

Underemployed In Minnesota (For Child Support Purposes).

Underemployed for child support purposes?

Imputed income in calculating Minnesota child support obligations

Child support litigation may be the one time you can tell your ex that he is



Underemployed? Maybe You Need A New Tool!

underperforming in terms of employment and have the legal support to back it up. When a court makes a decision on how much child support is to be paid by a parent, the amount of child support ordered will depend on the parent's income. But what happens if your ex is capable of working hard but has taken an easier, less time-consuming job which pays less money? Should your ex be rewarded by getting to pay less child support?

The answer is no, under Minnesota law. In making a child support order, courts must (it's mandatory) consider a parent's *potential* income if the court finds that the parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis. Potential income is also called imputed income, and it means the money the parent would be earning if they were working to their employment potential. If your ex changed jobs and moved to a more poorly-paid position, purposely got himself fired, or quit working altogether, this could lead the court to find that your ex is voluntarily unemployed or underemployed.

Of course, the key word here is voluntarily. Courts will presume that every parent is capable of working full-time in gainful employment. However, that doesn't mean that a parent can't have legitimate reasons for either being out of work or earning less money than they used to. A recession-induced layoff or a medical illness would support an argument that the parent's underemployment isn't voluntary. If it's your ex who is accusing you of being voluntarily unemployed or underemployed, you should keep evidence of your efforts to find a new job, such as copies of job applications and records of job interviews you attended. You can also avoid a finding that you are voluntarily unemployed by showing that your current employment situation is temporary and will ultimately lead to increased income in the future (e.g. you've quit your job to go back to school).

A "bona fide career change" that results in decreased income is also not considered voluntary underemployment. To establish that you've had such a career change, you might want to gather evidence of your desire to change careers (old emails, any correspondence you had with people in your new field to talk about a potential career change) as well as prepare a detailed explanation of why the career change is beneficial in ways other than monetary compensation.

If the court does find that a parent is voluntarily unemployed or underemployed, potential income will be calculated in one of three ways, as the court finds appropriate:

- The court will calculate the parent's probable earnings based on employment potential, recent work history, and occupational qualifications. It will take into account prevailing job opportunities and earnings levels in the community.
- If a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received.
- The court will use the amount of income a parent could earn working full-time at 150% of the current federal or state minimum wage, whichever is higher.

There you go, a look at being underemployed for child support purposes in Minnesota. As you can tell, it can be a little tricky to prove it but it's not impossible.

Any comments or questions feel free to post them below or email me.

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