

518A.42 ABILITY TO PAY; SELF-SUPPORT ADJUSTMENT.

Subdivision 1. **Ability to pay.** (a) It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the court shall follow the procedure set out in this section.

(b) The court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income. If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section 518A.34, the court shall order child support under section 518A.34.

(c) If the obligor's income available for support calculated under paragraph (b) is more than the minimum support amount under subdivision 2, but less than the guideline amount under section 518A.34, then the court shall apply a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:

- (1) medical support obligation;
- (2) child care support obligation; and
- (3) basic support obligation.

(d) If the obligor's income available for support calculated under paragraph (b) is equal to or less than the minimum support amount under subdivision 2 or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subdivision 2 applies.

Subd. 2. **Minimum basic support amount.** (a) If the basic support amount applies, the court must order the following amount as the minimum basic support obligation:

- (1) for one or two children, the obligor's basic support obligation is \$50 per month;
- (2) for three or four children, the obligor's basic support obligation is \$75 per month; and
- (3) for five or more children, the obligor's basic support obligation is \$100 per month.

(b) If the court orders the obligor to pay the minimum basic support amount under this subdivision, the obligor is presumed unable to pay child care support and medical support.

If the court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this subdivision does not apply.

Subd. 3. **Exception.** This section does not apply to an obligor who is incarcerated.

History: 2005 c 164 s 25,29; 1Sp2005 c 7 s 26,28; 2006 c 280 s 41