



Courts look at both parent's income

Courts decide the total family income by adding together each parent's gross or pre-tax income. This is called the "Combined Adjusted Income".

Sometimes a parent's income is not straightforward. The new child support law has rules for some of these situations, such as:

- When a parent is *self-employed*
- When a parent has *irregular income* such as bonuses, commissions, tips, overtime, cash gifts, or prizes
- When a parent has *income that is not from employment*, such as social security retirement or disability income, workers compensation or unemployment income, trust income and interest income
- Parents will be required to bring proof of their income. When there is *no reliable proof of a parent's income*, then courts must decide what that parent's income is for purposes of setting child support. This is called "imputing" income. There are two different formulas for imputing income — one for new cases and one for modifications.
- When a parent is purposefully *unemployed or underemployed*, then courts can set child support based on the parent's *earning capacity*.
- Certain types of income are not considered at all. Child support income and income-based public assistance (such as TANF, SSI, food

stamps, Medicaid benefits) are not counted as income.

After deciding gross income, courts decide whether to make adjustments that either raise or lower a parent's income. There are special rules about adjusting income when a parent is financially responsible for other children who are not involved in the court case:

Under certain circumstances, courts reduce parent's income when that parent pays court-ordered child support for another child. Courts may (but are not required to) lower a parent's income if the parent has another child living with him/her. The parent must be legally responsible to support the child.

The Basic Child Support Obligation and Each Parent's Responsibility

After the Combined Adjusted Income has been decided, then courts look at a chart that says how much of that Combined Adjusted Income should be spent on a child each month. This is called the "Basic Child Support Obligation". The Basic Child Support Obligation varies based on the number of children involved in the court case and the income of the parents.

Each parent is responsible for a portion of the Basic Child Support Obligation. To determine this portion, courts compare each parent's income to the Combined Adjusted Income. In other words, the parent with the higher income is responsible for a higher portion of the support obligation.

Adjustments to Basic Child Support Obligation for Child Care & Health Insurance

Certain expenses must be added to the amount of "Basic Child Support Obligation"

used to support a child. Each parent is responsible for his or her "share" of these extra expenses, based on the parent's income. If a parent pays more or less than his or her share, then the parent's support obligation is adjusted for the over or under payment.

A child's basic health insurance expenses are added to the Basic Child Support Obligation. (Note: Uninsured health care expenses are not included in the amount of child support. However, each parent must be ordered to pay a share of these expenses based on his or her income.) Childcare expenses are also added to the Basic Child Support Obligation. The childcare expenses must be work-related or education related.

After adjustments have been made for health insurance and childcare expenses, the non-custodial parent's share of the Basic Child Support Obligation is called the "Presumptive Amount of Child Support."

Deviations from the Presumptive Amount of Child Support

Other expenses or situations allow courts to make "deviations" from the Presumptive Amount of Child Support. Deviations can only be made if courts decide that 1) the presumptive amount would be unjust or inappropriate, and 2) the deviation is in the child's best interests. The law does not allow Courts to use a deviation if it seriously impairs the custodial parent's ability to maintain minimally adequate housing, food and clothing and other basic necessities for the child.

Courts may (but are not required to) use the following factors to either increase or decrease the amount of child support ordered:

1. High income (combined income is over \$30,000 per month)
2. Low income -If the non-custodial parent is low income (earning \$1850.00 per month or less), a "self-support reserve" test can be used, which looks at the incomes of both parents.
3. Vision or dental insurance -A parent provides vision or dental insurance
4. Life insurance - One parent insures one or both parent's lives and the insurance policy names the child as the beneficiary
5. Child and Dependent Care Tax Credit - One parent is entitled to claim the federal child and dependent care tax credit
6. Travel expenses - Travel expenses for visitation are substantial because the parents live far from each other.
7. Alimony payments - One parent is currently paying alimony
8. Mortgage payments - The non-custodial parent makes the other parent's mortgage payment or provides housing to the custodial parent in some other way
9. Child in DFCS custody - The child is in foster care and a parent needs the deviation in child support to help meet the requirements of a permanency plan to have the child return to that parent
10. Extraordinary expenses - In certain circumstances, a child's extraordinary educational or extracurricular expenses or extraordinary

medical expenses of the child, a parent or the child's sibling

11. Unusual custody or visitation arrangements - Courts can raise or lower child support payments when a child lives with both parents equally or when a child has extended time with one parent.

Modifications

The basic requirements for modification are the same under the new law as the old one. Generally, modification may not be granted unless there has been a substantial change in a parent's income and financial status or the needs of the child.

There are several new rules for modifications of child support under the new law:

1. Imputed income - When a parent's income has been "imputed" by the court, the party believing that the other parent's income is higher than the amount imputed has 90 days to provide evidence of the parent's actual income.

2. Actual visitation differs from the court ordered visitation -When a non-custodial parent does not exercise court ordered visitation, the custodial parent can file for a modification to increase child support, regardless of length of time since the prior order. If the custodial parent wins, courts must order the other parent to pay the legal fees. Also, when a non-custodial parent visits a child more than the court-ordered visitation, the non-custodial parent may seek to lower the child support order, regardless of the time since the prior order.

3. Involuntary loss of income -Either parent can request a modification if he or she involuntarily loses 25% or more of his or her income.

Once the other parent has formal notice of the case, the difference between the old child support order and the new child support order does not accrue as past due support.

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Child Support

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