

# Child Support Basics



Ninth Edition Revised – 2023

## 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."

The laws talked about in this booklet change often and may or may not apply to your situation, so be sure to check for changes. For legal advice, contact a lawyer. If you have a low income and need legal help, call your legal aid office at 1 (877) 696-6529 or look for help from other programs at <https://www.lawhelpmn.org/providers-and-clinics>.

If you have a 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) by going to [www.mnlegalservices.org/orderbooklets](http://www.mnlegalservices.org/orderbooklets). If you have questions about ordering a booklet, email us at [statesupport@mnlegalservices.org](mailto:statesupport@mnlegalservices.org).

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

# Contents

<b>Chapter 1: Child Support Basics</b>	<b>1</b>
Safety First: What if you're afraid of your child's other parent? .....	1
What is child support? .....	1
How do I get child support? .....	2
When does child support end? .....	3
How is paternity related to child support? .....	3
Do I have to be the child's parent to get child support?.....	4
What if I got papers asking me to pay child support? .....	4
<b>Chapter 2: How is the amount of Child Support calculated?</b>	<b>4</b>
How is the amount for basic support figured out? .....	4
What income is counted in gross income? .....	5
What if a parent doesn't have any income? .....	5
What if a parent doesn't make very much money? .....	6
What if a parent has other children? .....	6
How does custody affect child support?.....	7
How does parenting time affect child support? .....	7
How is Child Care Support calculated? .....	8
How is Medical Support calculated?.....	9
The 6 Month Review .....	11
<b>Chapter 3. Working with County Child Support Services</b>	<b>11</b>
County Child Support Services .....	11
How long does it take to set up child support services? .....	12
Tips for working with the child support office .....	13
What if I call my child support worker but I don't hear back?.....	13
<b>Chapter 4. Starting a Child Support Case: The Expedited Process</b>	<b>14</b>
The Expedited Child Support Process .....	14
Starting the Expedited Child Support Process .....	15
When do you have to have a hearing? .....	15
What should you bring to the hearing? .....	16
What happens at a child support hearing?.....	17
What if I am unhappy with the order? .....	18
What if the custodial parent gets public assistance? .....	19
What if the custodial parent stops getting public assistance? .....	19
What if the noncustodial parent is on public assistance? .....	20
What if I am afraid collecting child support will put me or my children in danger? .....	20
What if I don't know where the other parent is? .....	20
What if the other parent lives in another state? .....	21
What is income withholding and how does it work?.....	21
<b>Chapter 5. Changing an Existing Child Support Order</b>	<b>23</b>
The Automatic Cost-of-Living Increase .....	23
Modifying a Child Support Order .....	23
How do I change my order? .....	24
<b>Chapter 6. Enforcing a Child Support Order</b>	<b>27</b>
What if I am ordered to pay child support, but I can't afford it? .....	27
What if the other parent refuses to pay child support and I need the money?.....	27
Taking a parent's tax refund for child support (Tax Intercept).....	28
Can I stop paying child support until I get my parenting time?.....	29
<b>GLOSSARY – Terms and Definitions</b>	<b>30</b>

## Chapter 1: Child Support Basics

This booklet provides basic information about how child support is set, collected and changed (“modified”). 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.



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 the glossary at the end of Chapter 6.

### **Safety First: What if you’re afraid of your child’s other parent?**

Your safety and the safety of your child come first. If you believe you or your child could be harmed by starting a child support case, you do not have to apply for services or can stop an action already started.

**If you get public assistance**, you can apply for a “good cause exemption” and you will not have to cooperate with the child support office. If you have a good cause exemption, the county cannot bring a child support case against the other parent without your permission.

See the section “What if I am afraid collecting child support will put me or my children in danger?” in Chapter 4 for more information.

If you do NOT get public assistance and want help setting or collecting child support, contact your county child support office about child support services. Ask them about ways they can help you safely get child support.

**If you have concerns for your safety or the safety of your child**, call the **Day One Minnesota Crisis Hotline**, 24 hours a day, at **(866) 223-1111**.

### **What is child support?**

Child support is the money that a parent pays 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” has three parts

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

**Basic support** pays for your child’s expenses like food, clothing, housing and transportation. It divides these expenses between the parents based on your incomes.

The parent paying child support is called the “obligor.” The parent getting child support is called the “obligee.” The amount of child support the obligor pays depends on both parents’ incomes and how much parenting time they get with the child. The more overnights the obligor has with the child, the less support they pay. This is called a **parenting expense adjustment**. This lowers basic support to make up for money the obligor spends on the child during their parenting time.

If parents have equal parenting time and their incomes are equal, neither parent pays basic support. If parents have equal parenting time and their incomes are not equal, the parent with the higher income is the “obligor.”



**Medical support** pays for the child’s medical and dental expenses. In addition to basic child support, the parents are each responsible for part of their child’s medical and dental expenses. This amount is based on their income. Medical support is ordered by the court to help pay for the child’s medical and dental insurance premiums. It also includes doctor’s office co-pays or other medical or dental expenses not covered by insurance.

Whenever a court decides about child support, it must also decide medical support. If the child gets Medical Assistance or MinnesotaCare, the court order may also include reimbursement to the county for this public assistance.

**Child care support** pays for child care costs when the parents are at work or going to school. If the county helps with child care costs, the child care support is paid to the state, not the other parent.

### **How do I get child support?**

A parent or the county must bring a court case to get an order for child support. A judge can order child support in a

- divorce case
- paternity action
- Order for Protection (OFP) case
- custody case

Child support can also be a case all by itself. You can file a case in the “expedited child support process” and a child support magistrate will decide child support. Read “Chapter 4. Starting a Child Support Case: The Expedited Process” in Chapter 4 for more information.

You do not need a lawyer to start a child support case. Your county child support office can help you get a child support order. Read “Chapter 3. Working with County Child Support Services” in Chapter 3 for more information.

Or you can bring a child support case yourself. You can get forms from the court’s website <https://www.mncourts.gov/GetForms.aspx?c=6> or a Self-Help Center. To find a Self-Help Center go to the court’s website at <http://www.mncourts.gov/selfhelp/> or call (651) 435-6535.

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

When a judge or child support magistrate issues a child support order, the order says when child support ends. Usually, the order says child support continues until the child becomes an adult. Minnesota law defines a “child” as someone who is

- under 18 years of age or
- under age 20 if they are still in high school or
- of any age who, because of physical or mental condition, cannot support themselves

Check your order to see when your child support order ends.

Parents of disabled children should pay special attention to this issue. If you think your child **will not** be able to support themselves as an adult, tell the judge or child support magistrate when support is decided. The judge or magistrate can order child support to continue until your child can support themselves. If your order does not have continued support for your disabled child, you may want to bring a motion to modify (change) how long you will get child support. Ask for modification **before** support is supposed to end.

## **Alert for Obligor (those paying child support)!**

If you are paying child support for 2 or more children, the amount you pay does not automatically go down when one of them becomes an adult. You have to ask the court to reduce your child support based on the fact that your child became (or is about to become) an adult. This is called a motion to modify child support. The court will decide (1) if your child has emancipated and (2) if the current support order is “unreasonable and unfair.” Child support will only stop automatically when all of your children have become adults. See “Chapter 5. Changing an Existing Child Support Order” in Chapter 5 for information on how to change a child support order.

## **How is paternity related to child support?**

“Paternity” means who is legally the father of the child. A father cannot be ordered to pay child support unless paternity has been established.

It is taken for granted (presumed) that the mother is the child’s legal parent when she gives birth to the child. When a child is born during a marriage, the husband is presumed to be the father of the child.

If the parents are not married when the child is born, there is no legal father until paternity is established. A birth certificate does not establish paternity. There are 2 ways to establish paternity in Minnesota

1. The parents may agree that a man is the biological father and sign a form called a **Recognition of Parentage (ROP)** OR
2. A court action may be started to name the father (**adjudicate paternity**).

For information on establishing paternity (by ROP or court action) see the booklet "Rights and Responsibilities of Unmarried Parents" at

<https://www.lawhelpmn.org/self-help-library/booklet/rights-and-responsibilities-unmarried-parents>.

### 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 one or both parents.

For example, grandparents raising their grandchildren can get child support from the parents. This booklet refers to parents since they are usually the ones paying and getting child support. But the information in this booklet can be used by grandparents and other people caring for children.

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

If the other parent or the county gave you legal papers that ask you to pay child support, you need to file a response with the court soon. **Act fast!** You only have a certain number of days to respond to legal papers. You might only have 7, 14 or 21 days to respond.

You can get forms from the court's website <https://www.mncourts.gov/GetForms.aspx?c=6> or a Self-Help Center. To find a Self-Help Center go to the court's website at <http://www.mncourts.gov/selfhelp/> or call (651) 435-6535.

## Chapter 2: How is the amount of Child Support calculated?

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

Minnesota has guidelines for how much child support should be paid. It is called "income shares." Income shares sets child support by looking at the gross income of both parents. Gross income is your total income before taxes are taken out.

After each parent's gross income is figured out, their incomes are added together. This total is compared to a guidelines chart that shows how much money parents at that income level spend on their children. The number from the chart is then divided between the parents. It is divided

based on each parents' percent of income that made up the total income number. For example, one parent's income might be 60% of the income total and the other's is only 40%. The number from the chart would be divided 60% and 40%.

Child support is usually set at the guideline amount. But a judge or child support magistrate can set child support above or below the guideline depending on

- The income, assets, expenses, and needs of both parents and
- The needs and expenses of the children.

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.

To help figure out how much child support may be order, you can use the online child support calculator at <http://childsupportcalculator.dhs.state.mn.us/>. You need to know your gross income, the other parent's gross income, and parenting time schedule 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.

### **What income is counted in gross income?**

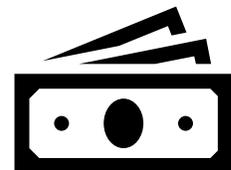
To set child support, the court looks at the gross income of both parties. Gross income is the money you earn from all sources before taxes are taken out. Gross income can be

- wages from all jobs
- self-employment income
- spousal maintenance (alimony) that an ex-spouse pays to a parent
- some disability benefits
- retirement or pension payments (other than SSI)
- unemployment benefits
- other periodic payments like rental income or interest income
- military or veteran benefits

Generally, public assistance is not counted as income when setting child support. Overtime can sometimes be counted. If a parent is remarried, the court does not count the income of a new spouse.

### **What if a parent doesn't 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 doesn’t make very much money?**

When the child support amount is calculated, it takes into account how much money the parent who pays support needs to cover their own expenses. This is called the **self-support reserve**. The self-support reserve is 120% of the federal poverty guideline for one person divided by 12. This amount is subtracted from the **Parental Income for Determining Child Support (“PICS”)** of the parent paying support (obligor). The current self-support reserve is \$1,458 per month, but this number changes every year.

To figure out how the self-support reserve affects the child support amount, subtract the self-support reserve from the parent’s PICS. If this number is less than how much the guidelines say the parent should pay for basic support, child care support, and medical support combined, the amount of child support is reduced so that the parent keeps their self-support reserve.

If the parent’s income is below the self-support reserve amount the parent only pays the minimum child support amount

- if there is 1 child: \$50 per month
- if there are 2 children: \$60 per month
- if there are 3 children: \$70 per month
- If there are 4 children: \$80 per month
- If there are 5 children: \$90 per month
- if there are 6 or more children: \$100 per month

If the court orders a parent to pay the minimum child support amount, it is assumed that the parent is unable to pay medical support or child care support.

Note: If a parent is in prison, their income is considered zero and they are not obligated to pay support.

### **What if a parent has other children?**

The children of one, but not both, parents in a child support case are called “non-joint children.” Non-joint children affect the amount of child support that is ordered. If a parent pays child support for a non-joint child, the amount of that child support order is deducted from the parent’s gross monthly income. If a parent is legally responsible for a non-joint child, but does not pay child support, a parent can get a non-joint child deduction. Each parent may get a non-joint child deduction for up to 6 non-joint children. This deduction lowers the parent’s gross monthly income when figuring out child support in the new case.

## How does custody affect child support?

There are 2 parts to custody in Minnesota

1. Legal Custody
2. Physical Custody

**Legal custody** could be called “decision-making custody.” This custody involves the right to make major decisions about the child’s life, such as

- where the child attends school
- religion
- major health care

The court can give legal custody to one or both parents together. **Joint legal custody** means both parents have equal rights and duties in making major decisions. They need to agree when major decisions need to be made. The court prefers that parents have joint legal custody, unless the parents cannot work together to make decisions or there has been domestic abuse. **Sole legal custody** means one parent makes the major decisions.

**Physical Custody** means living with the child and making day-to-day decisions about the child’s care. **Sole physical custody** means that the child lives primarily (mainly) with one parent. **Joint physical custody** means the child lives with both parents and shares time between the parents. Joint physical custody does not mean the parents will have equal time with the child. The schedule doesn’t have to be equal for physical custody to be joint. Parenting time is what controls how much time the child spends with each parent.

Legal or physical custody does **not** affect child support in any way. **The amount of child support ordered is based on how much parenting time each parent has.**



## How does parenting time affect child support?

When parents are separated, the court usually wants both parents to be involved with their child. **Parenting time** is the time that each parent spends with a child. It does not matter who has custody or what kind of custody. Parenting time is the same as visitation.

If the child lives primarily (mainly) with one parent, the other parent (also called the “non-custodial parent”) can be awarded parenting time. In general, a non-custodial parent gets at least 25% of the parenting time. This is calculated by counting the number of overnights in a 2-week period. For example, 25% equals about every other weekend and one additional overnight a week.

If a non-custodial parent gets court-ordered parenting time, they will get a **parenting expense adjustment** by the court when setting child support. This lowers basic support to make up for money the non-custodial parent spends on the child during their parenting time. The parenting

expense adjustment is based on the number of overnights each parent has with the child over a 2-year period.

If a parent has significant parenting time with a child that isn't an overnight, the court can count that time as an "overnight equivalent" but the court order must use those words for it to count as equal to an overnight.

### **Important Note about Child Support Orders set before August 1, 2018**

If your child support order is from **before August 1, 2018**, parenting expense adjustments were based on percentages instead of exact number of overnights. This means if you had court-order parenting time from 10-45% of the time (or 2-6 overnights in a 2-week period), you got the same parenting expense adjustment.

**Beginning August 1, 2018**, parenting expense adjustments are set by the number of overnights. So the more overnights per year, the lower the obligor's basic support. You can see if this change in the law would change your child support amount by using the child support guidelines calculator (<http://childsupportcalculator.dhs.state.mn.us/>) or talking to your child support worker.

If your order would change by at least 20% and \$75, you can ask the court to modify (change) your child support order. See "Chapter 5. Changing an Existing Child Support Order" in Chapter 5 to learn how to change a child support order.

### **How is Child Care Support calculated?**

If parents need to pay for child care while they go to work or school, the costs are shared between parents. If the parents agree, or the court orders it, one parent may provide some child care for the child while the other parent is working or in school.

The first step to setting child care support is figuring out what you pay for child care each month. Costs can change during the year, especially for children in school. The parent who pays for the child care needs to show proof like receipts or bills. This information is used to figure out the average child care cost.

For example, if a parent pays \$200 per month for child care during the school year and \$400 per month during the summer, the average child care cost will be \$250 per month.



$$\begin{aligned} 9 \text{ months} \times \$200 &= \$1,800 \\ 3 \text{ months} \times \$400 &= \underline{\$1,200} \\ \text{Total for the year} &= \$3,000 \end{aligned}$$

$$\$3,000 \text{ per year} \div 12 \text{ months} = \$250 \text{ average monthly child care costs.}$$

The other parent usually pays a set amount toward the average child care costs. It will be the same each month even when costs are different. The parent paying the child care provider

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 Child Care Cost Between Parents**

Not all child care costs are divided between the parents. Only child care costs related to the parents going to work or school are divided. For example, if a parent decides to go out to dinner and leave the children with a babysitter, the other parent does not have to share the cost of the babysitter.

To set child care support, Minnesota guidelines first divide child care costs based on each parent's percent of income that makes up the parents' total income, then estimate the parent's tax credit for child care costs. See "How is the amount for basic support figured out?" in Chapter 2 for more information.

The parent paying child care costs may be entitled to state and federal tax credits. So Minnesota guidelines include these potential tax credits when calculating how much a parent pays in child care support.

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

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



If the other parent gets child care assistance (subsidy), the child care support you pay goes to the state not the other parent. If you cannot afford to pay, ask the court to lower or "reserve" your contribution to the child care subsidy. Reserving a support payment means you don't have to pay anything now but the court may have you pay something in the future if the county or other parent brings a motion.

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

Contact your child support worker. If the cost of child care has changed significantly or your child no longer goes to a child care program, you should let your child support worker know about the change. You may also need to file a motion in court to modify (change) a court order. Either parent can contact the child support worker or file a motion. See "Chapter 5. Changing an Existing Child Support Order" in Chapter 5 for information on how to change a child support order.

### **How is Medical Support calculated?**

Medical support means providing medical and dental insurance for the child. Each parent pays a portion of the child's insurance costs. Medical support also means the parents split medical and dental costs for the child when insurance does not cover it. Both parents can be ordered to provide medical support.

If both parents can get medical and dental insurance through their work or a union, the judge or magistrate orders the parent with better coverage to insure the child. If only one parent has insurance, the judge or magistrate orders that parent to insure the child. But the cost of the insurance is split between the parents. The amount each parent pays is based on their income.



Sometimes, neither parent can get insurance through work. 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 parents can afford it, they can order a 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 they have enough money to do that.

If there is no insurance available and the child may be eligible, Medical Assistance (MA) or Minnesota Care. These are public assistance programs that help pay the medical costs.

If you believe your child may be eligible for Medical Assistance, call the Minnesota Child Support Information Line 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, show the judge or magistrate so they can adjust the amount of support.

If the child gets Medical Assistance benefits, the obligor 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 obligor also gets Medical Assistance, that parent does not have to pay medical support.

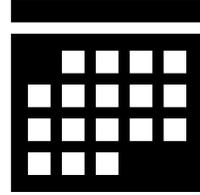
The judge or magistrate also divides the medical and dental expenses for the child that insurance or Medical Assistance does not cover between the parents. The share that each parent pays is based on their income.

If medical insurance is no longer in place or the cost of coverage has changed by a large amount tell your child support worker. If the whole child support order is less than three years old, the court can modify (change) the medical support parts and/or the amount of the child/dependency tax credit. The court can do this without requiring the parents to give updated evidence of their income.

However, if the court has not reviewed the order in at least three years, the court will take another look at the parties' incomes and may decide whether to change other parts of the order, such as basic or child care support. See "Chapter 5. Changing an Existing Child Support Order" in Chapter 5 for information on how to change a child support order.

## The 6 Month Review

If either parent is not following the 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 your child support order. You can also get one on the court website



- Go to [www.mncourts.gov](http://www.mncourts.gov)
- Click “Get Forms”
- Click “Child Support”
- Scroll down and click “Motion for Review” under Form/Packet Name
- Download each of the forms in the list

At the hearing, the court looks 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.

## Chapter 3. Working with County Child Support Services

### 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.

When a parent who does not get public assistance applies for child support services, 2% of each collection amount is kept as a fee. This fee is in addition to an annual fee. If the obligee applies for services, the 2% fee is taken out of the child support collected. If the obligor applies for services, the 2% fee is added to the amount collected from that parent. The 2% fee 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 gotten public assistance, and more than \$550 per year is collected in child support, the parent will also be charged a \$35 annual fee.

If a parent wants full child support services, the child support office helps the parent

- Get a court order for child support
- Establish paternity if the parents were not married when the child was born and they parents did not sign a Recognition of Parentage (ROP)
- locate the parent who should be paying support,
- collect child support or take action against parents who refuse to pay, and
- change the child support order.

A parent who applies for child support services can also choose “income withholding only.” With this service, the county is only responsible for collecting money. It does not set, change or enforce a child support order. You have to 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, read the state’s fact sheet, “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/lfsrserver/Public/DHS-2973-ENG>.

When the county opens a child support file, the parent getting the payments gets a participant number and a PIN number to access the state’s online payment system, called “Minnesota Child Support Online.” When the court orders child support, the parent paying the support gets their own individual PIN number for the system. Either parent can use their PIN to get information about their case 24 hours a day. You can learn how much child support is owed, the date the last payment was made, and the name and phone number of the child support worker. You can check online at <http://www.childsupport.dhs.state.mn.us/Action/Welcome>.

You can also get information by calling the State’s Integrated Voice Response System (IVR System). When you call, you need your Social Security Number or participant number and a PIN number. In the Metro Area, call the payment and account information line at (651) 215-5630, or 800-657-3890. Persons with a hearing or speech disability may dial 711 for Minnesota Relay TTY access or use their preferred relay service.

## How long does it take to set up child support services?

### Getting the Application

The county child support 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 paperwork 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 they are, the county has **90 days** to get a court order for child support or deliver legal papers to the other parent.

### Getting Information about Payments

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.

### **Sending Child Support Payments**

The county has **2 business days** after they get the money to send it to the parent.

Sometimes the county gets child support money through a “tax intercept.” In a “tax intercept” the Internal Revenue Service (IRS) or the Minnesota Department of Revenue takes a parent’s tax refund for child support. If the money is a tax intercept the county has 30 days after they get the money to send it out, in most cases. See “Taking a parent’s tax refund for child support (Tax Intercept)” in Chapter 6 for more information. If the parents are in different states, the county has 15 more days before they must send the money.

### **Tips for 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** lawyer. 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 a lawyer to help with your side only, you should get one. Call your local legal aid office at 1 (877) 696-6529.

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. If the supervisor does not solve the problem

- Write a letter to the head of your county’s child support (IV-D) agency. Be specific as to what things the IV-D Unit did wrong and why. **Include your address, the date and your case number. Keep a copy of your letter.**
- If the problem is not explained or fixed in 30 days, write a letter to  
Minnesota Child Support Division  
c/o Department of Human Services  
PO Box 64946  
St. Paul, MN 55164-0946

### **What if I call my child support worker but I don't hear back?**

Your child support worker has certain obligations, and it is important to understand exactly what these are. Carefully read “County Child Support Services” at the beginning of this chapter, 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 a lot of cases. If the child support officer needs to call you, let him or her know the best time to call you.

## Chapter 4. Starting a Child Support Case: The Expedited Process

### The Expedited Child Support Process

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

In the child support expedited process, parents can follow the guidelines and agree on how much child support should be paid. If the parents cannot agree, in most counties there is a hearing before a "Child Support Magistrate." In some counties a judge hears the case.

The expedited child support process **must** be used if you get child support services from the county **AND** the only issues in your case are

- child support
- medical support
- child care support
- income tax dependency exemptions/child tax credits
- enforcement of spousal maintenance, if it is combined with child support

Some counties also use the expedited process for

- paternity
- child support contempt

You **cannot** use the expedited process if you want the court to decide other issues such as

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



## Starting the Expedited Child Support Process

To start the process, either parent makes a written request for services to the child support office. 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 the Minnesota Child Support Information Line at (651) 431-4400, or visit the Department of Human Services website at <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-support/contact-us/county-offices.jsp>

If the child support office turns down your request for their help, talk to a lawyer. You may be able to get a free lawyer to help you. Call your legal aid office at 1 (877) 696-6529.

**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 starting or responding to a case, you need to make sure you do things correctly. More information is available on the court's website, <http://www.mncourts.gov/Help-Topics/Child-Support.aspx>.

A child support case **starts** with serving the other parent a legal paper called a **Summons and Complaint**. The Complaint has to have detailed information about both parents' incomes and expenses. The other parent is also "served" a **request for hearing form** and a **supporting affidavit** on the other parent and then file it with the court.

If you are working with the county, they will write up all the legal papers and serve them on the other party. They might ask you for information about the other parent like their address, phone number, or where they work.

The other parent has to respond to a Summons and Complaint **for child support** in writing within **21** days if no hearing is scheduled. If a hearing is scheduled they have to file their response **7** days before the hearing.

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 within 21 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 and any supporting documents that were served on the other parent.

## When do you have to have a hearing?

You have to have a hearing if

1. The other parent did not respond and the court does not have enough information to issue an Order
- OR
2. The other parent did respond and the parents cannot agree on child support

The hearing has to be scheduled within 60 days of the date when the other parent was served with the complaint. The parent who started the request has to ask the court for a hearing date and time, and then tell all other parties. If the county started the request, both parents get a notice of the time, date and place of the hearing.

Both parents have the right to be at the hearing. Since the Covid-19 pandemic, many court hearings are only held remotely via video conferencing. Most child support hearings are ONLY held remotely. Be sure to carefully review your hearing notice for the exact date, time, and place of the hearing, and whether the hearing will be in person or remote. See the Court's website for more information about preparing for a remote hearing: [Minnesota Judicial Branch - Remote Hearings | Minnesota Judicial Branch \(mncourts.gov\)](https://mncourts.gov/remote-hearings).

### What should you bring to the hearing?

Bring evidence that shows your financial situation. You may have also given the court this information before your hearing. Bring the updated versions of any evidence you already sent to the court. For example, if you already sent the court pay stubs, bring your most recent pay stubs to the hearing.



Bring four copies of each of the following things (if you have them).

You keep one copy for yourself, and give the other copies to the magistrate, the other parent, and the child support office.

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 like W-2s or 1099 forms
3. Written proof for any **voluntary payments** made for a joint child (child of both parents in this case)
4. If you pay **child support for any non-joint children**, the amount of child support you pay for those children. 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. Include costs for single coverage, single plus child(ren), and family coverage, if your employer provides these.
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.
10. If you used the online **child support calculator**, bring the worksheets from the calculator to the hearing. Find it here: <http://childsupportcalculator.dhs.state.mn.us/>

**Note:** Since child support hearings are being held remotely by Zoom, you will have to contact Court Administration so that your exhibits can be provided to the court electronically prior to the hearing. The courts are using a new system called the MN Digital Exhibit System (MNDES) to manage digital exhibits submitted before, during, and after court hearings. This is the easiest way to provide your exhibits to the court. Information on MNDES can be found at [Minnesota Judicial Branch - Preparing Evidence | Minnesota Judicial Branch \(mncourts.gov\)](http://mncourts.gov/Minnesota-Judicial-Branch-Preparing-Evidence)

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

At the start of the hearing, the child support magistrate explains the purpose of the hearing and what happens during the hearing. The magistrate will check to see who is at the hearing 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 gets a chance to give information to the 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 present documents at the hearing, you have to give the other party copies at least 7 days before the hearing. If you plan to call witnesses besides yourself, you should also give the other parties a notice with the name and address of each witness. You must also give this notice at least 7 days before the hearing. 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 may not let you present documents that you did not give to the other party 7 days in advance. See the Note about the Minnesota Digital Exhibit System (MNDES) on this page for how to submit exhibits for virtual hearings.

The magistrate asks the parents to take turns. First, one parent takes an oath to tell the truth and tell the magistrate about their financial information. This is called testimony. The magistrate may have questions for the parent during their testimony. When one parent is done talking, the magistrate gives the other parent a chance to ask the parent questions about their testimony. That parent then calls any witnesses they might have.

When the first parent is done, it's the other parent's turn. The other parent follows the same

steps as the first parent. The other parent is sworn in and gives their testimony. They get a chance to give information to the magistrate, answers questions, and call any other witnesses to testify.

The child support office is represented by a county attorney at the hearing. The county attorney does not represent either parent. The county attorney will ask each parent questions and give information to the magistrate.

### **Tips for testifying**

*Do not* talk or interrupt when it is not your turn to talk.

*Do not* raise issues other than child support, such as custody or parenting time. Remember, the child support magistrate doesn't have authority to decide issues other than child support, medical support, child care support, and dependency exemptions/child tax credits in these hearings.

Put your 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 either decides orally at the hearing or "takes the case under advisement." If the magistrate takes the case under advisement, they will take time to think about the case and then write the order later.

Sometimes, the magistrate leaves the record open for a limited time so that one or both parents can give the magistrate more information before the Magistrate makes a decision. Once the case is decided, the magistrate mails each parent a child support order with the magistrate's decision. The magistrate has to send 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 can file a "Motion to Correct Clerical Mistakes." File this type of motion to fix clerical mistakes like a misspelled name or errors in calculation, like if numbers were added up wrong. You can file this type of motion at any time. You have to serve the other parent and file the motion with the court. The magistrate who issued the order reviews the case. Usually you don't have to have a hearing.

If either party is unhappy with the order, they can bring a "Motion for Review." You have to bring this type of motion within **21** days after receiving the order. The parent who asks for review of the order can choose to have the magistrate or a district court judge review the order. Usually you don't have to have a hearing. You cannot give the court new information unless the magistrate or judge asks you to.

You can appeal the judge's decision. An appeal is when you ask another court to review the judge's decision. This court is called the Court of Appeals. Act fast! There are special time limits that apply. Filing an appeal can be difficult. Talk to a lawyer to see if you should file an appeal.

There has to be a legal reason for appealing a judge's decision. For example, the judge did not follow the law.

For information and forms to file an appeal

- Go to the courts' website at [www.mncourts.gov/CourtOfAppeals.aspx](http://www.mncourts.gov/CourtOfAppeals.aspx).
- Click "Appellate Forms & Instructions (for self-represented litigants)"

### What if the custodial parent gets public assistance?

If the custodial parent gets public assistance like MFIP, Medical Assistance or Minnesota Care, or is getting a child care subsidy, the state is helping support that parent's children. Custodial parents who get public assistance have to



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 figure out who the other parent of the child is and set a child support order.

**MFIP** – If you get MFIP cash, the child support office collects the child support and then sends it to you.

If your child support is more than \$100 a month for one child or \$200 for 2 or more children, they lower your monthly MFIP amount dollar for dollar. The reduction in MFIP happens **two months after** the child support is collected. For example, if you have one child and you usually get \$300 in MFIP cash, if the county collects \$150 in child support in May, your MFIP is reduced by \$50 in July. If you have 3 children, and the county collects \$250 in child support in May, your MFIP is reduced by \$50 in July. If the county only collected \$200 in May, your MFIP is not reduced in July.

**Child Care Subsidy** - If you get a child care subsidy, the court will order the child support payment be paid to the county.

**Medical Assistance or Minnesota Care** - If you or your children get Medical Assistance, the court will order medical support payment be paid to the county.

The county can ask the court for an order making the parent who pays child support repay any public assistance the custodial parent got in the past 2 years.

### What if the custodial parent stops getting public assistance?

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 is sent to the custodial parent. The county still collects the money but sends it to the custodial parent. Any back medical or

child care 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, your public assistance does not count as income when calculating how much you have to pay in child support. But you may still have to pay some child support depending on the type of assistance you get and your ability to earn income.

### **What if I am afraid collecting child support will put me or my children in danger?**

#### **If you get public assistance and don't want the county to collect support**

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. If this is true for you, ask your child support worker about a "**good cause exemption.**" If you have a good cause exemption, 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 exemption if they believe that a legal case for child support might result in physical or emotional harm to them or the children.

A "good cause exemption" 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 Day One Minnesota Crisis Hotline can be reached 24 hours a day at **(866) 223-1111**.

#### **If you are NOT on public assistance and want help getting child support**

Contact your county child support office about child support services and talk with them about ways they can help you safely establish child support.

If you have concerns for your safety or the safety of your children, call the Day One Minnesota Crisis Hotline 24 hours a day at **(866) 223-1111** and ask them about resources in your area. Domestic abuse resources can help you with safety issues, including ways to safely collect child support.

### **What if I don't know where the other parent is?**

Sometimes the parent with the child does not know where the other parent is. If you don't know where the other parent is, the county can 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 their money. If that person is in another state, the county has to start working with the other state's child support office. If the



county can't find the other parent, they must try again every 3 months or right away if they get new information.

The county has to 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 has to get a court order showing that person **is** the parent or get a blood test showing the person **is not** the parent.

### **What if the other parent lives in another state?**

Getting child support from a parent who lives in another state is 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. In these cases, Minnesota has to 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, it takes a long time.



If 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.

### **What is income withholding and how does it work?**

Automatic income withholding means the child support amount is taken out of a parent's paycheck. Every child support order must have an income withholding order, unless

- the parties agree not to use automatic income withholding **AND**
- the judge or magistrate agrees they don't need to use automatic income withholding **AND**
- the obligee does not get public assistance

The county lets the employer know they are supposed to start keeping the child support amount out of the paycheck and send that amount to the county. Then the county sends 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.

### **Do I have to use automatic income withholding?**

The parents can ask the judge or magistrate to allow the obligor to make child support payments directly to the obligee.

If you asked for services from the county to help with child support a court only allows direct payments if the custodial parent does not get public assistance and does not want the county to continue to provide services and one of these things is true

- 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 has to be reviewed by the court

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

- The obligee 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 file a motion asking for income withholding to begin. To order income withholding, the court will have to decide that the other parent has not been paying on a regular basis or that they have threatened to stop payments.

#### **How long does it take to get payments through automatic income withholding?**

The employer has 7 days from the date it withholds child support from a paycheck to get it to the state payment center. The state then has 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 child support. But more child support is collected using income withholding than when it is not used.

Employers have to withhold child support from a paycheck and cannot discriminate against an employee who has a child support order. Employers can face misdemeanor criminal charges for failing to comply with child support collection efforts.

#### **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.

## Chapter 5. Changing an Existing Child Support Order

### The Automatic Cost-of-Living Increase

A child support order increases every two years in May because of cost of living increases. This is sometimes called a COLA (cost of living adjustment). If you get child support services from the county, the County will request the COLA for you. If you do not get child support services, you can ask for the COLA yourself. A parent can also ask that the COLA be denied.

You can get forms from the court's website <https://www.mncourts.gov/GetForms.aspx?c=6> or a Self-Help Center. To find a Self-Help Center call (651) 435-6535 or go to the court's website at <http://www.mncourts.gov/selfhelp/>. Ask your county child support office to help by calling the Minnesota Child Support Information Line at 651-431-4400 or visiting the Minnesota Child Support Online [website](#).

### Modifying a Child Support Order

Either parent can ask for changes to the child support order at any time, by bringing a motion to modify (change) support. But only certain things are seen by the court 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 gross income of the parent who pays the support
- A change in the number of joint children supported by the parent who pays the support
- A parent 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" in the needs of the child or parents' finances that makes the order you have unfair. The court will not change the child support order unless the child support amount will go up or down by at least 20% and \$75.

Here are things that could change a child support order

- a child becomes an adult
- a big change in the income or needs of either parent
- a big change in the needs of the child

- getting public assistance
- high medical costs for the child
- new or changed child care costs
- a big change in the parenting time schedule

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 continue to use the parenting time calculation from your old 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.

**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.

**Act fast** if you feel that your child support order needs to be changed! The court can only change support starting from the day that you or the county serves the other parent with your motion. You cannot collect the new amount of support before that time.

A motion to modify an order usually means 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 have to pay a motion fee of about \$100.

If you have a low income and can't afford to pay the fees, ask the court for a "Fee Waiver." A "Fee Waiver" form asks the court to lower the fee or remove it so you don't have to pay. You can get the form on the court's website: <https://www.mncourts.gov/GetForms.aspx?c=19>.

### **How do I change my order?**

Either you or your county child support office can ask a judge or magistrate to change a child support order by bringing a motion to modify child support. This is a written statement that tells the judge or magistrate what you want changed and why.

There are two ways

1. Ask your local child support office for help
2. File the papers with the court yourself



### **Ask Your Local Child Support Office**

You can change your order by asking your child support office for help. Ask them to do this by writing to them. 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 “Expedited Child Support 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.



### **File the papers with the court yourself**

The other way to modify support is to bring a motion yourself or with the help of a lawyer. You can get forms from the court’s website <https://www.mncourts.gov/GetForms.aspx?c=6> or a Self-Help Center. To find a Self-Help Center go to the court’s website at <http://www.mncourts.gov/selfhelp/> or call (651) 435-6535.

## **1. Complete the Forms**

The form packet comes with a Motion and Affidavit (written statement). Fill in all the information asked for on the forms.

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 also have to complete the affidavit and attach any additional information about sources of income. Once you fill out the affidavit and attach proof of your income, sign the affidavit.

When you have completed the forms, ask the staff at the court house to give you a hearing date. Fill in the date, time and place of the hearing on the Motion that comes with the forms. Sign and date the Motion and write your address below your signature.

## **2. Serve Your Motion**

When you finish 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. That person mails one copy of the set to the other parent and the second copy to your county child support office. Keep the third copy 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. Fill out one Affidavit of Service for the papers the person mailed to the other parent and a second Affidavit of Service for the papers the person mailed to the child support office.

### **3. Protect Private Information and 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. Get them from the Self-Help Center 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 children, file Form 11.1. This protects things like social security numbers, employer identification numbers, and financial account numbers that are listed on papers you file with the court. The information is blacked 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.

Use Form 11.2 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

File your Motion, your Affidavit, and the 2 Affidavits of Service by Mail at the courthouse at least 7 days before the hearing.

### **4. Gather Information**

#### **Wage information**

The child support office can get a copy of a person's reported earnings from the State of Minnesota. They have to give the court the wage information for each party when someone files a motion to modify support. If you do not get a copy of the wage information, call your child support office and ask for it.

If the other parent files papers, they have to file a financial affidavit. The parent filing the affidavit attaches 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 give the court information or to appear at the hearing.

Get the subpoena from the Court Administrator's office by asking for it in writing. The written request should say what documents you are asking for and give the name and address of the person you want to provide the information. Instructions on how to use the subpoena are 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 for each subpoena you ask for unless you have a Fee Waiver 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 they make, you can use a subpoena to make the parent come.

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

Get to the courthouse or log onto the remote hearing 15 minutes before the hearing starts. Make sure you have the correct date, time, and login information. The magistrate may want to start the hearing early if there are hearings before yours that go quickly. 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.



See “

What should you bring to the hearing?” in Chapter 4 for a list of information that you need to give the judge or magistrate at the hearing. Sometimes the magistrate makes a decision right at the hearing. Usually, you get an order in the mail after the hearing.

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

Read the order 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>.

## **Chapter 6. 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 the 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. See “Chapter 5. Changing an Existing Child Support Order” in Chapter 5 for more information.

### **What if the other parent refuses to pay child support and I need the money?**

Some people may wonder why they can't just throw the obligor in jail when they don't pay. Why are people 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.

The government tries all these things in the list below to help make sure child support can be collected.

- Collect child support directly from paychecks.
- Bring a court contempt action for non-payment.
- Take tax refunds for child support.
- Use collection agencies to help collect child support.
- Suspend professional licenses and driver's licenses.
- Place a lien on vehicles and other property.
- Deny the parent's passport application.
- Keep the parent from getting a student grant.



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

- 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 to 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 an obligor refuses to pay child support, you should be sure 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**.

### **Taking a parent's tax refund for child support (Tax Intercept)**

Each year the county and state have to tell the Internal Revenue Service (IRS) and the Minnesota Department of Revenue (the state tax agency) if an obligor owes back child support. The IRS takes the obligor's tax refund for child support. This is called "tax intercept." Tax intercept is available whether or not the obligee is on public assistance, but the amount of back child support owed needs to be higher if the child support case doesn't involve public assistance. If there is back child support owed to the state, the state keeps tax intercept collections, even if an obligee doesn't get public assistance anymore.

## **Can I stop paying child support until I get my parenting time?**

**No.** Some parents feel they don't get enough parenting time with their child and want to stop paying child support until they get more time. But parenting time and child support are two separate things.

A parent cannot stop paying child support just because they are not getting parenting time. And the other parent cannot stop parenting time just because they are not getting 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 if you stop paying child support the court will not be happy with you either.

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: <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-support/programs-services/enforcing-orders.jsp>.

## **GLOSSARY – Terms and Definitions**

**Basic Support:** 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.

**Child Care Support:** The amount ordered by the court to help pay child care costs when parents are working or going to school.

**Child Support:** The money paid to help raise a child. It is a combination of basic support, medical support, and child care support.

**Custodial Parent:** The parent a child primarily (mainly) lives with.

**Federal Poverty Guidelines:** 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.”

**Gross Income:** Total income from all sources before taxes are taken out.

**Income Available for Support:** The amount of gross income above the “self-support reserve.”

**Joint Child:** The child of both parents in the support case.

**Legal Custody:** The right to make major decisions about the child’s life, including where the child attends school, religion, and major health care. **Sole legal custody** means only one parent has the right to make decisions about the child. **Joint legal custody** means both parents make decisions together.

**Medical Support:** 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 by insurance, including payments owed.

**Non Custodial Parent:** The parent that the child does not primarily (mainly) live with.

**Non-joint Child:** The child of one, but not both parents in the support case. For example, a child from a different relationship.

**Obligee:** A person who gets child support.

**Obligor:** A person who pays child support.

**Parental Income for Determining Child Support (PICS):** A parent’s gross income minus any deductions for non-joint children. This number is used to figure out the amount of basic support, child care support, and medical support.

**Parenting Time:** The time a parent spends with a child. It does not matter who has custody. Parenting time used to be called visitation.

**Parenting Expense Adjustment:** This lowers basic support to make up for money the obligor spends on the child during their 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.

**Physical Custody:** Means living with the child and making day-to-day decisions about the child's care. **Sole physical custody** means that the child lives primarily (mainly) with one parent. **Joint physical custody** means the child lives with both parents and shares time between the parents.

**Potential Income:** If a parent has the ability to work full-time but only works part-time, the court can calculate what they could make if they worked full-time. If the parent doesn't work, or if the court has no information about their earnings, the court might calculate what they could make if they worked 30 hours per week at the minimum wage. This is called potential income and can count as income in setting child support.

**Self-Support Reserve:** 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 \$1,458 in 2023.

**Social Security and Veteran's Benefits:** 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.

**Spousal Maintenance:** The money a person is ordered to pay to a spouse in a divorce case. Also called "alimony."

**Tax Intercept:** When the Internal Revenue Service (IRS) or the Minnesota Department of Revenue take a parent's tax refund for child support.



**Education for Justice**

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