

Child Support Modification for Best Interest of Child

In some circumstances a tribunal may decide that it is in the best interests of a child to modify the amount of a parent's child support obligation. More often, the modification results in an increase in the amount of support, but there are occasions when a court has found a reason to deviate downwards.

Upward Modifications

Basic child support is supposed to cover the basic needs of a child, based upon the combined income of the parents. When parents have routinely provided a private or parochial education for the child or subsequently agreed to provide such an education, the amount of the schooling may be incorporated in the order of support. If a school recommends extra tutoring for a child and the parents can afford to pay the expenses, a judge might order an increase in child support to pay for the tutoring. An upward modification is required whenever there are extraordinary medical expenses for the child, such as treatment for allergies or diabetes or a need for braces. A court may also impose an upward modification where there are excessive travel expenses between the parents or where there is an agreement to provide a religious education or other special education. Whenever the agreement between the parties provides that both parents will contribute toward a particular expense, an upward modification may be warranted to include that expense.

Downward Modifications

Downward modifications are rarely found to be in the best interests of a child; there are, however, exceptions. In a case where the father agreed to pay the full tuition of a private school, when the mother changed the private school to one with a substantially higher tuition, and the father agreed to pay the full tuition costs, a court agreed to reduce the father's child support payments to the mother. If the amount of support under the guidelines, with the inclusion of health care and day care, exceeds the federal withholding limitations, a downward modification may serve the best interests of the children. Where a parent becomes disabled and becomes eligible for Social Security disability benefits, a downward modification in the amount that the child will receive directly from the Social Security Administration under the disabled parent's wage record is frequently granted. Some states specifically provide that the basic guideline support may be reduced when a parent has excessive medical expenses, resulting in a reduced amount of disposable income.

A more unusual and more difficult to prove downward departure may be based on expenses paid directly by the noncustodial parent. If the parents live far from each other and the child spends the summer weeks with the noncustodial parent, who pays the full cost of summer camp during that time, a downward departure from the guidelines and modification of support would be appropriate. It would also be appropriate if the parent could prove that in addition to paying child support, he or she provided all of the travel expenses, the tutoring expenses, or day care expenses.