

## STATE OF MINNESOTA

## EIGHTY-FOURTH SESSION — 2005

## THIRTIETH DAY

SAINT PAUL, MINNESOTA, TUESDAY, MARCH 22, 2005

The House of Representatives convened at 5:00 p.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Lonnie E. Titus, House Chaplain.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	Dempsey	Heidgerken	Larson	Opatz	Sieben
Abrams	Dill	Hilty	Latz	Otremba	Simon
Anderson, B.	Dittrich	Holberg	Lenczewski	Ozment	Simpson
Anderson, I.	Dorman	Hoppe	Lesch	Paulsen	Slawik
Atkins	Dorn	Hornstein	Liebling	Paymar	Smith
Beard	Eastlund	Hortman	Lieder	Pelowski	Soderstrom
Bernardy	Eken	Hosch	Lillie	Penas	Solberg
Blaine	Ellison	Howes	Loeffler	Peppin	Sykora
Bradley	Emmer	Huntley	Magnus	Peterson, A.	Thao
Brod	Entenza	Jaros	Mahoney	Peterson, N.	Thissen
Buesgens	Erickson	Johnson, J.	Mariani	Peterson, S.	Tingelstad
Carlson	Finstad	Johnson, R.	Marquart	Poppe	Urdahl
Charron	Fritz	Johnson, S.	McNamara	Powell	Vandever
Clark	Garofalo	Juhnke	Meslow	Rukavina	Wagenius
Cornish	Gazelka	Kahn	Moe	Ruth	Walker
Cox	Goodwin	Kelliher	Mullery	Ruud	Wardlow
Cybart	Greiling	Klinzing	Murphy	Sailor	Walti
Davids	Gunther	Knoblach	Nelson, M.	Samuelson	Westerberg
Davnie	Hackbarth	Koenen	Nelson, P.	Scalze	Westrom
Dean	Hamilton	Kohls	Newman	Seifert	Wilkin
DeLaForest	Hansen	Krinkie	Nornes	Sertich	Zellers
Demmer	Hausman	Lanning	Olson	Severson	Spk. Sviggum

A quorum was present.

Erhardt and Hilstrom were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Marquart moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

## REPORTS OF STANDING COMMITTEES

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 419, A bill for an act relating to game and fish; modifying protection status of great horned owls; amending Minnesota Statutes 2004, section 97A.015, subdivision 52.

Reported the same back with the following amendments:

Page 1, after line 11, insert:

"Sec. 2. Minnesota Statutes 2004, section 97B.701, is amended by adding a subdivision to read:

Subd. 4. [GREAT HORNED OWL.] A person who is authorized to take a great horned owl under a federal permit does not need a state permit to take a great horned owl."

Amend the title as follows:

Page 1, line 4, delete "section" and insert "sections" and before the period, insert "; 97B.701, by adding a subdivision"

With the recommendation that when so amended the bill pass.

The report was adopted.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 672, A bill for an act relating to government data; regulating comprehensive law enforcement data of the Department of Commerce; amending Minnesota Statutes 2004, section 13.82, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 792, A bill for an act relating to commerce; regulating securities, mortgage originators and servicers, athlete agents, and the contractor's recovery fund; amending Minnesota Statutes 2004, sections 80A.19, by adding a subdivision; 116J.70, subdivision 2a; 326.975, subdivision 1.

Reported the same back with the following amendments:

Page 1, delete section 1

Page 1, line 14, delete "Sec. 2." and insert "Section 1."

Page 4, line 14, delete "3" and insert "2"

Amend the title as follows:

Page 1, line 2, delete "securities,"

Page 1, line 5, delete everything after "sections"

Page 1, line 6, delete "subdivision;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 814, A bill for an act relating to state lands; authorizing private sale of certain surplus land in Hubbard, Lake, and Wabasha Counties.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 84.033, is amended by adding a subdivision to read:

Subd. 3. [COUNTY APPROVAL.] The commissioner must follow the procedures under section 97A.145, subdivision 2, for scientific and natural areas acquired under this section.

Sec. 2. Minnesota Statutes 2004, section 97A.093, is amended to read:

97A.093 [HUNTING, TRAPPING, AND FISHING IN SCIENTIFIC AND NATURAL AREAS.]

Except as otherwise provided by law, scientific and natural areas are closed to hunting, trapping, and fishing unless:

(1) ~~for scientific and natural areas designated before May 15, 1992,~~ the designating document allows hunting, trapping, or fishing; or

(2) ~~for other scientific and natural areas,~~ the commissioner allows hunting, trapping, or fishing in accordance with the procedure in section 86A.05, subdivision 5, paragraph (d).

Sec. 3. [PRIVATE SALE OF CONSOLIDATED CONSERVATION LAND; AITKIN COUNTY.]

(a) Notwithstanding the classification and public sale provisions of Minnesota Statutes, chapters 84A and 282, or other law to the contrary, the commissioner of natural resources may sell the consolidated conservation land described in paragraph (c) to Aitkin County under the remaining provisions of Minnesota Statutes, chapters 84A and 282.

(b) The conveyance must be in a form approved by the attorney general. The consideration for the conveyance must be for no less than the appraised value of the land and timber and any survey costs. Proceeds shall be disposed of according to Minnesota Statutes, chapter 84A.

(c) The land to be sold is in Aitkin County and is described as: the North 400 feet of the West 800 feet of the Northwest Quarter of the Northeast Quarter, Section 22, Township 51, Range 26.

Sec. 4. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING ON PUBLIC WATER OR INCLUDING WETLANDS; HENNEPIN COUNTY.]

Subdivision 1. [SALE REQUIREMENTS.] (a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, Hennepin County may sell or convey for public use without monetary consideration to the city of Brooklyn Park, a governmental subdivision, for an authorized public use for storm water retention area, the parcel of tax-forfeited land bordering public water or natural wetlands containing in excess of 150 feet of frontage on Shingle Creek, that is described in subdivision 2, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) Any such conveyance shall be subject to restrictions imposed by the commissioner of natural resources and subject to the clause for reversion to the state for failure to use or abandonment of use for which the tax-forfeited lands were acquired in Minnesota Statutes, section 282.01.

(c) The conveyance must be in a form approved by the attorney general.

Subd. 2. [LEGAL DESCRIPTION.] (a) The parcel of land that may be conveyed is described as: Unplatted, Section 30, Township 119, Range 21, the East 187.1 feet of the West 1,182.6 feet of the South 597 feet of the Southwest 1/4 of the Northeast 1/4. Also that part of the Southwest 1/4 of the Northeast 1/4 lying East of the West 1,182.6 feet thereof and lying southwesterly of Registered Land Survey No. 304.

(b) The land described must be sold under the sale provisions in Minnesota Statutes, section 282.01.

(c) Hennepin County has determined that the county's land management interests would best be served if the lands were returned to private ownership or conveyed to a governmental subdivision for an authorized public use.

Sec. 5. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING ON PUBLIC WATER OR INCLUDING WETLANDS; HENNEPIN COUNTY.]

Subdivision 1. [SALE REQUIREMENTS.] (a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, Hennepin County may sell or convey for public use without monetary consideration to the city of Minnetrista, a governmental subdivision, for an authorized public use for preservation of wetlands and wildlife, the parcel of tax-forfeited land bordering public water or natural wetlands containing in excess of 150 feet of frontage on Painter Creek and Jennings Bay on Lake Minnetonka, that is described in subdivision 2, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) Any such conveyance shall be subject to restrictions imposed by the commissioner of natural resources and subject to the clause for reversion to the state for failure to use or abandonment of use for which the tax-forfeited lands were acquired as provided in Minnesota Statutes, section 282.01.

(c) The conveyance must be in a form approved by the attorney general.

Subd. 2. [LEGAL DESCRIPTION.] (a) The parcel of land that may be conveyed is described as: Outlot 2, Sun Valley.

(b) The land described must be sold under the sale provisions in Minnesota Statutes, section 282.01.

(c) Hennepin County has determined that the county's land management interests would best be served if the lands were returned to private ownership or conveyed to a governmental subdivision for an authorized public use.

Sec. 6. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING ON PUBLIC WATER OR INCLUDING WETLANDS; HENNEPIN COUNTY.]

Subdivision 1. [SALE REQUIREMENTS.] (a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, Hennepin County may sell or convey to the city of Eden Prairie, a governmental subdivision, for an authorized public use for wetland purposes, the parcel of tax-forfeited land bordering public water or natural wetlands containing in excess of 150 feet of frontage on Lake Idlewild (27-74P), that is described in subdivision 2, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) Any such conveyance shall be subject to restrictions imposed by the commissioner of natural resources and subject to the clause for reversion to the state for failure to use or abandonment of use for which the tax-forfeited lands were acquired as provided in Minnesota Statutes, section 282.01.

(c) The conveyance must be in a form approved by the attorney general.

Subd. 2. [LEGAL DESCRIPTION.] (a) The parcel of land that may be conveyed is described as: Lot 21 except parts platted as Registered Land Survey No. 895 and Idlewood Lake Addition and Anderson Idlewild Addition and Anderson's Idlevew, Auditor's Subdivision No. 335, Hennepin County, Minnesota.

(b) The land described must be sold under the sale provisions in Minnesota Statutes, section 282.01.

(c) Hennepin County has determined that the county's land management interests would best be served if the lands were returned to private ownership or conveyed to a governmental subdivision for an authorized public use.

Sec. 7. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING ON PUBLIC WATER OR INCLUDING WETLANDS; HENNEPIN COUNTY.]

Subdivision 1. [SALE REQUIREMENTS.] (a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, Hennepin County may sell or convey to the city of Eden Prairie, a governmental subdivision, for an authorized public use of wetland purposes, the parcel of tax-forfeited land bordering public water or natural wetlands containing in excess of 150 feet of frontage on Lake Idlewild (27-74P) or the majority of the parcel under water, that is described in subdivision 2, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) Any such conveyance shall be subject to restrictions imposed by the commissioner of natural resources and subject to the clause for reversion to the state for failure to use or abandonment of use for which the tax-forfeited lands were acquired as provided in Minnesota Statutes, section 282.01.

(c) The conveyance must be in a form approved by the attorney general.

Subd. 2. [LEGAL DESCRIPTION.] (a) The parcel of land that may be conveyed is described as: Outlot A, Anderson Idlewild Addition.

(b) The land described must be sold under the sale provisions in Minnesota Statutes, section 282.01.

(c) Hennepin County has determined that the county's land management interests would best be served if the lands were returned to private ownership or conveyed to a governmental subdivision for an authorized public use.

Sec. 8. [PRIVATE SALE OF SURPLUS STATE LAND; HUBBARD COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus state land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Hubbard County and is described as follows:

That part of the Northwest Quarter of the Northwest Quarter of Section 22, Township 142 North, Range 33 West, Hubbard County, Minnesota, described as follows:

Beginning at the northeast corner of said Northwest Quarter of the Northwest Quarter, being a 3/4 inch rebar with plastic cap stamped "MN DNR LS 17005" (DNR Monument); thence on a bearing based on the Hubbard County Coordinate System of 1983 of North 88 degrees 51 minutes 21 seconds West, along the north line of said Northwest Quarter of the Northwest Quarter 253.67 feet to a DNR Monument; thence South 04 degrees 03 minutes 57 seconds East 132.71 feet to a DNR Monument; thence South 79 degrees 15 minutes 13 seconds East 248.33 feet to the east line of said Northwest Quarter of the Northwest Quarter and a DNR Monument; thence North 00 degrees 05 minutes 06 seconds East along the east line of said Northwest Quarter of the Northwest Quarter 173.61 feet to the point of beginning, containing 0.87 acres.

(d) The sale would resolve a long-standing unintentional trespass.

Sec. 9. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ITASCA COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Itasca County may sell the tax-forfeited land described in paragraph (c) by public sale, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for the appraised value of the land.

(c) The land to be sold is located in Itasca County and is described as:

(1) that part lying west of Highway 65 of the Northwest Quarter of the Northeast Quarter, Section 13, Township 53 North, Range 23 West;

(2) the undivided 1/24th interest in the Northeast Quarter of the Southwest Quarter, Section 13, Township 56 North, Range 25 West;

(3) the undivided 1/24th interest in the Northwest Quarter of the Northwest Quarter, Section 13, Township 56 North, Range 25 West; and

(4) the West 200 feet of the East Half of Government Lot 4, Section 23, Township 58 North, Range 24 West.

(d) The county has determined that the county's land management interests would be best served if the lands were returned to private ownership.

Sec. 10. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ITASCA COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale requirements of Minnesota Statutes, chapter 282, Itasca County may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under Minnesota Statutes, section 282.01, subdivision 7.

(b) The conveyance must be in a form approved by the attorney general for the appraised value of the land and include conditions that the existing structures must be removed within one year of the sale and a conservation easement be retained on the parcel.

(c) The land to be sold is located in Itasca County and is described as: Government Lot 9, Section 19, Township 60 North, Range 26 West.

(d) The county has determined that the county's land management interests would be best served if the lands were returned to private ownership.

Sec. 11. [PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; LAKE COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale the surplus state land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The conveyance shall reserve a conservation easement to ensure protection of the fish and wildlife shoreline habitat. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Lake County and is described as follows: an undivided 1/16th interest in Government Lot 7, Section 31, Township 63 North, Range 11 West.

(d) The sale would allow the combination of the 1/16 interest with the remaining 15/16 interest.

Sec. 12. [PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ROSEAU COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, 94.10, and 97A.135, subdivision 2a, the commissioner of natural resources may sell by private sale the surplus state land bordering public waters that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Roseau County and is described as: The southerly 396 feet, south of the south bank of the Roseau River, of the Southwest Quarter of the Northeast Quarter of Section 32, in Township 163 North, Range 40 West of the Fifth Principal Meridian in Roseau County, Minnesota. Said tract of land contains 9.29 acres, more or less.

(d) The department has determined that the public interest is best served if the property were to be conveyed to the Roseau River Watershed District to allow for completion of the district's flood control management plan.

Sec. 13. [PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus land bordering public water that is described in paragraph (c).

(b) The sale must be in a form approved by the attorney general for consideration no less than the estimated market value of the land. The attorney general may make necessary changes in the legal description to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and described as: the North 10 feet of the Northeast Quarter of the Northwest Quarter, Section 16, Township 57 North, Range 17 West, lying east of St. Mary's Lake.

(d) The parcel described in paragraph (c) has been under lease since 1969 in order for the adjoining owner to meet county zoning standards and the parcel is no longer needed for natural resources purposes.

Sec. 14. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, St. Louis County may sell the tax-forfeited lands bordering public water that are described in paragraphs (c) to (g), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyances must be in a form approved by the attorney general. The attorney general may make necessary changes to legal descriptions to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) the westerly 400 feet of the easterly 800 feet of Lot 4, Section 13, Township 54 North, Range 17 West; and

(2) the West Half of the Northwest Quarter of the Southwest Quarter, Section 33, Township 51 North, Range 16 West.

(d) The conveyances of land under this paragraph must retain for the state a 150-foot trout stream easement lying 75 feet on each side of the centerline of the stream. The land to be sold is located in St. Louis County and is described as:

(1) the Northeast Quarter of the Northeast Quarter, Section 7, Township 50 North, Range 18 West;

(2) the North Half of the Northeast Quarter and the North Half of the Northwest Quarter, Section 8, Township 50 North, Range 18 West;

(3) the Northwest Quarter of the Northeast Quarter, except the North Half, and that part of the West 10 acres of the Northeast Quarter of the Northeast Quarter lying south of Lester River and the West 10 acres of the Northeast Quarter of the Northeast Quarter lying north of Lester River, except the North 5 acres, Section 17, Township 51 North, Range 13 West;

(4) the Northwest Quarter of the Southeast Quarter, except the West Half, and the East 165 feet of the West Half of the Northwest Quarter of the Southeast Quarter, Section 5, Township 51 North, Range 13 West; and



(5) the East Half of the Southeast Quarter of the Southeast Quarter, Section 34, Township 58 North, Range 20 West.

(e) The conveyance of land under this paragraph must contain a deed restriction that is 75 feet in width along the shoreline, excluding a 15-foot access strip. The land to be sold is located in St. Louis County and is described as: Lot 6, Lot 7, and Lot 8, except the easterly 50 feet, Erickson's Beach, town of Fayal, Section 27, Township 57 North, Range 17 West.

(f) The conveyance of land under this paragraph must contain a deed restriction that is 75 feet in width along the shoreline. The land to be sold is located in St. Louis County and is described as: Lots 64 and 65, Vermilion Dells, 1st Addition Greenwood, Section 2, Township 62 North, Range 16 West.

(g) The conveyances of land under this paragraph must retain for the state a 150-foot conservation easement lying 75 feet on each side of the centerline of the stream. The land to be sold is located in St. Louis County and is described as:

(1) the Northeast Quarter of the Southeast Quarter, Section 31, Township 52 North, Range 14 West;

(2) the Northeast Quarter of the Southwest Quarter, Section 31, Township 52 North, Range 14 West; and

(3) the South Half of the Southwest Quarter of the Southwest Quarter, except the westerly 15 acres, Section 31, Township 52 North, Range 14 West.

(h) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 15. [PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, St. Louis County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyances must be in a form approved by the attorney general and, except for the parcel under paragraph (c), clause (4), require the buyers to pay an administration fee to cover expenses incurred by the county. The attorney general may make necessary changes to legal descriptions to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) the West 335 feet of the South 130 feet of the Northwest Quarter of the Northeast Quarter, Section 12, Township 63 North, Range 12 West. This parcel contains 1.0 acres more or less;

(2) the westerly 165.00 feet of the southerly 80.00 feet of the easterly 490.00 feet of the Southeast Quarter of the Southeast Quarter, Section 14, Township 51 North, Range 14 West. This parcel contains 0.3 acres;

(3) Lot 17, Block 5, Lyman Park Division of Duluth;

(4) the West 220 feet of the Southwest Quarter of the Northeast Quarter, Section 11, Township 54 North, Range 15 West;

(5) the West 115 feet of the Southeast Quarter of the Northeast Quarter of Section 32, Township 63 North, Range 12 West, lying north of the centerline of State Trunk Highway 169 and subject to highway right-of-way easement. This parcel contains 1.2 acres more or less; and

(6) the West 115 feet of the Southeast Quarter of the Northeast Quarter of Section 32, Township 63 North, Range 12 West, lying south of the centerline of State Trunk Highway 169 and subject to highway right-of-way easement. This parcel contains 2.5 acres more or less.

(d) The sales under this section resolve unintentional occupancy trespasses.

Sec. 16. [PRIVATE SALE OF SURPLUS STATE LAND; WABASHA COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.09 and 94.10, the commissioner of natural resources may sell by private sale the surplus state land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Wabasha County and is described as follows:

That part of the South Half of the Southwest Quarter of Section 14, Township 109 North, Range 10 West, Wabasha County, Minnesota, lying southerly of the following described center line:

Commencing at the southwest corner of said South Half of the Southwest Quarter from which the southeast corner of said South Half of the Southwest Quarter bears East, assumed bearing; thence South 88 degrees 44 minutes East 69.69 feet to the point of beginning; thence North 62 degrees East 72.46 feet; thence North 64 degrees East 48.05 feet; thence East 77.19 feet; thence South 86 degrees East 73.98 feet; thence North 76 degrees East 72.83 feet; thence North 64 degrees East 75.07 feet; thence North 77 degrees East 76.52 feet; thence North 85 degrees East 13.74 feet; thence North 47 degrees East 63.99 feet; thence North 72 degrees East 76.61 feet; thence North 69 degrees East 72.57 feet; thence North 39 degrees East 56.12 feet; thence South 66 degrees East 80.17 feet; thence South 82 degrees East 48.68 feet; thence North 82 degrees East 69.30 feet; thence South 31 degrees East 81.99 feet; thence South 10 degrees East 39.39 feet; thence South 12 degrees East 74.13 feet; thence South 22 degrees East 51.75 feet; thence South 43 degrees East 18.47 feet; thence South 83 degrees East 71.42 feet; thence North 89 degrees East 53.56 feet; thence North 28 degrees East 70.36 feet; thence North 31 degrees East 74.57 feet; thence North 22 degrees East 73.19 feet; thence North 06 degrees East 52.91 feet; thence North 07 degrees East 68.58 feet; thence North 14 degrees East 75.72 feet; thence North 17 degrees East 72.04 feet; thence South 76 degrees East 84.66 feet; thence South 51 degrees East 75.23 feet; thence South 73 degrees East 72.96 feet; thence South 79 degrees East 81.25 feet; thence South 01 degree East 82.11 feet; thence South 05 degrees West 73.45 feet; thence South 22 degrees East 69.17 feet; thence South 72 degrees East 70.65 feet; thence South 79 degrees East 56.89 feet; thence North 79 degrees East 54.55 feet; thence South 37 degrees East 80.95 feet; thence South 26 degrees East 49.79 feet, more or less, to the south line of said South Half of the Southwest Quarter and there terminating, containing 6.4 acres, more or less.

(d) The sale would correct an error in a prior land acquisition that cut off the existing access route to the remainder of the adjacent landowner's property.

Sec. 17. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; WASHINGTON COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Washington County may sell the tax-forfeited land described in paragraph (c) by private sale, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for the appraised value of the land.

(c) The land to be sold is property ID number 22.032.21.12.0001, located in Washington County, and described as: the Northwest Quarter of the Northeast Quarter of Section 22, Township 32 North, Range 21 West of the 4th Principal Meridian, except the following: that part platted as GREEN VALLEY-2ND PLAT according to the recorded plat thereof. And also except the South 220 feet of the West 40 feet of said Northwest Quarter of the Northeast Quarter. And also except the East 300 feet of the West 750.41 feet of said Northwest Quarter of the Northeast Quarter. And also except commencing at the northwest corner of Lot 4, GREEN VALLEY according to the recorded plat thereof, which point is on the north line of said Section 22; thence East (North 90 degrees 00 minutes East) along the north line of said GREEN VALLEY and said north line of Section 22 a distance of 418 feet to the northeast corner of Lot 7 of said GREEN VALLEY and the point of beginning; thence South 00 degrees 03 minutes East, along the easterly line of said Lot 7, a distance of 295.6 feet to the southeast corner of said Lot 7 and the north line of GREEN VALLEY-2ND PLAT, according to the recorded plat thereof; thence South 76 degrees 49 minutes East, along said north line of GREEN VALLEY-2ND PLAT, a distance of 872.7 feet; thence North 54 degrees 37 minutes 30 seconds East a distance of 202.8 feet; thence North 78 degrees 04 minutes 30 seconds East a distance of 505 feet, more or less, to the shore of Shields Lake; thence northerly, along the shore of Shields Lake, a distance of 280 feet, more or less, to said north line of Section 22; thence West along said north line a distance of 1573.16 feet, more or less, to the point of beginning.

(d) The county has determined that the county's land management interests would be best served if the lands were returned to private ownership.

Sec. 18. [COUNTY ENVIRONMENTAL TRUST FUND; ITASCA COUNTY.]

(a) Notwithstanding Laws 1998, chapter 389, article 16, section 31, subdivision 4, as amended, Itasca County may spend money in the Itasca County environmental trust fund to acquire the land described in paragraph (b) for public access purposes.

(b) The land to be acquired by Itasca County is described as:

(1) parcel number 91-017-1105; and

(2) parcel number 91-017-1102.

Sec. 19. [DELETION FROM MISSISSIPPI RIVER RECREATIONAL LAND USE DISTRICTS.]

Subdivision 1. [WRIGHT COUNTY.] The following area is deleted from the Mississippi River Recreational Land Use District in Wright County: that part of Government Lots 3 and 4 located in Section 26, Township 121 North, Range 23 West, lying south and west of Wright County State-Aid Highway 42.

Subd. 2. [SHERBURNE COUNTY.] The following area is deleted from the Mississippi River Recreational Land Use District in Sherburne County: that part of Government Lots 1, 2, and 3 in Section 35, Township 33 North, Range 28 West, lying north and east of Sherburne County Road 14 and that part of Government Lot 2 of Section 36, Township 33 North, Range 28 West, lying north and east of Sherburne County Road 14.

Sec. 20. [REPEALER.]

Minnesota Statutes 2004, section 84.033, subdivision 2, is repealed.

Sec. 21. [EFFECTIVE DATE.]

Sections 1 to 20 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public lands; modifying acquisition, use, and designation provisions for scientific and natural areas; authorizing public and private sales and conveyances of certain state lands; allowing Itasca County to acquire land for a public access with money from the Itasca County environmental trust fund; deleting land from Mississippi River Recreational Land Use Districts; amending Minnesota Statutes 2004, sections 84.033, by adding a subdivision; 97A.093; repealing Minnesota Statutes 2004, section 84.033, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 815, A bill for an act relating to local government; requiring a city council to vote on charter commission recommendations for charter amendments by ordinance; amending Minnesota Statutes 2004, section 410.12, subdivision 7.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law and Elections.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1044, A bill for an act relating to the Metropolitan Council; requiring the Metropolitan Council to carry out metropolitan area water supply planning activities; establishing an advisory committee to assist the council in carrying out the planning activities; abolishing the housing bond credit enhancement program; providing for continued debt reserve and levy authority for bonds issued under the program before its abolishment; providing for the use of available funds from the abolished housing bond credit enhancement program for the council's metropolitan area water supply planning activities; amending Minnesota Statutes 2004, section 473.197, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 2004, sections 473.156; 473.197, subdivisions 1, 2, 3, 5.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Agriculture, Environment and Natural Resources Finance.

The report was adopted.

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 1321, A bill for an act relating to civil law; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; changing a fee; making style and form changes; appropriating money; amending Minnesota Statutes 2004, sections 357.021, by adding a subdivision; 518.002; 518.003, subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.091, subdivision 1; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6; 518.165; 518.166; 518.167, subdivisions 3, 4, 5; 518.168; 518.1705,

subdivisions 2, 6, 7, 8, 9; 518.175; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.1752; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.191, subdivision 1; 518.195, subdivisions 2, 3; 518.24; 518.25; 518.27; 518.54, subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2; 518.641; 518.642; 518.646; 518.65; 518.68, subdivision 1; 519.11, subdivision 1; proposing coding for new law as Minnesota Statutes, chapters 517A; 517B; 517C; repealing Minnesota Statutes 2004, sections 518.111; 518.14, subdivision 2; 518.171; 518.24; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.55, subdivision 4; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; 518.62; 518.64, subdivisions 4, 4a, 5; 518.68.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### MARRIAGE DISSOLUTION, LEGAL SEPARATION, AND ANNULMENT

Section 1. Minnesota Statutes 2004, section 357.021, is amended by adding a subdivision to read:

Subd. 8. [MARITAL DISSOLUTION FEE.] (a) The court administrator shall collect in each proceeding in the district seeking a dissolution of a marriage or a legal separation, in the manner in which other fees are collected, a marital dissolution fee in the amount of \$25 from:

(1) the petitioner instituting the marital dissolution or legal separation, to be collected at the time of the filing of the first paper; and

(2) the respondent who appears, to be collected at the time of the filing of the first paper by the respondent or at the time when the respondent's appearance is entered in the case.

(b) The court administrator shall forward the marital dissolution fee to the commissioner of finance for deposit in the general fund.

(c) This subdivision sunsets June 30, 2007.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 2. [517A.29] [SIX-MONTH REVIEW.]

(a) A request for a six-month review hearing form must be attached to a decree of dissolution or legal separation or an order that initially establishes child custody, parenting time, or support rights and obligations of parents. The state court administrator is requested to prepare the request for review hearing form. The form must include information regarding the procedures for requesting a hearing, the purpose of the hearing, and any other information regarding a hearing under this section that the state court administrator deems necessary.

(b) The six-month review hearing shall be held if any party submits a written request for a hearing within six months after entry of a decree of dissolution or legal separation or order that establishes child custody, parenting time, or support.

(c) Upon receipt of a completed request for hearing form, the court administrator shall provide notice of the hearing to all other parties and the public authority.

(d) At the six-month hearing, the court must review:

(1) whether child support is current; and

(2) whether both parties are complying with the parenting time provisions of the order.

(e) At the six-month hearing, the obligor has the burden to present evidence to establish that child support payments are current. A party may request that the public authority provide information to the parties and court regarding child support payments. A party must request the information from the public authority at least 14 days before the hearing. The commissioner of human services must develop a form to be used by the public authority to submit child support payment information to the parties and court.

(f) Contempt of court and all statutory remedies for child support and parenting time enforcement may be imposed by the court at the six-month hearing for noncompliance by either party pursuant to chapters 517C and 588 and the Minnesota Court Rules.

Sec. 3. [517A.36] [MAINTENANCE PAYMENT ENFORCEMENT.]

(a) Except as provided in paragraph (b), the enforcement requirements and procedures in chapter 517C apply to a maintenance obligation, including a maintenance obligation that is or was combined with a child support obligation and is part of a support order as defined in section 517A.02, subdivision 14.

(b) The enforcement requirements and procedures in sections 517C.04; 517C.10, subdivisions 1, 2, and 5; 517C.12, subdivision 4; 517C.13; 517C.22; 517C.23; 517C.27; 517C.28; 517C.30; 517C.63; 517C.73; 517C.80; and 517C.84, do not apply to a maintenance obligation whether or not the obligation is or was combined with a child support obligation.

Sec. 4. Minnesota Statutes 2004, section 518.002, is amended to read:

518.002 [MEANING OF DIVORCE.]

~~Wherever the word "Divorce" is,~~ as used in the statutes, it has the same meaning as "dissolution" or "dissolution of marriage."

Sec. 5. Minnesota Statutes 2004, section 518.003, subdivision 1, is amended to read:

~~Subdivision 1. [SCOPE.] For the purposes of this chapter, the following terms have the meanings provided in this section unless the context clearly requires otherwise.~~

Sec. 6. Minnesota Statutes 2004, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties. Joint physical custody does not require an equal division of time between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 7. Minnesota Statutes 2004, section 518.005, is amended to read:

518.005 [RULES GOVERNING PROCEEDINGS.]

Subdivision 1. [APPLICABLE.] Unless otherwise specifically provided, the Rules of Civil Procedure for the district court apply to all proceedings under this chapter and chapters 517B and 517C.

Subd. 2. [TITLE.] A proceeding for dissolution of marriage, legal separation, or annulment ~~shall~~ must be entitled "In re the Marriage of ..... and ..... ." ~~A custody or support proceeding shall be entitled "In re the (Custody) (Support) of ....."~~

Subd. 3. [NAMES OF PLEADINGS.] The initial pleading in all proceedings under ~~sections 518.002 to 518.66~~ shall this chapter and chapters 517B and 517C must be denominated a petition. A responsive pleading ~~shall~~ must be denominated an answer. Other pleadings ~~shall~~ must be denominated as provided in the Rules of Civil Procedure.

Subd. 4. [DECREE; JUDGMENT.] In ~~sections 518.002 to 518.66~~ this chapter and chapters 517B and 517C, "decree" includes "judgment."

Subd. 5. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapters 517B and 517C in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 6. [REQUIRED NOTICE.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain the notices required by section 517C.99.

Sec. 8. Minnesota Statutes 2004, section 518.01, is amended to read:

518.01 [VOID MARRIAGES.]

~~All marriages which are~~ A marriage prohibited by section 517.03 ~~shall be absolutely~~ is void, without any decree of dissolution or other legal proceedings; except if a person whose husband or wife has been absent for four successive years, without being known to the person to be living during that time, marries during the lifetime of the absent husband or wife, the subsequent marriage ~~shall be~~ is void only from the time that its nullity is duly adjudged. If the absentee is declared dead in accordance with section 576.142, the subsequent marriage ~~shall~~ is not ~~be~~ void.

Sec. 9. Minnesota Statutes 2004, section 518.02, is amended to read:

518.02 [VOIDABLE MARRIAGES.]

A marriage ~~shall~~ must be declared a nullity ~~under the following circumstances if:~~

~~(a)~~ (1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, ~~either~~ because of: (i) mental incapacity or infirmity ~~and if the other party at the time the marriage was solemnized did not know of the incapacity; or because of~~ (ii) the influence of alcohol, drugs, or other incapacitating substances; or ~~because~~ (iii) consent of either ~~was~~ party having been obtained by force or fraud ~~and there was~~ with no subsequent voluntary cohabitation of the parties;

~~(b)~~ (2) a party lacks the physical capacity to consummate the marriage by sexual intercourse and the other party at the time the marriage was solemnized did not know of the incapacity; or

~~(c)~~ (3) a party was under the age for marriage established by section 517.02, except as otherwise provided by section 517A.10.

Sec. 10. Minnesota Statutes 2004, section 518.03, is amended to read:

518.03 [ACTION TO ANNUL; DECREE.]

An annulment ~~shall~~ must be commenced ~~and~~, the complaint ~~shall be~~ is filed, and proceedings had as in proceedings for dissolution. Upon due proof of the nullity of the marriage, ~~it shall~~ the marriage must be adjudged null and void.

The provisions of ~~sections 518.54 to 518.66~~ this chapter and chapters 517B and 517C relating to property rights of the spouses, maintenance, support, and custody of children on dissolution of marriage are applicable to proceedings for annulment.

Sec. 11. Minnesota Statutes 2004, section 518.04, is amended to read:

518.04 [INSUFFICIENT GROUNDS FOR ANNULMENT.]

No marriage ~~shall~~ may be adjudged a nullity on the ground that one of the parties was under the age of legal consent if it appears that the parties had voluntarily cohabited together as husband and wife after having attained ~~such that~~ that age; ~~nor shall~~. The marriage of ~~any an~~ an insane person must not be adjudged void after restoration of the ~~insane person~~ insane person to reason, if it appears that the parties freely cohabited together as husband and wife after ~~such the~~ the restoration to reason.



Sec. 12. Minnesota Statutes 2004, section 518.05, is amended to read:

518.05 [ANNULMENT; WHEN TO BRING.]

An annulment may be sought by any of the following persons and must be commenced within the times specified, but in no event may an annulment be sought after the death of either party to the marriage:

~~(a) for a reason set forth in (1) under~~ section 518.02, clause ~~(a)~~ (1), by either party or by the legal representative of the party who lacked capacity to consent, no later than 90 days after the petitioner obtained knowledge of the described condition;

~~(b) for the reason set forth in (2) under~~ section 518.02, clause ~~(b)~~ (2), by either party no later than one year after the petitioner obtained knowledge of the described condition;

~~(c) for the reason set forth in (3) under~~ section 518.02, clause ~~(c)~~ (3), by the underaged party, ~~or the party's parent or guardian,~~ before the time the underaged party reaches the age at which the party could have married without satisfying the omitted requirement.

Sec. 13. Minnesota Statutes 2004, section 518.055, is amended to read:

518.055 [PUTATIVE SPOUSE.]

Any person who has cohabited with another to whom the person is not legally married in the good faith belief that the person was married to the other is a putative spouse until knowledge of the fact that the person is not legally married terminates the status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of the status, whether or not the marriage is prohibited or declared a nullity. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court ~~shall~~ must apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

Sec. 14. Minnesota Statutes 2004, section 518.06, is amended to read:

518.06 [DISSOLUTION OF MARRIAGE; LEGAL SEPARATION; GROUNDS; UNCONTESTED LEGAL SEPARATION.]

Subdivision 1. ~~[MEANING AND EFFECT OF DECREES; GROUNDS.]~~ A dissolution of marriage is the termination of the marital relationship between a husband and wife. A decree of dissolution completely terminates the marital status of both parties. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation does not terminate the marital status of the parties.

A dissolution of a marriage ~~shall~~ must be granted ~~by a county or district court when~~ if the court finds that there has been an irretrievable breakdown of the marriage relationship. A ~~decree of~~ legal separation ~~shall~~ must be granted ~~when~~ if the court finds that one or both parties need a legal separation.

Defenses to divorce, dissolution and legal separation, including, but not limited to, condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

Subd. 3. [UNCONTESTED LEGAL SEPARATION.] If one or both parties petition for a decree of legal separation and neither party contests the granting of the decree nor petitions for a decree of dissolution, the court ~~shall~~ must grant a decree of legal separation.

Sec. 15. Minnesota Statutes 2004, section 518.07, is amended to read:

518.07 [RESIDENCE OF PARTIES.]

~~No~~ A dissolution ~~shall~~ must not be granted unless (1) one of the parties has resided in this state, or ~~has~~ been a member of the armed services stationed in this state, for ~~not less than~~ at least 180 days immediately preceding the commencement of the proceeding; or (2) one of the parties has been a domiciliary of this state for ~~not less than~~ at least 180 days immediately preceding commencement of the proceeding.

Sec. 16. Minnesota Statutes 2004, section 518.09, is amended to read:

518.09 [PROCEEDING; HOW AND WHERE BROUGHT; VENUE.]

A proceeding for dissolution or legal separation may be brought by either or both spouses and ~~shall be~~ is commenced by personal service of the summons and petition venued in the county where either spouse resides. No summons is required if a joint petition is filed. If neither party resides in the state and jurisdiction is based on the domicile of either ~~spouse party~~, the proceeding may be brought in the county where either party is domiciled. If neither party resides or is domiciled in this state and jurisdiction is premised upon one of the parties being a member of the armed services stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, the proceeding may be brought in the county where the member is stationed. This venue ~~shall be~~ is subject to the court's power ~~of the court~~ to change the place of hearing by consent of the parties, ~~or when~~ if it appears to the court that an impartial hearing cannot be had in the county where the proceedings are pending, or ~~when~~ if the convenience of the parties or the ends of justice would be promoted by the change. ~~No summons shall be required if a joint petition is filed.~~

Sec. 17. Minnesota Statutes 2004, section 518.091, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY RESTRAINING ORDERS.] (a) Every summons must include the notice in this subdivision.

NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE  
RESOLUTION PROVISIONS

UNDER MINNESOTA LAW, SERVICE OF THIS SUMMONS MAKES THE FOLLOWING REQUIREMENTS APPLY TO BOTH PARTIES TO THIS ACTION, UNLESS THEY ARE MODIFIED BY THE COURT OR THE PROCEEDING IS DISMISSED:

(1) NEITHER PARTY MAY DISPOSE OF ANY ASSETS EXCEPT (i) FOR THE NECESSITIES OF LIFE OR FOR THE NECESSARY GENERATION OF INCOME OR PRESERVATION OF ASSETS, (ii) BY AN AGREEMENT IN WRITING, OR (iii) FOR RETAINING COUNSEL TO CARRY ON OR TO CONTEST THIS PROCEEDING;

(2) NEITHER PARTY MAY HARASS THE OTHER PARTY; AND

(3) ALL CURRENTLY AVAILABLE INSURANCE COVERAGE MUST BE MAINTAINED AND CONTINUED WITHOUT CHANGE IN COVERAGE OR BENEFICIARY DESIGNATION.

IF YOU VIOLATE ANY OF THESE PROVISIONS, YOU WILL BE SUBJECT TO SANCTIONS BY THE COURT.

(4) PARTIES TO A MARRIAGE DISSOLUTION PROCEEDING ARE ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR ABOUT RESOURCES IN YOUR AREA. IN SOME COUNTIES, IF YOU CANNOT PAY FOR MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION, ~~IN SOME COUNTIES~~, ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR THREATS OF ABUSE AS DEFINED IN MINNESOTA STATUTES, CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

(b) Upon service of the summons, the restraining provisions contained in the notice apply by operation of law upon both parties until modified by further order of the court or dismissal of the proceeding, unless more than one year has passed since the last document was filed with the court.

Sec. 18. Minnesota Statutes 2004, section 518.10, is amended to read:

518.10 [REQUISITES OF PETITION.]

~~The~~ A petition for dissolution of marriage or legal separation ~~shall~~ must state and allege:

~~(a)~~ (1) the name, address, and, in circumstances in which child support or spousal maintenance will be addressed, Social Security number of the petitioner and any prior or other name used by the petitioner;

~~(b)~~ (2) the name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, Social Security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

~~(c)~~ (3) the place and date of the marriage of the parties;

~~(d)~~ (4) in the case of a petition for dissolution, that either the petitioner or the respondent or both:

~~(1)~~ (i) has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding; ~~or~~;

~~(2)~~ (ii) has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding; ~~or~~;

~~(3)~~ (iii) has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

~~(4)~~ (5) the name at the time of the petition and any prior or other name, Social Security number, age, and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

~~(5)~~ (6) whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

~~(g)~~ (7) in the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

~~(h)~~ (8) in the case of a petition for legal separation, that there is a need for a decree of legal separation;

~~(i)~~ (9) any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

~~(j)~~ (10) whether an order for protection under chapter 518B or a similar law of another state that governs the parties or a party and a minor child of the parties is in effect and, if so, the district court or similar jurisdiction in which it was entered.

The petition ~~shall~~ must be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 19. Minnesota Statutes 2004, section 518.11, is amended to read:

518.11 [SERVICE; ALTERNATE SERVICE; PUBLICATION.]

(a) Unless a proceeding is brought by both parties, copies of the summons and petition ~~shall~~ must be served on the respondent personally.

(b) ~~When~~ Service is made out of this state and within the United States, ~~it~~ may be proved by the affidavit of the person making the ~~same~~ service. ~~When~~ Service is made ~~without~~ outside of the United States ~~it~~ may be proved by the affidavit of the person making the ~~same~~ service, taken before and certified:

(1) by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in ~~such~~ the country, including ~~all deputies~~ a deputy or other ~~representatives~~ representative of ~~such~~ the officer authorized to perform ~~their~~ the officer's duties; or

(2) before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country ~~wherein such~~ in which the affidavit is taken as to the identity and authority of the officer taking the ~~same~~ affidavit.

(c) If personal service cannot be made, the court may order service of the summons by alternate means. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court ~~shall~~ must consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court ~~shall~~ must order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent or, if no address so qualifies, then to the respondent's last known address.

If the petitioner seeks disposition of real estate located ~~within the state of~~ in Minnesota, the court ~~shall~~ must order that the summons, which ~~shall~~ must contain the legal description of the real estate, be published in the county where the real estate is located. The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service ~~shall be~~ is deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 20. Minnesota Statutes 2004, section 518.12, is amended to read:

518.12 [TIME FOR ANSWERING.]

The respondent ~~shall have~~ has 30 days in which to answer the petition. In case of service by publication, the 30 days ~~shall~~ does not begin to run until the expiration of the period allowed for publication. In the case of a counterpetition for dissolution or legal separation to a petition for dissolution or legal separation, no answer ~~shall be~~ is required to the counterpetition and the original petitioner ~~shall be~~ is deemed to have denied each and every statement, allegation, and claim in the counterpetition.

Sec. 21. Minnesota Statutes 2004, section 518.13, is amended to read:

518.13 [FAILURE TO ANSWER; FINDINGS; HEARING.]

Subdivision 1. [DEFAULT.] If the respondent does not appear after service duly made and proved, the court may hear and determine the proceeding as a default matter.

Subd. 2. [DISPUTE OVER IRRETRIEVABLE BREAKDOWN.] If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court ~~shall~~ must consider all relevant factors, including the circumstances that gave rise to the commencement of the proceeding and the prospect of reconciliation, and ~~shall~~ make a finding whether the marriage is irretrievably broken.

A finding of irretrievable breakdown under this subdivision is a determination that there is no reasonable prospect of reconciliation. The finding must be supported by evidence that (i) the parties have lived separate and apart for a period of not less than 180 days immediately preceding the commencement of the proceeding, or (ii) there is serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage.

Subd. 3. [AGREEMENT OVER IRRETRIEVABLE BREAKDOWN.] If both parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken; or one of the parties has so stated and the other has not denied it, the court, after hearing, ~~shall~~ must make a finding that the marriage is irretrievably broken.

Subd. 4. [REFEREE; OPEN COURT.] The court or judge, upon application, may refer the proceeding to a referee to take and report the evidence ~~therein~~. Hearings for dissolution of marriage ~~shall~~ must be heard in open court or before a referee appointed by the court to receive the testimony of the witnesses; or depositions taken as in other equitable actions. However, the court may in its discretion close the hearing.

Subd. 5. [APPROVAL WITHOUT HEARING.] Proposed findings of fact, conclusions of law, order for judgment, and judgment and decree must be submitted to the court for approval and filing without a final hearing in the following situations:

(1) if there are no minor children of the marriage, and (i) the parties have entered into a written stipulation, or (ii) the respondent has not appeared after service duly made and proved by affidavit and at least 20 days have elapsed since the time for answering under section 518.12 expired; or

(2) if there are minor children of the marriage, the parties have signed and acknowledged a stipulation, and all parties are represented by counsel.

Notwithstanding clause (1) or (2), the court ~~shall~~ must schedule the matter for hearing ~~in any case where~~ if the proposed judgment and decree does not appear to be in the best interests of the minor children or is contrary to the interests of justice.

Sec. 22. Minnesota Statutes 2004, section 518.131, is amended to read:

518.131 [TEMPORARY ORDERS AND RESTRAINING ORDERS.]

Subdivision 1. [PERMISSIBLE ORDERS.] In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property; or maintenance; ~~or child support~~ following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

- (~~a~~) (1) temporary custody and parenting time regarding the minor children of the parties;
- (~~b~~) (2) temporary maintenance of either spouse;
- (~~c~~) ~~Temporary child support for the children of the parties;~~
- (~~d~~) (3) temporary costs and reasonable attorney fees;
- (~~e~~) ~~Award the~~ (4) temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;
- (~~f~~) (5) restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;
- (~~g~~) (6) restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;
- (~~h~~) (7) restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;
- (~~i~~) (8) exclude a party from the family home of the parties or from the home of the other party; and
- (~~j~~) (9) require one or both of the parties to perform or to not perform ~~such~~ additional acts ~~as that~~ will facilitate the just and speedy disposition of the proceeding; ~~or will~~ protect the parties or their children from physical or emotional harm.

Subd. 2. [IMPERMISSIBLE ORDERS.] ~~No~~ A temporary order ~~shall~~ must not:

- (~~a~~) (1) deny parenting time to a parent unless the court finds that the parenting time is likely to cause physical or emotional harm to the child;
- (~~b~~) (2) exclude a party from the family home of the parties unless the court finds that physical or emotional harm to one of the parties or to the children of the parties is likely to result, or that the exclusion is reasonable in the circumstances; or
- (~~c~~) (3) vacate or modify an order granted under section 518B.01, subdivision 6, paragraph (a), clause (1), restraining an abusing party from committing acts of domestic abuse, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule ~~shall~~ must not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection ~~shall~~ must be issued.

Subd. 3. [EX PARTE RESTRAINING ORDER; LIMITATIONS.] A party may request and the court may make an ex parte restraining order ~~which may include~~ that includes any matter that may be included in a temporary order except it may not:

~~(a) A restraining order may not~~ (1) exclude either party from the family home of the parties except upon a finding by the court of immediate danger of physical harm to the other party or the children of either party; ~~and or~~

~~(b) A restraining order may not~~ (2) deny parenting time to either party or grant custody of the minor children to either party except upon a finding by the court of immediate danger of physical harm to the minor children of the parties.

Subd. 4. [HEARING ON RESTRAINING ORDER; DURATION.] ~~A restraining order shall~~ order must be personally served upon the party to be restrained ~~and shall be accompanied along~~ with a notice of the time and place of a hearing for a temporary order for disposition of the matters contained in the restraining order ~~at a hearing for a temporary order. When~~ If a restraining order has been issued, a hearing on the temporary order ~~shall~~ must be held at the earliest practicable date. The restrained party may upon written notice to the other party advance the hearing date to a time earlier than that noticed by the other party. The restraining order ~~shall continue~~ continues in full force and effect only until the hearing time noticed, unless the court, for good cause and upon notice, extends the time for hearing.

Subd. 5. [DURATION OF TEMPORARY ORDER.] A temporary order ~~shall continue~~ continues in full force and effect until the earlier of its amendment or vacation, dismissal of the main action, or entry of a final decree of dissolution or legal separation.

Subd. 6. [EFFECT OF DISMISSAL OF MAIN ACTION.] If a proceeding for dissolution or legal separation is dismissed, a temporary custody order is vacated unless one of the parties or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parties and the best interests of the child require that a custody order be issued.

Subd. 7. [GUIDING FACTORS.] The court ~~shall~~ must be guided by the factors set forth in sections ~~518.551 (concerning child support), 518.552 (concerning maintenance), 518.17 to 518.175~~ 517B.17, 517B.18, and 517B.25 (concerning custody and parenting time), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Subd. 8. [BASIS FOR ORDER.] Temporary orders ~~shall~~ must be made solely on the basis of affidavits and argument of counsel except upon demand by either party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court, or if the court in its discretion orders the taking of oral testimony.

Subd. 9. [PREJUDICIAL EFFECT; REVOCATION; MODIFICATION.] A temporary order or restraining order:

~~(a) Shall~~ (1) must not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding; and

~~(b)~~ (2) may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Subd. 10. [MISDEMEANOR.] In addition to being punishable by contempt, a violation of a provision of a temporary order or restraining order granting the relief authorized in subdivision 1, clause ~~(6)~~ (6), ~~(7)~~ (7), or ~~(8)~~ (8), is a misdemeanor.

Subd. 11. [TEMPORARY SUPPORT AND MAINTENANCE.] Temporary support and maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.

Sec. 23. Minnesota Statutes 2004, section 518.14, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) Except as provided in subdivision 2, in a proceeding under this chapter or chapter 517B or 517C, the court ~~shall~~ must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, ~~provided if it finds that:~~

(1) ~~that~~ the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) ~~that~~ the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) ~~that~~ the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518.64. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, ~~or~~ out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay ~~the same~~ them may be enforced ~~as above provided in the manner provided in this paragraph~~ or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award ~~shall also survive~~ survives the proceeding and may be enforced in the ~~same~~ same manner ~~as last above provided in this paragraph.~~

Sec. 24. Minnesota Statutes 2004, section 518.148, is amended to read:

518.148 [CERTIFICATION OF DISSOLUTION.]

Subdivision 1. [CERTIFICATE OF DISSOLUTION.] An attorney or pro se party may prepare and submit to the court a separate certificate of dissolution to be attached to the judgment and decree at the time of granting the dissolution of marriage. Upon approval by the court and filing of the certificate of dissolution with the court administrator, the court administrator ~~shall~~ must provide to any party upon request certified copies of the certificate of dissolution.

Subd. 2. [REQUIRED INFORMATION.] The certificate ~~shall~~ must include the following information:

(1) the full caption and file number of the case and the title "Certificate of Dissolution";

(2) the names and any prior or other names of the parties to the dissolution;

(3) the names of any living minor or dependent children as identified in the judgment and decree;

(4) that the marriage of the parties is dissolved;

(5) the date of the judgment and decree; and



(6) the Social Security number of the parties to the dissolution and the Social Security number of any living minor or dependent children identified in the judgment and decree.

Subd. 3. [CERTIFICATION.] The certificate of dissolution ~~shall be~~ is conclusive evidence of the facts recited in the certificate.

Sec. 25. Minnesota Statutes 2004, section 518.156, is amended by adding a subdivision to read:

Subd. 3. [DEADLINE FOR CUSTODY AGREEMENT OR PARENTING PLAN.] Within 270 days after a custody proceeding is commenced by a parent or when the matter is set for determination by the court, whichever is earlier, the parents must enter a parenting plan under section 518.1705. If the parents fail to meet this deadline, the court must use the rebuttable presumption regarding joint physical custody provided by section 518.17, subdivision 2, paragraph (b).

Sec. 26. Minnesota Statutes 2004, section 518.17, subdivision 1, is amended to read:

Subdivision 1. [THE BEST INTERESTS OF THE CHILD.] (a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including, but not limited to:

- (1) the wishes of the child's parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, care, and guidance, to ensure the child a good education, to provide the child with a nurturing environment, and to continue ~~educating and~~ raising the child in the child's culture, language or languages, and religion ~~or creed, if any~~;
- (11) the child's cultural, linguistic, and religious background;
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; ~~and~~

(13) ~~except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child;~~

(14) any addiction to alcohol or other habituating substances or physical or sexual abuse attributable to either parent or any person living with either parent insofar as the acts, addiction, violence, or habits may adversely affect the child; and

(15) any false allegations made in bad faith by one parent against the other parent or anybody living with the other parent to gain unfair advantage in the custody determination.

The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) ~~The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child. In determining the best interests of the child, the court may not use any one factor to the exclusion of all others, may not use the primary caretaker factor as a presumption, may not prefer one parent over the other on account of gender, and must make detailed findings of each relevant factor and explain how each has led to the conclusion reached, unless the presumption set forth in subdivision 2, paragraph (a), is applied and followed.~~

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 27. Minnesota Statutes 2004, section 518.17, subdivision 2, is amended to read:

Subd. 2. ~~[FACTORS WHEN JOINT CUSTODY IS SOUGHT REBUTTABLE PRESUMPTIONS IN CHILD CUSTODY DISPUTES.] In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:~~

(a) ~~the ability of parents to cooperate in the rearing of their children; The court shall use a rebuttable presumption that joint legal and physical custody is in the best interests of the child. Any departure from that presumption must be justified by detailed findings. Whenever it appears that the parents have difficulty in communication or cooperation with respect to the child, the court may establish rules which govern in case of disagreement between them.~~

(b) ~~methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods; If it appears that both parents are fit, but that joint legal and physical custody is not feasible and cannot be remedied by rules which govern in case of disagreement between the parents, the court shall use a rebuttable presumption that the best interests of the child will be served by granting legal and physical custody to the parent more disposed to encourage and permit frequent and continuing contact with the child by the other parent. Any departure from that presumption must be justified by detailed findings.~~

(c) ~~whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and~~

(d) ~~whether domestic abuse, as defined in section 518B.01, has occurred between the parents.~~

The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, The court shall use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. Use of that presumption requires detailed findings.

~~If the court awards joint legal or physical custody over the objection of a party, the court shall make detailed findings on each of the factors in this subdivision and explain how the factors led to its determination that joint custody would be in the best interests of the child.~~

**[EFFECTIVE DATE.]** This section is effective the day following final enactment.

Sec. 28. Minnesota Statutes 2004, section 518.1705, subdivision 4, is amended to read:

Subd. 4. [CUSTODY DESIGNATION.] A final judgment and decree that includes a parenting plan using alternate terms to designate decision-making responsibilities or allocation of residential time between the parents must designate whether the parents have joint legal custody or joint physical custody or which parent has sole legal custody or sole physical custody, or both. This designation is solely for enforcement of the final judgment and decree where this designation is required for that enforcement and has no effect under the laws of this state; This designation has no effect under the laws of any other state; or another country that do not require this designation.

Sec. 29. Minnesota Statutes 2004, section 518.191, subdivision 1, is amended to read:

Subdivision 1. [ABBREVIATED JUDGMENT AND DECREE.] If real estate is described in a judgment and decree of dissolution, the court may direct either of the parties or their legal counsel to prepare and submit to the court a proposed summary real estate disposition judgment. Upon approval by the court and filing of the summary real estate disposition judgment with the court administrator, the court administrator ~~shall~~ must provide to any party upon request certified copies of the summary real estate disposition judgment.

Sec. 30. Minnesota Statutes 2004, section 518.195, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] A couple qualifying under all of the criteria in subdivision 1, may obtain a judgment and decree by:

(1) filing a sworn joint declaration, on which both of their signatures must be notarized, containing or appending the following information:

- (i) the demographic data required in section 518.10;
- (ii) verifying the qualifications set forth in subdivision 1;
- (iii) listing each party's nonmarital property;
- (iv) setting forth how the marital assets and debts will be apportioned;
- (v) verifying both parties' income and preserving their rights to spousal maintenance; and
- (vi) certifying that there has been no domestic abuse of one party by the other; and

(2) viewing any introductory and summary process educational videotapes, if then available from the court, and certifying that they watched any such tapes within the 30 days preceding the filing of the joint declaration.

The district court administrator ~~shall~~ must enter a decree of dissolution 30 days after the filing of the joint declaration if the parties meet the statutory qualifications and have complied with the procedural requirements of this subdivision.

Sec. 31. Minnesota Statutes 2004, section 518.195, subdivision 3, is amended to read:

Subd. 3. [FORMS.] The state court administrator ~~shall~~ must develop simplified forms and instructions for the summary process. District court administrators ~~shall~~ must make the forms for the summary process available upon request and ~~shall~~ must accept joint declarations for filing ~~on and after July 1, 1997.~~

Sec. 32. Minnesota Statutes 2004, section 518.24, is amended to read:

518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

~~In all cases when~~ If maintenance ~~or support~~ payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or ~~upon~~ failure to pay the maintenance ~~or support~~, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the maintenance ~~or support~~ order. A ~~child support or~~ maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 518.617, or chapter 588.

Sec. 33. Minnesota Statutes 2004, section 518.25, is amended to read:

518.25 [REMARRIAGE; REVOCATION.]

~~When a dissolution has been granted, and the parties afterward intermarry~~ If two people remarry each other after dissolution of their prior marriage, the court, upon their joint application, and ~~upon~~ such satisfactory proof of ~~such~~ the marriage, may revoke all decrees and orders of dissolution, maintenance, and subsistence ~~which will that do~~ not affect the rights of third persons.

Sec. 34. Minnesota Statutes 2004, section 518.27, is amended to read:

518.27 [NAME OF PARTY.]

Except as provided in section 259.13, in the final decree of dissolution or legal separation the court ~~shall~~ must, if requested by a party, change the name of that party to another name as the party requests. The court ~~shall~~ must grant a request unless it finds that there is an intent to defraud or mislead, unless the name change is subject to section 259.13, in which case the requirements of that section apply. The court ~~shall~~ must notify the parties that use of a different surname after dissolution or legal separation without complying with section 259.13, if applicable, is a gross misdemeanor. The party's new name ~~shall~~ must be so designated in the final decree.

Sec. 35. Minnesota Statutes 2004, section 518.54, subdivision 1, is amended to read:

Subdivision 1. [TERMS SCOPE.] ~~For the purposes of sections 518.54 to 518.66, the terms defined~~ The definitions in this section shall have the meanings respectively ascribed to them apply to sections 517A.31 to 517A.41.

Sec. 36. Minnesota Statutes 2004, section 518.54, subdivision 5, is amended to read:

Subd. 5. [MARITAL PROPERTY; EXCEPTIONS.] "Marital property" means ~~property,~~ real or personal property, including vested public or private pension plan benefits or rights, acquired by one or both of the parties, ~~or either of them,~~ to a dissolution, legal separation, or annulment proceeding at any time during the existence of the

marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before the valuation date is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse ~~shall be~~ is deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest ~~shall~~ must be determined and made final by the court pursuant to section 518.58. If a title interest in real property is held individually by only one spouse, the interest in the real property of the nontitled spouse is not subject to claims of creditors or judgment or tax liens until the time of entry of the decree awarding an interest to the nontitled spouse. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which:

(a) (1) is acquired as a gift, bequest, devise, or inheritance made by a third party to one but not to the other spouse;

(b) (2) is acquired before the marriage;

(c) (3) is acquired in exchange for or is the increase in value of property which is described in ~~clauses (a), (b), (d), and (e)~~ clause (1), (2), (4), or (5);

(d) (4) is acquired by a spouse after the valuation date; or

(e) (5) is excluded by a valid antenuptial contract.

Sec. 37. Minnesota Statutes 2004, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, unemployment benefits, and annuity, military ~~and~~ or naval retirement, pension ~~and~~ or disability payments. "Income" does not include benefits received under Title IV-A of the Social Security Act ~~and or chapter 256J are not income under this section.~~

Sec. 38. Minnesota Statutes 2004, section 518.54, subdivision 7, is amended to read:

Subd. 7. [OBLIGEE.] "Obligee" means a person to whom payments for maintenance ~~or support~~ are owed.

Sec. 39. Minnesota Statutes 2004, section 518.54, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to pay maintenance ~~or support~~. ~~A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support under section 518.551 unless the court makes specific written findings to overcome this presumption.~~

Sec. 40. Minnesota Statutes 2004, section 518.55, is amended to read:

518.55 [MAINTENANCE OR SUPPORT MONEY.]

Subdivision 1. [CONTENTS OF ORDER.] Every award of maintenance or support money in a judgment of dissolution or legal separation ~~shall~~ must clearly designate whether ~~the same it~~ it is maintenance or support money, or what part of the award is maintenance and what part is support money. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the parent with whom the child does not reside is presumed to be support money, unless otherwise designated by the court. In a judgment of dissolution or legal separation the court may determine, as one of the issues of the case, whether or not either spouse is entitled to an award of maintenance notwithstanding that no award is then made, or it may reserve jurisdiction of the issue of maintenance for determination at a later date.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] Every obligor ~~shall~~ must notify the obligee and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change. Every order for ~~support or~~ maintenance must contain a conspicuous notice complying with section ~~518.68, subdivision 2~~ 517C.99. The court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.

Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public authority or a party may request the district court to determine a controlling order in situations in which more than one order involving the same obligor and child exists.

Sec. 41. Minnesota Statutes 2004, section 518.552, is amended to read:

518.552 [MAINTENANCE.]

Subdivision 1. [JURISDICTION; GROUNDS.] In a proceeding for dissolution of marriage or legal separation, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse and which has since acquired jurisdiction, the court may grant a maintenance order for either spouse if it finds that the spouse seeking maintenance:

~~(a)~~ (1) lacks sufficient property, including marital property apportioned to the spouse, to provide for reasonable needs of the spouse considering the standard of living established during the marriage, especially, but not limited to, a period of training or education; or

~~(b)~~ (2) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment; ~~or is the custodian of~~

(3) if a child whose resides with the spouse and the child's condition or circumstances make it appropriate that the ~~custodian~~ spouse not be required to seek employment outside the home.

Subd. 2. [AMOUNT; DURATION.] The maintenance order ~~shall~~ must be in amounts and for periods ~~of time~~, either temporary or permanent, ~~as that~~ the court deems just, without regard to marital misconduct; and after considering all relevant factors including:

~~(a)~~ (1) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as ~~custodian~~ caretaker;

(b) (2) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party's age and skills, of completing education or training and becoming fully or partially self-supporting;

(c) (3) the standard of living established during the marriage;

(d) (4) the duration of the marriage and, in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;

(e) (5) the loss of earnings, seniority, retirement benefits, and other employment opportunities forgone by the spouse seeking ~~spousal~~ maintenance;

(f) (6) the age; and the physical and emotional condition of the spouse seeking maintenance;

(g) (7) the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance; and

(h) (8) the contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker or in furtherance of the other party's employment or business.

Subd. 3. [PERMANENCY OF AWARD.] ~~Nothing in~~ This section ~~shall~~ must not be construed to favor a temporary award of maintenance over a permanent award, ~~where if~~ the factors under subdivision 2 justify a permanent award.

~~Where~~ If there is some uncertainty as to the necessity of a permanent award, the court ~~shall~~ must order a permanent award leaving its order open for later modification.

Subd. 4. [REOPENING MAINTENANCE AWARDS.] Section 518.145, subdivision 2, applies to maintenance awards ~~of spousal maintenance~~.

Subd. 5. [PRIVATE AGREEMENTS.] The parties may expressly preclude or limit modification of maintenance through a stipulation; if the court makes specific findings that the stipulation is fair ~~and~~ equitable, ~~is~~ and supported by consideration described in the findings; and that full disclosure of each party's financial circumstances has occurred. The stipulation must be made a part of the judgment and decree.

Sec. 42. Minnesota Statutes 2004, section 518.58, is amended to read:

518.58 [DIVISION OF MARITAL PROPERTY.]

Subdivision 1. [GENERAL.] Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court ~~shall~~ must make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court ~~shall~~ must base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court ~~shall~~ must also consider the contribution of each in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It ~~shall be~~ is conclusively presumed that each spouse made a substantial

contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court ~~shall~~ must value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties; or ~~unless~~ the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution.

Subd. 1a. [TRANSFER, ENCUMBRANCE, CONCEALMENT, OR DISPOSITION OF MARITAL ASSETS.] In contemplation of commencing or during the pendency of a marriage dissolution, separation, or annulment proceeding, ~~or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding,~~ each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court ~~shall~~ must compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. Use of a power of attorney, or the absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.

Subd. 2. [AWARD OF NONMARITAL PROPERTY.] If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5, are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.54, subdivision 5, clauses ~~(a) (1) to (d) (4)~~, to prevent the unfair hardship. If the court apportions property other than marital property, it ~~shall~~ must make findings in support of the apportionment. The findings ~~shall~~ must be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

Subd. 3. [SALE OR DISTRIBUTION WHILE PROCEEDING PENDING.] (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, ~~shall~~ must divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties, ~~provided that as long as~~ the court ~~shall~~ fully protect ~~protects~~ the interests of the other party.

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:



- (1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;
- (2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;
- (3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;
- (4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and
- (5) in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) ~~The An~~ individual retirement account ~~plans plan~~ established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 43. Minnesota Statutes 2004, section 518.581, is amended to read:

518.581 [SURVIVING SPOUSE BENEFIT.]

Subdivision 1. [AWARD OF BENEFIT.] If a current or former employee's marriage is dissolved, the court may order the employee, the employee's pension plan, or both, to pay amounts as part of the division of pension rights that the court may make under section 518.58, or as an award of maintenance in the form of a percentage of periodic or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a former spouse all or part of a survivor benefit unless the plan does not allow by law the payment of a surviving spouse benefit to a former spouse.

Subd. 2. [PAYMENT OF FUNDS BY RETIREMENT PLAN.] (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan; or to provide survivor benefits ordered by the court.

(b) The court may not order the pension plan to:

- (1) pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit;
- (2) pay surviving spouse benefits under circumstances where the plan member does not have a right to elect surviving spouse benefits;
- (3) pay surviving spouse benefits to a former spouse if the former spouse would not be eligible for benefits under the terms of the plan; or

(4) ~~order~~ pay survivor benefits which, when combined with the annuity or benefit payable to the pension plan member, exceed the actuarial equivalent value of the normal retirement annuity form, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan.

(c) If more than one spouse or former spouse is entitled to a surviving spouse benefit, the pension plan ~~shall~~ must pay each spouse a portion of the benefit based on the ratio of the number of years the spouse was married to the plan member to the total number of years the plan member was married to spouses who are entitled to the benefit.

Subd. 3. [NOTICE TO FORMER SPOUSE.] A pension plan ~~shall~~ must notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

- (1) a copy of the court order, including a withholding order, determining the former spouse's rights;
- (2) the name and last known address of the employee; and
- (3) the name and address of the former spouse.

A pension plan ~~shall~~ must comply with an order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, if the order states the name, last known address of the payees, and name and address of the former spouse, or if the names and addresses are provided to the pension plan with service of the order.

Subd. 4. [DEFINITIONS.] ~~For purposes of The definitions in this subdivision apply to this section, the following terms have the meanings given in this subdivision.~~

- (a) "Current or former employee" or "employee" means an individual who has an interest in a pension plan.
- (b) "Surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the pension plan if the employee dies before retirement, or (2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the pension plan upon the death of the employee after retirement.

Sec. 44. Minnesota Statutes 2004, section 518.582, is amended to read:

518.582 [PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.]

Subdivision 1. [APPOINTMENT OF ACTUARY.] ~~Each~~ A court of this state ~~that has~~ with jurisdiction to decide marriage dissolution matters may appoint a qualified person experienced in the valuation of pension benefits and rights to function as an expert witness in valuing pension benefits or rights.

Subd. 2. [STANDARDS.] (a) A court-appointed actuary ~~shall~~ must determine the present value of pension benefits or rights that are marital property of the parties to the action:

(1) based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable; or

(2) as specified by the court.

(b) The court-appointed actuary ~~shall~~ must report to the court and to the parties the present value of the pension benefits or rights that are marital property.

Subd. 3. [COMPENSATION.] The court-appointed actuary may be compensated at a rate established by the court. The compensation of the court appointed actuary ~~shall~~ must be allocated between the parties as the court directs.

Subd. 4. [STIPULATION.] In lieu of valuing pension benefits or rights through use of the court-appointed actuary, the parties may stipulate the present value of pension benefits or rights that are marital property.

Sec. 45. Minnesota Statutes 2004, section 518.62, is amended to read:

518.62 [TEMPORARY ORDER; MAINTENANCE; HOMESTEAD.]

Temporary maintenance ~~and temporary support~~ may be awarded as provided in section 518.131. The court may also award to either party to the proceeding, having due regard to all the circumstances and the party awarded the custody of the children, the right to the exclusive use of the household goods and furniture of the parties pending the proceeding and the right to the use of the homestead of the parties, exclusive or otherwise, pending the proceeding. The court may order either party to remove from the homestead of the parties upon proper application to the court for an order pending the proceeding.

Sec. 46. Minnesota Statutes 2004, section 518.64, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] (a) After an order for temporary or permanent maintenance or support money, ~~temporary or permanent~~, or for the appointment of trustees to receive property awarded as maintenance ~~or support money~~, the court may from time to time, on motion of either of the parties, either party or the public authority responsible for support enforcement may move for modification. A copy of ~~which is a motion by a party must be served on the public authority responsible for child support enforcement if payments are made through it, or on motion of the public authority responsible for support enforcement.~~

(b) The court may:

(1) modify the order respecting the amount of maintenance ~~or support money~~, and the its payment of it, ~~and also respecting the or~~ appropriation and payment of the principal and income of property held in trust; ~~and may~~

(2) make an order respecting these matters which it might have made in the original proceeding, ~~except as herein otherwise provided~~ subject to subdivisions 2 and 3.

(c) A party or the public authority also may bring a motion for contempt of court if the obligor is in arrears in ~~support or~~ maintenance payments.

Sec. 47. Minnesota Statutes 2004, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance ~~or support~~ may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party ~~or the child or children that are the subject of these proceedings~~; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

~~On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.~~

~~(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:~~

~~(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;~~

~~(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the obligee;~~

~~(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or~~

~~(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.~~

~~(e) (b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall must apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:~~

~~(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and~~

~~(2) shall not consider compensation received by a party for employment in excess of a 40 hour work week, provided that the party demonstrates, and the court finds, that:~~

~~(i) the excess employment began after entry of the existing support order;~~

~~(ii) the excess employment is voluntary and not a condition of employment;~~

~~(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;~~

~~(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;~~

~~(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and~~

~~(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.~~

~~(d) (c) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:~~

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought;

(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay; or

(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court shall consider whether and when a request was made to the public authority for support modification.

~~The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.~~

~~(e)~~ (d) Except for an award of the right of occupancy of the homestead, ~~provided in~~ under section 518.63, all divisions of real and personal property provided by section 518.58 ~~shall be~~ are final, and may be revoked or modified only ~~where~~ if the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support ~~money~~, or may sequester the property ~~as is provided by~~ under section 518.24.

~~(f)~~ (e) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

~~(g)~~ (f) Section 518.14 ~~shall govern~~ governs the award of attorney fees for motions brought under this subdivision.

Sec. 48. Minnesota Statutes 2004, section 518.641, is amended to read:

518.641 [COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE ~~OR CHILD SUPPORT ORDER.~~]

Subdivision 1. [REQUIREMENT.] (a) An order establishing, modifying, or enforcing maintenance ~~or child support~~ shall ~~must~~ provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment ~~shall~~ must specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment ~~shall become~~ becomes effective. The court may use the Consumer Price Index for all urban consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the Department of Labor which it specifically finds is more appropriate. Cost-of-living increases under this section ~~shall~~ must be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

(b) The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two

years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for a cost-of-living adjustment or that the order for maintenance ~~or child support~~ has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. ~~The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.~~ Notice of this statute must comply with section 518.68, subdivision 2.

Subd. 2. [NOTICE.] No adjustment under this section may be made unless the order provides for it and the notice provisions of this subdivision are followed. The public authority or the obligee, if the obligee is requesting the cost-of-living adjustment, ~~sends~~ must send notice of the intended adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice ~~shall~~ must inform the obligor of the date on which the adjustment ~~will become~~ becomes effective and the procedures for contesting the adjustment.

Subd. 2a. [PROCEDURES FOR CONTESTING ADJUSTMENT.] (a) To contest cost-of-living adjustments initiated by the public authority or an obligee who has applied for or is receiving ~~child support and~~ maintenance collection services from the public authority, other than income withholding only services, the obligor, before the effective date of the adjustment, must:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the public authority and the obligee.

The hearing ~~shall~~ must take place in the expedited child support process as governed by section 484.702.

(b) To contest cost-of-living adjustments initiated by an obligee who is not receiving ~~child support and~~ maintenance collection services from the public authority, or ~~for~~ by an obligee who receives income withholding only services from the public authority, the obligor must, before the effective date of the adjustment:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the obligee.

The hearing ~~shall~~ must take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-living adjustment ~~shall~~ must be stayed pending further order of the court.

(d) The court administrator ~~shall~~ must make available pro se motion forms for contesting a cost-of-living adjustment under this subdivision.

Subd. 3. [RESULT OF HEARING.] If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance ~~or child support~~ obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment ~~shall~~ must take effect as of the date it would have become effective had no hearing been requested.

Sec. 49. Minnesota Statutes 2004, section 518.642, is amended to read:

518.642 [OVERPAYMENTS.]

If ~~child support or~~ maintenance is not assigned under section 256.741, and an obligor has overpaid a ~~child support or~~ maintenance obligation because of a modification or error in the amount owed, the public authority ~~shall~~ must:

(1) apply the amount of the overpayment to reduce the amount of any ~~child support or~~ maintenance-related arrearages or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of any arrearage or debt, reduce the amount of the ~~child support maintenance~~ remitted to the obligee by an amount no greater than 20 percent of the current monthly ~~support or~~ maintenance obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 50. Minnesota Statutes 2004, section 518.646, is amended to read:

518.646 [NOTICE OF ORDER.]

~~Whenever these laws require~~ If a law requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu ~~thereof of the order~~. The verified notice ~~shall~~ must contain the title of the action, the name of the court, the court file number, the date of the court order, and ~~shall recite~~ the operative provisions of the order.

Sec. 51. Minnesota Statutes 2004, section 518.65, is amended to read:

518.65 [PROPERTY; SALE, PARTITION.]

In order to effect a division or award of property ~~as is provided by~~ under section 518.58, the court may order property sold or partitioned. Personal property may be ordered sold in the manner directed by the court; and real estate may be partitioned in the manner provided by Minnesota Statutes 1949, chapter 558.

Sec. 52. Minnesota Statutes 2004, section 518.68, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in ~~subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child~~ section 517C.99.

Sec. 53. [REVISOR'S INSTRUCTION.]

The revisor of statutes must renumber the sections in Minnesota Statutes listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

<u>A</u>	<u>B</u>
<u>518.002</u>	<u>517A.02, subd. 5</u>
<u>518.003</u>	<u>517A.01</u>
<u>518.005</u>	<u>517A.02</u>

<u>518.01</u>	<u>517A.07</u>
<u>518.02</u>	<u>517A.08</u>
<u>518.03</u>	<u>517A.09</u>
<u>518.04</u>	<u>517A.10</u>
<u>518.05</u>	<u>517A.11</u>
<u>518.055</u>	<u>517A.12</u>
<u>518.06</u>	<u>517A.15</u>
<u>518.07</u>	<u>517A.16</u>
<u>518.09</u>	<u>517A.18</u>
<u>518.091</u>	<u>517A.19</u>
<u>518.10</u>	<u>517A.20</u>
<u>518.11</u>	<u>517A.22</u>
<u>518.12</u>	<u>517A.23</u>
<u>518.13</u>	<u>517A.24</u>
<u>518.131</u>	<u>517A.03</u>
<u>518.14, subd. 1</u>	<u>517A.04</u>
<u>518.145</u>	<u>517A.28</u>
<u>518.146</u>	<u>517A.21</u>
<u>518.148</u>	<u>517A.26</u>
<u>518.191</u>	<u>517A.27</u>
<u>518.195</u>	<u>517A.17</u>
<u>518.25</u>	<u>517A.30</u>
<u>518.27</u>	<u>517A.25</u>
<u>518.54, subd. 1</u>	<u>517A.31, subd. 1</u>
<u>518.54, subd. 2a</u>	<u>517A.31, subd. 2</u>
<u>518.54, subd. 2b</u>	<u>517A.31, subd. 3</u>
<u>518.54, subd. 3</u>	<u>517A.31, subd. 4</u>
<u>518.54, subd. 4</u>	<u>517A.31, subd. 5</u>
<u>518.54, subd. 5</u>	<u>517A.31, subd. 6</u>
<u>518.54, subd. 6</u>	<u>517A.31, subd. 7</u>
<u>518.54, subd. 7</u>	<u>517A.31, subd. 8</u>
<u>518.54, subd. 8</u>	<u>517A.31, subd. 9</u>
<u>518.54, subd. 9</u>	<u>517A.31, subd. 10</u>
<u>518.54, subd. 10</u>	<u>517A.31, subd. 11</u>
<u>518.54, subd. 11</u>	<u>517A.31, subd. 12</u>
<u>518.54, subd. 12</u>	<u>517A.31, subd. 13</u>
<u>518.55, subd. 1</u>	<u>517A.32, subd. 4</u>
<u>518.55, subd. 3</u>	<u>517A.32, subd. 5</u>
<u>518.552, subd. 1</u>	<u>517A.32, subd. 1</u>
<u>518.552, subd. 2</u>	<u>517A.32, subd. 2</u>
<u>518.552, subd. 3</u>	<u>517A.32, subd. 3</u>
<u>518.552, subd. 4</u>	<u>517A.32, subd. 6</u>
<u>518.552, subd. 5</u>	<u>517A.32, subd. 7</u>
<u>518.58</u>	<u>517A.37</u>
<u>518.581</u>	<u>517A.39</u>
<u>518.582</u>	<u>517A.40</u>
<u>518.63</u>	<u>517A.41</u>
<u>518.64, subd. 1</u>	<u>517A.34, subd. 1</u>
<u>518.64, subd. 2</u>	<u>517A.34, subd. 2</u>
<u>518.64, subd. 3</u>	<u>517A.32, subd. 8</u>
<u>518.641, subd. 1</u>	<u>517A.33, subd. 1</u>



<u>518.641, subd. 2</u>	<u>517A.33, subd. 2</u>
<u>518.641, subd. 2a</u>	<u>517A.33, subd. 3</u>
<u>518.641, subd. 3</u>	<u>517A.43, subd. 4</u>
<u>518.642</u>	<u>517A.35</u>
<u>518.646</u>	<u>517A.05</u>
<u>518.65</u>	<u>517A.38</u>

Sec. 54. [REPEALER.]

Minnesota Statutes 2004, sections 518.14, subdivision 2; 518.24; 518.55, subdivision 4; 518.62; 518.64, subdivisions 4, 4a, and 5; and 518.68, are repealed.

## ARTICLE 2

### CUSTODY, PARENTING TIME, AND VISITATION GENERAL

Section 1. [517B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Sec. 2. [517B.03] [TEMPORARY ORDERS RELATING TO CUSTODY AND PARENTING TIME.]

(a) A temporary order for custody or parenting time may be sought under section 517A.03.

(b) A party seeking a temporary custody order must submit with moving papers an affidavit setting forth facts supporting the requested order. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.

Sec. 3. [517B.04] [CUSTODY, PARENTING TIME, AND VISITATION NOTICES.]

A court order or judgment and decree concerning custody of or parenting time with a minor child must contain the notice set out in section 517C.99, subdivision 3.

Sec. 4. [517B.05] [ATTORNEY FEES, COSTS, AND DISBURSEMENTS.]

Attorney fees, costs, and disbursements must be awarded in a proceeding under this chapter as provided by section 517A.04.

Sec. 5. [517B.17] [CUSTODY OF CHILDREN.]

Subdivision 1. [CUSTODY ORDER.] Upon adjudging the nullity of a marriage, in a dissolution or legal separation proceeding, or in a child custody proceeding, the court must make a further order as it deems just and proper concerning:

(1) the legal custody of each minor child of the parties, which must be sole or joint; and

(2) their physical custody and residence.

Subd. 2. [STANDARD; PREFERENCE PROHIBITED.] In determining custody, the court must consider the best interests of the child and must not prefer one parent over the other solely on the basis of the sex of the parent.

Subd. 3. [THE BEST INTERESTS OF THE CHILD; FACTORS.] "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

- (1) the wishes of the child's parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a parent or the child is not determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;
- (11) the child's cultural background;
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent;
- (13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child; and
- (14) evidence of a violation of section 609.507.

Subd. 4. [BEST INTERESTS DETERMINATION.] The court must make detailed findings on each of the factors in subdivision 3 and explain how the factors led to its conclusion and to the determination of the best interests of the child. In determining the best interests of a child, the court may not use one factor in subdivision 3 to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court shall not consider conduct of a parent that does not affect the parent's relationship to the child.

## Sec. 6. [517B.18] [JOINT CUSTODY.]

Subdivision 1. [FACTORS WHEN JOINT CUSTODY IS SOUGHT.] In addition to the factors listed in section 517B.17, if either joint legal or joint physical custody is sought, the court must consider the following relevant factors:

- (1) the ability of parents to cooperate in the rearing of their child;
- (2) methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods;
- (3) whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and
- (4) whether domestic abuse, as defined in section 518B.01, has occurred between the parents.

Subd. 2. [PRESUMPTIONS; FINDINGS.] (a) The court must use a rebuttable presumption that, upon request of either or both parents, joint legal custody is in the best interests of the child. However, the court must use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.

(b) If the court awards joint legal or physical custody over the objection of a parent, the court must make detailed findings on each of the factors in this section and explain how the factors led to its determination that joint custody would be in the best interests of the child.

Subd. 3. [JOINT CUSTODY; SUPPORT GUIDELINES.] An award of joint legal custody is not a reason for departure from the child support guidelines in sections 517C.12 to 517C.16.

## Sec. 7. [517B.19] [CUSTODY; ACCESS RIGHTS OF PARENTS; LIMITATIONS.]

(a) Whether sole or joint legal custody is ordered, the court must grant the following rights to each of the parties, unless specific findings are made under section 517C.99, subdivision 1. Each party:

- (1) has the right of access to, and to receive copies of, a minor child's school, medical, dental, religious training, and other important records and information;
- (2) has the right of access to information regarding health or dental insurance available to a minor child;
- (3) must keep the other party informed as to the name and address of the school a minor child attends;
- (4) must notify the other party of any accident or serious illness of a minor child, the name of the health care provider, and the place of treatment; and
- (5) has the right to reasonable access and telephone contact with a minor child.

(b) Each party has the right to be informed by school officials about a child's welfare, educational progress, and status and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party.

(c) The court may waive any of the rights under this section if it finds it is necessary to protect the welfare of a party or child.

Sec. 8. Minnesota Statutes 2004, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) ~~Wherever used in this chapter, the term~~ "Custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 9. Minnesota Statutes 2004, section 518.155, is amended to read:

518.155 [CUSTODY DETERMINATIONS AND PARENTING TIME JURISDICTION.]

Notwithstanding any law to the contrary, a court in which a proceeding for dissolution, legal separation, or child custody has been commenced ~~shall~~ must not issue, revise, modify or amend any order, pursuant to ~~sections 518.131, 518.165, 518.168, 518.17, 518.175 or 518.18, which~~ section 517B.03, 517B.08, 517B.16, 517B.21, or 517B.25, that affects the custody of a minor child or the parenting time of a parent unless the court has jurisdiction over the matter ~~pursuant to the provisions of under~~ chapter 518D.

Sec. 10. Minnesota Statutes 2004, section 518.156, is amended to read:

518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. [PROCEDURE.] In a court of this state ~~which~~ that has jurisdiction to decide child custody matters, a child custody proceeding is commenced by a parent:

(1) by filing a petition for dissolution or legal separation; or

(2) ~~where~~ if a decree of dissolution or legal separation has been entered or where none is sought, or ~~when~~ if paternity has been recognized under section 257.75, by filing a petition or motion seeking custody or parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered.

Subd. 2. [REQUIRED NOTICE.] Written notice of a child custody or parenting time or visitation proceeding ~~shall~~ must be given to the child's parent, guardian, and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 11. Minnesota Statutes 2004, section 518.157, subdivision 1, is amended to read:

Subdivision 1. [IMPLEMENTATION; ADMINISTRATION.] ~~By January 1, 1998,~~ The chief judge of each judicial district or a designee ~~shall~~ must implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing parenting time conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

Sec. 12. Minnesota Statutes 2004, section 518.157, subdivision 2, is amended to read:

Subd. 2. [MINIMUM STANDARDS; PLAN.] The Minnesota Supreme Court should promulgate minimum standards for the implementation and administration of a parent education program. The chief judge of each judicial district or a designee ~~shall~~ must submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota Supreme Court.

Sec. 13. Minnesota Statutes 2004, section 518.157, subdivision 3, is amended to read:

Subd. 3. [ATTENDANCE.] In a proceeding under this chapter where custody or parenting time is contested, the parents of a minor child ~~shall~~ must attend a minimum of eight hours in an orientation and education program that meets the minimum standards promulgated by the Minnesota Supreme Court. In all other proceedings involving custody, support, or parenting time the court may order the parents of a minor child to attend a parent education program. The program ~~shall~~ must provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or parenting time proceeding may attend a parent education program without a court order. Unless otherwise ordered by the court, participation in a parent education program must begin within 30 days after the first filing with the court or as soon as practicable after that time based on the reasonable availability of classes for the program for the parent. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court ~~shall~~ must not require the parties to attend the same parent education sessions and ~~shall~~ must enter an order setting forth the manner in which the parties may safely participate in the program.

Sec. 14. Minnesota Statutes 2004, section 518.157, subdivision 5, is amended to read:

Subd. 5. [CONFIDENTIALITY.] Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors ~~shall~~ must not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

Sec. 15. Minnesota Statutes 2004, section 518.157, subdivision 6, is amended to read:

Subd. 6. [FEE.] Except as provided in this subdivision, each person who attends a parent education program ~~shall~~ must pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under section 563.01 is exempt from paying the parent education program fee, and the court ~~shall~~ must waive the fee or direct its payment under section 563.01. Program providers shall implement a sliding fee scale.

Sec. 16. Minnesota Statutes 2004, section 518.165, is amended to read:

518.165 [GUARDIANS FOR MINOR CHILDREN.]

Subdivision 1. [PERMISSIVE APPOINTMENT OF GUARDIAN AD LITEM.] In all proceedings for child custody or for dissolution or legal separation where custody or parenting time with a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem ~~shall~~ must advise the court with respect to custody, support, and parenting time.

Subd. 2. [REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.] The court must appoint a guardian ad litem in all proceedings for child custody or for marriage dissolution or legal separation in which custody or parenting time with a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007 and 626.556, respectively, ~~the court shall appoint a guardian ad litem~~. The guardian ad litem ~~shall~~ must represent the interests of the child and advise the court with respect to custody, support, and parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Subd. 2a. [RESPONSIBILITIES OF GUARDIAN AD LITEM.] A guardian ad litem ~~shall~~ must carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

Subd. 3. [FEES.] (a) A guardian ad litem appointed under either subdivision 1 or 2 may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court ~~shall~~ must enter an order for costs, fees, and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable

of paying ~~shall~~ must be borne by the state courts. The costs of court-appointed counsel to the guardian ad litem ~~shall~~ must be paid by the county in which the proceeding is being held if a party is incapable of paying for them. Until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented, the costs of court-appointed counsel to a guardian ad litem in the Eighth Judicial District ~~shall~~ must be paid by the state courts if a party is incapable of paying for them. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

(b) In each fiscal year, the commissioner of finance ~~shall~~ must deposit guardian ad litem reimbursements in the general fund and credit them to a separate account with the trial courts. The balance of this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator's office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district.

Sec. 17. Minnesota Statutes 2004, section 518.166, is amended to read:

518.166 [INTERVIEWS; RECOMMENDATIONS.]

The court may interview the child in chambers to ascertain the child's reasonable preference ~~as to custodian~~ regarding with which parent the child would reside, if the court deems the child to be of sufficient age to express preference. The court ~~shall~~ must permit counsel to be present at the interview and ~~shall~~ must permit counsel to propound reasonable questions to the child either directly or through the court. The court ~~shall~~ must cause a record of the interview to be made and to be made part of the record in the case unless waived by the parties.

In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may seek the recommendations of professional personnel whether or not they are employed on a regular basis by the court. The recommendations ~~given shall~~ must be in writing and ~~shall~~ must be made available by the court to counsel upon request. Counsel may call for cross-examination of professional personnel consulted by the court.

Sec. 18. Minnesota Statutes 2004, section 518.167, subdivision 3, is amended to read:

Subd. 3. [AVAILABILITY TO COUNSEL.] The court ~~shall~~ must mail the investigator's report to counsel and to any party not represented by counsel at least ten days before the hearing. The investigator ~~shall~~ must maintain and, upon request, make available to counsel and to a party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subdivision 2, and the names and addresses of all persons whom the investigator has consulted. ~~The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the right of cross-examination before the hearing.~~

Sec. 19. Minnesota Statutes 2004, section 518.167, subdivision 4, is amended to read:

Subd. 4. [USE AT DISCOVERY; HEARING.] The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may cross-examine at the hearing the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination before the hearing. The investigator's report may be received in evidence at the hearing.

Sec. 20. Minnesota Statutes 2004, section 518.167, subdivision 5, is amended to read:

Subd. 5. [COSTS.] The court ~~shall~~ must order all or part of the cost of the investigation and report to be paid by either or both parties, based on their ability to pay. Any part of the cost that the court finds the parties are incapable of paying must be borne by the ~~county welfare~~ local social services agency or department of court services that performs the investigation. The court may not order costs under this subdivision to be paid by a party receiving public assistance or legal assistance from a qualified legal services program or by a party whose annual income falls below the poverty line under United States Code, title 42, section 9902(2).

Sec. 21. Minnesota Statutes 2004, section 518.168, is amended to read:

518.168 [HEARINGS.]

(a) Custody proceedings ~~shall~~ must receive priority in being set for hearing.

(b) The court may tax as costs the payment of necessary travel and other expenses incurred by a person whose presence at the hearing the court deems necessary to determine the best interests of the child.

(c) The court without a jury ~~shall~~ must determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct interest in the particular case.

(d) If the court finds it necessary for the protection of the child's welfare that the record of an interview, report, investigation, or testimony in a custody proceeding not be ~~kept secret~~ disclosed, the court may make an appropriate order sealing the record.

Sec. 22. Minnesota Statutes 2004, section 518.1705, subdivision 2, is amended to read:

Subd. 2. [PLAN ELEMENTS.] (a) A parenting plan must include the following:

(1) a schedule of the time each parent spends with the child;

(2) a designation of decision-making responsibilities regarding the child; and

(3) a method of dispute resolution.

(b) A parenting plan may include other issues and matters the parents agree to regarding the child.

(c) Parents voluntarily agreeing to parenting plans may substitute other terms for physical and legal custody, including designations of joint or sole custody, ~~provided that~~ if the terms used in the substitution are defined in the parenting plan.

Sec. 23. Minnesota Statutes 2004, section 518.1705, subdivision 6, is amended to read:

Subd. 6. [RESTRICTIONS ON PREPARATION AND CONTENT OF PARENTING PLAN.] (a) Dispute resolution processes other than the judicial process may not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In these cases, the court ~~shall~~ must consider the appointment of a guardian ad litem and a parenting plan evaluator.



(b) The court may not require a parenting plan that provides for joint legal custody or use of dispute resolution processes, other than the judicial process, if the court finds that section 518.179 applies, or the court finds that either parent has engaged in the following toward a parent or child who is a party to, or subject of, the matter before the court:

(1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;

(2) physical, sexual, or a pattern of emotional abuse of a child; or

(3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

Sec. 24. Minnesota Statutes 2004, section 518.1705, subdivision 7, is amended to read:

Subd. 7. [MOVING THE CHILD TO ANOTHER STATE.] Parents may agree, but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, will govern a decision concerning removal of a child's residence from this state, ~~provided that if:~~

(1) both parents were represented by counsel when the parenting plan was approved; or

(2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 25. Minnesota Statutes 2004, section 518.1705, subdivision 8, is amended to read:

Subd. 8. [ALLOCATION OF CERTAIN EXPENSES.] (a) Parents creating a parenting plan are subject to the requirements of the child support guidelines under ~~section 518.554~~ sections 517C.12 to 517C.18.

(b) Parents may include in the parenting plan an allocation of expenses for the child. The allocation is an enforceable contract between the parents.

Sec. 26. Minnesota Statutes 2002, section 518.1705, subdivision 9, is amended to read:

Subd. 9. [MODIFICATION OF PARENTING PLANS.] (a) Parents may modify the schedule of the time each parent spends with the child or the decision-making provisions of a parenting plan by agreement. To be enforceable, modifications must be confirmed by court order. A motion to modify decision-making provisions or the time each parent spends with the child may be made only within the time limits provided by section 518.18.

(b) The parties may agree, but the court must not require them, to apply the best interests standard in section 518.17 or 257.025, as applicable, for deciding a motion for modification that would change the child's primary residence, ~~provided that if:~~

(1) both parties were represented by counsel when the parenting plan was approved; or

(2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.

(c) If the parties do not agree to apply the best interests standard, section 518.18, paragraph (d), applies.

Sec. 27. Minnesota Statutes 2004, section 518.175, is amended to read:

518.175 [PARENTING TIME.]

Subdivision 1. [GENERAL.] (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court ~~shall~~ must, upon the request of either parent, grant ~~such~~ parenting time on behalf of the child and a parent ~~as that~~ will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

(b) If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court ~~shall~~ must restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court ~~shall~~ must consider the age of the child and the child's relationship with the parent ~~prior to~~ before the commencement of the proceeding.

(c) A parent's failure to pay support because of the parent's inability to do so ~~shall~~ is not ~~be~~ sufficient cause for denial of parenting time.

~~(b)~~ (d) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

~~(c)~~ (e) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

~~(d)~~ (f) The court administrator ~~shall~~ must provide a form for a pro se motion regarding parenting time disputes, which ~~includes~~ must include provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court ~~shall~~ must provide instructions on serving and filing the motion.

Subd. 1a. [DOMESTIC ABUSE; SUPERVISED PARENTING TIME.] (a) If a parent requests supervised parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the other parent to protect the child or the parent with whom the child resides ~~or the child~~, the judge or judicial officer must consider the order for protection in making a decision regarding parenting time.

(b) The state court administrator, in consultation with representatives of parents and other interested persons, ~~shall~~ must develop standards to be met by persons who are responsible for supervising parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise parenting time.

Subd. 2. [RIGHTS OF CHILDREN AND PARENTS.] Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and each parent under the order or decree or any substantial amendment ~~thereof~~ of it. The parent with whom the child resides ~~shall~~ must present the child for parenting time with the other parent, at ~~such~~ the times as the court directs.

Subd. 3. [MOVE TO ANOTHER STATE.] The parent with whom the child resides ~~shall~~ must not move the child's residence ~~of the child~~ to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court ~~shall~~ must not permit the child's residence to be moved to another state.

Subd. 5. [MODIFICATION OF PARENTING PLAN OR ORDER FOR PARENTING TIME.] (a) If modification would serve the best interests of the child, the court ~~shall~~ must modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the child's primary residence. Except as provided in section 631.52, the court may not restrict parenting time unless it finds that:

(1) parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the parent has chronically and unreasonably failed to comply with court-ordered parenting time.

(b) If a parent makes specific allegations that parenting time by the other parent places the parent or child in danger of harm, the court ~~shall~~ must hold a hearing at the earliest possible time to determine the need to modify the order granting parenting time. Consistent with subdivision ~~4~~ 2, the court may require a third party, including the local social services agency, to supervise the parenting time or may restrict a parent's parenting time if necessary to protect the other parent or child from harm. If there is an existing order for protection governing the parties, the court ~~shall~~ must consider the use of an independent, neutral exchange location for parenting time.

Subd. 6. [REMEDIES.] (a) The court may provide for one or more of the following remedies for denial of or interference with court-ordered parenting time as provided under this subdivision. All parenting time orders must include notice of the provisions of this subdivision.

(b) If the court finds that a ~~person~~ parent has been deprived of court-ordered parenting time, the court ~~shall~~ must order the parent who ~~has interfered~~ caused the deprivation to allow compensatory parenting time to the other parent or the court ~~shall~~ must make specific findings as to why a request for compensatory parenting time is denied. If compensatory parenting time is awarded, additional parenting time must be:

(1) at least of the same type and duration as the deprived parenting time and, at the discretion of the court, may be in excess of or of a different type than the deprived parenting time;

(2) taken within one year after the deprived parenting time; and

(3) at a time acceptable to the parent deprived of parenting time.

(c) If the court finds that a party has wrongfully failed to comply with a parenting time order or a binding agreement or decision under section 518.1751, the court may:

(1) impose a civil penalty of up to \$500 on the party;

(2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;

(3) award reasonable attorney's fees and costs;

(4) require the party who violated the parenting time order or binding agreement or decision of the parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order ~~or~~ agreement, or decision; or

(5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied parenting time and has incurred expenses in connection with the denied parenting time, the court may require the party who denied parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with upcoming planned parenting time.

(e) Proof of an unwarranted denial of or interference with duly established parenting time may constitute contempt of court and may be sufficient cause for reversal of custody.

Subd. 8. [ADDITIONAL PARENTING TIME FOR CHILD CARE ~~PARENT.~~] The court may allow additional parenting time to a parent to provide child care while the other parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court ~~shall~~ must consider:

- (1) the ability of the parents to cooperate;
- (2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
- (3) whether domestic abuse, as defined in section 518B.01, has occurred between the parties.

Sec. 28. Minnesota Statutes 2004, section 518.1751, subdivision 1b, is amended to read:

Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a parenting time expeditor is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order and, if appropriate, to make a determination as to whether the existing parenting time order has been violated. A parenting time expeditor may be appointed to resolve a onetime parenting time dispute or to provide ongoing parenting time dispute resolution services. A parenting time expeditor must attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement. If it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor must make a decision resolving the dispute.

(b) For purposes of this section, "parenting time dispute" means a disagreement among parties about parenting time with a child, including a dispute about an anticipated denial of future scheduled parenting time. "Parenting time dispute" includes a claim by a parent that the other parent is not spending time with a child as well as a claim by a parent that the other parent is denying or interfering with parenting time.

(c) A "parenting time expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve parenting time disputes. ~~A parenting time expeditor shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor shall make a decision resolving the dispute.~~

Sec. 29. Minnesota Statutes 2004, section 518.1751, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] (a) The parties may stipulate to the appointment of a parenting time expeditor or a team of two expeditors without appearing in court ~~by submitting.~~ The parties may submit to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the parenting time expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court ~~shall~~ must review the agreement of the parties.

(b) If the parties cannot agree on a parenting time expeditor, the court ~~shall~~ must provide to the parties ~~them~~ with a copy of the court administrator's roster of parenting time expeditors and require the parties to exchange the names of three potential parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a parenting time expeditor, the court ~~shall~~ must select the ~~parenting time~~ expeditor and, in its discretion, may appoint one expeditor or a team of two ~~expeditors~~. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as ~~parenting time~~ expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them.

(c) An order appointing a parenting time expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the expeditor's assistance ~~of the expeditor~~, the expeditor is authorized to make a decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Sec. 30. Minnesota Statutes 2004, section 518.1751, subdivision 2a, is amended to read:

Subd. 2a. [FEES.] ~~Prior to~~ Before appointing the parenting time expeditor, the court ~~shall~~ must give the parties notice that the expeditor's fees ~~of the expeditor~~ will be apportioned among the parties. In its order appointing the expeditor, the court ~~shall~~ must apportion the expeditor's fees ~~of the expeditor~~ among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is not ~~a~~ an existing court order ~~that provides for apportionment of~~ apportioning the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the expeditor's fees ~~of the expeditor~~ in advance. Neither party may be required to submit a dispute to ~~a~~ visitation an expeditor if the party cannot afford to pay for the fees ~~of an expeditor~~ and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Sec. 31. Minnesota Statutes 2004, section 518.1751, subdivision 2b, is amended to read:

Subd. 2b. [ROSTER OF PARENTING TIME EXPEDITORS.] ~~Each~~ The court administrator ~~shall~~ must maintain and make available to judicial officers and the public ~~and judicial officers~~ a roster of individuals available to serve as parenting time expeditors, ~~including~~. The roster must include each individual's name, address, telephone number, and fee charged, if any. A court administrator ~~shall~~ must not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of ~~a parenting time~~ an expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as an expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint ~~a person to serve~~ as an expeditor ~~even if~~ the a person who is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must annually submit to the court administrator proof of completion of continuing education requirements.

Sec. 32. Minnesota Statutes 2004, section 518.1751, subdivision 2c, is amended to read:

Subd. 2c. [TRAINING AND CONTINUING EDUCATION REQUIREMENTS.] To qualify for listing on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota Supreme Court, ~~which~~. The training must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. To ~~maintain one's listing~~ remain listed on a court administrator's roster of parenting time expeditors, an individual ~~shall~~ must annually attend three hours of continuing education about alternative dispute resolution subjects.

Sec. 33. Minnesota Statutes 2004, section 518.1751, subdivision 3, is amended to read:

Subd. 3. [AGREEMENT OR DECISION.] (a) Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting time expeditor ~~shall~~ must meet with the parties together or separately and ~~shall~~ make a diligent effort to facilitate an agreement to resolve the dispute. If a parenting time dispute requires immediate resolution, the ~~parenting time~~ expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor ~~shall~~ must make a decision resolving the dispute as soon as possible, but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. The expeditor is authorized to award compensatory parenting time under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the parenting time order has been violated. The expeditor ~~shall not lose~~ retains the authority to make a decision if circumstances beyond the expeditor's control make it impracticable to meet the five-day timelines.

(c) Unless the parties mutually agree, the parenting time expeditor ~~shall~~ must not make a decision that is inconsistent with an existing parenting time order, but may make decisions interpreting or clarifying a parenting time order, including the development of a specific schedule when the existing court order grants "reasonable parenting time."

(d) The expeditor ~~shall~~ must put an agreement or decision in writing and provide a copy to the parties. The expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court and ~~shall~~ must attach a copy of the parties' written agreement or the decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Sec. 34. Minnesota Statutes 2004, section 518.1752, is amended to read:

518.1752 [GRANDPARENT AND OTHERS; VISITATION.]

~~In all proceedings~~ During a proceeding for dissolution or legal separation, ~~after the commencement of the proceeding~~ or at any time after completion of the proceedings, and continuing during the child's minority ~~of the child~~, the court may make an order granting visitation rights to grandparents ~~under and other individuals as provided by~~ section 257C.08, subdivision 2.

Sec. 35. Minnesota Statutes 2004, section 518.176, is amended to read:

518.176 [JUDICIAL SUPERVISION.]

~~Subdivision 1. [LIMITS ON PARENT'S AUTHORITY; HEARING.] Except as otherwise agreed by the parties in writing at the time of the custody order,~~ (a) The parent with whom the child resides may determine the child's upbringing, including education, health care, and religious training, unless:

(1) otherwise agreed by the parties in writing at the time of the custody order; or

(2) upon motion by the other parent, the court after hearing, finds, ~~upon motion by the other parent~~, that in the absence of a specific limitation of the authority of the parent with whom the child resides, the child's physical or emotional health is likely to be endangered or the child's emotional development impaired.

~~Subd. 2. [COURT ORDER.]~~ (b) If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical or emotional health is likely to be endangered or the child's emotional development impaired, the court may order the local social services agency or the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or parenting time terms of the decree are carried out.

Sec. 36. Minnesota Statutes 2004, section 518.177, is amended to read:

518.177 ~~[NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW REQUIRED NOTICE.]~~

~~Every~~ A court order and judgment and decree concerning custody of or parenting time or visitation with a minor child ~~shall~~ must contain the notice set out in section ~~518.68~~ 517C.99, subdivision 2.

Sec. 37. Minnesota Statutes 2004, section 518.178, is amended to read:

518.178 [PARENTING TIME AND SUPPORT REVIEW HEARING.]

Upon motion of either party, the court ~~shall~~ must conduct a hearing to review compliance with the parenting time and child support provisions ~~set forth~~ in a decree of dissolution or legal separation or an order that establishes child custody, parenting time, and support rights and obligations of parents. The state court administrator ~~shall~~ must prepare, and each court administrator ~~shall~~ must make available, simplified pro se forms for reviewing parenting time and child support disputes. The court may impose any parenting time enforcement remedy available under ~~sections 518.175 and 518.1751~~ this section or section 517B.26, and any support enforcement remedy available under section 518.551.

Sec. 38. Minnesota Statutes 2004, section 518.179, subdivision 1, is amended to read:

Subdivision 1. [SEEKING CUSTODY OR PARENTING TIME.] (a) Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or parenting time who has been convicted of a crime described in subdivision 2, ~~the person seeking custody or parenting time~~ has the burden to prove that custody or parenting time by that person is in the best interests of the child if:

- (1) the conviction occurred within the preceding five years;
- (2) the person is currently incarcerated, on probation, or under supervised release for the offense; or
- (3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

(b) If this section applies, the court may not grant custody or parenting time to the person unless it finds that the custody or parenting time is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Sec. 39. Minnesota Statutes 2004, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, ~~unless agreed to in writing by the parties~~ no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except:

(1) if otherwise agreed to in writing by the parties; or

(2) in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) ~~shall do~~ not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) ~~If the~~ A court that has jurisdiction to determine child custody matters, ~~the court shall~~ must not modify a prior custody order or a parenting plan provision ~~which that~~ specifies the child's primary residence unless it finds, ~~upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order,~~ that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. The court must make its findings upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order. In applying these standards the court ~~shall~~ must retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) (1) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) (2) both parties agree to the modification;

(iii) (3) the child has been integrated into the family of the petitioner with the consent of the other party; or

(iv) (4) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development, and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

~~In addition,~~ (e) A court may modify a custody order or parenting plan under section 631.52.

~~(e)~~ (f) In deciding whether to modify a prior joint custody order, the court ~~shall~~ must apply the standards set forth in paragraph (d) unless:



(1) the parties agree in writing to the application of a different standard; or

(2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

~~(f) If a parent has been granted sole physical custody of a minor and the child subsequently lives with the other parent, and temporary sole physical custody has been approved by the court or by a court appointed referee,~~

(g) The court may suspend the obligor's child support obligation pending ~~the~~ a final custody determination if:

(1) the obligee has been granted sole physical custody of a child;

(2) the child subsequently lives with the obligor; and

(3) a temporary sole custody order has been approved by the court or a court-approved referee.

~~The court's~~ A court order denying the suspension of child support under this paragraph must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

(h) A party seeking modification of a custody order must submit with moving papers an affidavit setting forth facts supporting the requested modification. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.

Sec. 40. Minnesota Statutes 2004, section 518.612, is amended to read:

518.612 [INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.]

~~Failure by a party to make support payments is not a defense to:~~

~~(1) interference with parenting time; or~~

~~(2) without the permission of the court or the other parent, removing a child from this state.~~

~~Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support. If a party fails to make support payments, interferes with parenting time, or removes a child from the state without permission of the court or the other parent, the other party may petition the court for an appropriate order.~~

(a) An obligor may not assert as a defense to failure to pay child support that the obligee interfered with parenting time or removed the child from the state without permission of the obligor or the court.

(b) An obligee may not assert as a defense to interference with parenting time or removing the child from the state without permission of the obligor or the court that the obligor failed to pay child support.

(c) A party may petition the court for an appropriate order if the other party:

(1) fails to make support payments;

(2) interferes with parenting time; or

(3) removes a child from this state without permission of the court or the other parent.

Sec. 41. Minnesota Statutes 2004, section 518.619, is amended to read:

518.619 [CUSTODY OR ~~VISITATION~~ PARENTING TIME; MEDIATION SERVICES.]

Subdivision 1. [MEDIATION PROCEEDING.] Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for ~~the child~~ custody ~~of a child~~ that custody or parenting time is contested, or that any issue pertinent to a custody or parenting time determination, including parenting time rights, is unresolved, the matter may be set for mediation of the contested issue ~~prior to before~~, concurrent with, or ~~subsequent to the after~~ setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony ~~which that~~ may exist between the parties and to develop an agreement that is supportive of the child's best interests. The mediator ~~shall must~~ use best efforts to effect a settlement of the custody or parenting time dispute, but ~~shall have~~ has no coercive authority.

Subd. 2. [EXCEPTION.] If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by ~~the other a~~ party, the court ~~shall must~~ not require or refer the parties to mediation or any other process that requires parties to meet and confer without counsel, if any, present.

Subd. 3. [MEDIATOR APPOINTMENT.] In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. [MEDIATOR QUALIFICATIONS.] A mediator who performs mediation in contested child custody matters ~~shall must~~ meet the following minimum qualifications:

- ~~(a)~~ (1) knowledge of the court system and the procedures used in contested child custody matters;
- ~~(b)~~ (2) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;
- ~~(c)~~ (3) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and
- ~~(d)~~ (4) a minimum of 40 hours of certified mediation training.

Subd. 5. [RECORDS; PRIVATE DATA.] Mediation proceedings ~~shall must~~ be conducted in private. All records of a mediation proceeding ~~shall be are~~ private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before a hearing on the issues. The mediator may not conduct the investigation or evaluation unless: (1) the parties agree in a writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2) there is no other person reasonably available to conduct the investigation or evaluation. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 7. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation ~~shall~~ must be discussed by the parties with their attorneys, if any, ~~and~~. The approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8. [RULES.] Each court ~~shall~~ must adopt rules to implement this section, and ~~shall~~ must compile and maintain a list of mediators.

Sec. 42. Minnesota Statutes 2004, section 519.11, subdivision 1, is amended to read:

Subdivision 1. [ANTENUPTIAL CONTRACT.] A man and woman of legal age may enter into an antenuptial contract or settlement prior to solemnization of marriage which shall be valid and enforceable if (a) there is a full and fair disclosure of the earnings and property of each party, and (b) the parties have had an opportunity to consult with legal counsel of their own choice. An antenuptial contract or settlement made in conformity with this section may determine what rights each party has in the nonmarital property, defined in section 518.54, subdivision 5, clauses ~~(a) (1) to (d) (4)~~, upon dissolution of marriage, legal separation or after its termination by death and may bar each other of all rights in the respective estates not so secured to them by their agreement. This section shall not be construed to make invalid or unenforceable any antenuptial agreement or settlement made and executed in conformity with this section because the agreement or settlement covers or includes marital property, if the agreement or settlement would be valid and enforceable without regard to this section.

Sec. 43. [REVISOR'S INSTRUCTION.]

The revisor of statutes must renumber the sections in Minnesota Statutes listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

<u>A</u>	<u>B</u>
<u>518.003, subd. 2</u>	<u>517B.01, subd. 5</u>
<u>518.003, subd. 3</u>	<u>517B.01, subd. 2</u>
<u>518.003, subd. 4</u>	<u>517B.01, subd. 3</u>
<u>518.003, subd. 5</u>	<u>517B.01, subd. 4</u>
<u>518.155</u>	<u>517B.02</u>
<u>518.156</u>	<u>517B.13</u>
<u>518.157</u>	<u>517B.06</u>
<u>518.165, subd. 1</u>	<u>517B.08, subd. 1</u>
<u>518.165, subd. 2</u>	<u>518B.08, subd. 2</u>
<u>518.165, subd. 2a</u>	<u>517B.08, subd. 3</u>
<u>518.165, subd. 3</u>	<u>517B.08, subd. 4</u>
<u>518.166</u>	<u>517B.14</u>
<u>518.167</u>	<u>517B.15</u>
<u>518.168</u>	<u>517B.16</u>
<u>518.1705</u>	<u>517B.28</u>
<u>518.175, subd. 1</u>	<u>517B.25, subd. 1</u>
<u>518.175, subd. 1a</u>	<u>517B.25, subd. 2</u>
<u>518.175, subd. 2</u>	<u>517B.25, subd. 3</u>
<u>518.175, subd. 3</u>	<u>517B.25, subd. 4</u>
<u>518.175, subd. 5</u>	<u>517B.25, subd. 6</u>
<u>518.175, subd. 6</u>	<u>517B.25, subd. 7</u>
<u>518.175, subd. 8</u>	<u>517B.25, subd. 8</u>

<u>518.1751, subd. 1</u>	<u>517B.26, subd. 1</u>
<u>518.1751, subd. 1a</u>	<u>517B.26, subd. 3</u>
<u>518.1751, subd. 1b</u>	<u>517B.26, subd. 2</u>
<u>518.1751, subd. 2</u>	<u>517B.26, subd. 6</u>
<u>518.1751, subd. 2a</u>	<u>517B.26, subd. 7</u>
<u>518.1751, subd. 2b</u>	<u>517B.26, subd. 4</u>
<u>518.1751, subd. 2c</u>	<u>517B.26, subd. 5</u>
<u>518.1751, subd. 3</u>	<u>517B.26, subd. 8</u>
<u>518.1751, subd. 4</u>	<u>517B.26, subd. 13</u>
<u>518.1751, subd. 4a</u>	<u>517B.26, subd. 9</u>
<u>518.1751, subd. 5</u>	<u>517B.26, subd. 10</u>
<u>518.1751, subd. 5a</u>	<u>517B.26, subd. 11</u>
<u>518.1751, subd. 6</u>	<u>517B.26, subd. 12</u>
<u>518.1752</u>	<u>517B.30</u>
<u>518.176</u>	<u>517B.20</u>
<u>518.177</u>	<u>517B.04 para. (b)</u>
<u>518.178</u>	<u>517B.25, subd. 5</u>
<u>518.179</u>	<u>517B.09</u>
<u>518.18</u>	<u>517B.21</u>
<u>518.183</u>	<u>517B.27</u>
<u>518.612</u>	<u>517B.10</u>
<u>518.619</u>	<u>517B.07</u>

Sec. 44. [REPEALER.]

Minnesota Statutes 2004, sections 518.17, subdivisions 1a, 3, and 6; and 518.185, are repealed.

### ARTICLE 3

#### CHILD SUPPORT

Section 1. [517C.01] [TITLE.]

This chapter may be cited as the "Minnesota Child Support Act."

Sec. 2. [517C.02] [LEGISLATIVE INTENT.]

The legislature of the state of Minnesota finds that in all cases of dissolution of marriage, separate maintenance, adjudication of paternity, and all other cases in which child support must be apportioned between them, both parents have an equal duty to pay for the actual cost of supplying the reasonable needs of the child or children had in common between them in proportion to their respective incomes and resources. The best interests of the child or children are served, so far as this state is concerned, when this obligation is fairly apportioned.

Sec. 3. [517C.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Subd. 2. [ARREARS.] "Arrears" means amounts owed under a support order that are past due. Arrears include:

(1) child support;

(2) the entire amount of court-ordered past support and pregnancy and confinement expenses if:

(i) the order does not contain repayment terms; or

(ii) the order contains repayment terms and the obligor fails to comply with the repayment terms; and

(3) attorney fees and any other collection costs addressed in a support order under section 517C.84.

Subd. 3. [BASIC SUPPORT.] "Basic support" means the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's private school tuition, child care expenses, and medical and dental expenses.

Subd. 4. [BUSINESS DAY.] "Business day" means a day on which state offices are open for regular business.

Subd. 5. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Subd. 6. [CHILD SUPPORT.] "Child support" means an amount for basic support, child care support, and medical support pursuant to:

(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support, and education of a child of the marriage or of the parties to the proceeding;

(2) a contribution by parents ordered under section 256.87; or

(3) support ordered under chapter 518B or 518C.

Subd. 7. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Subd. 8. [FINANCIAL INSTITUTION.] "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

Subd. 9. [OBLIGEE.] "Obligee" means a person to whom payments for child support are owed.

Subd. 10. [OBLIGOR.] "Obligor" means a person obligated to pay child support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support unless the court makes specific written findings to overcome this presumption. For purposes of ordering medical support under section 517C.17, a custodial parent may be an obligor subject to income withholding under section 517C.17; a cost-of-living adjustment under section 517C.31; and a payment agreement under section 517C.71.

Subd. 11. [PAYMENT.] "Payment" means the payment of child support and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 12. [PAYOR OF FUNDS.] "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24, section 3401(d), of the Internal Revenue Code, an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution as defined in section 13B.06.

Subd. 13. [PUBLIC AUTHORITY.] "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Child Support Enforcement Division of the Department of Human Services.

Subd. 14. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction that:

(1) provides for the support of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living;

(2) provides for basic support, child care, medical support including expenses for confinement and pregnancy, arrears, or reimbursement; and

(3) may include related costs and fees, interest and penalties, income withholding, and other relief.

(b) The definition in paragraph (a) applies to orders issued under this chapter and chapters 256, 257, and 518C.

Subd. 15. [TRIBUNAL.] "Tribunal" has the meaning given in section 518C.101.

Subd. 16. [UNCLAIMED SUPPORT FUNDS.] "Unclaimed support funds" means any support payments collected by the public authority from the obligor which have not been disbursed to the obligee or public authority.

Subd. 17. [IV-D CASE.] "IV-D case" means a case where a party assigns rights to child support to the state because the party receives public assistance, as defined in section 256.741, or applies for child support services under title IV-D of the Social Security Act, United States Code, title 42, section 654(4).

#### Sec. 4. [517C.04] [CHILD SUPPORT ORDERS.]

Subdivision 1. [ORDER.] (a) Upon dissolution of marriage, legal separation, annulment, establishment of paternity, or when otherwise required by statute, the court must order child support as provided by this chapter.

(b) Nothing contained in this chapter limits the power of the court to make appropriate, adequate orders for the support and education of a child of the parties to a dissolution, legal separation, or annulment action if the dissolution, legal separation, or annulment is denied.

Subd. 2. [PROVISIONS.] Child support orders must provide for general child-rearing costs or basic support and must also specifically address child care costs and medical care, providing for those costs pursuant to this chapter.

Subd. 3. [AGREEMENTS.] If the parties stipulate or agree to a child support order, the court must review the agreement to ensure it serves the best interests of the child. The Minnesota Supreme Court may promulgate rules regarding the review of stipulations and agreements. The court may refuse to accept or may alter an agreement that does not conform with the requirements of this chapter or that is otherwise not in the best interests of the child.

Subd. 4. [SPECIFIC DOLLAR AMOUNT.] (a) The court must order child support in a specific dollar amount.

(b) The court may order an obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to or, if the obligor receives no base pay, in lieu of an order for a specific dollar amount.

Subd. 5. [PREFERENCE FOR MONTHLY PAYMENT.] There is a presumption in favor of ordering child support in an amount that reflects an obligor's monthly obligation.

Subd. 6. [PREFERENCE FOR STATIC PAYMENT.] There is a presumption in favor of ordering child support so that an obligor makes the same monthly payments throughout the year, as opposed to payment amounts that fluctuate by season or month. If the obligor is seasonally employed, it is generally the obligor's responsibility to budget income accordingly.

Subd. 7. [DEPARTURE.] The court may depart from a presumption in subdivision 5 or 6 if:

(1) all parties agree; or

(2) the presumption would impose an extreme hardship on the obligor and would not be in the best interests of the child.

Subd. 8. [ACCOUNTING FOR CHILD SUPPORT BY OBLIGEE.] (a) Upon an obligor's motion, a court may order an obligee to account for the use or disposition of child support received. The motion must assert the specific allegations of abuse or misapplication of child support received and that a child's needs are not being met. If the court orders a hearing, the court may order an accounting only if the obligor establishes:

(1) the specific allegations of abuse or misapplication of child support received;

(2) that the child's needs are not being met; and

(3) that there is no record or history of domestic abuse, harassment, or violence between the parties.

(b) If the court orders an accounting under paragraph (a), the obligee must provide documentation that breaks down monthly expenditures of child support received into the following categories:

(1) housing and utilities;

(2) food;

(3) transportation;

(4) clothing;

(5) health care;

(6) child care and education; and

(7) miscellaneous.

An obligee may account for expenditures on housing, utilities, food, and transportation that are attributable to multiple household members on a per capita basis.

(c) If the court finds that an obligee does not make the accounting required under paragraph (b) or the obligee does not spend the entire child support payment on behalf of the child, the court may:

(1) hold the obligee in contempt of court pursuant to this chapter, chapter 588, and the Minnesota Court Rules;

(2) reduce or eliminate the obligor's child support obligation;

(3) order the obligee to make future expenditures on behalf of the child, whether in whole or in part, in a manner that documents the transaction; or

(4) make any other appropriate order to ensure that the child's needs are met.

(d) If the court determines that an obligor's motion under this section is brought in bad faith, the court may award reasonable attorney fees to the obligee.

Subd. 9. [CHILD SUPPORT TO BE DISTINGUISHED FROM MAINTENANCE.] In a judgment of dissolution or legal separation, the court must clearly distinguish between payments ordered for maintenance and payments ordered for child support. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the other parent is presumed to be child support, unless otherwise designated by the court.

Subd. 10. [OTHER CUSTODIANS.] If a child resides with a person other than a parent and the court approves of the custody arrangement, the court may order child support payments to be made to the custodian regardless of whether the person has legal custody.

Subd. 11. [EITHER PARENT LIABLE; MARITAL MISCONDUCT IRRELEVANT.] The court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

Sec. 5. [517C.05] [TEMPORARY ORDERS.]

Subdivision 1. [MOTION; SCOPE.] In a child support proceeding a party may, by motion, request that the court grant a temporary order pending the final disposition of the proceeding for temporary child support, costs, and reasonable attorney fees. Additionally, to facilitate the just and speedy disposition of the proceeding, the court may require a party to perform or refrain from performing additional acts.

Subd. 2. [DURATION.] A temporary order continues in full force and effect until:

(1) it is amended;

(2) it is vacated;

(3) the main action is dismissed; or

(4) a final decree of dissolution, legal separation, or other final order is entered.

Subd. 3. [FACTORS.] The court must consider the factors set forth in this chapter in making temporary orders.

Subd. 4. [EVIDENCE.] Temporary orders must be made solely on the basis of affidavits and argument of counsel unless:

(1) a party makes a timely motion or responsive motion to hear the matter on oral testimony before the court; or

(2) the court, in its discretion, orders the taking of oral testimony.

Subd. 5. [LIMITED EFFECT.] A temporary order does not prejudice the rights of the parties or the child that are to be adjudicated at subsequent hearings in the proceeding.



Subd. 6. [REVOCATION; MODIFICATION.] A temporary order may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Sec. 6. [517C.06] [DETERMINATION OF CONTROLLING ORDER.]

The public authority or a party may request the court to determine a controlling order when more than one order involving the same obligor and child exists.

Sec. 7. [517C.07] [ATTORNEY FEES; COSTS AND DISBURSEMENTS.]

Subdivision 1. [GENERAL.] (a) Except as provided in section 517C.84, in a proceeding under this chapter, the court must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding if:

(1) the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Fees, costs, and disbursements may be awarded at any point during or after a proceeding under this chapter, including if a proceeding is dismissed or abandoned.

(c) The court may assess costs and disbursements against either party.

Subd. 2. [UNREASONABLE ACTIONS.] The court may, in its discretion, assess additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding.

Subd. 3. [COLLECTION.] The court may authorize the collection of money awarded by execution, out of property sequestered, or in any other manner within the power of the court. An award of attorney fees survives the proceeding. If the award is not paid by the party directed to pay it, the award may be enforced as provided by this subdivision or by a separate civil action brought in the attorney's own name.

Sec. 8. [517C.10] [EXCHANGE OF INFORMATION.]

Subdivision 1. [DOCUMENTATION.] (a) The parties must timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation at least ten days before the prehearing conference.

(b) Documentation of earnings and income includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, W-2 forms, 1099 forms, unemployment insurance benefits statements, workers' compensation statements, and all other documents evidencing the receipt of income that provide verification of income over a longer period.

Subd. 2. [EXCHANGE OF TAX RETURNS.] At any time after a party commences an action seeking child support or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the other party's most recent federal tax returns that were filed with the Internal Revenue Service. The party must provide a copy of the tax returns within 30 days of receiving the request unless the request is not made in good faith. A party may not make a request under this subdivision more than once every two years, in the absence of good cause.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] An obligor must notify other parties of a change of address or residence within 60 days of the address or residence change.

Subd. 4. [NOTICE TO PUBLIC AUTHORITY; PUBLIC ASSISTANCE.] The petitioner must notify the public authority of all proceedings for dissolution, legal separation, determination of parentage, or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their Social Security account numbers, and their birth dates.

Subd. 5. [FAILURE OF NOTICE.] If the court in a dissolution, legal separation, or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court must set child support according to the guidelines in this chapter. In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is lower than the child support required by the guidelines in this chapter, it must move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

Sec. 9. [517C.11] [PRIVACY PROTECTION; PERSONAL PROTECTION.]

Subdivision 1. [SOCIAL SECURITY NUMBERS; TAX RETURNS.] The Social Security numbers and tax returns required under this chapter are not accessible to the public, except that they must be disclosed to the other parties to a proceeding as provided in section 517C.10.

Subd. 2. [MODIFICATION OF CERTAIN REQUIREMENTS.] The court may waive, modify, or limit the information exchange requirements of this chapter by order if necessary to protect a party from contact by another party.

Subd. 3. [ACCESS TO ADDRESS FOR SERVICE OF PROCESS.] (a) If the public authority is a party or is providing services in a child support case, a party may obtain an ex parte order under this subdivision. The party may obtain an ex parte order requiring the public authority to serve legal documents on the other party by mail if the party submits a sworn affidavit to the court stating that:

(1) the party needs to serve legal process in a support proceeding and does not have access to the address of the other party;

(2) the party has made reasonable efforts to locate the other party; and

(3) the other party is not represented by counsel.

(b) The public authority must serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The public authority must provide for appropriate service and must certify to all parties the date of service by mail. The public authority's proof of service must not include the place or address of service.

(c) The state court administrator must prepare and make available forms for use in seeking access to an address under this subdivision.

Sec. 10. [517C.12] [INCOME.]

Subdivision 1. [DEFINITION.] For purposes of calculating child support under this chapter, "income" means gross income.

Subd. 2. [SOURCES.] For purposes of this chapter, income includes any form of periodic payment to an individual including, but not limited to:

(1) wages;

(2) salaries;

(3) payments to an independent contractor;

(4) workers' compensation;

(5) unemployment insurance benefits;

(6) annuity;

(7) military and naval retirement;

(8) pension and disability payments; and

(9) in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses.

Subd. 3. [COMMISSIONS; BONUSSES.] If the court finds that a party's commissions or bonuses are reliable and predictable, the court may include them in income calculations.

Subd. 4. [SELF-EMPLOYMENT; INDEPENDENT CONTRACTORS.] Income from self-employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses include what would otherwise be the employer's share of the contributions under the Federal Insurance Contributions Act (FICA), United States Code, title 26, subtitle C, chapter 21, subchapter A, sections 3101 to 3126. Ordinary and necessary expenses do not necessarily include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Income calculated under this section may be different from taxable income.

Subd. 5. [PUBLIC ASSISTANCE EXCLUSIONS.] Benefits received under chapter 256J and title IV-A of the Social Security Act are not income under this section.

Subd. 6. [OVERTIME.] (a) Income does not include compensation received by a party for employment in excess of a 40-hour work week if:

(1) the excess employment is not within the normal range of hours worked, given the party's employment history;

(2) the excess employment is voluntary and not a condition of employment;

(3) the excess employment is in the nature of additional, part-time, or overtime employment compensable by the hour or fraction of an hour; and

(4) the party's compensation structure has not been changed for the purpose of affecting a child support obligation.

(b) The court may presume that a party with seasonal or intermittent income who works periods in excess of a 40-hour work week, but who works a substantially normal number of hours over the course of a year, is working within the normal range of hours worked.

Subd. 7. [INCOME OF A SPOUSE OR OTHER HOUSEHOLD MEMBER.] (a) Income must not include the income of a party's spouse or other household member. The court must not consider the income or resources provided by a spouse or other household member when determining all the earnings, income, and resources of a parent under sections 517C.25 to 517C.29.

(b) Notwithstanding paragraph (a), the court may issue an order permitting discovery of a spouse's or other household member's income information if there is probable cause to believe the spouse or other household member is being used to shelter income from a party. If the court finds that income was improperly or unfairly sheltered, it may impute income to the party or otherwise adjust the support amount in a just and proper manner. However, the court may not under any circumstances consider income or resources properly attributable to a spouse or other household member when setting support.

Subd. 8. [PRIOR SUPPORT OR MAINTENANCE ORDERS.] The amount of a support or maintenance order, not including orders for support or maintenance debts or arrears, must be deducted from income.

Subd. 9. [LEGALLY DEPENDENT CHILD.] (a) For purposes of this subdivision, a "legally dependent child" means a child:

- (1) whose primary residence is with a parent eligible for a deduction from income under this subdivision;
- (2) whom the parent has the legal duty to support;
- (3) who is not a subject of the current child support action;
- (4) for whom the parent is not ordered to pay child support; and
- (5) for whom no other person has court-ordered sole physical custody.

(b) The court must deduct an amount from a parent's income for a legally dependent child. The amount deducted from income for each legally dependent child must be computed using the following method:

- (1) determine 120 percent of the federal poverty guidelines for a family size equal to two parents plus each legally dependent child;
- (2) divide the amount determined under clause (1) by the family size determined under clause (1);
- (3) multiply the amount calculated under clause (2) by the number of legally dependent children; and
- (4) divide the amount calculated under clause (3) by two to determine the deduction amount for one parent. The amount determined for one parent must be divided by 12 to determine the amount of the deduction from a parent's monthly income.

(c) The commissioner of human services must publish a table listing the amount of the deduction for each legally dependent child by family size and must update the table for changes to the federal poverty guidelines by July 1 of each year.

## Sec. 11. [517C.13] [IMPUTED INCOME.]

Subdivision 1. [NONAPPEARANCE OF A PARENT.] If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court must set income for that parent based on credible evidence before the court or in accordance with subdivision 3. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044.

Subd. 2. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a) The principles of income imputation apply equally to both parents.

(b) If the court finds that a parent is voluntarily unemployed or underemployed or was voluntarily unemployed or underemployed during the period for which past support is being sought, a court must calculate support based on a determination of imputed income.

(c) A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) the unemployment or underemployment is temporary and will ultimately lead to an increase in income;

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child;

(3) the parent is a recipient of public assistance under section 256.741; or

(4) the parent is physically or mentally incapacitated.

(d) Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications.

Subd. 3. [INSUFFICIENT INFORMATION.] If there is insufficient information to determine actual income or to impute income pursuant to subdivision 1 or 2, the court may calculate support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher.

Subd. 4. [PARENT PROVIDING AT-HOME CHILD CARE.] If a parent stays home to care for a child who is the subject of the child support order, the court must consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, including recency of employment and earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including child care, transportation costs, suitable clothing, and other items required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of appropriate child care providers.

## Sec. 12. [517C.14] [PRESUMPTIVE CHILD SUPPORT ORDER; GENERAL.]

Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in sections 517C.12 to 517C.18 are a rebuttable presumption and must be used in all cases when establishing or modifying child support.

Subd. 2. [CHILD'S INSURANCE BENEFIT.] In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered must be offset by the amount of the child's benefit. The court must make findings regarding the obligor's income from all sources, the child support amount calculated under this chapter, the amount of the child's benefit, and the obligor's child support obligation. A benefit received by the child in a given month in excess of the child support obligation must not be treated as a payment of arrears or a future payment.

## Sec. 13. [517C.15] [BASIC SUPPORT.]

Subdivision 1. [BASIC SUPPORT; SCHEDULE.] (a) Unless otherwise agreed to by the parents and approved by the court, the court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly income, as determined under section 517C.12.

(b) For parents with a combined monthly income less than or equal to 100 percent of the federal poverty guidelines amount for two people, the commissioner of human services must determine the percentages in this paragraph by taking two times the minimum basic support amount under section 517C.18, subdivision 2, divided by 100 percent of the federal poverty guidelines amount for two people. For all other parents, basic support must be computed using the following schedule, prepared based on 2001 United States Department of Agriculture expenditure data:

<u>Parents'</u> <u>Combined</u> <u>Monthly</u> <u>Income</u>		<u>Number of Children</u>					
		<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>Below</u>	<u>\$1,000</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,000</u>	<u>- \$1,499</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,500</u>	<u>- \$1,999</u>	<u>19.4%</u>	<u>31.3%</u>	<u>36.2%</u>	<u>42.0%</u>	<u>48.7%</u>	<u>56.5%</u>
<u>\$2,000</u>	<u>- \$2,499</u>	<u>28.7%</u>	<u>46.3%</u>	<u>53.5%</u>	<u>62.1%</u>	<u>72.0%</u>	<u>83.5%</u>
<u>\$2,500</u>	<u>- \$2,999</u>	<u>25.0%</u>	<u>40.3%</u>	<u>46.5%</u>	<u>53.9%</u>	<u>62.6%</u>	<u>72.6%</u>
<u>\$3,000</u>	<u>- \$3,499</u>	<u>22.5%</u>	<u>36.3%</u>	<u>41.9%</u>	<u>48.6%</u>	<u>56.4%</u>	<u>65.4%</u>
<u>\$3,500</u>	<u>- \$3,999</u>	<u>20.7%</u>	<u>33.4%</u>	<u>38.5%</u>	<u>44.7%</u>	<u>51.8%</u>	<u>60.1%</u>
<u>\$4,000</u>	<u>- \$4,499</u>	<u>19.4%</u>	<u>31.2%</u>	<u>36.1%</u>	<u>41.9%</u>	<u>48.6%</u>	<u>56.3%</u>
<u>\$4,500</u>	<u>- \$4,999</u>	<u>18.3%</u>	<u>29.6%</u>	<u>34.1%</u>	<u>39.6%</u>	<u>45.9%</u>	<u>53.2%</u>
<u>\$5,000</u>	<u>- \$5,499</u>	<u>17.5%</u>	<u>28.2%</u>	<u>32.6%</u>	<u>37.8%</u>	<u>43.9%</u>	<u>50.9%</u>
<u>\$5,500</u>	<u>- \$5,999</u>	<u>16.8%</u>	<u>27.1%</u>	<u>31.3%</u>	<u>36.3%</u>	<u>42.1%</u>	<u>48.9%</u>
<u>\$6,000</u>	<u>- \$6,400</u>	<u>16.2%</u>	<u>26.2%</u>	<u>30.2%</u>	<u>35.0%</u>	<u>40.6%</u>	<u>47.1%</u>
<u>\$6,500</u>	<u>- \$6,999</u>	<u>15.8%</u>	<u>25.4%</u>	<u>29.3%</u>	<u>34.0%</u>	<u>39.4%</u>	<u>45.7%</u>
<u>\$7,000</u>	<u>- \$7,499</u>	<u>15.4%</u>	<u>24.8%</u>	<u>28.6%</u>	<u>33.2%</u>	<u>38.5%</u>	<u>44.6%</u>
<u>\$7,500</u>	<u>- \$7,999</u>	<u>15.0%</u>	<u>24.2%</u>	<u>27.9%</u>	<u>32.4%</u>	<u>37.5%</u>	<u>43.5%</u>
<u>\$8,000</u>	<u>- \$8,499</u>	<u>14.7%</u>	<u>23.7%</u>	<u>27.3%</u>	<u>31.7%</u>	<u>36.7%</u>	<u>42.6%</u>
<u>\$8,500</u>	<u>- \$8,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$9,000</u>	<u>- \$9,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$9,500</u>	<u>- \$9,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$10,000</u>	<u>- \$10,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>

<u>\$10,500 - \$10,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$11,000 - \$11,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$11,500 - \$11,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$12,000 - \$12,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$12,500 - \$12,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$13,000 - \$13,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$13,500 - \$13,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$14,000 - \$14,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$14,500 - \$14,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$15,000 or</u> <u>the amount</u> <u>in effect</u> <u>under subd. 4</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>

(c) The commissioner of human services must compute and publish a schedule of basic support amounts calculated using the percentages in paragraph (b). The schedule must show basic support amounts for combined monthly income increments of not more than \$100. The commissioner must determine the percentages for each income increment by interpolating between the percentages in paragraph (b). The commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case the commissioner may increase the amount by \$1.

Subd. 2. [SEPARATE HOUSEHOLD ADJUSTMENT.] After determining each parent's basic support under subdivision 1, the court must reduce the basic support of each parent by 20 percent.

Subd. 3. [JOINT PHYSICAL CUSTODY.] (a) If the parents' parenting time approximates joint physical custody, an obligor's basic support obligation is 50 percent of the difference between the parents' basic support obligation, as determined under subdivision 1.

(b) A parenting time division approximates joint physical custody if each parent provides, or is responsible for providing, care at least 45 percent of the days in a year.

(c) For purposes of this subdivision, the following principles apply:

(1) the label given to a custody arrangement is not determinative;

(2) the actual division of parenting time controls; and

(3) an overnight stay presumptively constitutes a day of caregiving.

(d) The court must make specific findings in support of an adjustment to an obligor's basic support obligation under this subdivision.

Subd. 4. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a) The basic support obligation for parents with a combined monthly income in excess of the income limit currently in effect under subdivision 1 must be the same dollar amount as provided for parents with a combined monthly income equal to the income limit in effect under subdivision 1.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 1 if it finds that a child has a disability or other substantial, demonstrated need for the additional support and that the additional support will directly benefit the child.

(c) The dollar amount for the cap in subdivision 1 must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The Supreme Court must select the index for the adjustment from the indices listed in section 517C.31. The state court administrator must make the changes in the dollar amounts required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Subd. 5. [MORE THAN SIX CHILDREN.] If a child support proceeding involves more than six children, the court may derive a support order without specifically following the guidelines. However, the court must consider the basic principles encompassed by the guidelines and must consider both parents' needs, resources, and circumstances.

Subd. 6. [REPORT TO LEGISLATURE.] By January 15 each year, the commissioner of human services must submit a report to the legislature on the basic support schedule. The report must include the following:

(1) information on any changes to the United States Department of Agriculture expenditure data used in constructing the basic support schedule under subdivision 1;

(2) information on any new sources of economic data that could be used to construct a basic support schedule; and

(3) a summary of any problems or concerns with implementing or applying the basic support schedule, and recommendations on how to resolve those problems or concerns.

Sec. 14. [517C.16] [CHILD CARE SUPPORT.]

Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed to by the parties and approved by the court, the court must order that the child care costs be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's income as determined under section 517C.12 meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of education under chapter 119B, based on an obligor's monthly gross income as determined under section 517C.12 and the size of the obligor's household. For purposes of this subdivision, the obligor's household includes the obligor and the number of children for whom child support is being ordered; or

(2) the amount of the obligor's child care obligation under subdivision 1.

(b) The commissioner of human services must publish a table with the child care assistance basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year.

Subd. 3. [DETERMINING COSTS.] (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 517C.31.



(d) The court may allow the parent with whom the child does not reside to care for the child while the parent with whom the child resides is working or attending school, as provided in section 517B.25, subdivision 8. Allowing the parent with whom the child does not reside to care for the child under section 517B.25, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order provides for child care expenses and the public authority provides child support enforcement services, the public authority must suspend collecting the amount allocated for child care expenses when:

- (1) either party informs the public authority that no child care costs are being incurred; and
- (2) the public authority verifies the accuracy of the information.

The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension or resumption of the collection of child care expenses. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 517C.31.

Sec. 15. [517C.17] [MEDICAL SUPPORT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this chapter.

(a) "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan meeting the definition under section 62A.011, subdivision 3, a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to 43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N. Health plan includes plans: (1) provided on an individual and group basis; (2) provided by an employer or union; (3) purchased in the private market; and (4) available to a person eligible to carry insurance for the child. Health plan includes a plan providing for dependent-only dental or vision coverage and a plan provided through a party's spouse or parent.

(d) "Medical support" means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a child's reasonable and necessary health-related expenses if the child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a child's reasonable and necessary health-related expenses if a child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, prescription eyeglasses and contact lenses, and over-the-counter medicine.

Subd. 2. [ORDER.] (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) whether appropriate health care coverage for the child is available and, if so, state:

(i) which party must carry health care coverage;

(ii) the cost of premiums and how the cost is allocated between the parties;

(iii) how unreimbursed expenses will be allocated and collected by the parties; and

(iv) the circumstances, if any, under which the obligation to provide health care coverage for the child will shift from one party to the other;

(3) if appropriate health care coverage is not available for the child, whether a contribution for medical support is required; and

(4) whether the amount ordered for medical support is subject to a cost-of-living adjustment under section 517C.31.

Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE COVERAGE.] (a) In determining whether a party has appropriate health care coverage for the child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered child can obtain services from a health plan provider with reasonable effort by the parent with whom the child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the child's residence and specialty care coverage is available within 60 minutes or 60 miles of the child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is comprehensive if it includes, at a minimum, medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parties have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontia;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if a party's gross income is 150 percent of the federal poverty guidelines or more and the party's contribution to the health care coverage premium does not exceed five percent of the party's gross income. If a party's gross income is less than 150 percent of the federal poverty guidelines, it is presumed that the party is unable to contribute to the cost of health care coverage unless health care is available at no or low cost to that party; and

(4) the child's special medical needs, if any.

(b) If both parties have health care coverage available for a child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the appropriate health care coverage for the child.

Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child is presently enrolled in health care coverage, the court must order that the parent who currently has the child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a child is not presently enrolled in health care coverage, upon motion of a party or the public authority, the court must determine whether one or both parties have appropriate health care coverage for the child and order the party with appropriate health care coverage available to carry the coverage for the child.

(c) If only one party has appropriate health care coverage available, the court must order that party to carry the coverage for the child.

(d) If both parties have appropriate health care coverage available, the court must order the parent with whom the child resides to carry the coverage for the child, unless:

(1) either party expresses a preference for coverage available through the parent with whom the child does not reside;

(2) the parent with whom the child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the child does not reside extreme hardship; or

(3) the parents agree to provide coverage and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which party has the most appropriate coverage available and order that party to carry coverage for the child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the child is comparable with regard to accessibility and comprehensiveness, the court must order the party with the least costly health care coverage to carry coverage for the child.

(f) If neither party has appropriate health care coverage available, the court must order the parent with whom the child does not reside to contribute toward the cost of public coverage for the child or the child's uninsured medical expenses in an amount equal to the lesser of:

(1) five percent of gross income; or

(2) the monthly amount the parent with whom the child does not reside would pay for the child's premiums if the parent's income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, a parent's household size is equal to the parent plus the child who is the subject of the child support order. The court may order the parent with whom the child resides to apply for public coverage for the child.

(g) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.]

(a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

(b) If a party owes a child support obligation for a child and is ordered to carry health care coverage for the child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If a party's obligation for health care coverage premiums is greater than five percent of the party's gross income, the court may order the other party to contribute more for the cost of the premiums, if doing so would not result in extreme hardship to that party. If an additional contribution causes a party extreme hardship, the court must order the obligor to contribute the lesser of the two amounts under subdivision 4, paragraph (f).

(e) If the party ordered to carry health care coverage for the child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the child.

(f) If a party ordered to carry health care coverage for the child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined income, unless the parties agree otherwise.

(g) If a party ordered to carry health care coverage for the child is required to enroll in a health plan so that the child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the child must not be allocated between the parties.

Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER, UNION, OR HEALTH CARRIER.] (a) The public authority must forward a copy of the national medical support notice or court order for health care coverage to the party's employer within two business days after the date the party is entered into the work reporting system under section 256.998.

(b) The public authority or a party seeking to enforce an order for health care coverage must forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier under the following circumstances:

(1) the party ordered to carry health care coverage for the child fails to provide written proof to the other party or the public authority, within 30 days of the effective date of the court order, that the party has applied for health care coverage for the child;

(2) the party seeking to enforce the order or the public authority gives written notice to the party ordered to carry health care coverage for the child of its intent to enforce medical support. The party seeking to enforce the order or public authority must mail the written notice to the last known address of the party ordered to carry health care coverage for the child; and

(3) the party ordered to carry health care coverage for the child fails, within 15 days after the date on which the written notice under clause (2) was mailed, to provide written proof to the other party or the public authority that the party has applied for health care coverage for the child.

(c) The public authority is not required to forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier, if the court orders health care coverage for the child that is not employer-based or union-based coverage.

Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer or union must forward the national medical support notice or court order to its health plan within 20 business days after the date on the national medical support notice or after receipt of the court order.

(b) Upon determination by an employer's or union's health plan administrator that a child is eligible to be covered under the health plan, the employer or union and health plan must enroll the child as a beneficiary in the health plan, and the employer must withhold any required premiums from the income or wages of the party ordered to carry health care coverage for the child.

(c) If enrollment of the party ordered to carry health care coverage for a child is necessary to obtain dependent health care coverage under the plan, and the party is not enrolled in the health plan, the employer or union must enroll the party in the plan.

(d) Enrollment of dependents and, if necessary, the party ordered to carry health care coverage for the child must be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies under section 62A.048.

(e) Failure of the party ordered to carry health care coverage for the child to execute any documents necessary to enroll the dependent in the health plan does not affect the obligation of the employer or union and health plan to enroll the dependent in a plan. Information and authorization provided by the public authority, or by a party or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.

(f) An employer or union that is included under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), may not deny enrollment to the child or to the parent if necessary to enroll the child based on exclusionary clauses described in section 62A.048.

(g) A new employer or union of a party who is ordered to provide health care coverage for a child must enroll the child in the party's health plan as required by a national medical support notice or court order.

Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan administrator receives a completed national medical support notice or court order, the plan administrator must notify the parties, and the public authority if the public authority provides support enforcement services, within 40 business days after the date of the notice or after receipt of the court order, of the following:

(1) whether coverage is available to the child under the terms of the health plan and, if not, the reason why coverage is not available;

(2) whether the child is covered under the health plan;

(3) the effective date of the child's coverage under the health plan; and

(4) what steps, if any, are required to effectuate the child's coverage under the health plan.

(b) If the employer or union offers more than one plan and the national medical support notice or court order does not specify the plan to be carried, the plan administrator must notify the parents and the public authority if the public authority provides support enforcement services. When there is more than one option available under the plan, the public authority, in consultation with the parent with whom the child resides, must promptly select from available plan options.

(c) The plan administrator must provide the parents and public authority, if the public authority provides support enforcement services, with a notice of the child's enrollment, description of the coverage, and any documents necessary to effectuate coverage.

(d) The health plan must send copies of all correspondence regarding the health care coverage to the parents.

(e) An insured child's parent's signature is a valid authorization to a health plan for purposes of processing an insurance reimbursement payment to the medical services provider or to the parent, if medical services have been prepaid by that parent.

Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or union that willfully fails to comply with the order or notice is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order or notice.

(b) An employer or union that fails to comply with the order or notice is subject to a contempt finding, a \$250 civil penalty under section 517C.57, and is subject to a civil penalty of \$500 to be paid to the party entitled to reimbursement or the public authority. Penalties paid to the public authority are designated for child support enforcement services.

Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest a child's enrollment in a health plan on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 517C.26.

(b) If the party chooses to contest the enrollment, the party must do so no later than 15 days after the employer notifies the party of the enrollment by doing the following:

(1) filing a motion in district court or according to section 484.702 and the expedited child support process rules if the public authority provides support enforcement services;

(2) serving the motion on the other party and public authority if the public authority provides support enforcement services; and

(3) securing a date for the matter to be heard no later than 45 days after the notice of enrollment.

(c) The enrollment must remain in place while the party contests the enrollment.

Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE; COVERAGE OPTIONS.] (a) Unless a court order provides otherwise, a child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the court, or as consistent with the terms of the coverage.

(b) The health carrier, employer, or union may not disenroll or eliminate coverage for the child unless:

(1) the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect;

(2) the child is or will be enrolled in comparable health care coverage through another health plan that will take effect no later than the effective date of the disenrollment;

(3) the employee is no longer eligible for dependent coverage; or

(4) the required premium has not been paid by or on behalf of the child.

(c) The health plan must provide 30 days' written notice to the child's parents, and the public authority if the public authority provides support enforcement services, before the health plan disenrolls or eliminates the child's coverage.

(d) A child enrolled in health care coverage under a qualified medical child support order, including a national medical support notice, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon expiration of the order, the child is entitled to the opportunity to elect continued coverage that is available under the health plan. The employer or union must provide notice to the parties and the public authority, if it provides support services, within ten days of the termination date.

(e) If the public authority provides support enforcement services and a plan administrator reports to the public authority that there is more than one coverage option available under the health plan, the public authority, in consultation with the parent with whom the child resides, must promptly select coverage from the available options.

Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court must require the parent with whom the child does not reside to provide dependent health care coverage for the benefit of the parent with whom the child resides if the parent is ordered to provide dependent health care coverage for the parties' child and adding the other parent to the coverage results in no additional premium cost.

Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public authority provides support enforcement services, the parties must provide the public authority with the following information:

(1) information relating to dependent health care coverage or public coverage available for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) verification that application for court-ordered health care coverage was made within 30 days of the court's order; and

(3) the reason that a child is not enrolled in court-ordered health care coverage, if a child is not enrolled in coverage or subsequently loses coverage.

(b) Upon request from the public authority under section 256.978, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the public authority the following information:

(1) information relating to dependent health care coverage available to a party for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section; and

(2) information that will enable the public authority to determine whether a health plan is appropriate for a child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

(c) The employer, union, or plan administrator must not release information regarding one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependent.

(d) The public authority is authorized to release to a party's employer, union, or health plan information necessary to verify availability of dependent health care coverage, or to establish, modify, or enforce medical support.

(e) An employee must disclose to an employer if medical support is required to be withheld under this section and the employer must begin withholding according to the terms of the order and under section 517C.52. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan.

Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public authority must take necessary steps to establish and enforce an order for medical support if the child receives public assistance or a party completes an application for services from the public authority under section 517C.38, subdivision 2.



Subd. 15. [ENFORCEMENT.] (a) Remedies available for collecting and enforcing child support apply to medical support.

(b) For the purpose of enforcement, the following are additional support:

(1) the costs of individual or group health or hospitalization coverage;

(2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 517C.28.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party owes no child support obligation for a child and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the child, the obligor is subject to an offset under subdivision 5 or income withholding under section 517C.52.

(b) If a party's court-ordered health care coverage for the child terminates and the child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to a party's child support obligation or terminate income withholding instituted against a party under section 517C.52. The public authority must provide notice to the parties of the action.

(c) A party may contest the public authority's action to remove the offset to the child support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing the offset or terminating income withholding is appropriate and, if appropriate, the effective date for the removal or termination.

(d) If the party does not request a hearing, the district court or child support magistrate must order the offset or income withholding termination effective the first day of the month following termination of the child's health care coverage.

Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) A party must initiate a request for reimbursement of unreimbursed and uninsured medical expenses within two years of the date that the party incurred the unreimbursed or uninsured medical expenses. The time period in this paragraph does not apply if the location of the other party is unknown.

(b) A party seeking reimbursement of unreimbursed and uninsured medical expenses must mail a written notice of intent to collect the expenses and a copy of an affidavit of health care expenses to the other party at the other party's last known address.

(c) The written notice must include a statement that the party has 30 days from the date the notice was mailed to (1) pay in full; (2) enter a payment agreement; or (3) file a motion requesting a hearing contesting the matter. If the public authority provides support enforcement services, the written notice also must include a statement that the requesting party must submit the amount due to the public authority for collection.

(d) The affidavit of health care expenses must itemize and document the child's unreimbursed or uninsured medical expenses and include copies of all bills, receipts, and insurance company explanations of benefits.

(e) If the public authority provides support enforcement services, the party seeking reimbursement must send to the public authority a copy of the written notice, the original affidavit, and copies of all bills, receipts, and insurance company explanations of benefits.

(f) If the party does not respond to the request for reimbursement within 30 days, the party seeking reimbursement or public authority, if the public authority provides support enforcement services, must commence an enforcement action against the party under subdivision 18.

(g) The public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must state that, unless the party (1) pays in full; (2) enters into a payment agreement; or (3) files a motion contesting the matter within 14 days of service of the notice, the public authority will commence enforcement of the expenses as medical support arrears under subdivision 18.

(h) If the party files a timely motion for a hearing contesting the requested reimbursement, the contesting party must schedule a hearing in district court or in the expedited child support process if section 484.702 applies. The contesting party must provide the party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and the party at the party's last known address. The party seeking reimbursement must file the original affidavit of health care expenses with the court at least five days before the hearing. Based upon the evidence presented, the district court or child support magistrate must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as medical support arrears under subdivision 18.

Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT ARREARS.] (a) If a party liable for unreimbursed and uninsured medical expenses owes a child support obligation to the party seeking reimbursement of the expenses, the expenses must be collected as medical support arrears.

(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a child support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party basic support arrears, the liable party's medical support arrears must be deducted from the amount of the basic support arrears.

(c) If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:

(1) if the party seeking reimbursement owes a child support obligation to the liable party, the child support obligation must be reduced by 20 percent until the medical support arrears are satisfied;

(2) if the party seeking reimbursement does not owe a child support obligation to the liable party, the liable party's income must be subject to income withholding under section 517C.52 for an amount required under section 517C.71 until the medical support arrears are satisfied; or

(3) if the party seeking reimbursement does not owe a child support obligation, and income withholding under section 517C.52 is not available, payment of the medical support arrears must be required under a payment agreement under section 517C.71.

(d) If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

Sec. 16. [517C.18] [SELF-SUPPORT ADJUSTMENT.]

Subdivision 1. [ADJUSTMENT.] (a) If the sum of the obligor's basic support, child care support, and medical support obligation leaves the obligor with remaining income in an amount less than 120 percent of the federal poverty guidelines for one person, the court must reduce the obligor's child support obligation by an amount equal to the lesser of: (1) the difference between the obligor's remaining income and 120 percent of the federal poverty guidelines amount; or (2) the obligor's total child support obligation. If the self-support adjustment results in an order amount less than \$50 per month for one or two children or \$75 per month for three or more children, the court must order basic support under subdivision 2.

(b) The court must apply the reduction to the obligor's child support obligation in the following order:

(1) medical support obligation;

(2) child care support obligation; and

(3) basic support obligation.

Subd. 2. [MINIMUM BASIC SUPPORT AMOUNT.] (a) If the reduction under subdivision 1 equals the sum of the obligor's basic support, child care support, and medical support obligation, the court must order support as follows:

(1) for one or two children, the obligor's basic support obligation is \$50 per month; or

(2) for three or more children, the obligor's basic support obligation is \$75 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.

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

Sec. 17. [517C.19] [WORKSHEET.]

The commissioner of human services must create and publish a worksheet to assist in calculating child support under sections 517C.12 to 517C.18. The worksheet must not impose substantive requirements other than requirements contained in sections 517C.12 to 517C.18. The commissioner must update the worksheet by July 1 of each year. The commissioner must make an interactive version of the worksheet available on the Department of Human Services Web site.

## Sec. 18. [517C.20] [DEVIATIONS.]

Subdivision 1. [GENERAL FACTORS.] In addition to the child support guidelines, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 517C.12, subdivision 6;

(2) the 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 have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

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

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

(6) the obligor's receipt of public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K;

(7) the child spends between 33 and 45 percent of overnights with the obligor pursuant to a court order or with the consent of the obligee, which results in an increased financial burden on the obligor; and

(8) the best interests of the child.

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 256.741;

(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. [NO DEVIATION WHEN PAYMENTS ARE ASSIGNED TO PUBLIC AUTHORITY EXCEPT FOR EXTREME HARDSHIP.] If the child support payments are assigned to the public authority under section 256.741, 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. [NO DEPARTURE BASED ON JOINT LEGAL CUSTODY.] An award of joint legal custody is not a reason for departure from the guidelines.

Sec. 19. [517C.21] [WRITTEN FINDINGS.]

Subdivision 1. [NO DEVIATION.] If the court does not deviate from the guidelines, the court must make written findings concerning the amount of the parties' income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the child support determination.

Subd. 2. [DEVIATION.] (a) If the court deviates from the guidelines, the court must make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and must specifically address the criteria in section 517C.20 and how the deviation serves the best interests of the child.

(b) The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public authority under section 256.741, the court may deviate downward only as provided in section 517C.20, subdivision 4. Nothing in this section prohibits the court from deviating in other cases.

Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity to the guidelines. The court is not required to conduct a hearing, but the parties must provide the documentation of earnings required under section 517C.10.

Sec. 20. [517C.22] [GUIDELINES REVIEW.]

No later than 2008 and every four years after that, the Department of Human Services must conduct a review of the child support guidelines.

Sec. 21. [517C.23] [EDUCATION TRUST FUND.]

The parties may agree to designate a sum of money above court-ordered child support as a trust fund for the costs of postsecondary education.

Sec. 22. [517C.25] [MODIFICATION; GENERAL.]

Subdivision 1. [AUTHORITY.] After a child support order is established, the court may, on motion of a party or the public authority, modify the order respecting the amount and payment of support. The court may make an order respecting any matters it had authority to address in the original proceeding, except as otherwise provided in section 517C.29. A party or the public authority also may make a motion for contempt of court if the obligor is in arrears in support payments.

Subd. 2. [GUIDELINES REMAIN APPLICABLE.] On a motion for modification of support, the guidelines in this chapter remain applicable.

Subd. 3. [EVIDENTIARY HEARING NOT REQUIRED.] The court need not hold an evidentiary hearing on a motion for child support modification.

Subd. 4. [FORM.] The state court administrator must prepare and make available to courts, obligors, and obligees a form to be submitted in support of a motion for a child support modification or for contempt of court.

Sec. 23. [517C.26] [REOPENING AN ORDER.]

Subdivision 1. [FACTORS.] Upon a party's motion, the court may rescind a child support order or judgment and may order a new trial or grant other relief as may be just for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that could not have been discovered by due diligence in time to move for a new trial under the Minnesota Rules of Civil Procedure;

(3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;

(4) the judgment or order is void;

(5) the judgment has been satisfied, released, or discharged;

(6) the judgment is based on a prior order that has been reversed or otherwise vacated; or

(7) it is no longer equitable that the order should have prospective application.

Subd. 2. [PROCEDURE; EFFECT.] A party's motion must be made within a reasonable time, and, for a reason under subdivision 1, clause (1), (2), or (3), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under this section does not affect the finality of an order or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from an order or proceeding or to grant relief to a party not actually personally notified as provided in the Minnesota Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.

Sec. 24. [517C.27] [CHANGE IN CUSTODY OR PARENTING TIME.]

Subdivision 1. [OFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT SUSPENDED.] If an obligee has been granted sole physical custody of a child, the child subsequently lives with the obligor, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Subd. 2. [UNOFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT OBLIGATION SATISFIED.] The court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the public authority.

Subd. 3. [30-DAY CHANGE; CHILD SUPPORT REDUCED.] A support order issued under this chapter may provide that, during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the support amount otherwise due under the order may be reduced.

Sec. 25. [517C.28] [SUBSTANTIAL CHANGE IN CIRCUMSTANCES, EARNINGS, OR NEEDS.]

Subdivision 1. [FACTORS.] (a) A court may modify the terms of a child support order upon a showing of one or more of the following:

(1) substantially increased or decreased earnings of a party;

(2) substantially increased or decreased need of a party or the child that is the subject of these proceedings;

(3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40 or chapter 256J or 256K;

(4) a change in the cost of living for either party, as measured by the federal Bureau of Labor Statistics, that makes the terms unreasonable and unfair;

(5) extraordinary medical expenses of the child not provided for under section 517C.17;

(6) the addition of the obligee's work-related or education-related child care expenses or a substantial increase or decrease in existing work-related or education-related child care expenses; or

(7) upon the emancipation of a child if there is still a child under the order. A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until modified or until the emancipation of the last child for whose benefit the order was made.

(b) Implementation of this chapter is not a basis for modification unless the requirements under this section are met.

Subd. 2. [PRESUMPTIONS.] It is presumed that there has been a substantial change in circumstances under subdivision 1 and the terms of a current support order are rebuttably presumed to be unreasonable and unfair if:

(1) when applied to the parties' current circumstances, the presumptive child support amount derived under this chapter is at least 20 percent and at least \$50 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section 517C.17 are not enforceable by the public authority or the obligee;

(3) health insurance coverage ordered under section 517C.17 is not available to the child for whom the order is established by the parent ordered to provide it; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

Sec. 26. [517C.29] [MODIFICATION EFFECTIVE DATE.]

Subdivision 1. [DATE OF MOTION DETERMINATIVE.] A court may make a modification of support, including interest that accrued pursuant to section 548.091, effective no sooner than the date of service of notice of the motion for modification on the responding parties.

Subd. 2. [RETROACTIVE MODIFICATION PERMITTED ONLY IN LIMITED CIRCUMSTANCES.] Notwithstanding subdivision 1, a court may apply a modification to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court; and the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans Insurance, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought;

(3) the order the party seeks to amend was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence, regarding the obligor's ability to pay; or

(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court must consider whether and when a request was made to the public authority for support modification.

Subd. 3. [CHILD CARE EXCEPTION.] The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

Sec. 27. [517C.30] [TERMINATION OF CHILD SUPPORT.]

Subdivision 1. [DEATH OF OBLIGOR.] Unless otherwise agreed in writing or expressly provided in the order, provisions for a child's support are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

Subd. 2. [AUTOMATIC TERMINATION.] (a) Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the child's emancipation.

(b) A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the court.

(c) The obligor may request a modification of the obligor's child support order upon a child's emancipation if there are still minor children under the order. The court must determine the child support obligation based on the parties' income at the time the modification is sought.

Sec. 28. [517C.31] [COST-OF-LIVING ADJUSTMENTS.]

Subdivision 1. [GENERAL.] An order establishing, modifying, or enforcing child support must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. Cost-of-living adjustments are compounded.

Subd. 2. [WAIVER.] A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for child support has a provision such as a step increase that has the effect of a cost-of-living clause.



Subd. 3. [INDEX; AMOUNT.] (a) The court must specify the cost-of-living index to be applied in an order that provides for a cost-of-living adjustment. The court may use the Consumer Price Index for all urban consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the United States Department of Labor that the court specifically finds is more appropriate.

(b) The court may increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

Subd. 4. [EFFECTIVE DATE.] If payment is made to the public authority, an adjustment is effective on May 1 of the year it is made. If payment is not made to the public authority, an adjustment may be made in any month but no adjustment may be made sooner than two years after the date of the dissolution decree. A support order must specify the effective date of cost-of-living adjustments.

Subd. 5. [NOTICE.] A cost-of-living adjustment may not be made unless:

(1) the support order requires it; and

(2) the obligee or public authority notifies the obligor of the adjustment by mail at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice must inform the obligor of the effective date of the adjustment, the right to contest the adjustment, and the procedures to contest the adjustment.

Subd. 6. [PROCEDURE FOR CONTESTING ADJUSTMENT.] (a) To contest a cost-of-living adjustment initiated by the public authority or an obligee who has applied for or is receiving child support collection services from the public authority, other than income withholding-only services, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first class mail on the public authority and the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in the expedited child support process under section 484.702.

(b) To contest a cost-of-living adjustment initiated by an obligee who is not receiving child support collection services from the public authority, or for an obligee who receives income withholding-only services from the public authority, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first class mail on the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the public authority or court must stay the cost-of-living adjustment pending further order of the court.

Subd. 7. [HEARING.] (a) At a hearing under this section, if the obligor establishes an insufficient increase in income to fulfill the adjusted child support obligation, the district court or child support magistrate may direct that all or part of the adjustment not take effect.

(b) At a hearing under this section, if the obligor does not establish an insufficient increase in income, the adjustment must take effect as of the date originally specified in the support order.

Subd. 8. [FORM.] The state court administrator must prepare and make available to the court and obligors a pro se motion form to be submitted in support of a request for a hearing under this section.

Subd. 9. [RULES.] The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 29. [517C.35] [ASSIGNMENT.]

Subdivision 1. [GENERAL.] The court must direct that all payments ordered for support be made to the public authority if the obligee is receiving or has applied for public assistance. Amounts received by the public authority greater than the amount granted to the obligee must be remitted to the obligee pursuant to federal requirements.

Subd. 2. [JUDGMENTS.] The court administrator must enter and docket a judgment obtained by operation of law under section 548.091, subdivision 1, in the name of the public authority to the extent that the obligation has been assigned. When arrearages are reduced to judgment and section 548.091 is not applicable, the court must grant judgment in favor of, and in the name of, the public authority to the extent that the arrearages are assigned. The public authority must file notice of an assignment with the court administrator, who must enter the notice in the docket. The public authority may then enforce a judgment entered before the assignment of rights as if the judgment were granted to it, and in its name, to the extent that the arrearages in that judgment are assigned.

Subd. 3. [PROPERTY LIEN.] The court may make any child support order a lien or charge upon the obligor's property, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 30. [517C.36] [PARTY STATUS.]

Subdivision 1. [OBLIGEE RECEIVES PUBLIC ASSISTANCE; PUBLIC AUTHORITY IS A PARTY.] The public authority is joined as a party and is a real party in interest if the obligee is receiving, or subsequently applies for, public assistance and rights are assigned under section 256.741, subdivision 2.

Subd. 2. [NO PUBLIC ASSISTANCE; APPLICATION FOR SERVICES.] If the obligee is not receiving public assistance, but has applied for child support collection services, the public authority has a pecuniary interest, as well as an interest in the welfare of a child. The public authority may intervene as a matter of right in those cases to ensure that child support orders are obtained, enforced, and provide for an appropriate and accurate level of child, medical, and child care support. If the public authority participates in a case where the action taken by the public authority requires the use of an attorney's services, the public authority must be represented by an attorney consistent with the provisions in section 517C.37.

Sec. 31. [517C.37] [ROLE OF PUBLIC AUTHORITY.]

Subdivision 1. [PUBLIC AUTHORITY DOES NOT REPRESENT OBLIGOR OR OBLIGEE.] The provision of services under the child support enforcement program that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the public authority does not create an attorney-client relationship with any party other than the public authority. Attorneys employed by or under contract with the public authority have an affirmative duty to inform applicants and recipients of services under the child support enforcement program that no attorney-client relationship exists between the attorney and the applicant or recipient. This section applies to all legal services provided by the child support enforcement program.

Subd. 2. [WRITTEN NOTICE.] The public authority must provide written notice to an applicant or recipient of services that:

- (1) no attorney-client relationship exists between the attorney and the applicant or recipient;
- (2) the rights of the individual as a subject of data are controlled by section 13.04, subdivision 2; and
- (3) the individual has a right to have an attorney represent the individual.

Subd. 3. [POWER TO REPRESENT OTHER PUBLIC AUTHORITIES.] The public authority may act on behalf of a public authority from another jurisdiction. This includes the authority to represent the legal interests of, or execute documents on behalf of, the other public authority in connection with the establishment, enforcement, and collection of child support and collection on judgments.

Sec. 32. [517C.38] [SERVICE FEES.]

Subdivision 1. [OBLIGOR FEE.] When the public authority provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public authority may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support ordered by the court. The public authority must deposit the fee in the county general fund. The service fee assessed is limited to ten percent of the monthly court-ordered child support and must not be assessed to obligors who are current in payment of the monthly court-ordered child support.

Subd. 2. [OBLIGEE FEE.] A \$25 application fee must be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of education.

Subd. 3. [TAX INTERCEPT FEES.] Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee must assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The public authority must withhold the fee before the release of the funds received from each interception and must deposit the fee in the general fund.

Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] The limitations of this section on the assessment of fees do not apply to the extent they are inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and 651 to 662.

Sec. 33. [517C.39] [PUBLIC AUTHORITY PROCEDURES FOR CHILD SUPPORT AND PARENTAGE ORDERS.]

The public authority may use the provisions of sections 517C.40 to 517C.44 when support rights are assigned under section 256.741, subdivision 2, or when the public authority is providing services under an application for child support collection services.

## Sec. 34. [517C.40] [NONATTORNEY EMPLOYEE DUTIES.]

Subdivision 1. [DUTIES PERFORMED UNDER SUPERVISION OF COUNTY ATTORNEY.] (a) The county attorney must review and approve as to form and content all pleadings and other legal documents prepared by nonattorney employees of the public authority for use in the expedited child support process.

(b) Under the direction of, and in consultation with, the county attorney, nonattorney employees of the public authority may perform the following legal duties:

- (1) meet and confer with parties by mail, telephone, electronic, or other means regarding legal issues;
- (2) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding legal issues;
- (3) prepare pleadings, including, but not limited to, summonses and complaints, notices, motions, subpoenas, orders to show cause, proposed orders, administrative orders, and stipulations and agreements;
- (4) issue administrative subpoenas;
- (5) prepare judicial notices;
- (6) negotiate settlement agreements;
- (7) attend and participate as a witness in hearings and other proceedings and, if requested by the child support magistrate, present evidence, agreements and stipulations of the parties, and any other information deemed appropriate by the magistrate;
- (8) participate in other activities and perform other duties delegated by the county attorney; and
- (9) exercise other powers and perform other duties as permitted by statute or court rule.

Subd. 2. [DUTIES PERFORMED WITHOUT DIRECTION FROM COUNTY ATTORNEY.] Nonattorney employees of the public authority may perform the following duties without direction from the county attorney:

- (1) gather information on behalf of the public authority;
- (2) prepare financial worksheets;
- (3) obtain income information from the Department of Employment and Economic Development and other sources;
- (4) serve documents on parties;
- (5) file documents with the court;
- (6) meet and confer with parties by mail, telephone, electronic, or other means regarding nonlegal issues;
- (7) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding nonlegal issues; and
- (8) perform other routine nonlegal duties as assigned.

Subd. 3. [PRACTICE OF LAW.] Performance of the duties prescribed in subdivisions 1 and 2 by nonattorney employees of the public authority does not constitute the unauthorized practice of law for purposes of section 481.02.

Sec. 35. [517C.41] [PLEADINGS; CASE INFORMATION SHEET.]

Subdivision 1. [PLEADINGS.] In cases involving establishment or modification of a child support order, the initiating party must include the following information, if known, in the pleadings:

(1) the parties' names, addresses, and dates of birth;

(2) Social Security numbers of the parties and the parties' minor children. This information is considered private information and is available only to the parties, the court, and the public authority;

(3) number of members in each party's household and dependents of the parties;

(4) the parties' other support obligations;

(5) names and addresses of the parties' employers;

(6) the parties' income as defined in section 517C.12;

(7) amounts and sources of the parties' other earnings and income;

(8) the parties' health insurance coverage;

(9) types and amounts of public assistance the parties receive, including Minnesota family investment program, child care assistance, medical assistance, MinnesotaCare, title IV-E foster care, or other forms of assistance as defined in section 256.741, subdivision 1; and

(10) any other information relevant to the determination of child support under this chapter.

Subd. 2. [CASE INFORMATION SHEET.] For all matters scheduled in the expedited process, the nonattorney employee of the public authority must file with the court and serve on the parties the following information:

(1) income information available to the public authority from the Department of Employment and Economic Development;

(2) a statement of the monthly amount of child support, child care, medical support, and arrears currently being charged the parties in Minnesota IV-D cases;

(3) a statement of the types and amount of any public assistance, as defined in section 256.741, subdivision 1, received by the parties; and

(4) any other information relevant to determining support that is known to the public authority and that the parties have not otherwise provided.

Subd. 3. [FILING INFORMATION.] The public authority must file the case information with the district court or child support magistrate at least five days before a hearing involving child support, medical support, or child care reimbursement issues.

Sec. 36. [517C.42] [NONCONTESTED MATTERS.]

Under the direction of the county attorney and based on agreement of the parties, nonattorney employees of the public authority may prepare a stipulation, findings of fact, conclusions of law, and proposed order. The county attorney must approve and sign the documents as to form and content before the nonattorney employees submit the documents to the district court or child support magistrate for approval.

Sec. 37. [517C.43] [ADMINISTRATIVE AUTHORITY; PARENTAGE; SUPPORT.]

Subdivision 1. [POWERS.] The public authority may take the following actions relating to establishing paternity or to establishing, modifying, or enforcing support orders, without the necessity of obtaining an order from a judicial or administrative tribunal:

- (1) recognize and enforce orders of child support agencies of other states;
- (2) upon request for genetic testing by a child, parent, or an alleged parent, and using the procedure in subdivision 2, order the child, parent, or alleged parent to submit to blood or genetic testing for the purpose of establishing paternity;
- (3) subpoena financial or other information needed to establish, modify, or enforce a child support order and sanction a party for failure to respond to a subpoena;
- (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor or other payor to change the payee to the central collections unit under section 517C.50;
- (5) order income withholding of child support under section 517C.52 and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failing to comply with an income withholding notice;
- (6) secure assets to satisfy a support debt or arrears by:
  - (i) intercepting or seizing periodic or lump-sum payments from state or local agencies, including unemployment insurance benefits, workers' compensation payments, judgments, settlements, lotteries, and other lump-sum payments;
  - (ii) attaching and seizing the obligor's assets held in financial institutions or public or private retirement funds; and
  - (iii) imposing liens in accordance with section 548.091, and, in appropriate cases, forcing the sale of property and the distribution of proceeds;
- (7) for the purpose of securing overdue support, increase the amount of the monthly support payments by an additional amount equal to 20 percent of the monthly support payment to include amounts for debts or arrears; and
- (8) subpoena an employer or payor of funds to provide promptly information on the employment, compensation, and benefits of an individual employed by that employer as an employee or contractor, and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failure to respond to the subpoena as provided by law.

Subd. 2. [GENETIC TESTING.] (a) A child, parent, or alleged parent who requests genetic testing must support the request with a sworn statement that:

(1) alleges paternity and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(2) denies paternity and sets forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties.

(b) The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state.

(c) If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing.

(d) No results obtained through genetic testing done in response to an order issued under this section may be used in a criminal proceeding.

Subd. 3. [SUBPOENAS.] (a) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party record keeper, written notice of the subpoena must be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(b) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court may cancel or modify the subpoena, if appropriate. The public authority must pay the reasonable costs of producing the documents, if requested.

(c) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. A person who fails to comply with the court order may be subject to civil or criminal contempt of court.

Subd. 4. [DUE PROCESS.] The administrative actions under this section are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to a judge, judicial officer, or child support magistrate.

#### Sec. 38. [517C.44] [SHARING OF INFORMATION; DATA.]

Subdivision 1. [GENERAL.] The public authority may share available and relevant information on the parties in order to perform its duties under sections 517C.40 to 517C.43 or under Supreme Court rules governing the expedited child support hearing process under section 484.702, subject to the limitations of subdivision 3 and sections 256.87, subdivision 8, and 257.70.

Subd. 2. [DATA DISCLOSED TO AN ATTORNEY OF PUBLIC AUTHORITY.] (a) Data disclosed by an applicant for, or recipient of, child support services to an attorney employed by, or under contract with, the public authority is private data on an individual. However, the data may be disclosed under sections 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and 517C.11, subdivision 3, in order to obtain, modify, or enforce child support, medical support, and parentage determinations.

(b) An attorney employed by, or under contract with, the public authority may disclose additional information received from an applicant for, or recipient of, services for other purposes with the consent of the individual applicant for, or recipient of, child support services.

Subd. 3. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapter 517A in which public assistance is assigned under section 256.741, or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, the public authority may not release information on the location of one party to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 39. [517C.45] [SUFFICIENCY OF NOTICE.]

Automated child support notices sent by the public authority which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

Sec. 40. [517C.50] [CHILD SUPPORT PAYMENT CENTER; CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [CREATION.] (a) The commissioner of human services must create and maintain a central collections unit to receive, process, and disburse payments, and to maintain a record of payments in all cases when:

(1) the public authority is a party;

(2) the public authority provides child support enforcement services to a party; or

(3) payment is collected through income withholding.

(b) The commissioner may contract for services to carry out these provisions if the commissioner first meets and negotiates with the affected exclusive representatives.

Subd. 2. [CREDITOR COLLECTIONS.] The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and is not subject to creditor levy, attachment, or garnishment.

Subd. 3. [CREDIT FOR PAYMENT.] Payments made to the public authority that are not collected through income withholding must be credited as of the date the payment is received by the central collections unit.

Sec. 41. [517C.51] [MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [GENERAL.] All payments described in section 517C.50 must be made to the central collections unit.

Subd. 2. [LOCAL PAYMENT; TRANSMITTAL.] Each local child support agency must provide a location within the agency to receive payments. When the local agency receives a payment it must transmit the funds to the central collections unit within one working day of receipt of the payment.



Subd. 3. [INCENTIVES.] Notwithstanding a rule to the contrary, incentives must be paid to the county providing services and maintaining the case to which the payment is applied. Incentive payments awarded for the collection of child support must be based solely upon payments processed by the central collections unit. Incentive payments received by the county under this subdivision must be used for county child support collection efforts.

Subd. 4. [ELECTRONIC FUNDS TRANSFER.] The central collections unit is authorized to engage in the electronic transfer of funds for the receipt and disbursement of funds.

Subd. 5. [REQUIRED CONTENT OF ORDER.] A tribunal issuing an order that establishes or modifies a payment must issue an income withholding order in conformity with section 517C.52. The automatic income withholding order must include the obligor's name, the obligor's Social Security number, the obligor's date of birth, and the name and address of the obligor's employer. The street mailing address and the electronic mail address for the central collections unit must be included in each automatic income withholding order issued by a tribunal.

Subd. 6. [TRANSMITTAL OF ORDER TO PUBLIC AUTHORITY BY TRIBUNAL.] The tribunal must transmit a copy of the order establishing or modifying the payment, and a copy of the automatic income withholding order, to the local child support agency within two working days of the approval of the order by the judge or child support magistrate or other person or entity authorized to sign the automatic withholding order.

Subd. 7. [TRANSMITTAL OF FUNDS FROM OBLIGOR OR PAYOR OF FUNDS TO CENTRAL COLLECTIONS UNIT.] The obligor or other payor of funds must identify the obligor on the check or remittance by name, payor number, and Social Security number, and must comply with section 517C.52.

Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT FUNDS.] A notice may be directed to a person or entity submitting a check drawn on insufficient funds stating that future payments must be made by cash or certified funds. The central collections unit and the public authority may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.

Subd. 9. [ADMISSIBILITY OF PAYMENT RECORDS.] A copy of the record of payments maintained by the central collections unit is admissible evidence in all tribunals as proof of payments made through the central collections unit without the need of testimony to prove authenticity.

Subd. 10. [TRANSITION PROVISIONS.] (a) The commissioner of human services must develop a plan for the implementation of the central collections unit. The plan must require that payments be redirected to the central collections unit. Payments may be redirected in groups according to county of origin, county of payment, method of payment, type of case, or any other distinguishing factor designated by the commissioner.

(b) Notice that payments must be made to the central collections unit must be provided to the obligor and to the payor of funds within 30 days before payments are redirected to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by the local child support agency must be forwarded to the central collections unit. A notice must be sent to the obligor or payor of funds stating that payment application may be delayed and must provide directions to submit future payments to the central collections unit.

Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. The commissioner must deposit appropriations for this purpose and all recoupments against payments from the account in the collections unit's recoupment account. The recoupments are appropriated to the commissioner. An unexpended balance in the account does not cancel, but is available until expended.

Subd. 12. [UNCLAIMED SUPPORT FUNDS.] (a) If the public authority cannot disburse support payments to an obligee because the obligee cannot be located, the public authority must continue its efforts to locate the obligee for one year from the date it determines that it cannot locate the obligee.

(b) If the public authority is unable to locate the obligee after one year, the public authority must mail a written notice to the obligee at the obligee's last known address giving the obligee 60 days to contact the public authority.

(c) If the obligee does not contact the public authority within 60 days from the date of notice, the public authority must:

(1) close the nonpublic assistance portion of the case;

(2) disburse unclaimed support funds to pay public assistance arrears. If public assistance arrears remain after disbursing the unclaimed support funds, the public authority may continue to enforce and collect child support until all public assistance arrears have been paid. If there are not public assistance arrears, or unclaimed support funds remain after the public assistance arrears have been paid, the public authority must return the remaining unclaimed support funds to the obligor; and

(3) when all public assistance arrears have been paid to the public authority, mail a written notice of termination of income withholding and case closure to the obligor at the obligor's last known address. The notice must indicate that the obligor's support obligation will remain in effect until further order of the court and that the obligor may contact the public authority for assistance to modify the order. The public authority must include a copy of the form prepared by the state court administrator's office under section 517C.25, subdivision 4, with the notice.

(d) If the public authority cannot locate the obligor to return unclaimed support funds, the public authority must continue its efforts to locate the obligor for one year from the date the public authority determines that the obligor cannot be located. If the public authority is unable to locate the obligor after one year, the public authority must treat the funds as unclaimed property according to federal law and chapter 345.

Sec. 42. [517C.52] [INCOME WITHHOLDING; GENERAL.]

Subdivision 1. [APPLICATION.] Sections 517C.51 to 517C.62 apply to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority according to section 517C.43, subdivision 1, clause (5).

Subd. 2. [ORDER.] (a) Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority. Sections 517C.51 to 517C.62 apply regardless of the source of income of the person obligated to pay the child support.

(b) Every order for child support must provide for a conspicuous notice of the provisions in this section that complies with section 517C.99, subdivision 3. An order without this notice remains subject to this section.

(c) A payor of funds must implement income withholding according to sections 517C.51 to 517C.62 upon receipt of an order for or notice of withholding. The notice of withholding must be on a form provided by the commissioner of human services.

Subd. 3. [NOTICE; INCOME WITHHOLDING AND COLLECTION SERVICES.] (a) The commissioner of human services must prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator must promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support collection services from the public authority, must apply to the public authority for either full child support collection services or for services only to withhold income.

(c) For those persons applying for services only to withhold income, the public authority must charge a monthly service fee of \$15 to the obligor. This fee is in addition to the amount of the support order and must be withheld through income withholding. The public authority must explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 4. [CONTRACT FOR SERVICE.] To carry out income withholding, the public authority may contract for services, including the use of electronic funds transfer.

Subd. 5. [ELECTRONIC TRANSMISSION.] Orders or notices for income withholding may be transmitted for enforcement purposes by electronic means.

Subd. 6. [TIMING OF AUTOMATED ENFORCEMENT REMEDIES.] The public authority must make reasonable efforts to ensure that automated enforcement remedies take into consideration the time periods allowed under sections 517C.51 to 517C.62.

Sec. 43. [517C.53] [WAIVER OF INCOME WITHHOLDING.]

(a) If child support is not assigned to the public authority under section 256.741, the court may waive income withholding requirements if it finds there are no arrears as of the date of the hearing and:

(1) one party demonstrates and the court finds there is good cause to waive the requirements of sections 517C.51 to 517C.62 or to terminate an order for or notice of income withholding previously entered; or

(2) all parties reach an agreement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this paragraph must include a written explanation of the reasons why income withholding would not be in the child's best interests.

(b) In addition to the other requirements in this section, if the case involves a modification of support, the court must make a finding that support has been timely made.

(c) If the court waives income withholding, the obligee or obligor may at any time request subsequent income withholding under section 517C.59.

Sec. 44. [517C.54] [PAYOR OF FUNDS RESPONSIBILITIES.]

Subdivision 1. [ACTIVATION.] An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

Subd. 2. [PROCEDURE.] A payor of funds must withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under sections 517C.58 and 517C.63 and must remit the amounts withheld to the public authority within seven business days of the date the obligor is paid the remainder of the income. The payor of funds must include with the remittance the obligor's Social Security number, the case type indicator as provided by the public authority, and the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. A payor of funds may combine all amounts withheld from one pay period into one payment to each public authority, but must separately identify each obligor making payment.

Subd. 3. [RETALIATION PROHIBITED.] A payor of funds must not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this chapter.

Subd. 4. [UPDATED ORDERS.] If more than one order for or notice of withholding exists involving the same obligor and child, the public authority must enforce the most recent order or notice. An order for or notice of withholding that was previously implemented according to this chapter ends as of the date of the most recent order. The public authority must notify the payor of funds to withhold under the most recent withholding order or notice.

Subd. 5. [NOTIFICATION OF TERMINATION.] When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds must notify the public authority of the termination within ten days of the termination date. The termination notice must include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

Subd. 6. [EXPENSES.] A payor of funds may deduct \$1 from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this chapter to cover the expenses of withholding.

Sec. 45. [517C.55] [LUMP-SUM PAYMENTS.]

Subdivision 1. [APPLICATION.] (a) This section applies to lump-sum payments of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits.

(b) The Consumer Credit Protection Act, United States Code, title 15, section 1673(b), does not apply to lump-sum payments.

Subd. 2. [PAYOR OF FUNDS RESPONSIBILITIES.] Before transmitting a lump-sum payment to an obligor, a payor of funds who has been served with an order for or notice of income withholding under this chapter or a sworn affidavit of arrears from the public authority must:

(1) notify the public authority of the lump-sum payment that is to be paid to the obligor; and

(2) hold the lump-sum payment for 30 days after the date the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota Rules, part 1415.2000, subpart 10.

Subd. 3. [PUBLIC AUTHORITY OPTIONS.] (a) The public authority may direct the payor of funds to pay the lump-sum payment, up to the amount of judgments or arrears, to the public authority if:

(1) the public authority serves by mail a sworn affidavit of arrears from the public authority or a court order upon the payor of funds;

(2) a judgment entered pursuant to section 548.09 or 548.091, subdivision 1a, exists against the obligor, or other support arrears exist; and

(3) a portion of the judgment or arrears remains unpaid.

(b) If no judgment or arrears exist, the public authority may seek a court order directing the payor of funds to transmit all or a portion of the lump-sum payment to the public authority for future support. To obtain a court order under this paragraph, the public authority must show an obligor's past willful nonpayment of support.

## Sec. 46. [517C.56] [PAYOR OF FUNDS LIABILITY.]

Subdivision 1. [LIABILITY TO OBLIGEE.] A payor of funds is liable to the obligee for amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this chapter is liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld or transferred. A payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this subdivision. A payor of funds that has failed to comply with the requirements of sections 517C.51 to 517C.62 is subject to contempt sanctions under section 517C.57. If the payor of funds is an employer or independent contractor and violates this subdivision, a court may award the obligor twice the wages lost as a result of this violation. If a court finds a payor of funds violated this subdivision, the court must impose a civil fine of not less than \$500. The liabilities under this subdivision apply to intentional noncompliance by a payor of funds with the requirements of sections 517C.51 to 517C.62.

Subd. 2. [NONLIABILITY FOR COMPLIANCE.] A payor of funds is not subject to civil liability to any individual or agency for taking action in compliance with an income withholding order or notice of withholding that appears regular on its face according to this chapter or chapter 518C.

## Sec. 47. [517C.57] [EMPLOYER CONTEMPT.]

Subdivision 1. [ORDERS BINDING.] Notices or orders for income withholding or medical support issued pursuant to this chapter are binding on the employer, trustee, or other payor of funds after the order or notice has been transmitted to the employer, trustee, or payor of funds.

Subd. 2. [CONTEMPT ACTION.] (a) An obligee or the public authority may initiate a contempt action against an employer, trustee, or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer, trustee, or payor of funds.

(b) The employer, trustee, or payor of funds is presumed to be in contempt:

(1) if the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order or notice for income withholding or notice of enforcement of medical support; or

(2) upon presentation of pay stubs or similar documentation showing that the employer, trustee, or payor of funds withheld support and demonstrating that the employer, trustee, or payor of funds intentionally failed to remit support to the public authority.

Subd. 3. [LIABILITY; SANCTIONS.] The employer, trustee, or payor of funds is liable to the obligee or the public authority for amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. An employer, trustee, or payor of funds found guilty of contempt must be punished by a fine of not more than \$250 as provided in chapter 588. The court may also impose other contempt sanctions authorized under chapter 588.

## Sec. 48. [517C.58] [PRIORITY OF INCOME WITHHOLDING ORDERS; MAXIMUM WITHHOLDING.]

Subdivision 1. [PRIORITY.] An order for or notice of withholding under this chapter or execution or garnishment upon a judgment for child support arrears or preadjudicated expenses has priority over an attachment, execution, garnishment, or wage assignment and is not subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b).

Subd. 2. [MULTIPLE ORDERS.] If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds must comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b), giving priority to amounts designated in each order or notice as current support as follows:

(1) if the total of the amounts designated in the orders for or notices of withholding as current support exceeds the amount available for income withholding, the payor of funds must allocate to each order or notice an amount for current support equal to the amount designated in that order or notice as current support, divided by the total of the amounts designated in the orders or notices as current support, multiplied by the amount of the income available for income withholding; and

(2) if the total of the amounts designated in the orders for or notices of withholding as current support does not exceed the amount available for income withholding, the payor of funds must pay the amounts designated as current support, and must allocate to each order or notice an amount for past due support, equal to the amount designated in that order or notice as past due support, divided by the total of the amounts designated in the orders or notices as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

Sec. 49. [517C.59] [SUBSEQUENT INCOME WITHHOLDING.]

Subdivision 1. [APPLICATION.] This section applies to support orders that do not contain provisions for income withholding.

Subd. 2. [PUBLIC AUTHORITY PROVIDES CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority provides child support enforcement services to the parties, income withholding under this section takes effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding must be initiated when:

(1) the obligor requests it in writing to the public authority;

(2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or

(3) the public authority commences withholding under section 517C.43.

Subd. 3. [PUBLIC AUTHORITY DOES NOT PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority does not provide child support enforcement services to the parties, income withholding under this section must be initiated when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

Subd. 4. [NOTICE.] Within two days after the public authority commences withholding under this section, the public authority must send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice must include the information provided to the payor of funds in the notice of withholding.

Subd. 5. [CONTEST.] (a) The obligor may contest withholding under this section on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. An obligor who chooses to contest the withholding must do so no later than 15 days after the employer commences withholding, by bringing a proper motion under section 484.702 and the expedited child support process rules.

(b) The income withholding must remain in place while the obligor contests the withholding.

(c) If the court finds a mistake in the amount of the arrear to be withheld, the court must continue the income withholding, but it must correct the amount of the arrears to be withheld.

Sec. 50. [517C.60] [INCOME WITHHOLDING; ARREARS ORDER.]

(a) In addition to ordering income withholding for current support, the court may order the payor of funds to withhold amounts to satisfy the obligor's previous arrears in support order payments. Use of this remedy does not exclude the use of other remedies to enforce judgments. The employer or payor of funds must withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support obligation until the arrears are paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 517C.12, subdivision 1, whether periodic or lump-sum, are not exempt from attachment or execution upon a judgment for child support arrears.

(c) Absent an order to the contrary, if arrears exist at the time a support order would otherwise terminate, income withholding continues in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 51. [517C.61] [INTERSTATE INCOME WITHHOLDING.]

(a) Upon receipt of an order for support entered in another state and the specified documentation from an authorized agency, the public authority must implement income withholding. A payor of funds in this state must withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state must withhold and distribute the funds as directed in the withholding notice and must apply the law of the obligor's principal place of employment when determining:

(1) the employer's fee for processing an income withholding notice;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) deadlines for implementing and forwarding the child support payment.

(c) An obligor may contest withholding under this section pursuant to section 518C.506.

Sec. 52. [517C.62] [ORDER TERMINATING INCOME WITHHOLDING.]

Subdivision 1. [GENERAL PROCEDURE.] (a) An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation. A court must enter an order terminating income withholding if:

(1) the obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and serves a duplicate copy of the application on the public authority;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation; and

(3) the application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known.

(b) The obligee or the public authority may request a contested hearing on the issue of whether income withholding should continue. The request must be made within 20 days of receiving an application for termination of income withholding. The request must clearly specify the basis for continuing income withholding. The obligee or public authority may make an ex parte motion to stay the service of an order terminating income withholding upon the obligor's payor of funds pending the outcome of the contested hearing.

Subd. 2. [TERMINATION BY PUBLIC AUTHORITY.] (a) If the public authority determines that income withholding is no longer applicable, the public authority must notify the obligee and the obligor of intent to terminate income withholding.

(b) Five days after notification to the obligee and obligor, the public authority must issue a notice to the payor of funds terminating income withholding. A court order is not required unless the obligee has requested an expedited child support hearing under section 484.702.

Sec. 53. [517C.63] [CHILD SUPPORT DEPOSIT ACCOUNT; FINANCIAL INSTITUTIONS.]

Subdivision 1. [APPLICATION.] If income withholding is ineffective due to the obligor's method of obtaining income, the court must order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court must order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from the obligor's child support account payable to an account of the public authority. The court must order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court may order a financial institution to disclose to the court the account number and any other information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this subdivision, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of a preauthorized transfer is subject to contempt of court procedures under chapter 588.

Subd. 2. [TRANSFERS.] A financial institution must execute preauthorized transfers for the obligor's deposit accounts in the amount specified in the order and amounts required under this section as directed by the public authority. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement.

Sec. 54. [517C.64] [ESCROW ACCOUNT.]

Subdivision 1. [STAY OF SERVICE.] (a) If the court finds there is no arrearage in child support as of the date of the court hearing, the court must stay service of the income withholding order under sections 517C.51 to 517C.62 if the obligor:



(1) establishes a savings account for a sum equal to two months of the monthly child support obligation; and

(2) provides proof of establishing the savings account to the court and the public authority on or before the day of the court hearing determining the obligation.

(b) The obligor must hold the sum under paragraph (a) in a financial institution in an interest-bearing account with only the public authority authorized as drawer of funds. The obligor's proof of establishing the account must include the financial institution name and address, account number, and the deposit amount.

Subd. 2. [RELEASE OF STAY.] Within three working days of receipt of notice of default, the public authority must direct the financial institution to release to the public authority the sum held under this section when the following conditions are met:

(1) the obligor fails to pay the support amount to the obligee or the public authority within ten days of the date it is ordered to be paid;

(2) the obligee transmits a notice of default to the public authority and makes application to the public authority for child support and maintenance collection services. The obligee must verify the notice and the notice must contain the title of the action, the court file number, the obligee's full name and address, the obligor's name and last known address, the obligor's last known employer or other payor of funds, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid; and

(3) within three working days of receipt of notice from the obligee, the public authority sends a copy of the notice of default and a notice of intent to implement income withholding by mail to the obligor at the address given. The notice of intent must state that the public authority will serve the order establishing the child support or maintenance obligation on the obligor's employer or payor of funds unless, within 15 days after the mailing of the notice, the obligor requests a hearing on the issue of whether payment was in default as of the date of the notice of default. The obligor must serve notice of the request for hearing on the public authority and the obligee.

Subd. 3. [DUTIES OF PUBLIC AUTHORITY.] Within three working days of receipt of sums released under subdivision 2, the public authority shall remit to the obligee all amounts not assigned under section 256.741 as current support or maintenance. The public authority must also serve a copy of the court's order and the provisions of this section and sections 517C.51 to 517C.62 on the obligor's employer or other payor of funds unless, within 15 days after mailing of the notice of intent to implement income withholding, the obligor makes a proper motion pursuant to section 484.702 and the rules of the expedited child support process. The public authority must inform the employer or payor of funds pursuant to sections 517C.51 to 517C.62 of the effective date on which the next support or maintenance payment is due. The withholding process must begin on that date and must reflect the total credits of principal and interest amounts received from the escrow account.

Subd. 4. [HEARING.] Within 30 days of the date of the notice of default under subdivision 2, clause (2), the court must hold a hearing if a motion is brought by the obligor as set forth in subdivision 2. If the court finds that there was a default, the court must order the immediate withholding of support or maintenance from the obligor's income. If the court finds that there was no default, the court must order either the obligor or obligee to reestablish the escrow account and continue the stay of income withholding.

Subd. 5. [TERMINATION OF STAY.] When the obligation for support of a child or for spousal maintenance ends under the terms of the order or decree establishing the obligation and the sum held under this section has not otherwise been released, the public authority must release the sum and interest to the obligor when the following conditions are met:

(1) the obligor transmits a notice of termination to the public authority. The obligor must verify the notice and the notice must contain the title of the action, the court file number, the full name and address of the obligee, specify the event that ends the support or maintenance obligation, the effective date of the termination of support or maintenance obligation, and the applicable provisions of the order or decree that established the support or maintenance obligation;

(2) the public authority sends a copy of the notice of termination to the obligee; and

(3) the obligee fails within 20 days after mailing of the notice under clause (2) to request a hearing on the issue of whether the support or maintenance obligation continues and serve notice of the request for hearing on the obligor and the public authority.

Sec. 55. [517C.65] [TRUSTEE.]

Subdivision 1. [APPOINTMENT.] Upon its own motion or upon motion of either party, the court may appoint a trustee, when it is deemed expedient, to receive money ordered to be paid as child support for remittance to the person entitled to receive the payments. The trustee may also receive property that is part of an award for division of marital property. The trustee must hold the property in trust to invest and pay over the income in the manner the court directs, or to pay over the principal sum in the proportions and at the times the court orders. In all cases, the court must consider the situation and circumstances of the recipient, and the children, if any. The trustee must give a bond, as the court requires, for the faithful performance of the trust. If it appears that the recipient of money ordered to be paid as support will receive public assistance, the court must appoint the public authority as trustee.

Subd. 2. [RECORDS.] The trustee must maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order.

Subd. 3. [COMMUNICATION.] The parties affected by the order must inform the trustee of a change of address or of other conditions that may affect the administration of the order.

Subd. 4. [LATE PAYMENT.] If a required support payment is not made within ten days of the due date, the trustee must send the obligor notice of the arrears by first class mail. If payment of the sum due is not received by the trustee within ten days after sending notice, the trustee must certify the amount due to the public authority, whenever that authority is not the trustee. If the public authority refers the arrears to the county attorney, the county attorney may initiate enforcement proceedings against the obligor for support.

Sec. 56. [517C.66] [OVERPAYMENTS.]

If child support is not assigned under section 256.741, and an obligor has overpaid a child support obligation because of a modification or error in the amount owed, the public authority must:

(1) apply the amount of the overpayment to reduce the amount of child support arrears or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of arrears or debt, reduce the amount of the child support remitted to the obligee by an amount no greater than 20 percent of the current monthly support obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 57. [517C.67] [ALTERNATE NOTICE OF COURT ORDER.]

Whenever this chapter requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu of the order. The verified notice must contain the title of the action, the name of the court, the court file number, the date of the court order, and must recite the operative provisions of the order.

Sec. 58. [517C.70] [CHILD SUPPORT AND PARENTING TIME ARE INDEPENDENT.]

(a) Failure by a party to make support payments is not a defense to:

(1) interference with parenting time; or

(2) removing a child from this state without the permission of the court or the other parent.

(b) Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support.

(c) If a party fails to make support payments, interferes with parenting time, or removes a child from this state without permission of the court or the other parent, the other party may petition the court for an appropriate order.

Sec. 59. [517C.705] [SIX-MONTH REVIEW.]

A request for a six-month review hearing form must be attached to a decree or order that initially establishes child support rights and obligations according to section 517A.29.

Sec. 60. [517C.71] [PAYMENT AGREEMENTS.]

Subdivision 1. [GENERAL REQUIREMENTS.] An obligor who has child support arrears may enter into a payment agreement that addresses payment of both current and overdue support. Payment agreements must:

(1) be in writing;

(2) address both current support and arrears; and

(3) be approved by the district court, a child support magistrate, or the public authority.

Subd. 2. [CONSIDERATIONS.] In proposing or approving proposed payment agreements for purposes of this chapter, the district court, a child support magistrate, or the public authority must take into consideration the amount of the arrears, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The district court, child support magistrate, or public authority must consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and must propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor. The district court, child support magistrate, or public authority also must consider a graduated payment plan tailored to the individual financial circumstances of each obligor.

Sec. 61. [517C.72] [SEEK EMPLOYMENT ORDERS.]

Subdivision 1. [COURT ORDER.] (a) When the public authority is enforcing a support order, the public authority may seek a court order requiring an obligor to seek employment if:

(1) the obligor's employment cannot be verified;

(2) the obligor has child support arrears amounting to at least three times the obligor's total monthly support payments; and

(3) the obligor is not in compliance with a payment agreement.

(b) Upon proper notice to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding or entered into a payment agreement.

Subd. 2. [CONTENTS OF ORDER.] The order to seek employment must:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority a weekly report of at least five new attempts to find employment or of having found employment. The report must include the names, addresses, and telephone numbers of the employers or businesses with whom the obligor attempted to obtain employment and the name of the individual contact at each employer or business to whom the obligor made application for employment or to whom an inquiry was directed;

(3) notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under section 517C.74;

(4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and

(5) specify the duration of the order, not to exceed three months.

Sec. 62. [517C.73] [ORDER FOR COMMUNITY SERVICES.]

If the court finds that the obligor earns \$400 or less per month and does not have the ability to provide support based on the guidelines and factors in this chapter, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this section, the court must consider whether the obligor has the physical capability to perform community services, and must order community services that are appropriate for the obligor's abilities.

Sec. 63. [517C.74] [CONTEMPT PROCEEDINGS FOR NONPAYMENT OF SUPPORT.]

Subdivision 1. [GROUNDS.] If a person against whom an order or decree for support has been entered under this chapter, chapter 256, or a comparable law from another jurisdiction has child support arrears amounting to at least three times the obligor's total monthly support obligation and is not in compliance with a payment agreement, a court may cite and punish a person for contempt under section 517C.25, subdivision 1, chapter 588, or this section. An obligor's failure to comply with a seek employment order entered under section 517C.72 is evidence of willful failure to pay support.

Subd. 2. [COURT OPTIONS.] (a) If a court cites a person for contempt under this section, and the obligor lives in a county that contracts with the commissioner of human services under section 256.997, the court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) is able to work full time;

(2) works an average of less than 32 hours per week; and

(3) has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the court.

(b) An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

Subd. 3. [RELEASE.] A person ordered to do community service work under subdivision 2 may, during the six-week period, apply to the district court, a child support magistrate, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the district court, a child support magistrate, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 517C.52;

(2) enters into a payment agreement under section 517C.71; or

(3) provides proof to the district court, a child support magistrate, or the public authority that, after entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

Subd. 4. [CONTINUING OBLIGATIONS.] An obligor's performance of community service work does not relieve the obligor of a current support obligation or arrears.

Sec. 64. [517C.745] [SECURITY; SEQUESTRATION; CONTEMPT.]

(a) In all cases when the court orders support payments, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order.

(b) The obligor is presumed to have an income from a source sufficient to pay the support order. A child support order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 517C.74, or chapter 588.

Sec. 65. [517C.75] [DRIVER'S LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's driver's license must be suspended if the court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's driver's license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court. An obligee may not bring a motion under this subdivision within 12 months of a denial of a previous motion under this subdivision.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the commissioner of public safety to suspend the obligor's driver's license; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must suspend the obligor's driver's license.

Subd. 3. [SUSPENSION INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's driver's license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's driver's license; and

(2) the obligor must make a written request for a hearing to contest the driver's license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.

(d) If a hearing is held and the court finds a factor under subdivision 1 exists, the court must order the commissioner of public safety to suspend the obligor's driver's license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to suspend the obligor's driver's license.

Subd. 4. [SUSPENSION FOR FAILURE TO COMPLY WITH SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the commissioner of public safety to suspend an obligor's driver's license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend a driver's license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 5. [SUSPENSION FOR FAILURE TO REMAIN IN COMPLIANCE WITH PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party or the public authority must serve notice upon the obligor of intent to suspend under this subdivision. The party or public authority must serve the notice upon the obligor by first class mail at the obligor's last known address not less than ten days before the hearing date. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the Department of Public Safety to suspend the obligor's driver's license. If the obligor fails to appear at the hearing, the public authority may notify the Department of Public Safety to suspend the obligor's driver's license.

Subd. 6. [REINSTATEMENT.] (a) An obligor whose driver's license or operating privileges are suspended may:

(1) provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71;

(2) bring a motion for reinstatement of the driver's license. At the hearing, the district court or child support magistrate must establish a payment agreement under section 517C.71 if the district court or child support magistrate orders reinstatement of the driver's license; or

(3) seek a limited license under section 171.30. A limited license issued to an obligor under section 171.30 expires 90 days after the date it is issued.

(b) Within 15 days of the receipt of the proof under paragraph (a), clause (1), or a court order, the public authority must inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

Subd. 7. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

Subd. 8. [REPORT TO LEGISLATURE.] On January 15, 2007, and every two years after that, the commissioner of human services must submit a report to the legislature that identifies the following information relevant to the implementation of this section:

(1) the number of child support obligors notified of an intent to suspend a driver's license;

(2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;

(3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;

(4) the number of cases in which there has been notification and no payments or payment agreements;

(5) the number of driver's licenses suspended;

(6) the cost of implementation and operation of the requirements of this section; and

(7) the number of limited licenses issued and number of cases in which payment agreements are executed and cases are paid in full following issuance of a limited license.

Sec. 66. [517C.76] [OCCUPATIONAL LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's occupational license must be suspended if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupation license and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's occupational license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the licensing board or agency to suspend the obligor's occupational license under section 214.101; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court order becomes effective and the licensing board or agency must suspend the obligor's occupational license.

(d) If the obligor is a licensed attorney, the court must comply with the procedure under subdivision 4 for notifying the Lawyers Professional Responsibility Board.

Subd. 3. [SUSPENSION INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's occupational license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's occupational license; and

(2) the obligor must make a written request for a hearing to contest the occupational license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.



(d) If a hearing is held and the court finds a factor warranting suspension under subdivision 1 exists, the court must order the occupational licensing board or agency to suspend the obligor's occupational license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the occupational licensing board or agency to suspend the obligor's occupational license.

(f) If the obligor is a licensed attorney, the court or public authority must comply with the procedure under subdivision 4 for notifying the Lawyers Professional Responsibility Board.

Subd. 4. [OBLIGOR IS LICENSED ATTORNEY.] If an obligor is a licensed attorney and the court finds that a factor warranting suspension under subdivision 1 exists, the court or public authority must notify the Lawyers Professional Responsibility Board for appropriate action in accordance with the rules of professional conduct or order the licensing board or agency to suspend the obligor's license if the court finds that the obligor:

(1) is licensed by a licensing board or other state agency that issues an occupational license;

(2) has not made full payment of arrears found to be due by the public authority; and

(3) has not executed or is not in compliance with a payment agreement.

Subd. 5. [SUSPENSION FOR FAILURE TO COMPLY WITH SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the occupational licensing board or agency to suspend an obligor's occupational license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend an occupational license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 6. [FAILURE TO REMAIN IN COMPLIANCE WITH APPROVED PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party must serve notice upon the obligor of an intent to suspend under this subdivision. A party must serve the notice by first class mail at the obligor's last known address not less than ten days before the date of the hearing. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the licensing board or agency to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the licensing board or agency to suspend the obligor's license.

Subd. 7. [REINSTATEMENT.] An obligor whose occupational license is suspended may provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of the receipt of that proof, the public authority must inform the licensing board or agency or the Lawyers Professional Responsibility Board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this section.

Subd. 8. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

## Sec. 67. [517C.77] [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.]

Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under section 517C.76 or a driver's license suspension under section 517C.75, that are transferred by the Department of Human Services to the Department of Public Safety or a state, county, or municipal occupational licensing agency respectively must have the same classification at the Department of Public Safety or other receiving agency under section 13.02 as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the Department of Human Services.

## Sec. 68. [517C.78] [RECREATIONAL LICENSE SUSPENSION.]

Subdivision 1. [MOTION; FACTORS.] (a) An obligee or the public authority may bring a motion to suspend the recreational license or licenses of an obligor. An obligee or the public authority must serve the motion on the obligor in person or by first class mail at the obligor's last known address. There must be an opportunity for a hearing. The court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses if it finds that:

(1) the obligor has child support arrears amounting to at least six times the obligor's total monthly support payments and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) Before utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

Subd. 2. [AFFECTED LICENSES.] For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

Subd. 3. [REINSTATEMENT.] An obligor whose recreational license has been suspended or barred may provide proof to the court that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of receipt of that proof, the court must notify the commissioner of natural resources that the obligor's recreational license or licenses must no longer be suspended nor may receipt be barred.

## Sec. 69. [517C.79] [MOTOR VEHICLE LIEN.]

Subdivision 1. [FACTORS WARRANTING LIEN.] A lien in the name of the obligee or the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, must be entered on any motor vehicle certificate of title subsequently issued in the obligor's name if the obligor:

(1) is a debtor for a judgment debt resulting from child support arrears in an amount at least three times the total monthly support obligation; and

(2) is not in compliance with a payment agreement under section 517C.71.

Subd. 2. [LIEN INITIATED BY OBLIGEE.] (a) An obligee may bring a motion for the entry of a lien on any motor vehicle certificate of title issued in the obligor's name. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that the factors under subdivision 1 exist, the court must:

(1) order the commissioner of public safety to enter a lien in the obligee's name or in the name of the state of Minnesota, as appropriate under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 3. [LIEN INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that the factors in subdivision 1 exist, the public authority must direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name.

(b) At least 90 days before directing the entry of a lien under this section, the public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) the obligor must make a written request for a hearing within 30 days of the date of the notice to contest the action.

(c) If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve the obligor personally or by mail at the obligor's last known address with a notice including the hearing time and place and the allegations against the obligor.

(d) If a hearing is held and the court finds the factors under subdivision 1 exist, the court must order the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

(e) If the obligor does not make a written request for a hearing within 30 days of the date of the notice and has not entered into or is not in compliance with a payment agreement under section 517C.71 approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 4. [RELEASE.] An obligor may provide proof to the court or the public authority that the obligor is in compliance with all written payment agreements under section 517C.71 or that the motor vehicle's value is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority must:

(1) execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person; or

(2) in instances where a lien has not yet been entered, direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 5. [NONEXEMPT VALUE.] A lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the National Auto Dealers Association Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Subd. 6. [REMEDIES AVAILABLE.] The remedy available under this section is in addition to any other enforcement remedies available to the court or public authority.

Sec. 70. [517C.80] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Subdivision 1. [MAKING NAMES PUBLIC.] At least once each year, the commissioner of human services, in consultation with the attorney general, may publish a list of the names and other identifying information of no more than 25 persons who:

- (1) are child support obligors;
- (2) are at least \$10,000 in arrears;
- (3) are not in compliance with a payment agreement regarding both current support and arrears approved by the district court, a child support magistrate, or the public authority;
- (4) cannot currently be located by the public authority for the purposes of enforcing a support order; and
- (5) have not made a support payment except tax intercept payments in the preceding 12 months.

Subd. 2. [IDENTIFYING INFORMATION.] Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The commissioner and attorney general may use posters, media presentations, electronic technology, and other means that the commissioner and attorney general determine are appropriate for dissemination of the information, including publication on the Internet. The commissioner and attorney general may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this section will only be made public after that person's selection by the commissioner and attorney general.

Subd. 3. [NOTICE.] (a) Before making the obligor's name public, the Department of Human Services must send a notice to the obligor's last known address stating the department's intention to make public information on the obligor. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrears or by entering into an agreement to pay the arrears, or by providing information to the public authority that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.

(b) The Department of Human Services must obtain the obligee's written consent to make the obligor's name public.

Subd. 4. [NAMES PUBLISHED IN ERROR.] If the commissioner makes a name public under subdivision 1 in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in the same medium and the same format as the original notice where the name was listed in error. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

## Sec. 71. [517C.81] [COLLECTION; ARREARS.]

Subdivision 1. [COLLECTION OF ARREARS TO CONTINUE AFTER CHILD IS EMANCIPATED.] Remedies available for collecting and enforcing support in this chapter and chapters 256, 257, and 518C also apply to cases in which a child for whom support is owed is emancipated and the obligor owes past support or has accumulated arrears as of the date of the youngest child's emancipation. Child support arrears under this section include arrears for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 517C.15.

Subd. 2. [RETROACTIVE APPLICATION.] This section applies retroactively to support arrears that accrued on or before the date of enactment and to all arrears accruing after the date of enactment.

Subd. 3. [LIMITATIONS.] Past support or pregnancy and confinement expenses ordered for which the obligor has specific court-ordered terms for repayment may not be enforced using drivers' and occupational or professional license suspension, credit bureau reporting, and additional income withholding under section 517C.60, unless the obligor fails to comply with the terms of the court order for repayment.

Subd. 4. [PAYMENT OF ARREARS.] Absent a court order to the contrary, if an arrearage exists at the time a support order would otherwise terminate and section 517C.60 does not apply, the obligor must repay the arrearage in an amount equal to the current support order until all arrears have been paid in full.

Subd. 5. [PAYMENT AGREEMENT.] If arrears exist according to a support order which fails to establish a monthly support obligation in a specific dollar amount, the public authority, if it provides child support collection services, or the obligee may establish a payment agreement. The payment agreement must equal what the obligor would pay for current child support, plus an additional 20 percent of the current child support obligation, until all arrears are paid in full. If the obligor fails to enter into or comply with a payment agreement, the public authority, if it provides child support collection services, or the obligee may file a motion in district court or the expedited child support process, if section 484.702 applies, for a court order establishing repayment terms.

## Sec. 72. [517C.82] [COLLECTION; REVENUE RECAPTURE.]

The public authority may submit debt under chapter 270A only if the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount greater than the obligor's total monthly support and maintenance payments or if the debt has been entered and docketed as a judgment.

## Sec. 73. [517C.83] [CASE REVIEWER.]

The commissioner must make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

## Sec. 74. [517C.84] [ATTORNEY FEES; COLLECTION COSTS.]

Subdivision 1. [GENERAL.] (a) A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this section if the child support arrears are:

(1) at least \$500;

(2) at least 90 days past due; and

(3) docketed as a judgment under sections 548.09 and 548.091.

(b) If the obligor pays in full the judgment rendered under section 548.091 within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this section.

Subd. 2. [ENFORCEMENT.] Attorney fees and collection costs obtained under this section are considered child support and entitled to the applicable remedies for child support collection and enforcement.

Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] If the public authority is a party to a case, an obligee must provide written notice to the public authority within five days of:

(1) contracting with an attorney or collection entity to enforce a child support judgment; or

(2) receipting payments received on a child support judgment.

Subd. 4. [NOTICE TO OBLIGOR; HEARING.] (a) The obligee must serve notice of the obligee's intent to recover attorney fees and collection costs by certified or registered mail on the obligor at the obligor's last known address. The notice must itemize the attorney fees and collection costs being sought by the obligee. It must inform the obligor that the fees and costs will become an additional judgment for child support unless, within 20 days of mailing of the notice, the obligor requests a hearing:

(1) on the reasonableness of the fees and costs; or

(2) to contest the child support judgment on grounds limited to mistake of fact.

(b) If the obligor requests a hearing, the only issues to be determined by the court are:

(1) whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor; or

(2) the validity of the child support judgment on grounds limited to mistake of fact.

(c) The fees and costs may not exceed 30 percent of the arrears. The court may modify the amount of attorney fees and costs as appropriate and must enter judgment accordingly.

(d) If the obligor fails to request a hearing within 20 days of mailing of the notice under paragraph (a), the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

Subd. 5. [FORMS.] The state court administrator must prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this section.

Sec. 75. [517C.99] [REQUIRED NOTICES.]

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in subdivision 3. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 3 relating to parental rights if it finds it is necessary to protect the welfare of a party or child.

Subd. 2. [COPIES OF LAWS AND FORMS.] The district court administrator must make copies of the sections referred to in subdivision 3 available at no charge and must provide forms to request or contest attorney fees and collection costs under section 517C.84, and cost-of-living increases under section 517C.31.

Subd. 3. [CONTENTS.] The required notices must be substantially as follows:

"IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 517C.35, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If the obligor is laid off from employment or receives a pay reduction, support may be reduced, but only if the obligor or public authority serves and files a motion to reduce the support with the court. Any reduction will take effect only if ordered by the court and may only relate back to the time that the obligor files a motion. If the obligor or public authority does not file a motion, the support obligation will continue at the current level. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 517C.29.

(h) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(i) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the Department of Revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

#### 5. PARENTAL RIGHTS REGARDING INFORMATION AND CONTACT

Unless otherwise provided by the court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor child. Each party has the right of access to information regarding health or dental insurance available to the minor child. Presentation of a copy of this order to the custodian of a record or other information about the minor child constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party must keep the other informed as to the name and address of the school of attendance of the minor child. Each party has the right to be informed by school officials about the child's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party must notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor child.

#### 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 517C.51 to 517C.62, have been met. A copy of those sections is available from any district court clerk.

#### 7. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party must notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address; telephone number; driver's license number; Social Security number; and name, address, and telephone number of the employer.

#### 8. COST-OF-LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index ....., unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 517C.31, are met. Cost-of-living increases are compounded. A copy of Minnesota Statutes, section 517C.31, and forms necessary to request or contest a cost-of-living increase are available from any district court clerk.



## 9. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

## 10. JUDGMENTS FOR UNPAID SPOUSAL MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

## 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 517C.84, are met. A copy of Minnesota Statutes, section 517C.84, and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

## 12. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 517B.26. A copy of that section and a description of the expeditor process is available from any district court clerk.

## 13. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 517B.25, subdivision 7. These include compensatory parenting time, civil penalties, bond requirements, contempt, and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk."

Sec. 76. [APPROPRIATIONS.]

\$770,000 is appropriated in fiscal year 2007 from the general fund to the commissioner of human services to fund implementation of the Minnesota Child Support Act and to reimburse counties for their implementation costs. The commissioner of human services shall devise an equitable system to reimburse counties for their costs of implementing the Minnesota Child Support Act. This is a onetime appropriation. Any unencumbered balance remaining in the first year does not cancel and is available the second year of the biennium.

\$355,000 is appropriated in fiscal year 2007 from the general fund to the Supreme Court administrator to fund implementation of the Minnesota Child Support Act. This is a onetime appropriation.

**[EFFECTIVE DATE.]** This section is effective July 1, 2006.

Sec. 77. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes must correct internal cross-references to sections that are now in Minnesota Statutes, chapter 517C, throughout Minnesota Statutes and Minnesota Rules.

(b) If a provision of a section of Minnesota Statutes amended by this act is amended by the 2005 regular legislative session or 2005 special legislative session, if any, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary. In sections affected by this instruction, the revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 78. [REPEALER.]

Minnesota Statutes 2004, sections 518.111; 518.171; 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551, subdivisions 1, 5, 5a, 5b, 5c, 5d, 5e, 5f, 6, 7, 9, 11, 12, 13, 13a, 14, and 15; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; and 518.68, are repealed.

Sec. 79. [EFFECTIVE DATE.]

Unless otherwise specified, this act is effective July 1, 2006, and applies to all actions commenced and motions served on or after July 1, 2006.

ARTICLE 4

MISCELLANEOUS

Section 1. Minnesota Statutes 2004, section 518.1705, subdivision 7, is amended to read:

Subd. 7. [MOVING THE CHILD TO ANOTHER STATE.] ~~Parents may agree, but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, upon the legal standard that will govern a decision concerning removal of a child's residence from this state, provided that:~~

- (1) both parents were represented by counsel when the parenting plan was approved; or
- (2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 2. Minnesota Statutes 2004, section 518.175, subdivision 3, is amended to read:

Subd. 3. [MOVE TO ANOTHER STATE.] The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.

The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to, the following:

- (1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;
- (2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;
- (3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of the life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation;

(8) the effect on the safety and welfare of the child, or the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01; and

(9) any other factor affecting the best interests of the child.

The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds the existence of domestic abuse between the parents, the burden of proof is upon the parent opposing the move.

Sec. 3. Minnesota Statutes 2004, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

(iii) the child has been integrated into the family of the petitioner with the consent of the other party; ~~or~~

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(v) the court has denied a request of the primary custodial parent to move the residence of the child to another state, and the primary custodial parent has relocated to another state despite the court's order.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a parent has been granted sole physical custody of a minor and the child subsequently lives with the other parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 4. Minnesota Statutes 2004, section 518.58, subdivision 4, is amended to read:

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 5. Minnesota Statutes 2004, section 518.64, is amended by adding a subdivision to read:

Subd. 7. [MILITARY SERVICE.] (a) An increase or decrease in an obligor's income because of active military service is grounds for a motion for a modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for modification under this section.

(b) If an obligor who makes a motion to modify support is unable to appear at a proceeding because of being called into active duty, the court must, upon request of the obligor, stay further proceedings until the obligor returns from active duty or is able to appear by alternate means. If the obligor chooses to proceed without appearing, the court may determine the current support obligation based upon documentary evidence of the obligor's income without requiring the obligor's appearance. The state court administrator shall prepare a form to allow an obligor to request a modification without appearance.

(c) If there has been a modification under this subdivision, the obligor's return from active military service is grounds for a motion for modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for a modification under this section.

(d) An obligor whose support obligation has been modified under this subdivision shall notify the obligee and the public authority, if the public authority is providing support enforcement services, within 30 days of the obligor's return from active military service.

(e) For purposes of this subdivision, "active military service" has the meaning given to the term "active service" in section 190.05, subdivision 5, when the obligor has been ordered to active military service for 30 or more days.

Sec. 6. [EFFECTIVE DATE.]

Section 5 is effective the day following final enactment."

Amend the title accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 1390, A bill for an act relating to local government; authorizing local governments to issue certificates of indebtedness with ten-year terms to purchase aerial platform fire trucks; amending Minnesota Statutes 2004, sections 373.01, subdivision 3; 410.32; 412.301.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 1480, A bill for an act relating to drainage; allowing an outlet fee to be charged for use of an established drainage system in Red Lake County as an outlet for drainage originating in Pennington County.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Johnson, J., from the Committee on Civil Law and Elections to which was referred:

H. F. No. 1507, A bill for an act relating to health; modifying provisions for isolation and quarantine of persons exposed to or infected with a communicable disease; amending Minnesota Statutes 2004, sections 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 5; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 4, line 34, after "process" insert "without delay, and in no case beyond 24 hours."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 1525, A bill for an act relating to public employment; modifying pay equity reporting requirements for political subdivisions; amending Minnesota Statutes 2004, section 471.999.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1547, A bill for an act relating to natural resources; regulating off-highway vehicles; requiring rulemaking and modifying certain rulemaking exemptions; modifying certain state trail provisions; modifying designation of state forest roads; modifying forest classification provisions; requiring a study; providing civil penalties; appropriating money; amending Minnesota Statutes 2004, sections 84.775, subdivision 1; 84.788, subdivision 3; 84.789, by adding a subdivision; 84.791, subdivision 1; 84.798, subdivision 1; 84.925, subdivision 1, by adding a subdivision; 84.9256, subdivision 1; 84.9257; 84.926; 84.928, subdivisions 1, 2, 6; 85.015, subdivision 13; 89.19, subdivision 2; 89.71, by adding a subdivision; Laws 2003, chapter 128, article 1, section 167, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 84; repealing Minnesota Statutes 2004, section 84.901.

Reported the same back with the following amendments:

Page 1, lines 26, 28, and 30, after "1" insert "or 2, clause (1)"

Page 2, line 5, delete "of" and insert "or"

Page 2, line 8, after "2" insert ", clause (2) or (3)"

Page 2, line 10, delete "property or"

Page 2, after line 19, insert:

"Sec. 2. Minnesota Statutes 2004, section 84.780, is amended to read:

84.780 [OFF-HIGHWAY VEHICLE DAMAGE ACCOUNT.]

(a) The off-highway vehicle damage account is created in the natural resources fund. Money in the off-highway vehicle damage account is appropriated to the commissioner of natural resources for:

(1) the repair or restoration of property damaged by the operation of off-highway vehicles in an unpermitted area after August 1, 2003;

(2) the repair or restoration of driveways that have been damaged from the legal operation of off-highway vehicles within a public road right-of-way; and

~~for~~ (3) the costs of administration for this section.

(b) Before the commissioner may make a payment from this account, the commissioner must determine whether the damage to the applicant's property was caused by the unpermitted use of off-highway vehicles, that the applicant has made reasonable efforts to identify the responsible individual and obtain payment from the individual, and that the applicant has made reasonable efforts to prevent recurrence. By June 30, 2005, the commissioner of finance must transfer the remaining balance in the account to the off-highway motorcycle account under section 84.794, the off-road vehicle account under section 84.803, and the all-terrain vehicle account under section 84.927. The amount transferred to each account must be proportionate to the amounts received in the damage account from the relevant off-highway vehicle accounts or by the legal operation of off-highway vehicles within a public road right-of-way.

~~(b)~~ (c) Determinations of the commissioner under this section may be made by written order and are exempt from the rulemaking provisions of chapter 14. Section 14.386 does not apply.

~~(c) This section expires July 1, 2005."~~

Page 2, line 22, after "equipment" insert "from the Division of Trails and Waterways"

Page 2, line 23, after "in" insert "developing and"

Page 2, line 24, after "vehicle" insert "grant-in-aid"

Page 3, line 3, after "statewide" insert "Minnesota"

Page 5, line 26, delete "NOISE" and insert "SOUND" and delete "January" and insert "July"

Page 5, line 29, delete "noise" and insert "sound"

Page 5, lines 30 and 36, delete "Noise" and insert "Sound"

Page 6, line 17, delete "receives a citation for" and insert "is convicted of"

Page 6, after line 36, insert:

"Sec. 9. [84.8015] [EDUCATION AND TRAINING.]

Subdivision 1. [PROGRAM ESTABLISHED WHEN REQUIRED.] (a) The commissioner shall establish a comprehensive off-road vehicle environment and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of off-road vehicle operators, and the issuance of off-road vehicle safety certificates to operators 16 to 18 years of age who successfully complete the off-road vehicle environment and safety education and training courses.

(b) Beginning July 1, 2006, an individual who is convicted of violating a law related to the operation of an off-road vehicle must successfully complete the environment and safety education and training program established under paragraph (a) before continuing operation of an off-road vehicle.

Subd. 2. [FEES.] For the purposes of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee not to exceed \$..... from each person who receives the training. The commissioner shall collect a fee for issuing a duplicate off-road vehicle safety certificate. The commissioner shall establish the fee for a duplicate off-road vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. The fees must be deposited in the state treasury and credited to the off-road vehicle account.

Subd. 3. [COOPERATION AND CONSULTATION.] The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of off-road vehicle operators.

Subd. 4. [RECIPROCITY WITH OTHER STATES.] The commissioner may enter into reciprocity agreements or otherwise certify off-road vehicle environment and safety education and training courses from other states that are substantially similar to in-state courses. Proof of completion of a course subject to a reciprocity agreement or certified as substantially similar is adequate to meet the safety certificate requirements of this section.

Subd. 5. [EXEMPTION FROM RULEMAKING AND LEGISLATIVE APPROVAL.] The fees provided for under subdivision 2 are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the fees under subdivision 2 notwithstanding section 16A.1283."

Page 8, line 6, delete "receives a citation for" and insert "is convicted of"

Page 8, line 11, after "citations" insert "and convictions"

Page 9, line 6, after "(d)" insert "To be issued an" and strike everything after "safety"

Page 9, line 7, strike "commissioner to persons" and insert "certificate, a person at least"

Page 9, line 8, strike everything after the comma

Page 9, line 9, strike "capacity unless" and insert "must"



Page 9, line 10, strike "the person" and strike "completed" and insert "complete"

Page 9, line 15, strike "the person is" and insert "be"

Page 11, line 30, delete "or"

Page 11, line 31, before the period, insert "; or

(3) to plow snow in the right-of-way at the end of a private driveway"

Page 16, delete section 18

Page 17, after line 10, insert:

"(d) This subdivision does not apply to forest lands north of U.S. Highway 2. All forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011, that are north of U.S. Highway 2 shall be classified as managed for the purpose of off-highway vehicle use."

Page 18, after line 21, insert:

"(e) \$..... is appropriated from the off-road vehicle account in the natural resources fund to the commissioner of natural resources to establish the off-road vehicle environment and safety education and training program under Minnesota Statutes, section 84.8015."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the first semicolon, insert "84.780;"

Page 1, lines 14 and 15, delete "89.71, by adding a subdivision;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations and Veterans Affairs.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 1555, A bill for an act relating to health; modifying the Minnesota Emergency Health Powers Act; modifying authority of out-of-state license holders; amending Minnesota Statutes 2004, sections 12.03, subdivision 4d, by adding a subdivision; 12.22, subdivision 2a, by adding a subdivision; 12.31, subdivision 1; 12.32; 12.34, subdivision 1; 12.381; 12.39; 12.42; 13.3806, subdivision 1a; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 12.

Reported the same back with the following amendments:

Page 7, line 1, after the first comma, insert "the elderly."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Civil Law and Elections.

The report was adopted.

Olson from the Committee on Local Government to which was referred:

H. F. No. 1595, A bill for an act relating to Hennepin and Wright Counties; authorizing the Hennepin County Board and the Wright County Board to initiate a process for the change of county boundaries by resolution.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Wilkin from the Committee on Commerce and Financial Institutions to which was referred:

H. F. No. 1650, A bill for an act relating to cosmetology; providing for the transfer of regulatory oversight; modifying regulatory provisions; providing conforming changes; amending Minnesota Statutes 2004, sections 154.18; 154.22; 155A.03, subdivision 4a; 155A.04; 155A.045, subdivision 1; 155A.08, subdivision 1; 155A.135; repealing Minnesota Statutes 2004, sections 155A.03, subdivision 13; 155A.06; Minnesota Rules, part 2100.9300, subpart 1.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Tingelstad from the Committee on Governmental Operations and Veterans Affairs to which was referred:

H. F. No. 1761, A bill for an act relating to health; allowing persons in active military service to suspend MinnesotaCare enrollment without a lapse in coverage; modifying MinnesotaCare eligibility determinations and premium payment calculations for persons in active military service; amending Minnesota Statutes 2004, sections 256L.05, by adding a subdivision; 256L.07, by adding a subdivision; 256L.15, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health Policy and Finance.

The report was adopted.

Tingelstad from the Committee on Governmental Operations and Veterans Affairs to which was referred:

H. F. No. 1929, A bill for an act relating to building officials; requiring adoption and application of certain competency and certification criteria; providing for continuing education; amending Minnesota Statutes 2004, section 16B.65, subdivisions 3, 7; proposing coding for new law in Minnesota Statutes, chapter 16B.

Reported the same back with the following amendments:

Page 1, line 14, after "by" insert "any" and delete "agencies" and insert "testing agency"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce and Financial Institutions.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 419, 672, 792, 814, 1480, 1525, 1595 and 1650 were read for the second time.

## **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Hoppe introduced:

H. F. No. 2025, A bill for an act relating to retirement; public employees police and fire retirement plan; authorizing the purchase of prior service credit for a leave of absence as an employee organization business agent.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs.

Hoppe introduced:

H. F. No. 2026, A bill for an act relating to retirement; public employees police and fire retirement plan; authorizing the purchase of prior service credit for a leave of absence as an employee organization business agent.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs.

Walker, Sailer, Moe and Clark introduced:

H. F. No. 2027, A bill for an act relating to human services; reinstating certain American Indian advisory councils; amending Minnesota Statutes 2004, sections 254A.035, subdivision 2; 254A.04; 260.835.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Heidgerken introduced:

H. F. No. 2028, A bill for an act relating to Pope County; providing a process for making certain offices appointive in Pope County.

The bill was read for the first time and referred to the Committee on Local Government.

Holberg and Smith introduced:

H. F. No. 2029, A bill for an act relating to crimes; defining appropriate agency for purposes of the forfeiture law; amending Minnesota Statutes 2004, section 609.531, subdivision 1.

The bill was read for the first time and referred to the Committee on Public Safety Policy and Finance.

Johnson, J., introduced:

H. F. No. 2030, A bill for an act relating to commerce; prohibiting mandatory disclosure of a person's Social Security number as a condition of receiving a service or product; providing exceptions; proposing coding for new law in Minnesota Statutes, chapter 325E.

The bill was read for the first time and referred to the Committee on Commerce and Financial Institutions.

Thissen introduced:

H. F. No. 2031, A bill for an act relating to retirement; Public Employees Retirement Association; excluding police officers of the University of Minnesota from the public employees police and fire fund; amending Minnesota Statutes 2004, section 353.64, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs.

Ellison introduced:

H. F. No. 2032, A bill for an act relating to public safety; making it a crime to loiter with intent to participate in prostitution; appropriating money for pilot projects to reduce homelessness; repealing the vagrancy crime; amending Minnesota Statutes 2004, section 609.321, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2004, section 609.725.

The bill was read for the first time and referred to the Committee on Public Safety Policy and Finance.

Ellison introduced:

H. F. No. 2033, A bill for an act relating to local government aid; amending the city formula; providing for a dedication of a portion of the money; adjusting the appropriation for city aid; amending Minnesota Statutes 2004, section 477A.013, subdivisions 8, 9, by adding a subdivision; repealing Minnesota Statutes 2004, section 477A.03, subdivision 2a.

The bill was read for the first time and referred to the Committee on Taxes.

Cornish, Gunther and Dorn introduced:

H. F. No. 2034, A bill for an act relating to economic development; appropriating money for the Riverbend Center for Entrepreneurial Facilitation.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Nelson, P., introduced:

H. F. No. 2035, A bill for an act relating to motor vehicles; authorizing commissioner of public safety to remove from department records certain old liens on passenger automobiles; amending Minnesota Statutes 2004, section 168A.20, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Transportation.

Samuelson, Abeler, Fritz and Ruud introduced:

H. F. No. 2036, A bill for an act relating to health; requiring the commissioner of health to review and update the curriculum for training nursing assistants and home health aides.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Ruth introduced:

H. F. No. 2037, A bill for an act relating to traffic regulations; clarifying that drivers are prohibited from driving vehicles onto shoulder to pass on the right; making other clarifying changes; amending Minnesota Statutes 2004, section 169.18, subdivision 4.

The bill was read for the first time and referred to the Committee on Transportation.

Westrom, Otremba, Simpson and Heidgerken introduced:

H. F. No. 2038, A bill for an act relating to taxation; providing that "agricultural products" includes certain short rotation trees for purposes of the agricultural property tax classification; amending Minnesota Statutes 2004, section 273.13, subdivision 23.

The bill was read for the first time and referred to the Committee on Taxes.

Davids; Finstad; Nelson, P.; Brod; Blaine; Marquart and Erickson introduced:

H. F. No. 2039, A bill for an act relating to data practices; agricultural data; classifying certain information relating to feedlots and animal premises as nonpublic data; amending Minnesota Statutes 2004, section 13.643, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Civil Law and Elections.

Magnus introduced:

H. F. No. 2040, A bill for an act relating to local government; authorizing nine-member county economic development authority boards; amending Minnesota Statutes 2004, section 469.1082, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Local Government.

Heidgerken, Newman, Koenen, Severson, Otremba and Urdahl introduced:

H. F. No. 2041, A bill for an act relating to education; requiring school milk to be provided in single service plastic containers; amending Minnesota Statutes 2004, section 124D.118, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Education Policy and Reform.

Cornish introduced:

H. F. No. 2042, A bill for an act relating to natural resources; eliminating the Project Riverbend Board; amending Minnesota Statutes 2004, sections 103F.387; 103F.389, subdivision 2; 103F.391; repealing Minnesota Statutes 2004, sections 103F.383, subdivisions 1, 2; 103F.385; 103F.389, subdivisions 3, 4; 103F.393.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Cornish introduced:

H. F. No. 2043, A bill for an act relating to education; changing the calculation of marginal cost pupil units and equalized debt service levy; amending Minnesota Statutes 2004, sections 126C.05, subdivisions 5, 6; 123B.53, subdivision 5.

The bill was read for the first time and referred to the Committee on Education Finance.

Finstad introduced:

H. F. No. 2044, A bill for an act relating to state government; appropriating money for the regulatory and administrative expenses of the Minnesota Racing Commission.

The bill was read for the first time and referred to the Committee on State Government Finance.

Welti; Juhnke; Heidgerken; Koenen; Peterson, A.; Lieder; Otremba; Pelowski; Urdahl; Poppe; Hansen; Scalze; Fritz; Johnson, R.; Magnus and Finstad introduced:

H. F. No. 2045, A bill for an act relating to ethanol fuels; establishing a program of small grants to stimulate research on improved combustion of agriculturally derived ethanol in motor vehicle engines; appropriating money; amending Minnesota Statutes 2004, section 41A.09, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Agriculture and Rural Development.

Krinkie, Lenczewski and Abrams introduced:

H. F. No. 2046, A bill for an act relating to taxation; income, corporate franchise, property tax refund, and estate; conforming provisions to changes in the Internal Revenue Code; amending Minnesota Statutes 2004, sections 289A.02, subdivision 7; 290.01, subdivisions 19, as amended, 19a, 19b, 31; 290.032, subdivisions 1, 2; 290.067, subdivision 2a; 290A.03, subdivisions 3, 15; 291.005, subdivision 1.

The bill was read for the first time and referred to the Committee on Taxes.

Krinkie and Holberg introduced:

H. F. No. 2047, A bill for an act relating to taxation; providing for the creation of special taxing districts to capture property tax increments to finance operating costs of light rail transit; proposing coding for new law in Minnesota Statutes, chapter 473.

The bill was read for the first time and referred to the Committee on Taxes.

Peterson, A.; Koenen and Eken introduced:

H. F. No. 2048, A bill for an act relating to taxation; income; modifying rates; providing a credit for nursing home residents; appropriating money; amending Minnesota Statutes 2004, section 290.06, subdivisions 2c, 2d; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Taxes.

Carlson and Latz introduced:

H. F. No. 2049, A bill for an act relating to taxation; providing an income tax credit for expenditures for postsecondary tuition and related expenses; appropriating money; amending Minnesota Statutes 2004, section 290.06, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Anderson, B., and Greiling introduced:

H. F. No. 2050, A bill for an act relating to health; modifying access to health care records; amending Minnesota Statutes 2004, section 144.335, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Ruud, Solberg and Lillie introduced:

H. F. No. 2051, A bill for an act relating to state government; specifying balances in certain internal service funds; providing for transfer of certain amounts to the general fund; amending Minnesota Statutes 2004, section 16B.48, by adding a subdivision.

The bill was read for the first time and referred to the Committee on State Government Finance.

Abeler and Greiling introduced:

H. F. No. 2052, A bill for an act relating to education finance; authorizing an equalized aid and levy for certain unfunded pupil transportation costs; amending Minnesota Statutes 2004, section 123B.92, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Education Finance.

Abeler, Thissen and Otremba introduced:

H. F. No. 2053, A bill for an act relating to health; requiring a coroner or medical examiner to be notified of a death of a nursing home patient; amending Minnesota Statutes 2004, section 149A.90, subdivision 3.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Severson, Knoblach, Opatz and Hosch introduced:

H. F. No. 2054, A bill for an act relating to St. Cloud area cities; authorizing local option sales taxes; modifying the use of revenues.

The bill was read for the first time and referred to the Committee on Taxes.

Latz, Hackbarth and Ozment introduced:

H. F. No. 2055, A bill for an act relating to taxation; requiring tax preparers to notify clients of the nongame wildlife checkoff; amending Minnesota Statutes 2004, section 270.30, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Peterson, A.; Juhnke; Dill and Thao introduced:

H. F. No. 2056, A bill for an act relating to motor fuels; indexing tax rate for gasoline and special fuels; amending Minnesota Statutes 2004, sections 296A.07, by adding a subdivision; 296A.08, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Vandever introduced:

H. F. No. 2057, A bill for an act relating to the Metropolitan Council; requiring installation of a fare collection system on Hiawatha light rail transit line.

The bill was read for the first time and referred to the Committee on Transportation Finance.

Ruth introduced:

H. F. No. 2058, A bill for an act relating to motor vehicles; authorizing Knights of Columbus special license plates; proposing coding for new law in Minnesota Statutes, chapter 168.

The bill was read for the first time and referred to the Committee on Transportation.



Davids; Gunther; Simpson; Lanning; Dill; Heidgerken; Urdahl; Marquart; Dorman; Cornish; Peterson, A.; Nornes; Moe; Hosch; Welti; Poppe; Liebling; Johnson, R.; Anderson, I., and Sailer introduced:

H. F. No. 2059, A bill for an act relating to taxation; increasing education funding; modifying the local government aid formula and increasing the program's appropriation; eliminating the dedication of a portion of motor vehicle sales tax proceeds to transit; authorizing either a local sales tax or a property tax levy for transit; appropriating money; amending Minnesota Statutes 2004, sections 126C.10, by adding a subdivision; 174.24, subdivision 3b; 297B.09, subdivision 1; 473.388, subdivisions 4, 7, by adding a subdivision; 473.446, subdivision 1, by adding subdivisions; 477A.011, subdivisions 34, 36; 477A.013, subdivisions 8, 9; 477A.03, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapter 473.

The bill was read for the first time and referred to the Committee on Taxes.

Liebling; Peterson, N., and Hosch introduced:

H. F. No. 2060, A bill for an act relating to local government; establishing a land use advisory council; providing its duties; removing certain limits on property-owner-petitioned annexation if certain conditions are met; providing for alternative annexation procedures for cities in certain cases; amending Minnesota Statutes 2004, section 414.033, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 4A; proposing coding for new law as Minnesota Statutes, chapter 414A.

The bill was read for the first time and referred to the Committee on Local Government.

Lanning; Poppe; Paymar; Hornstein; Peterson, N.; Hosch and Scalze introduced:

H. F. No. 2061, A bill for an act relating to local government; limiting urban development on unincorporated property that abuts a municipality in certain cases; extending city land use controls in certain cases; amending Minnesota Statutes 2004, sections 462.357, subdivision 1; 462.358, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 414.

The bill was read for the first time and referred to the Committee on Local Government.

Smith introduced:

H. F. No. 2062, A bill for an act relating to civil actions; providing for the admissibility of evidence of use or failure to use seat belts; regulating actions involving certain insurance practices; authorizing direct actions and imposing direct liability on certain insurers in certain actions; regulating recovery in certain actions; amending Minnesota Statutes 2004, section 169.685, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 72A; 540; 604.

The bill was read for the first time and referred to the Committee on Civil Law and Elections.

Holberg introduced:

H. F. No. 2063, A bill for an act relating to public safety; modifying motor vehicle, traffic regulation, and driver's license provisions relating to commercial motor vehicles; making technical and clarifying changes; modifying definitions of recreational vehicle, motor home, state, and tank vehicle; prohibiting issuance of

identification card to holder of driving instruction permit; modifying driver's license classifications, restrictions, exceptions, and exemptions; modifying driver records provisions; incorporating federal regulations; amending Minnesota Statutes 2004, sections 168.011, subdivision 25; 169.01, subdivision 75; 169A.52, subdivision 3; 171.01, subdivisions 22, 47, by adding a subdivision; 171.02; 171.03; 171.04, subdivision 2; 171.09; 171.12, subdivision 3; 171.165, subdivisions 1, 2, 6; proposing coding for new law in Minnesota Statutes, chapter 171; repealing Minnesota Statutes 2004, sections 169.99, subdivision 1b; 171.12, subdivision 6; 171.165, subdivisions 3, 4, 4a, 4b; Minnesota Rules, part 7503.2400.

The bill was read for the first time and referred to the Committee on Transportation.

Holberg introduced:

H. F. No. 2064, A bill for an act relating to public safety; providing for CriMNet data definitions; providing public defender access to criminal justice data; amending Minnesota Statutes 2004, sections 13.03, subdivision 4; 299C.65, by adding a subdivision; 611.272; proposing coding for new law in Minnesota Statutes, chapter 13.

The bill was read for the first time and referred to the Committee on Public Safety Policy and Finance.

Clark, Eken, Hilty and Moe introduced:

H. F. No. 2065, A bill for an act relating to education; creating a Native Language Eminence Credentialing Task Force.

The bill was read for the first time and referred to the Committee on Education Policy and Reform.

Clark, Mariani, Pelowski, Opatz and Carlson introduced:

H. F. No. 2066, A bill for an act relating to higher education; requiring a report on health care costs for University of Minnesota employees.

The bill was read for the first time and referred to the Committee on Higher Education Finance.

Clark, Ellison, Walker and Otremba introduced:

H. F. No. 2067, A bill for an act relating to health; requiring development of an environmental justice tracking system; proposing coding for new law in Minnesota Statutes, chapter 145.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Clark, Walker, Slawik and Sertich introduced:

H. F. No. 2068, A bill for an act relating to appropriations; appropriating money for youth programs.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Dorman; Marquart; Peterson, A.; Urdahl; Heidgerken; Moe; Hosch; Poppe; Johnson, R.; Welti and Sailer introduced:

H. F. No. 2069, A bill for an act relating to taxation; increasing education funding; eliminating the dedication of a portion of motor vehicle sales tax proceeds to transit; authorizing a property tax levy for transit; appropriating money; amending Minnesota Statutes 2004, sections 126C.10, by adding a subdivision; 174.24, subdivision 3b; 297B.09, subdivision 1; 473.388, subdivisions 4, 7; 473.446, subdivision 1, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Taxes.

### **MESSAGES FROM THE SENATE**

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 925, A bill for an act relating to insurance; making federally conforming changes in Medicare-related coverage; providing financial solvency regulation for stand-alone Medicare Part D prescription drug plans; making related technical changes; amending Minnesota Statutes 2004, sections 62A.31, subdivisions 1f, 1k, 1n, 1s, 1t, 1u, 3, 4, 7; 62A.315; 62A.316; 62A.318; 62A.36, subdivision 1; 62L.12, subdivision 2; 62Q.01, subdivision 6; 256.9657, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 62A.

H. F. No. 1036, A bill for an act relating to state government; the Office of Administrative Hearings; providing state copies of Minnesota Rules to the office; regulating hearings and cases; providing rulemaking; assessing costs; amending Minnesota Statutes 2004, sections 14.47, subdivision 8; 14.50; 14.51; 14.53; 14.62, subdivision 2a.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 308, 909, 1472, 1466 and 1621.

PATRICK E. FLAHAVEN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 308, A bill for an act relating to landlord and tenant; regulating actions by government units to obtain remedies for building and other code violations; amending Minnesota Statutes 2004, section 504B.395, subdivision 1.

The bill was read for the first time and referred to the Committee on Commerce and Financial Institutions.

S. F. No. 909, A bill for an act relating to insurance; broadening an existing right to purchase Medicare supplement coverage under certain circumstances; amending Minnesota Statutes 2004, section 62A.31, subdivision 1h.

The bill was read for the first time.

McNamara moved that S. F. No. 909 and H. F. No. 776, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1472, A bill for an act relating to traffic regulations; authorizing day activity center buses to operate certain school bus warning equipment under certain circumstances; amending Minnesota Statutes 2004, section 169.448, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Transportation.

S. F. No. 1466, A bill for an act relating to transportation; clarifying seasonal load restrictions for utility vehicles; amending Minnesota Statutes 2004, section 169.87, subdivision 5.

The bill was read for the first time and referred to the Committee on Transportation Finance.

S. F. No. 1621, A bill for an act relating to the military; providing for rental of certain facilities at Camp Ripley; amending Minnesota Statutes 2004, section 190.16, by adding a subdivision.

The bill was read for the first time and referred to the Committee on State Government Finance.

### **CONSENT CALENDAR**

Paulsen moved that the Consent Calendar be continued. The motion prevailed.

### **MOTIONS AND RESOLUTIONS**

Rukavina moved that the name of Hilty be added as an author on H. F. No. 48. The motion prevailed.

Ruth moved that the name of Hilty be added as an author on H. F. No. 358. The motion prevailed.

Atkins moved that the names of Fritz and Clark be added as authors on H. F. No. 471. The motion prevailed.

Clark moved that the name of Johnson, R., be added as an author on H. F. No. 655. The motion prevailed.

Abeler moved that the name of Moe be added as an author on H. F. No. 670. The motion prevailed.

Bradley moved that the names of Kelliher and Peterson, A., be added as authors on H. F. No. 775. The motion prevailed.

Johnson, J., moved that the name of Liebling be added as an author on H. F. No. 936. The motion prevailed.

Hilstrom moved that the name of Hilty be added as an author on H. F. No. 1142. The motion prevailed.

Otremba moved that the name of Clark be added as an author on H. F. No. 1160. The motion prevailed.

Seifert moved that the name of Clark be added as an author on H. F. No. 1165. The motion prevailed.

Olson moved that the name of Clark be added as an author on H. F. No. 1173. The motion prevailed.

Thissen moved that the name of Clark be added as an author on H. F. No. 1178. The motion prevailed.

Paymar moved that the name of Liebling be added as an author on H. F. No. 1311. The motion prevailed.

Bradley moved that the name of Knoblach be added as an author on H. F. No. 1312. The motion prevailed.

Sykora moved that the name of Klinzing be added as an author on H. F. No. 1419. The motion prevailed.

Sertich moved that the names of Clark and Slawik be added as authors on H. F. No. 1569. The motion prevailed.

Hamilton moved that the name of Ruth be added as an author on H. F. No. 1612. The motion prevailed.

Lanning moved that the name of Loeffler be added as an author on H. F. No. 1731. The motion prevailed.

Ellison moved that the name of Clark be added as an author on H. F. No. 1897. The motion prevailed.

Slawik moved that the name of Clark be added as an author on H. F. No. 1901. The motion prevailed.

Lesch moved that the name of Clark be added as an author on H. F. No. 1902. The motion prevailed.

Vandever moved that the name of Clark be added as an author on H. F. No. 1908. The motion prevailed.

Thao moved that the name of Clark be added as an author on H. F. No. 1911. The motion prevailed.

Meslow moved that the name of Clark be added as an author on H. F. No. 1916. The motion prevailed.

Finstad moved that the name of Penas be added as an author on H. F. No. 1956. The motion prevailed.

Wagenius moved that the name of Kahn be added as an author on H. F. No. 1958. The motion prevailed.

Dorman moved that the name of Severson be added as an author on H. F. No. 1961. The motion prevailed.

Mullery moved that the name of Mariani be added as an author on H. F. No. 1962. The motion prevailed.

Finstad moved that the name of Moe be added as an author on H. F. No. 1967. The motion prevailed.

Hilty moved that the name of Kahn be added as an author on H. F. No. 2014. The motion prevailed.

Heidgerken moved that the name of Knoblach be added as an author on H. F. No. 2020. The motion prevailed.

Sertich moved that H. F. No. 792, now on the General Register, be re-referred to the Committee on Jobs and Economic Opportunity Policy and Finance. The motion prevailed.

Larson moved that S. F. No. 508 be recalled from the Committee on Local Government and be re-referred to the Committee on Transportation. The motion prevailed.

#### ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 11:30 a.m., Wednesday, March 23, 2005. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 11:30 a.m., Wednesday, March 23, 2005.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives