

Seven Priority Issues for the Child Support Task Force

Presented by Elizabeth Rusinak Mowers, DHS

Issue #1: The self-support reserve for custodial and noncustodial parents

What is it?

- ▶ Minn. Stat. § 518A.42 sets a dollar amount equal to 120 percent of the Federal Poverty Guidelines (FPG) for one person with no dependents. 2016 FPG is \$1,188 per month for a 1 person household .
 - ▶ This is the minimum amount of income that the law requires that an obligor be allowed to retain for the parent's own needs before payment of child support obligations.
 - ▶ After the base support is calculated, income available for support is determined by subtracting the self-support reserve from gross income. If the guidelines amount is greater than the income available after the self-support reserve is applied, the obligation is reduced
 - ▶ Current law establishes a SSR for obligors only.

Issue #1: The self-support reserve for custodial and noncustodial parents

Questions for Task Force to consider

- ▶ Should the law be changed to apply to obligees as well?
- ▶ Is this amount is too high?
 - ▶ (and so CPs are living on the minimum order amount of \$50)
- ▶ Is the amount too low?
 - ▶ (and so NCPs pay more than they can afford in child support).
- ▶ Should the self-support reserve be increased for someone with dependents?

Issue #4: Parents with multiple families

What is it?

- ▶ This is an issue that can encompass both simultaneous child support orders (issue #2) as well as obligors with orders in multiple counties (issue #3)
- ▶ But this issue covers both obligors and obligees with multiple families
- ▶ Minn. Stat. § 518A.33 allows a deduction to be taken from income available for purposes of calculating child support obligations for nonjoint children living in the parent's home. Deductions are limited to two children per parent.

Issue #4: Parents with multiple families

Question for Task Force to consider

- ▶ Deduction limited to two nonjoint children: Should there be a cap at all on nonjoint children? If so, what is the number?
- ▶ Minimum orders: Often obligors with more than one or two children end up with many multiple minimum orders, which is beyond their ability to pay. This also overlaps with issue #1, the Self-Support Reserve.

Issue #2: Simultaneous child support orders

What is it?

- ▶ Example 1: The obligor has two or more support orders being established or modified in one county and those cases are scheduled to be heard by the same Magistrate or Judge on the same day.
- ▶ Example 2: Two orders established close in time to each other, but not exactly on the same day, and the Judge in either case may or may not know about the other order.

Issue #2: Simultaneous child support orders

Questions for Task Force to consider

- ▶ How are each of these obligations to be calculated?
- ▶ Does the Magistrate calculate the obligor's income available for support for both of his families and divide it?
- ▶ OR does the Magistrate calculate the obligation for the oldest child/first case being heard and then subtract that obligation when calculating for the next child?
- ▶ How can the establishment of multiple orders that don't inform each other be prevented ?

Issue #3: Obligor who are subject to child support orders in multiple counties

What is it?

- ▶ This issue recognizes a unique problem if the obligor has obligations in multiple counties. Unlike situations where one county has all of the obligor's support orders, it is very difficult to address all of the obligor's cases at one time in a fair manner.
- ▶ Additionally, there can be an issue with counties settling arrears issues in one lump sum payment with result that there is a lump sum going to one case in one county and the other in a different county gets nothing.

Issue #3: Obligor who are subject to child support orders in multiple counties

Questions for Task Force to consider

- ▶ Is there a possible system or physical venue that can centrally house all the cases with multiple counties so they can be heard at the same time in front of the same judge?
- ▶ How can this group provide guidance for how to proceed in these kinds of situations?

Issue # 5: Non-nuclear families, such as grandparents, relatives, and foster parents who are caretakers of children

What is it?

- ▶ The guidelines are based on two parents/partners and a child, but that doesn't accurately reflect families with different structures and caregivers.
- ▶ Minn. Stat. § 518A.35, subd. 1(c) sets out the current method for calculating support when a child is with a nonparent caregiver . It looks only at each individual parent's income to calculate support and does not factor in income for the caregiver.

Issue # 5: Non-nuclear families, such as grandparents, relatives, and foster parents who are caretakers of children

Questions for Task Force to consider

- ▶ Can/should the guidelines be modified to take into account different family compositions?
- ▶ Is it appropriate to only look at the parents' incomes and not the caregiver's income in calculating child support?

Issue #6: Standards to apply for modifications

What is it?

- ▶ Minn. Stat. § 518A.39 sets out the process for modifying child support orders, but the language quickly becomes muddy.
 - ▶ *(a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following, any of which makes the terms unreasonable and unfair: (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings...*
 - ▶ *(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be **rebuttably presumed** to be unreasonable and unfair if: (1) the application of the child support guidelines in section [518A.35](#), to the current circumstances of the parties results in a calculated **court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order** or, if the current support order is less than \$75, it results in a calculated court order that is at least 20 percent per month higher or lower;*
- ▶ What about a \$70 difference? Or \$72? \$73? What about a \$50 difference for a low income family? Different jurisdictions treat these scenarios differently.

Issue #6: Standards to apply for modifications

Question for Task Force to consider

- ▶ Is the 20%/\$75 threshold the appropriate line to have for the rebuttable presumption? What else would make sense/be fair?
- ▶ Can this group provide clarity for Magistrates so that decisions are more consistent across jurisdictions?
- ▶ How to address whether changes in statute may or may not be reason in itself for modification?

Issue #7: Updating section 518A.35, subdivision 2, the guideline for basic support

What is it?

- ▶ The grid for calculating base child support obligations based on income level.
- ▶ See pages 173-176 of your statute book.

Issue #7: Updating section 518A.35, subdivision 2, the guideline for basic support

Questions for Task Force to consider

- ▶ The grid is based on outdated data regarding the cost of raising a child– where can we find the most updated data for determining the cost of raising a child today?
- ▶ What is the best method for Minnesota in determining how to calculate the cost of raising a child?

Questions?!?

Elizabeth Rusinak Mowers

651-431-4875

Elizabeth.RusinakMowers@state.mn.us