

2015 Case Law and Legislative Update
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FEDERAL UPDATE

- **Notice of Proposed Rulemaking (NPRM):**
Flexibility, Efficiency, and Modernization in
Child Support Enforcement Programs
- Comments submitted January 2015
- H.R. 2688/S. 1525 introduced June 2015

STATE LEGISLATIVE UPDATE

Legislation Effective Immediately

- Repeal of Subsequent Income Withholding Repeal (*Minn. Laws* Ch. 71, Art. 1, Sec 38)
 - Applies retroactively.
- Child Support Work Group (*Minn. Laws* Ch. 71, Art. 1, Sec 121)
 - Review PEA and recommend changes.
 - Members include representatives from MCAA and MFSRC.
 - Retain services of an economist.
 - Recommend composition of permanent child support task force.
 - Issue report by January 15, 2016.
 - <http://mn.gov/dhs/general-public/about-dhs/public-participation/index.jsp>

The screenshot shows the DHS website's 'General Public' page. The main content area is titled 'Public participation' and includes a sub-section 'Child Support Work Group schedules meetings'. It lists a meeting schedule with dates from Monday, Aug. 31 to Friday, Nov. 13. A sidebar on the left contains navigation links like 'About DHS', 'Contact us', and 'Public participation'.

Legislation Effective July 1, 2015

- UIFSA 2008 – federal requirement to adopt (*Minn. Laws* Ch. 71, Art. 1, Sec. 101-119)
 - Long arm applies to establishment and enforcement not modification. (518C.201)
 - Method to redirect payment when no party lives in order issuing state. (518C.319)
 - Judicial Non-Disclosure Order no longer needed (affidavit process). (518C.312)
 - Only one certified copy needed for registration. (518C.311)
 - Article VII effective upon ratification of Hague Convention (expected summer 2016) applicable to countries that are parties to the convention.

Legislation Effective July 1, 2015

- **Changes due to Affordable Care Act**
(*Minn. Laws* Ch. 71, Art. 1, Sec. 10, 11, 73, 75, 79, and 81)
 - MinnesotaCare and health plans subsidized by federal premium tax credits or federal cost-sharing reductions are not considered public assistance. (256.741, 518A.41, 518A.46, 518A.51)
 - MinnesotaCare premium scale is used to set medical reimbursement orders (PRISM and web calculator programmed this way since July 2014). (518A.41)
 - Definition of “comprehensive” medical coverage will include plans meeting the definition of minimum essential coverage under the ACA. (518A.41)

Legislation Effective August 1, 2015

- **NCP on PA = \$0 toward public coverage**
(518A.41) (*Minn. Laws* Ch.71, Art. 1, Sec. 75)
 - An NCP receiving public assistance or whose PICS meets the eligibility requirement for public coverage must not be ordered to contribute toward public coverage.
- **Judgment interest “fix” (549.09)**
(*Minn. Laws* Ch. 30, Art. 1, Sec 12)
 - 10% interest on NPA judgments over \$50,000 changed back to simple interest per annum (currently 4%).

Legislation Effective August 1, 2015

- **Uniform Deployed Parents Custody and Visitation Act (518E)**
(*Minn. Laws* Ch. 30, Art. 1, Sec 12)
 - Designate custodial responsibility and/or decision-making authority to another person during deployment.
 - Agreement or Judicial.
 - Child support not modified by agreements.
 - If court has issued an order granting caretaking authority the court may enter a temporary order for support.

Legislation Effective August 1, 2015

- Income tax dependency exemptions (518A.38) (*Minn. Laws* Ch. 30, Art. 1, Sec 12)
 - Lists factors court shall consider (including ACA).
 - Penalties for failure to comply (lost benefit, costs, reasonable attorney fees).
- Non-retroactive retroactive modifications (518A.39) (*Minn. Laws* Ch. 30, Art. 1, Sec 12)
 - Court may use an “alternative” effective date prior to the date of service for modification if the parties agree.
 - Shall not be considered a retroactive modification.

Legislation Effective August 1, 2015

- Child Support Disregard Legislation (256J.21) (*Minn. Laws* Ch. 71, Art. 1, Sec 41)
 - Child support payments up to \$100 (1 child) and up to \$200 (2 + children)
 - Excluded in determining family’s available income for purposes of public assistance eligibility.

Legislation Effective Jan. 1, 2016

- Medical Support Only Modification (518A.39, subd. 8) (*Minn. Laws* Ch. 71, Art. 1, Sec. 72, 76, 77, 80)
 - Can bring motion to modify only the medical support and dependency tax credit if:
 - Entire order established or modified within 3 years AND
 - Change in availability of health care coverage or substantial increase or decrease in costs;
 - Change in eligibility for medical assistance;
 - Party’s failure to carry coverage or provide medical support as ordered;
 - Tax credit is not ordered for same parent who is ordered to carry coverage; OR
 - Tax credit is not addressed in the order and the noncustodial parent is ordered to carry coverage.

Legislation Effective Jan. 1, 2016

- Medical Support Only Modification (continued):
 - The court need not hold an evidentiary hearing.
 - The PICS originally stated in the order being modified shall be used to determine the modified medical support order.

Legislation Effective March 1, 2016

- Default method for calculating potential income (518A.32) (*Minn. Laws* Ch. 71, Art. 1, Sec 70)
 - 30 hours per week at 100% of federal or state minimum wage, whichever is higher. Currently it is 40 hours per week at 150% of minimum wage.
- Minnesota minimum wage
 - \$9.00/hour effective August 1, 2015
 - \$9.50/hour effective August 1, 2016

Legislation Effective March 1, 2016

- Additional Deviation factor (518A.43) (*Minn. Laws* Ch.71, Art. 1, Sec. 78)
 - Party with 10-45% parenting time may be ordered to pay no support if “*such a significant disparity of income exists between the parties that an order directing payment of basic support would be detrimental to the parties’ joint child.*”
 - If public assistance, still have to meet extreme hardship standard.

Legislation Effective March 1, 2016

- ROP clarifications and notice provisions (257.75)
(*Minn. Laws* Ch. 71, Art. 1, Sec. 52 and 53)
 - Finality and revocation procedure.
 - Does not establish custody/parenting time rights.
 - Is a basis for bringing custody/parenting time action.
 - Is a basis for ordering support, reimbursement of birth expenses, genetic test costs.
 - Form and paternity education materials will contain more detailed notice provisions.
- Obligor definition (518A.685)
(*Minn. Laws* Ch. 71, Art. 1, Sec 69)
 - Removes presumption that person with primary physical custody is not an obligor.
 - Definition is now: person obligated to pay maintenance or support.

Legislation Effective July 1, 2016

- Application Fee Eliminated (518A.51, 518A.53)
(*Minn. Laws* Ch.71, Art.1, Sec 81 and 83)
 - \$25 fee reduced to \$0.01 and the state pays the federal share from state funds.
- IW in lieu of 20% payback (518A.53, 518A.60)
(*Minn. Laws* Ch. 71, Art. 1, Sec. 82-85)
 - If court orders specific payback for arrears, the amount shall be used in lieu of 20%.
- Credit Bureau Reporting (518A.685)
(*Minn. Laws* Ch. 71, Art. 1, Sec. 86)
 - Changes from person-based to case-based reporting.
 - Report partial or full monthly payments.

Next session . . .

- Parenting Expense Adjustment
 - HF 512/SF 2019
- Cooperative Divorce
 - HF 1348/SF 1361
- Surrogacy Commission
 - HF 437/SF 348

CASE LAW

Case law update

Case law update slides will be available online
after the conference

Contact Information

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