Parenting time is based on the number of overnights that each parent has with the child. It is important for each parent to know how many overnights each parent has in the court order. If

a parent has significant time with a child that isn't overnight, the court can count that time as an "overnight equivalent" but it must be called that to count as equal to an overnight.

If your order is new or changed **on or after August 1, 2018**, the court will put each parent's number of overnights over two years into a calculation. That calculation will deduct the amount of parenting time expenses from basic support.

If you have an order with parenting time **before August 1, 2018**, whether or not you can change your order depends on two things: (1) whether you can determine the number of overnights in your parenting time schedule; and (2) if your order meets the modification standard, which means that the basic support order must change at least 20% and \$75. If your order would change at least 20% and \$75, but you can't determine the number of overnights (your schedule isn't that specific), your child support order can change – but you will continue to use the parenting time calculation in your new order, not the new calculation. If you want to use the new parenting time adjustment calculation, you need to bring a motion for a more specific schedule. Minnesota law now specifically allows motions for more specific parenting time schedules.

## **Financial Affidavit**

The law requires each parent to file a Financial Affidavit for Child Support when their first papers are filed with the court. This applies if the court is figuring out child support for the first time or changing an existing order. The affidavit is available on the Court's website at <http://www.mncourts.gov/Help-Topics/Child-Support.aspx>. A copy of the financial affidavit can also be found in the back of this booklet. There are several documents that each parent must file with the form, including pay stubs and tax returns. If you do not file the affidavit and attachments, it is possible that the court will not allow you to testify about your own income, but the court may let the other parent, or the county, testify about your income. See page 33 for more details on serving the other parent and the county and filing the financial affidavit with the court.

## **Self-Support Reserve**

After basic support, child care support, and medical support are calculated, they are added together. Then the court subtracts the self-support reserve, which is 120% of the federal poverty guideline for one person, from the obligor's gross income for child support. The self-support reserve for 2016 is \$1,188. If the amount of income above the reserve is less than the guidelines amount for basic support, child care support, and medical support combined, the obligations are adjusted so the total child support isn't more than the amount of income over the self-support reserve. If a person's income is below the reserve after adjustments, then a person will only have a minimum child support order. The minimum order amounts are \$50 for 1 or 2 children; \$75 for 3 or 4 children; or \$100 for 5 or more children.

The federal poverty guidelines are a chart of incomes the government uses to decide if people are poor. It changes every year.

## 6 Month Review

If either parent is not following the first order for child support, the other parent can ask for a review hearing. You have to **ask** for a review in the first 6 months. It is not automatic. The request form to ask for a review is attached to the order. You can also get one from the court administrator. At the hearing, the court will look to see if both parties are following the rules in the order for child support, custody or parenting time. The court cannot change the order, but can put penalties on the parents for not following the order.

## What income is counted?

Income is not limited to wages from working. Minnesota law counts the following as income that can be used to pay child support

- unemployment compensation
- self-employment income
- commissions and bonuses
- some disability payments
- pension payments
- other periodic payments like rental income or interest income

Generally, public assistance and income from a second job are not counted as income when setting child support. Overtime can sometimes be counted. The income of a parent's new spouse cannot be counted.

## What if a parent does not have any income?

Sometimes parents are not able to work because they are chemically dependent, mentally ill, or disabled in some other way. In those cases, parents are not ordered to pay child support unless they have other income. The disabled parent has to provide medical records and other information to prove they can't work.

Sometimes parents quit their jobs, or take a job that pays less, or are not working for other reasons. Some of these parents may be ordered to pay child support based on what they *could* earn. This is called "Potential Income." Potential income can be set using the parent's earning history, or, if there isn't a history, income is set at minimum wage working 30 hours per week.

## What if a parent has other children?

The children of one, but not both, parents in a child support case are called "nonjoint children." Nonjoint children can affect the amount of payment in a new child support case. Sometimes nonjoint children live with the parent who is going through a child support case. Sometimes the nonjoint child lives in a different house.

If a parent has a child support order to pay child support for a “nonjoint” child who lives in a different house, the amount of the child support order is deducted from the parent’s gross monthly income when figuring out child support for the new case.

If a nonjoint child is living in the house with the parent going through a new child support case, a nonjoint child deduction is given to that parent. The amount of the deduction is figured out by the court. Each parent may get a nonjoint child deduction for up to 2 nonjoint children. This deduction lowers the parent’s gross monthly income when figuring out child support in the new case.

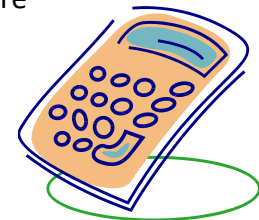
## CHILD SUPPORT WITH CHILD CARE COSTS

The parent with physical custody often has to pay for child care while working or going to school. The non-custodial parent pays a share of these child care costs.

### Figuring Out the Average Child Care Cost

The first step in dividing child care costs is figuring out the average amount paid for child care each month. Costs can change during the year, especially for children in school. The parent with custody needs to show proof of the child care costs during the year, like receipts or bills. This information is used to figure the average child care cost.

For example, if the custodial parent pays \$200.00 per month for child care during the school year and \$400.00 per month during the summer, the average child care cost will be \$250.00 per month.



$$\begin{array}{r} 9 \text{ months} \times \$200.00 = \$1,800.00 \\ 3 \text{ months} \times \$400.00 = \underline{\$1,200.00} \\ \text{Total for the year} = \$3,000.00 \end{array}$$

$$\$3,000.00 \text{ per year} \div 12 \text{ months} = \$250.00$$

The non-custodial parent usually pays a set amount toward the average child care cost. It will be the same each month even when costs are different. The parent with custody needs to budget the child care money carefully to make sure it lasts and covers the months when costs are more - like in the summer.

### Dividing the Cost Between Parents

Not all child care costs are divided between the parents. The non-custodial parent does not have to help pay for child care when the custodial parent is doing something other than working or going to school. Only work and education related child care costs are divided. Costs are divided **after** estimating the custodial parent’s tax credit for the child care expense.

Based on each parent's PICS income (Parental Income for Determining Child Support) the Judge or Magistrate will order each parent to pay a share of the remaining child care costs. For example, if the custodial parent has 60% of the parties' PICS income, he or she pays 60% of the remaining child care costs. The non-custodial parent pays 40%. If the parents agree, or the court orders it, one parent may provide some child care for the children while the other parent is working or in school.



### **What if I can't afford to pay for child care?**

Paying for child care can often be hard for parents. If you are a low-income parent with primary physical custody, you may be able to get a child care subsidy. You can apply for a child care subsidy at your local child support office. If you are getting MFIP benefits and child care costs keep you from working, you should talk with your caseworker. Your employment plan may need to include help with child care costs.

If you are a low income parent who does not have primary custody, Minnesota has several ways to help you with the cost of child care. First, if the custodial parent gets child care assistance (subsidy), the non-custodial parent's obligation will be the lesser of either

- their "share" of after-tax child-care costs (just like a regular child care order) or
- it may be a contribution determined by applying the noncustodial parent's income to a sliding fee scale.

Second, if a parent's court-ordered obligations for basic support, child-care and medical support leave that parent with income less than the self-support reserve, either the order will be reduced or that parent will pay only a minimum order.

### **What if child care costs change or my children are no longer in care?**

If child care arrangements have re-started or stopped completely, the child support worker should be notified. They can stop (or re-start) charging for child care expenses. If the amount of child care has changed significantly, either parent can contact the child support worker to see if the change is enough to go back to court and modify (change) the court order. The modification can include other parts of the order, such as basic or medical support.

## **CHILD SUPPORT INCLUDES MEDICAL SUPPORT**

### **What is medical support?**

In a perfect world, every child would have health insurance and every parent would be able to afford health care for the child. To reach this goal, state law says that every child support order must deal with the issue of medical support.

Medical support means providing medical and dental insurance for the child, if possible. Medical support also means the parents split medical and dental costs for the child when insurance does not cover it. Both the custodial and the non-custodial parent can be ordered to provide medical support.

## **Who insures the child?**

If both parents can get medical and dental insurance at a group rate through work or a union, the Judge or Magistrate will order the parent with better coverage to insure the child. If only one parent has insurance, the Judge or Magistrate will order that parent to insure the child. But the cost of the insurance will be split between the parents. The amount each has to pay is based on their incomes.



## **What if I can't afford to pay insurance or medical support?**

Sometimes, neither parent can get insurance at a group rate. Or, the insurance a parent can get from work or a union is too expensive. Several things can happen in these cases. If the Judge or Magistrate thinks the non-custodial parent can afford it, he can order that parent to buy private medical insurance for the child. But, the law says that a parent can only be ordered to pay money for a child's medical support if he or she has enough money to do that.

If there is no insurance available and the custodial parent is eligible, Medical Assistance (MA) is a public assistance program that helps pay the medical costs.

If you are the custodial parent and you believe you may be eligible for Medical Assistance with your children, you can call your county child support office to find out where to go to apply for these programs. For the number in your area call (651) 431-4400.

If you are the non-custodial parent and your court-ordered amount for basic support, child-care, and medical support leaves you with income less than the self-support reserve, either the order will be adjusted or you will only pay a minimum order.

If the child is getting Medical Assistance benefits, the non-custodial parent might be ordered to pay a certain amount of money each month toward the cost of Medical Assistance. The amount is figured out on a sliding fee scale, but if the non-custodial parent is receiving Medical Assistance, there will be no medical support ordered.

## Who pays the medical and dental expenses that insurance doesn't cover?

The Judge or Magistrate will also divide the medical and dental expenses for the child that insurance or Medical Assistance does not cover between the parents. The share each parent has to pay is based on income.

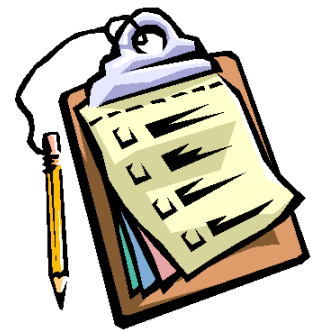
## What if medical insurance changes?

If medical insurance is no longer in place, or is not covered by the parent with the income tax exemption, notify the child support worker. If the whole child support order is less than three years old, the court can modify (change) only the medical support parts. However, if the court has not reviewed the order in at least three years, the modification can include other parts of the order, such as basic or child care support.

## ESTABLISHING CHILD SUPPORT

### County Child Support Services

A parent can apply to their local child support office for help with child support even if they do not get public assistance. A parent who is not on public assistance must fill out an application and pay a \$25 application fee.



When a parent who has not recently received public assistance applies for child support services, 2% of each collection is kept as a fee. This is a fee in addition to the application fee. If the parent who is owed child support applies for services, the 2% is taken out of the child support collected. If the parent paying child support applies for services, the 2% is added on to the amount collected from that parent. The 2% amount is kept by the state – it is not paid to the other parent. If a parent does not want to pay the 2% fee, they can choose to close the child support case – but then they must collect child support on their own.

If the parent who applies for child support services has not recently received public assistance, and more than \$500 per year is collected in child support, the parent will also be charged a \$25 annual fee.

If a parent wants full child support services, the child support office must help the parent

- Get a court order for child support, medical support, and child care expenses
- legally name the father of the children, if the parents were not married when they were born
- locate the parent who should be paying support



- collect child support or take action against parents who refuse to pay
- change the child support order

A parent applying for child support services can also choose “income withholding only.” This service is also through the county, but only collects money. It does not set, change or enforce a child support order. You must serve any income withholding paperwork on the other parent’s employer on your own. The fee for this limited service is \$15 per month and is charged to the obligor.

For more information about child support services, see DHS Document 2973 “Explanation of child support (IV-D) and income withholding-only (Non-IV-D) services in Minnesota” at this link: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-2973-ENG> .

When a child support file is opened, the obligee parent will get participant number and a PIN number to access the state’s online payment system, called “Minnesota Child Support Online.” When a court order for support is issued, the obligor parent will receive their own individual PIN number to the system. Either parent can use these to get information about your case 24 hours a day. You can learn how much child support is owed, the date of the last payment made and the name and number of the child support worker.

There are 2 ways to do this:

- 1) First, you can check online at <http://www.childsupport.dhs.state.mn.us/Action/Welcome>.
- 2) You can also get information by calling the State’s Integrated Voice Response System (IVR System). When you call, you will need your Social Security Number or participant number and a PIN number. In the Metro Area, call (651) 215-5630, or if you are hearing impaired call (651) 215-5629. If you live out state, call 1-800-657-3512 or 1-888-234-1208 if you are hearing impaired.

## CHILD SUPPORT TIME LIMITS

### Getting the application

The county office has to give an application for child support services to any parent who asks for it. If you ask for the application in person, they have to give it to you that day. If you write or call, they have 5 days to send it.



### Starting a file

The county has to begin paper work and decide the next step in a child support case within **20 days** after getting the application.

## Getting the child support order

Once the county knows who the other parent is and where he/she is, the county has **90 days** to get a court order for child support or deliver legal papers to the other parent.

## Every month the county sends out notices of collection for child support

Every month the child support office has to send a notice showing when it got support payments and how they distributed the money.

For example, the notice should tell you

- how much was collected
- how much was sent to you
- and how much the child support office kept.



## Distribution of child support payments

The county has **2 business days** after they get the money to send it to the parent. If the money is a "tax intercept" they have 30 days after they get the money to send it out, in most cases. In a "tax intercept" the Internal Revenue Service (IRS) or the Minnesota Department of Revenue take a parent's tax refund for child support. See page 36 for more information. If the parents are in different states, the county has 15 more days before they must send the money.

## Review and adjustment

In a public assistance case, the county reviews the file every 3 years to check if the proper amount of child support is being paid. In a non-public assistance case, the county reviews the file every 3 years but only if you ask them to. They have 15 days after you ask for the review, and only have to do it once every 3 years. If the county decides more or less money should be paid for child support, they have 180 days, about half a year, to make the adjustment.

## Hints on Working with the Child Support Office

It is important to remember that the child support office (including the County Attorney's office) is not *your* attorney. The job of the child support office is to get child support for children. The child support office will help both parents — the one getting *and* the one paying the child support. If you feel that you need an attorney to help you with your side only, you should get one. There is a list of Legal Services offices in the back of this book.

If you feel that the child support office is not meeting the time deadlines in your case, you should tell the child support worker about this. If the child support worker does not do a good job of answering your questions, you should contact his or her supervisor. You can also call the Department of Human Services, Office of Child Support Enforcement in St. Paul (651) 431-4400.

If you disagree with how the child support office handled the money or see a mistake, you can ask the child support worker (in writing) to review this. Make your request for review within 45 days. If you are still unhappy with the decision, you may ask the Minnesota Department of Human Services Office of Child Support Enforcement to review the decision, but you must make this request within 30 days. You may want to see if an attorney can help you. There is a list of legal services offices in the back of this book.



### **What if I call my child support worker to find out what is going on in my case, but I don't hear back?**

Your child support officer has certain obligations, and it is important to understand exactly what these are. You should carefully read "County Child Support Services" starting on page 16, so you know exactly what to expect from the county.

Remember that your child support worker is not a counselor, or the police, or the court. Do not expect him or her to do what they cannot.

A child support worker **cannot**

- help you with custody or parenting time issues
- make the court system in your county move faster
- change a child support order without getting a court order
- give you information about the other parent's employment, address or phone conversations
- change the law
- help you with personal problems that you are having with the other parent

When you call your child support officer or go for an appointment, try to have all the information and your questions organized. Write your questions down in a list. The child support officer is handling many cases. If the child support officer needs to call you, let him or her know the best time to easily reach you.

## CHILD SUPPORT EXPEDITED PROCESS

Minnesota has a special way to handle child support. It is called the "expedited child support process." This process is supposed to be easy to use and should result in timely and consistent child support orders.

In the child support expedited process, parents are given an opportunity to follow the guidelines and agree on how much child support should be paid. If the parents cannot agree, the case in most counties will go to a hearing before a "Child Support Magistrate." In some counties a District Court Judge may hear the case.

The expedited child support process **must** be used if the county is providing child support services to you and the only issues in your case are

- child support
- medical support
- child care contribution or
- enforcement of spousal maintenance, if combined with child support

Some counties also use the expedited process for

- paternity
- or child support contempt

Your child support case can be heard in district court if it also involves other issues such as

- custody, or parenting time (visitation)
- domestic abuse
- or property issues

### Beginning the Expedited Child Support Process

To start the process, either parent may make a written request for services to the child support office. You can call the office in your county for an address where you can send your letter. To get contact information for your county's child support office, call (651) 431-4400, or visit the Department of Human Services website at

<https://secure.childsupport.dhs.state.mn.us/mcso/participants/Action/Links/ChildSupportTopics>

If the child support office turns down your request for their help, you can still go to the court for child support. You may be able to get an attorney for free to help you. See the list of legal services offices in the back of this book.

**NOTE: The child support expedited process has its own specific court rules. This booklet gives a general idea about the process, but if you are bringing or responding to a case, you need to make sure that your information is done correctly. More information is available on the courts website, <http://www.mncourts.gov/Help-Topics/Child-Support.aspx>.**

An action to get child support or establish paternity **starts** with serving the other parent a legal paper called a **Summons and Complaint**. An action to **change** an existing child support order begins with the service of a **Motion**. The Complaint or Motion must have detailed information about both parents' incomes and expenses. A **request for hearing form** and a **financial affidavit** must also be served on the other parent and filed with the court. See financial affidavit information on page 11.

- The other parent must respond to a *Summons and Complaint for child support* in writing within **20** days.
- The other parent must respond to a *Summons and Complaint for paternity* in writing within **14** days.
- The other parent must respond to a *Motion* in writing within **14** days of service if there is no court date, or **14** days before a hearing, if the motion includes a court date.

In the expedited process, a parent should respond by filing an Answer and completing and returning the Request for Hearing form with the court. A copy of both should also be served on the other parent, and the county.

If there is no response to a Complaint or a Motion within 20 days, the case may proceed by **default**. Default means that the child support Magistrate may issue a child support order based upon the information in the Complaint or Motion and any supporting documents that were served on the other parent.

## When is a hearing required?

A hearing will be held if

1. the other parent did not respond and the Summons and Complaint or motion did not have enough information
- OR
2. The other parent did respond and the parents cannot agree on child support



The hearing must be scheduled within 60 days of the date of service of the complaint or motion. The party who started the request must ask the court for a hearing date and time, and then notify all other parties. If the county initiated the request, both parents will get a notice of the time, date and place of the hearing. Both parents have the right to appear at the hearing. If you cannot appear in person, you may ask to appear at the hearing by telephone or interactive T.V. The Judge or Magistrate does not have to grant the request, but you can ask.

## What You Should Bring to the Hearing

If you have not already provided this information to the court and other parties as part of this request for child support, you should provide:



1. Proof of your income (bring your pay stubs for the last 3 months or other written proof of your income)
2. State and federal tax returns for the last two years with any supporting documents (i.e. W-2, 1099 forms);
3. Written proof for any voluntary payments made for a joint child (child of both parents in this case)
4. The amount of child support you pay for other children, if any (bring a copy of the most recent order, if you have one)
5. The amount of spousal maintenance (alimony) you pay or get (bring a copy of the most recent order, if you have one)
6. Your monthly expenses (make a list of your average monthly expenses and bring it with you to the hearing)
7. Whether or not you can get medical and dental insurance through your employer or a union and how much it costs
8. Medical or dental bills for the children that are not covered by insurance or public assistance and that you want the other parent to help pay
9. How much you pay for child care (bring a statement from your day care provider or other written proof of how much you pay)

If you used the online child support calculator at <http://childsupportcalculator.dhs.state.mn.us/>, you can also bring the worksheets from the calculator to the hearing.

If you have provided this information before the hearing, bring any updated information (i.e. more recent pay stubs, etc.) to the hearing.

## **What happens at a child support hearing?**

At the start of the hearing, the Child Support Magistrate will explain the purpose of the hearing and the way the hearing will proceed. The Magistrate will check to see who is present and if the parents agree on any facts or issues. It is a good idea to talk with the other parent before the hearing, to see if you can agree on any part of the proposed child support order.

### **Presenting Your Case**

Next, each parent will have a chance to present information to the Judge or Magistrate. You can do this by testifying yourself, by having witnesses testify, and by giving written documents to the Magistrate.

Note: If you plan to call witnesses besides yourself, you must notify the other parties in writing at least 5 days before the hearing. The notice must give the name and address of each witness. If you plan to bring documents, make sure you bring enough copies so the Magistrate, other parent, and the child support office all get one.

The Magistrate will ask the parents to take turns. First, one parent takes an oath to tell the truth and provides information to the Magistrate. The person testifying is a witness. The Magistrate may have questions for the witness. When the witness is done talking, the Magistrate will give the other parent a chance to ask the witness questions. That parent then calls any other witnesses he or she might have.

When the first parent is done, it's the other parent's turn. The same procedure is followed. The other parent is sworn in and becomes a witness. He or she gets a chance to give information to the Magistrate, answers questions, and calls any other witnesses to testify.

*Do not* talk or interrupt when it is not your turn to talk. This will only irritate the Child Support Magistrate.

*Do not* raise issues other than child support, such as custody or parenting time (visitation). Remember, the Child Support Magistrate doesn't have authority to decide issues other than child support, medical support and child care contributions in these hearings. You will only waste everyone's time by raising issues that the Magistrate can't decide.

*Summarize* the information in writing as much as possible. That way, you can give the information to the Magistrate quickly and you won't forget it.

### **The Decision**

The Magistrate will either make a decision orally at the hearing or take the case under advisement. Sometimes, the Magistrate will leave the record open for a limited time to permit one or both parties to submit additional information before making a decision. Once the case is decided, the Magistrate mails each party a child support order that contains the Magistrate's decision. The Magistrate must issue the order within 30 days of the close of the record.

## What if I am unhappy with the order?

If there are mistakes in the order, either parent may bring a motion for correction of clerical mistakes, typographical errors or errors in calculation. This motion may be brought at any time and must be served to the other parent and filed with the Court. The Child Support Magistrate who issued the order reviews the case and generally there is no hearing.

If either party is unhappy with the order, they can bring a motion for review. A motion for review also must be brought within **20** days after receiving the order. The parent requesting review of the order can choose to have the Child Support Magistrate or a District Court Judge review the order. Again, there is generally not a hearing and no new information may be submitted unless the Child Support Magistrate or Judge requests it.

Either parent may appeal the initial order directly to the Minnesota Court of Appeals. You may need an attorney. There is a list of legal services offices in the back of this booklet.

## CHILD SUPPORT AND PUBLIC ASSISTANCE

### What if the custodial parent is on public assistance?

If the custodial parent is on public assistance such as MFIP, Medical Assistance or Minnesota Care, or is getting a child care subsidy, the state is helping pay support to those children. Custodial parents who get public assistance must



1) “assign” or give the right to get child support to the state to repay the support the state gives them and

2) help the county determine who the other parent of the child is and set a child support order.

**MFIP** – If you get MFIP cash, the county child support office will “pass through” to you all of the current child support that it collects on your behalf. Any child support collected in a month above \$100 for one child or \$200 for 2 or more children reduces the amount of MFIP cash that you get dollar for dollar. The reduction in MFIP happens **two months after** the child support is collected. For example, if you have one child and usually get \$300 in MFIP cash, and the county collects \$150 in child support in May, your MFIP will be reduced by \$50 in July. If you have 3 children, and the county collects \$250 in child support in May, your MFIP will be reduced by \$50 in July. If the county only collected \$200 in May, your MFIP will not be reduced in July.

**Child Care Subsidy** - If you get a child care subsidy, the county will keep that portion of the child support order that is designated as a child care contribution.



**Medical Assistance or Minnesota Care** - If you or your children get Medical Assistance, that county will keep that portion of child support that is designated as medical support.

When the custodial parent is on public assistance the county may also ask for a medical support order and an order for childcare expenses to pay itself back for providing medical assistance or subsidized childcare. Also, the county may ask the court for an order for the person paying child support to repay the public assistance paid to you in the past 2 years.

## **What if the custodial parent stops getting public assistance? Who gets the child support?**

If the custodial parent stops getting Medical Assistance, MinnesotaCare, or child care assistance, the medical or child care support part of the child support order will be sent to the custodial parent. The county still collects the money from the obligor but will forward it to the custodial parent. Any back child support owed for the months the custodial parent got public assistance goes to the county.

## **What if the noncustodial parent is on public assistance?**

If you are a non-custodial parent and you get public assistance, it is not counted as income when determining child support. But, you may still be required to pay some child support depending on the type of assistance you get and your ability to earn income.

## **I am on public assistance but I do not want the county to try to collect child support because I am afraid of being hurt by the other parent of my child. What can I do?**

In certain cases, where a parent has been

- abused
- raped
- harassed

by the other parent, a legal case for child support might make the situation worse. If this is true for you, ask your financial worker about a "good cause exception." If you have a good cause exception, the county cannot bring a legal case for child support against the other parent without your permission. A custodial parent may also ask for a good cause exception if he or she believes that a legal case for child support might result in physical or emotional harm to them or the children.

A “good cause exception” lasts for 1 year. After 1 year, the child support agency will review the case to see if getting child support would still result in physical or emotional harm to the parent or children.

**IF YOU HAVE CONCERNS FOR YOUR SAFETY OR THE SAFETY OF YOUR CHILDREN**, there is help available. The Minnesota Domestic Violence Crisis Hotline can be reached 24 hours a day at **(866) 223-1111**.

## **What if I am not on public assistance and have safety concerns for myself or my children, and I want help setting or collecting child support?**

You should contact your county child support office about child support services, and talk with them about ways they can help you safely establish child support. You should also contact the Minnesota Domestic Violence Crisis Hotline 24 hours a day at (866) 223-1111 and ask them about resources in your area. Domestic violence resources can help you with safety issues, including ways to safely collect child support.

## **CHILD SUPPORT AND PATERNITY ESTABLISHMENT**

If you and the other parent have never been married, then Minnesota law gives the custody of the child to the mother in the beginning.

The father has to be legally declared the father of the child before

- he has any rights to custody
- he has any rights to parenting time (visitation) and
- he has an obligation to pay child support

Minnesota uses a form called Recognition of Parentage (ROP). Both parents can sign and file it with the Department of Health. This form is like a court order and tells who the parents of a child are. Before signing it, both parents should carefully read all the information that comes with the form. Be sure you understand it. There are legal consequences to signing it. Both parents should talk to an attorney if they have any questions at all about whether to sign. Do not feel pressured into signing if you have questions about the form or do not completely understand it.



If either parent has any question at all about who the biological mother or father is, the form should not be signed. Courts can order blood or genetic testing to determine who the parents are.

If you need more information about Recognition of Parentage, you can get materials from the Minnesota Department of Human Services at 651-431-2000 or get the booklet “Rights and Responsibilities of Unmarried Parents” from your local legal aid office.

## **Sometimes the parent with the child does not know where the other parent is**

### **Finding the other parent**

If you do not know where the other parent is, the county has to look through things like tax and employment records to try to find them.

The county will try to find out where that person lives, plus where he/she gets his/her money. If that person is in another state, the county has to start working with that other state. If the county can't find the other parent, they must try again every 3 months or right away if they get new information.



### **Proving he/she is the other parent**

The county must try to deliver legal papers to the other parent within 90 days of finding them. Once the papers are delivered to the other parent, the county must get a court order showing that person is the parent or get a blood test showing the person is **NOT** the parent.

## **GETTING CHILD SUPPORT WHEN THE OTHER PARENT LIVES IN ANOTHER STATE**

Getting child support from a parent who lives in another state is very difficult if that parent does not want to pay. Minnesota (and other states) update their laws regularly to try and make it easier to get child support from another state. Larger counties have child support officers who deal only with out-of-state cases.

There are times when Minnesota cannot set child support because the parent who is supposed to pay lives in another state. Minnesota then must ask the other state for help in setting and collecting child support. If the other state is not cooperative, or has a backed up system, then it takes a long time.

## Getting payment from another state

Where the parents live in different states, the state looking to get the child support money has 20 days after finding the other parent to send that parent's state a request for assistance and the information they have on that parent. The other state has 10 days to send the request to the right county or back to the first state if the parent is not there. The state looking to get child support must send any new information it finds within 10 days of finding it.



## Income Withholding

Every child support order must have an income withholding order, unless the parties agree not to use automatic income withholding, the Judge or Magistrate agrees and the custodial parent does not get public assistance. Automatic income withholding means that the child support amount will be taken out of a parent's paycheck. The county will let the employer know that they are supposed to start keeping the child support amount out of the paycheck and send it to the county. Then the county must send it on to you within 2 business days. If you have an old child support order that has not been recently changed, the income withholding order may not be a part of your child support order. If it isn't part of your order, you can ask for it the next time you are in court to change (modify) your order.



**We've agreed to pay the child support directly and on time every month. So do they have to take the child support amount out of the other parent's paycheck?**

The parents can ask the Judge or Magistrate to allow the non-custodial parent to make child support payments directly to the custodial parent.

If you asked for services from the county to help with child support a court will only allow direct payments if

- the custodial parent does not get public assistance and does not want the county to continue to provide services **and**
- the court has good cause to stop withholding (taking money out of the paycheck) and it is in the best interests of the child or
- both parents sign an agreement that shows how payments will be made. The agreement must be reviewed by the court

If the county is not providing services a court will only allow direct payments if

- The custodial parent does not get public assistance **and**
- the parents sign a written agreement

If you have an order for direct payments and the other parent stops paying, you may have to wait until something else in your order needs to be changed before you can go back to court and get income withholding.

## **The child support is withheld from the other parent's paycheck, but I do not get it right away. Why?**

The employer has 7 days from the date it withholds child support from a paycheck to get it to the state payment center, and the state can take 2 days to get it to you. The employer might also take 14 days to get the payroll system set up so that the child support amount is regularly going to the state. If the other parent changes jobs, then there may be some time that the system is not working the way it should.

If you are getting a new or changed child support order, it may take a few weeks for the Judge or Magistrate to sign it and make it effective. These are very frustrating problems for the parent who is depending on the child support. But, more child support is collected using income withholding than when it is not used.

Employers are required to withhold child support from a paycheck and cannot discriminate against an employee who has a child support order.

## **What if the parent who is supposed to pay child support is self-employed?**

Income withholding *cannot* be used when a parent is self-employed. Unfortunately, it can be difficult to get child support from a self-employed person. Income withholding *can* be used if the parent is an independent contractor.

## **CHANGING AN EXISTING CHILD SUPPORT ORDER**

### **The Automatic Cost of Living Increase**

A child support order will be increased every two years in May because of cost of living increases. This is sometimes called a COLA (cost of living adjustment). The COLA increase should happen automatically. A parent can ask for a COLA if it does not happen automatically or ask that the

COLA be denied. You can get forms and instructions from the Court Administrators office in your county or ask your local child support agency to help by calling 651-431-4400 or visiting the Department of Human Services [website](#).

## **Modifying a Child Support Order**

Either parent can ask for other changes to the child support order at any time, by bringing a motion to modify (change) support. But only certain things are seen as reasons to modify a child support order.

Some of the reasons to change a child support order include

- A change of at least 20% in the obligor's gross income
- A change in the number of joint children being supported by the obligor
- A parent or other caregiver of a joint child starts getting public assistance
- There is a large change in child care costs
- There is a change in availability of medical or dental coverage
- A joint child becomes disabled
- Both parties agree to change (modify) the order

If a change is being asked for because of a change to child care or medical support, then only that part of the order changes.

A Judge or Magistrate will only modify a child support order if there has been a "substantial change" that makes the order you have unfair. A \$75 and 20% difference in the guideline child support amount is substantial.

Here are things that could change a child support order

- a child becomes an adult
- one of the parents earns more or less money
- the child or parents need more or less support
- one of the parents has started getting public assistance
- the order did not have medical support, a child has new, extraordinary medical expenses, or the order does not line up with federal tax rules related to medical coverage
- the order does not divide work and education related child care costs between the parents, or those costs have changed

If your order would change by at least 20% and \$75, but you can't determine the number of overnights (your schedule isn't that specific), your child support order can change – but you will continue to use the parenting time calculation in your new order, not the new calculation. If you

want to use the new parenting time adjustment calculation, you need to bring a motion for a more specific schedule. Minnesota law now specifically allows motions for more specific parenting time schedules.

## **Important Facts**

**Child support does not automatically change** when one of the above things happen. You or the County must bring a motion asking a Judge or Magistrate to issue a new order. The old order stands and will be enforced until the Court issues a new order. This is true even if both parties agree to a change between themselves.

### **Take action immediately if you feel that your child support order needs to be changed.**

State law says that the Court can only change support starting from the day that you or the County mails a copy of the “motion to modify support” to the other parent. Minnesota law does not let you collect the new amount of support before that time.

A motion to modify an order will usually mean that the Judge or Magistrate looks at the entire order – basic support, child care and medical support. There are times when you can ask the Judge or Magistrate to modify only one part of the order. If you want to modify only part of the order, be sure to talk with the county child support office about whether that can be done in your case.

## **Fees**

If you need to bring a Motion to change your Child Support Order, you will have to pay a motion fee of about \$100. If you are low-income you may ask the Judge to not make you pay this fee.

If you didn't pay a filing fee when the original child support order was decided, you may have to pay that fee too, unless you have an “In Forma Pauperis Order” (IFP) that is still in effect.

## **How do I do It?**

Either you or your local child support office can ask a Judge or Magistrate to change a child support order by bringing a “motion to modify support.” This is a written statement that tells the Judge or Magistrate what you want changed and why.



## One Way: Ask Your Local Child Support Office to Review and Adjust the Order

One way to change the child support order is to ask your local child support office for help. You should ask them to do this by writing to them. You will need to give them the reasons why you think the child support order needs to be changed. If the child support office accepts your case for review and adjustment, they will bring a motion to modify support and will use the “Child Support Expedited Process” to get a new support order. For contact information call 651-431-4400 or visit the Department of Human Services [website](#).

Due to limited staff and resources, the child support office is not always able to accept your case. The child support office is only required by law to “review and adjust” your child support order once every 3 years. If the child support office decides to review your case, they may not be able to start work on your case right away. For these reasons, you may want to consider taking action to modify the order yourself.

## Another Way: Ask the Court to Change the Order Yourself

The other way to modify support is to bring a motion yourself or with the help of an attorney. The Court Administrator’s Office at the Courthouse in your County has child support modification forms for anyone who asks for them. The forms are easy to use and come with easy to follow instructions. You can find the forms online at the Court’s [website](#).



You can also fill out child support modification forms **online** using a new **do-it-yourself “interview” that guides you step by step**. You can find it on [LawHelpMN.org](#).

If you are using written forms from the Court, follow these steps:

### 1. Complete the Forms

The form packet will come with an Affidavit (written statement). Fill in all of the information asked for in the Affidavit.

Attach proof of your income to the affidavit. If you have wage income, attach copies of your last 3 pay stubs. If you have other types of income, attach some type of written proof showing how much money you get. You will also have to complete the financial affidavit and attach any additional information about sources of income.

Once you have filled out the affidavit and have attached proof of your income, sign the affidavit in front of a notary public. You must get your signature notarized. Signing in



front of a notary is swearing that you have told the truth when you sign the affidavit. You can find a notary public at most banks. Court Administrator's offices also usually have a notary public on staff. There may be a small charge for having your signature notarized.

When you have completed the affidavit, ask the staff at the Court Administrator's Office to give you a hearing date. You will need to fill in the date, time and place of the hearing on the Motion that comes with the forms. You should also sign and date the Motion and write your address below your signature.

## **2. Serve Your Motion**

When you have finished the Motion and the Affidavit, make 3 copies of each. These papers have to be mailed, but **you** cannot mail them! You have to have another person who is at least 18 years old send them. One copy of the set is mailed to the other parent; the second copy is mailed to your local child support office, and the third copy is for you to keep for yourself. The person who mailed the papers has to fill out the "Affidavit of Service By Mail" that comes with the packet to prove that they mailed the copies.

## **3. File Your Motion**

Some information is private and should not be seen by the public. In order to keep this kind of information private, there are two different forms you *must* fill out and file along with your papers in the court. These are Forms 11.1 and 11.2 and you can get them from the court administrator or online at

<http://www.mncourts.gov/Help-Topics/Child-Support.aspx>

If you file papers that have information about you, the other parties, and your child(ren), you need to file Form 11.1. This protects things like all social security numbers, employer identification numbers, and financial account numbers that are listed on papers you file with the court. The information is blackened out (crossed out) completely. If you do not file Form 11.1, these numbers could be seen by the general public. You could also be charged court costs because you did not keep these things private.

Form 11.2 is used to list documents that have your financial information on them. This keeps them private. Some examples of things that should be kept private are

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You must “file” your Motion, your Affidavit, and the 2 Affidavits of Service by Mail with the Court Administrator’s office at least 5 days before the hearing. You do this by either mailing or handing the original copy of each form to the Court Administrator’s Office.

#### **4. Gather Information**

The child support office can get a print-out of a person’s reported earnings from the state of Minnesota. They have to give the court a wage print-out for each party when a motion to modify support is filed. If you do not get a copy of the wage print out, call your child support office and ask for it.

If the other parent files papers, a financial affidavit must also be filed. The parent filing the affidavit must attach supporting information (like pay stubs) unless the court says they didn’t have access to it.

You can also use a “subpoena” to get information about the other person’s income. A subpoena is a court order requiring someone to produce information or to appear at the hearing.

You can get the subpoena from the Court Administrator’s office. You must ask for the subpoena, in writing, from the Court Administrator. The written request should say what documents you are asking for and give the name and address of the person you are asking to provide the information. Instructions on how to use the subpoena appear on the back of the form. You can ask a person to bring pay stubs, tax returns or other proof of their income to the hearing with a subpoena. You can also ask for proof of child care costs or of the type and cost of medical and dental insurance the other parent can get through work. There is a fee charged for each subpoena you ask for unless you have an In Forma Pauperis (IFP) Order from the court.

You can also simply ask the other parent to give you the information you need. State law says parents must cooperate in providing information to each other.

Finally, you and the Magistrate will have a chance to ask the other parent for information by questioning them at the hearing. If you don’t think the other parent will come and you don’t know how much money he or she makes, you can use a subpoena to make the parent come.



#### **5. Go to the Hearing**

Get there a half hour before the hearing starts. The Magistrate may want to start the hearing early if hearings scheduled before yours go quickly. Most important, you do not want to be late for your hearing. If the hearing is over when you get there, you lose your chance to have any part in the decision. They will make the decision without you.

You can find a list of information that you need to give the Judge or Magistrate at the

hearing on page 22. Sometimes the Magistrate will make a decision right at the hearing. Usually, you will get an order in the mail after the hearing.

#### **6. Review the Order**

Read the order over carefully when you get it. You may want to ask for a change to the order if it has clerical errors, has facts wrong, or was wrongly decided.

You can also download the state court's modification instructions at <http://www.mncourts.gov/Help-Topics/Child-Support.aspx>.

## **When does child support end?**

When a Judge or Magistrate issues a child support order, the order will say when child support ends. Minnesota law defines a "child" as someone who is

- under 18 years of age or
- under age 20 and still going to high school or
- of any age who, because of physical or mental condition, cannot support themselves

Usually, the child support order will state that child support continues until the child turns 18 or 20, if still in high school. But this is not always true. You have to check your order.

Parents of disabled children should pay special attention to this issue. If you do not think your child will be able to support himself as an adult, tell the Child Support Officer and Magistrate when support is decided. That way, the Magistrate can order child support to continue until your child is self-supporting. If an order that you have now does not provide for continued support, you may want to bring a motion to modify the length of time that support lasts. Ask for modification *before* support ends, under the terms of the existing order.

## **Alert for Non-Custodial Parents!**

If you are paying support for 2 or more children, the amount you have to pay does not automatically go down when one of them becomes an adult. You must bring a motion to modify the support amount. The ongoing child support payment will end automatically when all of the children become adults.

## ENFORCING A CHILD SUPPORT ORDER

### What if I am ordered to pay child support, but I can't afford it?

A parent is required to make child support payments in a court order. If a parent's situation has changed, and they can't pay the child support ordered, they should look at whether they can modify (change) the order. The court will look at the change, and the law about modifying the order, and may lower all or part of the order.

### The other parent refuses to pay child support and I need the money. Why can't they just throw him or her in jail? Why should people be able to get away with not paying?

Collecting child support from an uncooperative person is one of the biggest challenges for

- the State,
- the custodial parent, and
- society in general

Minnesota is constantly changing and updating the laws used to collect child support.

### Enforcement for Payments

If child support has not been made for 1 month, the county has 60 days to notice that and try to get the money. If there is no order for income withholding, the county must begin to withhold on the day the back due child support equals the monthly child support obligation.

### Tax Intercept Submission

Each year the county and state must tell the Internal Revenue Service (IRS) and the Minnesota Department of Revenue (the state tax agency) if a parent owes back child support. The IRS will take the parent's tax refund for child support. This is called "tax intercept." Tax intercept is available whether or not the person who is owed child support is on public assistance, but the amount of back child support owed must be higher if the child support case doesn't involved public assistance. If there is back child support owed to the state, the state will keep tax intercept collections, even if a parent is no longer getting public assistance.



Many things are being tried to improve the collection of child support.

- Child support is collected directly from paychecks.
- Contempt actions can be brought for non-payment.
- Tax refunds can be taken to pay for child support.
- Collection agencies can help collect child support.
- Professional licenses and driver's licenses can be suspended.
- Liens can be placed on vehicles and other property.
- Passports can be denied.
- Student grants can be withheld

Still, there are many parents who don't pay child support. Many times these people are either

- self-employed
- work for cash
- have very unstable employment histories or
- move around a lot

Counties spend huge amounts of money trying to locate these people and bring them into court, and in some cases, put them in jail. Some people just do not have any money to pay their child support. Others would rather be in jail than pay child support. When this is true, it may be difficult or impossible to collect from them.

If a child's parent refuses to pay child support, you should be sure that the county is trying everything possible. If you do not feel confident that everything is being tried, the **Department of Human Services Child Support Enforcement Division** can tell you what else you might do. Call them at **(651) 431-4400**.

## **I do not feel that I get enough parenting time (visitation) with my child and I am still expected to pay child support. Can I stop paying child support until I get my parenting time?**

Parenting time and child support are two separate things. A non-custodial parent cannot stop child support if he or she is not getting parenting time. Also, a custodial parent cannot stop parenting time just because the non-custodial parent fails to pay child support. If there is a court order for parenting time, and it is not being followed, you can ask the court to enforce the order, but it can't be tied to paying child support.

You can get contact information for your county's child support office and court administrators' office from the Minnesota Department of Human Services' Child Support Enforcement Division at 651-431-4400 or at their [website](#).

## Legal Services Offices in Minnesota Listed by County

Or go to: [www.lawhelpmn.org/resource/legal-aid-offices](http://www.lawhelpmn.org/resource/legal-aid-offices)

County	Office	Phone number	Website
Aitkin	LASNEM - Grand Rapids	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Anoka	ANOKA - Blaine	(763) 783-4970	<a href="http://www.anokajudicare.org">www.anokajudicare.org</a>
Anoka (LSC)	CMLS - Minneapolis	(612) 332-8151	<a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Anoka (immigration)	MMLA – Immigration Law Project	(612) 332-1441	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>
Anoka (seniors 60 and older only)	MMLA - Minneapolis	(612) 334-5970	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>
Becker	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Beltrami	LSNM - Bemidji	(800) 450-9201	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Benton	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Big Stone	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Blue Earth	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Brown	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Carlton	LASNEM - Duluth	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Carver	SMRLS - St. Paul or Shakopee	(651) 222-4731	<a href="http://www.smrls.org">www.smrls.org</a>
Cass	LASNEM - Grand Rapids	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Cass (seniors 60 and older only)	MMLA - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>
Chippewa	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Chisago	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Clay	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Clearwater	LSNM - Bemidji	(800) 450-9201	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>

<b>County</b>	<b>Office</b>	<b>Phone number</b>	<b>Website</b>
Cook	LASNEM - Duluth	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Cottonwood	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Crow Wing	LASNEM - Grand Rapids	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Crow Wing (seniors 60 and older only)	MMLA - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>
Dakota (family law only)	LADC	(952) 431-3200	<a href="http://www.dakotalegal.org">www.dakotalegal.org</a>
Dakota (all other civil law)	SMRLS - St. Paul or Shakopee	(651) 222-4731	<a href="http://www.smrls.org">www.smrls.org</a>
Dodge	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Douglas	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Faribault	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Fillmore	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Freeborn	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Goodhue	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Grant	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Hennepin	MMLA and CMLS - Minneapolis	(612) 334-5970	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Houston	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Hubbard	LSNM - Bemidji	(800) 450-9201	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Isanti	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Itasca	LASNEM - Grand Rapids	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Jackson	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Kanabec (seniors 60 and older only)	MMLA - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>
Kanabec (all other civil law)	LASNEM - Pine City	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Kandiyohi	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Kittson	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Koochiching	LASNEM - Virginia	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>

<b>County</b>	<b>Office</b>	<b>Phone number</b>	<b>Website</b>
Lac qui Parle	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Lake	LASNEM - Duluth	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Lake of the Woods	LSNM - Bemidji	(800) 450-9201	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Le Sueur	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Leech Lake Reservation	ANISHINABE - Cass Lake	(800) 422-1335	<a href="http://www.alslegal.org">www.alslegal.org</a>
Lincoln	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Lyon	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Mahnomen	LSNM - Bemidji	(800) 450-9201	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Marshall	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Martin	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
McLeod	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Meeker	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Mille Lacs	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Morrison	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Mower	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Murray	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Nicollet	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Nobles	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Norman	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Olmsted (family law)	LAOC	(507) 287-2036	<a href="http://www.laocmn.org">www.laocmn.org</a>
Olmsted (all other civil law)	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Ottertail	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Pennington	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Pine (seniors 60 and older only)	MMLA - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>



<b>County</b>	<b>Office</b>	<b>Phone number</b>	<b>Website</b>
Pine (all other civil law)	LASNEM - Pine City	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Pipestone	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Polk	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Pope	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Ramsey	SMRLS - St. Paul	(651) 222-4731	<a href="http://www.smrls.org">www.smrls.org</a>
Red Lake	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Red Lake Reservation	ANISHINABE - Cass Lake	(800) 422-1335	<a href="http://www.alslegal.org">www.alslegal.org</a>
Redwood	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Renville	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Rice	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Rock	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Roseau	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Scott	SMRLS - St. Paul or Shakopee	(651) 222-4731	<a href="http://www.smrls.org">www.smrls.org</a>
Sherburne	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Sibley	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
St. Louis (north)	LASNEM - Virginia	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
St. Louis (south)	LASNEM - Duluth	(800) 933-1112	<a href="http://www.lasnem.org">www.lasnem.org</a>
Stearns	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Steele	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Stevens	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Swift	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Todd	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Traverse	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Wabasha	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Wadena (seniors 60 and older only)	MMLA - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a>

County	Office	Phone number	Website
Wadena (all other civil law)	LSNM - Alexandria	(800) 450-2552	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Waseca	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Washington	SMRLS - St. Paul	(651) 222-4731	<a href="http://www.smrls.org">www.smrls.org</a>
Watonwan	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
White Earth Reservation	ANISHINABE - Cass Lake	(800) 422-1335	<a href="http://www.alslegal.org">www.alslegal.org</a>
Wilkin	LSNM - Moorhead	(800) 450-8585	<a href="http://www.lsnmlaw.org">www.lsnmlaw.org</a>
Winona	SMRLS - Intake Hotline	(888) 575-2954	<a href="http://www.smrls.org">www.smrls.org</a>
Wright	MMLA and CMLS - St. Cloud	(888) 360-2889	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>
Yellow Medicine	MMLA and CMLS - Willmar	(888) 360-3666	<a href="http://www.mylegalaid.org">www.mylegalaid.org</a> <a href="http://www.centralmnlegal.org">www.centralmnlegal.org</a>

**ABBREVIATIONS:**

**ANISHINABE** – Anishinabe Legal Services

**ANOKA** – Judicare of Anoka County

**CMLS** – Central Minnesota Legal Services

**LADC** – Legal Assistance of Dakota County, Ltd.

**LAOC** – Legal Assistance of Olmsted County

**LASNEM** – Legal Aid Service of Northeastern Minnesota

**LSNM** – Legal Services of Northwest Minnesota, Inc.

**MMLA** – Mid-Minnesota Legal Aid

**SMRLS** – Southern Minnesota Regional Legal Services



**Education for Justice**  
A project of the Minnesota Legal Services Coalition  
[www.mnlegalservices.org](http://www.mnlegalservices.org)