

The Facts About CHILD SUPPORT

In family law, a **child** is a person under the age of 18, or 18 years of age or older but still dependent because of illness, disability, or some other reason (such as being a student).

The best interest of the child is the guiding principle in laws about children. All parents have an obligation to support their children. Each parent has an obligation to provide reasonably for the child's support, maintenance and education, regardless of what the parenting arrangement looks like.

A **parent** can be biological, adoptive, or a person declared to be the parent of a child. It is irrelevant whether a child's parents were ever married. The birth parent of a child conceived through assisted reproduction is a parent of a child, and their spouse or partner at the time is also a parent if they consented at conception. Surrogacy agreements set out an agreement for intended parent or parents to be the parent of a child, and the surrogate not to be a parent of a child.

If you are married or living in a common-law relationship with someone with a child, you have an obligation to provide reasonably for that child's support, maintenance and education, while the child is in their care.

That obligation may continue even if you separate from your spouse or common-law partner and you stand in the place of a parent or "in loco parentis". However, that obligation is secondary to the child's parents, and only to the extent that those parents fail to provide reasonably for the child's support, maintenance, or education.

The Child Support Guidelines are used to decide how much child support should be paid. Manitoba Guidelines are used when both parents live in Manitoba. When only one parent lives in Manitoba, and if the application is under the Divorce Act, the Federal Child Support Guidelines are used. The amounts in the Federal and Manitoba child support tables are the same, however, the Manitoba guidelines have different rules for using the tables. To find the amount of child support, look up the number of children and the yearly gross income of the parent paying support. Tables, instructions about calculating income and a simplified look-up tool can be located online.

If a parent's parenting time is 60% or more of the total parenting time, the other parent must pay child support based on their income in the Child Support Guidelines. If both parents have parenting time of 40% or more, a child support amount must be calculated for each, and the larger amount may be offset by the smaller amount, considering the entire financial situation, so that only one parent needs to pay.

The parent receiving support may apply to the court for "extraordinary" or special expenses. Special expenses are calculated proportionately, based on each parent's income.

Special or extraordinary expenses are extra, over and above the table amounts, and include:

- child care expenses (if the parent works, is ill, disabled, or going to school or for training);
- extraordinary expenses for extracurricular activities like sports, dance or music lessons;
- health-related expenses, or any portion of health-related expenses not covered by insurance, that are more than \$100 per year;
- extraordinary expenses for primary or secondary school education fees or any other educational programs that meet the child's particular needs;
- expenses for post-secondary school education fees;
- orthodontic treatment;
- professional counselling;
- physiotherapy;
- occupational therapy;
- speech therapy;
- medication;
- hearing aids, glasses or contact lenses.

When deciding whether to add special or extraordinary expenses, the Court will look at:

- how necessary the expense is as far as the child's best interest is concerned;
- how reasonable the expense is, considering the means of the parents and the child; and
- if the parents lived together after the child was born, the family's spending pattern before the separation.

Where the income of the paying parent is over \$150,000, the amount of a child support order is the table amount and percentages listed, plus special or extraordinary expenses. If the court considers that amount to be inappropriate, it can use the table amount for the first \$150,000 of the parent's income, then add an amount that is more appropriate. To determine this, the court would look at the condition, means, needs, and other circumstances of the children. The court would also look at the financial ability of each parent to pay support and pay special and extraordinary expenses.

A court may order an amount of child support that is different from the amount under the legislation, if the court finds that the parent making the request, or a child involved, would otherwise suffer undue hardship, and has a lower household standard of living. This happens in extremely rare circumstances. Circumstances that may cause a parent or child to suffer undue hardship include:

- unusually high costs of exercising parenting time (for example, if the parent and child lived in different countries);
- responsibility for an unusually high level of debt incurred to support the family before separation; or
- a legal duty to support another person.

A court may make an order for child support different from the child support guidelines with the parents' consent when, after considering the child support guidelines, it is satisfied that reasonable arrangements have been made for the child's support.



Child support must be paid until the child reaches age 18, or past age 18 if the child is still dependent because of illness, disability, or some other reason (such as being a student). The court order may say when child support payments end. If it does not, the paying parent must go to court to vary or change the order. Most orders do not specify when child support will end.

You can go to Court to ask for a **Variation Order** to change the amount of child support paid or to end the payments, but the court must be satisfied that there has been a change of circumstances since the child support order was made or since the last variation.

As of July 1, 2019, The Maintenance Enforcement Program can also stop enforcing support for an adult child, unless the child is still dependent because of illness, disability or other reason, such as going to school, university or college. The parent paying support would have to submit a Child Support Enforcement Eligibility Review Request form.

Child Support Service

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crs@gov.mb.ca

Maintenance Enforcement Program

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Telephone: 204-945-7133
Toll Free: 866-479-2717
Fax: 204-945-5449
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Manitoba Justice offers a **Child Support Service** for parents who want their child support order recalculated based on updated financial information. To be eligible, both parents must live in Manitoba and one of them must get a Court Order authorizing the service to recalculate child support at regular intervals.

As of July, 1, 2020, The Manitoba Child Support Service can make an initial child support calculation decision. This is done outside of court. You would provide the Child Support Service with information on the parents, children, incomes and custody arrangements. It can take between 45 – 90 days to receive a decision from the Service once you have applied. When you receive a child support calculation decision, it can be registered with the Maintenance Enforcement Program so they can enforce payments.

The following main Statutes and Regulations, as well as the common law (case law), govern child support in Manitoba:

- [The Family Law Act](#)
- [The Family Support Enforcement Act](#)
- [The Inter-jurisdictional Support Orders Act](#)
- [Divorce Act](#)
- [Child Support Guidelines](#)
- [Child Support Service Act](#)



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