518A.43 DEVIATIONS FROM CHILD SUPPORT GUIDELINES.

Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive child support obligation computed under section 518A.34 is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518A.34, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation:

(1) all earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518A.29, paragraph (b);

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;

(4) whether the child resides in a foreign country for more than one year that has a substantially higher or lower cost of living than this country;

(5) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(6) the parents' debts as provided in subdivision 2;

(7) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922; and

(8) in cases involving court-ordered out-of-home placement, whether ordering and redirecting a child support obligation to reimburse the county for the cost of care, examination, or treatment would compromise the parent's ability to meet the requirements of a reunification plan or the parent's ability to meet the child's needs after reunification.

Subd. 1a. **Income disparity between parties.** The court may deviate from the presumptive child support obligation under section 518A.34 and elect not to order a party who has between ten and 45 percent parenting time to pay basic support where 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.

Subd. 1b. **Increase in income of custodial parent.** In a modification of support under section 518A.39, the court may deviate from the presumptive child support obligation under section 518A.34 when the only change in circumstances is an increase to the custodial parent's income and the basic support increases.

Subd. 2. **Debt owed to private creditors.** (a) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 518A.81;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court may consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the original debt amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(b) A schedule prepared under paragraph (a), clause (3), must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(c) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(d) If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.

Subd. 3. **Evidence.** The court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.

Subd. 4. **Payments assigned to public authority.** If the child support payments are assigned to the public authority under section 518A.81, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

Subd. 5. **Joint legal custody.** An award of joint legal custody is not a reason for deviation from the guidelines.

Subd. 6. **Self-support limitation.** If, after payment of income and payroll taxes, the obligor can establish that they do not have enough for the self-support reserve, a downward deviation may be allowed.

History: *2005 c 164 s 17,29; 1Sp2005 c 7 s 28; 2006 c 280 s 28; 2007 c 118 s 18; 2015 c 71 art 1 s 78; 2021 c 30 art 10 s 70; 2022 c 98 art 8 s 36; 2023 c 70 art 14 s 34; 2024 c 80 art 8 s 68*