

Position Statement

2020

Child Support Equity – Updating the Basic Support Table

Proposal

Issue:

The Basic Child Support Table has not been updated since 2007 and is based on economic data that is 18 years old. The Child Support Guidelines Task Force, formed by the Minnesota Legislature in 2016, recommended updating the basic support table to bring it in line with the current economic conditions relating to the cost of raising children, including a low in-come adjustment, increasing the current limit of \$15,000 of combined PICS (Parental Income for Child Support), and several other minor changes.

Implementation Strategy:

The Minnesota Child Support Guidelines are a creature of statute, and thus require a legislative change to update the basic support table. The Association is asked for general support and assistance in moving the legislation, but Ramsey County intends to be the lead in this effort. The guidelines are grossly out of date, it is hoped that an update to the Basic Support Table will help county child support agencies meet their goals of right-sized orders for the families they serve and decrease the amount of enforcement required to collect child support.

Systemic Priority Alignment (check all that apply and explain why)

Equity Service Integration Fiscal Framework

Comments: For IV-D Child Support cases in Minnesota, the current basic support table affects low income child support obligors more significantly than for higher income obligors. There is also a higher percentage of families of color who are affected by the unfairness of the low-income calculations. This results in higher rates of child support enforcement for communities of color, and reduces trust in the system.

Operational Priority Alignment (check all that apply and explain why)

Behavioral Health Case Management Child Well Being
 Community Based Settings & Services
 Health Care Housing & Transportation Modernization
 Self Sufficiency

Comments:

Rationale/Background:

Federal law mandates that each State have child support guidelines that the courts must use to establish child support obligations (See 42 USC § 667). Minnesota established its first child support guidelines in 1983, and the Minnesota Legislature adopted the current Income Shares Child Support Guidelines in 2005 that became effective in 2007 (See Minn. Stat. §§ 518A.29 – 518A.36 & 518A.42). At this point, the underlying economics are nearly two decades old.

From the implementation of the 2007 guidelines there have been recognitions that low income obligors and obligors earning \$9 - \$19 per hour are ordered to pay a higher percentage of their earnings than obligors earning more per hour, making the percentages in the table not reasonable given the reality of supporting their own household. There are several other issues making the guidelines in Minnesota not equitable for some families.

A Child Support Guidelines Task Force was established by the 2016 Legislature. Dr. Jane Venohr, an economist from the Center for Policy Research, was hired to help the Task Force update the guidelines table. There were several factors that required decisions by the Task Force, including the guidelines model, economic basis, price levels and assumptions and adjustments. Amy Anderson, Assistant Ramsey County Attorney and Certified Public Accountant, worked with Dr. Venohr's data and created an updated basic support table that has several adjustments, including a low-income adjustment, the extension of the table for four, five or six children, and a high income adjustment. The basis of the table and adjustments are described in Appendix C of the draft task force report.

Based on this work, the Task Force issued recommendations to the Commissioner of the Minnesota Department of Human Services based on a super majority of votes by members of the task force. The report with recommendations is in draft form with the Department.

PROPOSAL: The primary recommendation of the task force is to **update the basic support table** ("the table") to bring Minnesota's guidelines in line with current economic conditions relating to the cost of raising children. The basic support table is found at Minn. Stat. § 518A.35, subd. 2.

The draft report recommendations provide for a low-income adjustment that makes basic support obligations more manageable for low-income obligors, and creates greater uniformity for families at higher incomes by increasing the current limit of \$15,000 per month of combined monthly [PICS] (PICS is an acronym for "parental income for determining child support", which ultimately is the parents' combined "gross income minus deductions for non-joint children"). (See Minn. Stat. § 518A.26, subd. 15).

There are several other recommendations that are not directly within the basic support table that are closely tied to the modernization of the guidelines as well. These include:

- **Applying the self-support reserve ("SSR") differently**
 - Currently the SSR is applied by subtracting the SSR from a parent's gross income, which can result in disparate outcomes for obligors in identical circumstances depending on whether a parent has a court order for their non-joint child (child with a legal relationship to one, but not both parents).
 - The recommendation is to subtract the SSR from the PICS instead of gross income which would remedy this inequity.
- **Deducting court-ordered support obligations when determining PICS**
 - Currently the parent's deductions for non-joint children are subtracted at different steps in the child support calculation depending on whether there

is a court-ordered support obligation, which leads to a great deal of confusion.

- The non-joint child deduction (when the non-joint child is not subject of a court-ordered child support obligation) and the court-ordered support obligation should be deducted at the time PICS are determined in the calculation to ease confusion for both parents and child support practitioners.
- **Increasing the cap on the deduction for non-joint children who are not the subject of a court-ordered child support obligation**
 - Currently the cap is two non-joint children, regardless of how many non-joint children the parent is supporting in their household. However, there is no limit on how many court-ordered child support obligations may be deducted from the parent's income, making this step in the calculation an equity issue.
 - The recommendation is to increase the cap from two to six non-joint children.
- **Applying the non-joint child deduction to all legally recognized non-joint children for whom a parent does not have a court order**
 - Currently the guidelines do not provide for a deduction for all non-joint children that a parent may be supporting without a court order. The guidelines limit this deduction to children who live in the parent's household.
 - The recommendation is to apply the deduction for all non-joint children without a court order regardless of whether the children live in the household of the parent so that support will be allocated more fairly.
- **Increasing the calculation of the non-joint child deduction from 50% of the guideline amount to 75%**
 - Currently the non-joint child deduction is calculated at 50% of the guideline amount, which was based on an assumption that there would be two parents responsible to support the child. However, it has been proven to not equalize support available for all children for whom the parent is legally responsible to support. Minnesota is the only state that uses 50%. States with a similar deduction calculation use 75%.
 - The recommendation is to increase the deduction to 75% of the guideline amount to equalize support available for all children for whom the parent is legally responsible to support.

Another item in the proposal is to fix a typo in 518A.35, subd. 1(d) relating to how to calculate support for a caretaker who has a child living in his or her household, and at least one of the parents has statutory or court-ordered custody, but the caretaker does not have court-ordered custody of the child.

Melissa Rossow, Director of the Human Services Legal Division was appointed to the Task Force to represent the Minnesota County Attorney's Association, Lisa Kontz, Division Head, Dakota County Attorney's Office Child Support Division was appointed to represent the Minnesota Family Support and Recovery Council, and Shaneen Moore, Minnesota IV-D Child Support Director was appointed to represent the Department of Human Services. They attended nearly three years of monthly meetings. Each meeting had a component of public comment, and several meetings were set up exclusively for public comment. The Task Force also received public comment in writing via email and a few letters. Additionally, the Task Force members and DHS Staff met with the State Cultural and Ethnic Communities Leadership Council four times to review the process and recommendations.

Proponents of the update: 11 out of 15 Task Force Members voted in favor of the recommendations associated with updating the basic support table, including the Tribal Representative, a Senator, a Representative, DHS, two parent representatives, Legal Aid, the Courts, the Family Law Section of the Minnesota Bar Association the Minnesota County Attorney's Association, and the Minnesota Family

Support and Recovery Council. MFSRC voted to support this at its Board meeting on November 21, 2019.

Opponents of the update: The Department of Human Services maybe neutral due to the significant costs associated with the technical fixes required. Some fatherhood organizations may be opposed to this update because their belief is that most child support obligations are unfair to child support obligors.

Additional Information:



Submitted by: Melissa Rossow, Director, Human Services Legal Division, Ramsey County Attorney's Office and Trish Skophammer, Director, Child Support Services Division, Ramsey County Attorney's Office

Approved on: [insert date position was approved]