

A-1 amend

Sen. Kelley moves to amend S. F. 1729 as follows:

Page 2, line 27, after "financial" insert , business

Page 2, line 27, after "data" insert collected, created,

Page 2, line 27, strike "prepared"

Page 2, line 28, strike "used, or retained" and insert or maintained

Page 2, line 31, after "financial" insert , business

Page 2, line 32, strike "information" and insert data

Page 2, line 32, strike "executive director" and insert responsible authority for the state board

Page 2, line 33, after "financial" insert , business

Page 3, line 2 after "financial" insert , business

\* need amend  
drafted for hearing  
(sent em to Harry)

\* from Heidelberg  
Jim  
(and Dept agrees)

1 To: Senator Betzold, Chair  
2 Committee on Judiciary  
3 Senator Skoglund,


4 Chair of the Subcommittee on Data Practices, to which was  
5 referred

6 S.F. No. 1729: A bill for an act relating to the State  
7 Board of Investment; authorizing venture capital investments  
8 using the environmental and natural resources trust fund;  
9 classifying data related to certain venture capital investments;  
10 amending Minnesota Statutes 2004, sections 11A.24, subdivision  
11 6; 13.635, by adding a subdivision; proposing coding for new law  
12 in Minnesota Statutes, chapter 116P.

13 Reports the same back with the recommendation that the bill  
14 be amended as follows:

15 Page 3, line 20, delete "venture capital"

16 And when so amended that the bill be recommended to pass  
17 and be referred to the full committee.

18   
19 .....  
20 (Subcommittee Chair)

21 March 29, 2005.....  
22 (Date of Subcommittee action)

Senators Kelley, Sams, Rosen, Kiscaden and Frederickson introduced--  
S.F. No. 1729: Referred to the Committee on Judiciary.

1 A bill for an act  
2 relating to the State Board of Investment; authorizing  
3 venture capital investments using the environmental  
4 and natural resources trust fund; classifying data  
5 related to certain venture capital investments;  
6 amending Minnesota Statutes 2004, sections 11A.24,  
7 subdivision 6; 13.635, by adding a subdivision;  
8 proposing coding for new law in Minnesota Statutes,  
9 chapter 116P.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

11 Section 1. Minnesota Statutes 2004, section 11A.24,  
12 subdivision 6, is amended to read:

13 Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the  
14 investments authorized in subdivisions 1 to 5, and subject to  
15 the provisions in paragraph (b), the state board may invest  
16 funds in:

17 (1) venture capital investment businesses through  
18 participation in limited partnerships, trusts, private  
19 placements, limited liability corporations, limited liability  
20 companies, limited liability partnerships, and corporations;

21 (2) real estate ownership interests or loans secured by  
22 mortgages or deeds of trust or shares of real estate investment  
23 trusts through investment in limited partnerships, bank  
24 sponsored collective funds, trusts, mortgage participation  
25 agreements, and insurance company commingled accounts, including  
26 separate accounts;

27 (3) regional and mutual funds through bank sponsored

1 collective funds and open-end investment companies registered  
2 under the Federal Investment Company Act of 1940, and closed-end  
3 mutual funds listed on an exchange regulated by a governmental  
4 agency;

5 (4) resource investments through limited partnerships,  
6 trusts, private placements, limited liability corporations,  
7 limited liability companies, limited liability partnerships, and  
8 corporations; and

9 (5) international securities.

10 (b) The investments authorized in paragraph (a) must  
11 conform to the following provisions:

12 (1) the aggregate value of all investments made according  
13 to paragraph (a), clauses (1) to (4), may not exceed 35 percent  
14 of the market value of the fund for which the state board is  
15 investing;

16 (2) there must be at least four unrelated owners of the  
17 investment other than the state board for investments made under  
18 paragraph (a), clause (1), (2), (3), or (4);

19 (3) state board participation in an investment vehicle is  
20 limited to 20 percent thereof for investments made under  
21 paragraph (a), clause (1), (2), (3), or (4); and

22 (4) state board participation in a limited partnership does  
23 not include a general partnership interest or other interest  
24 involving general liability. The state board may not engage in  
25 any activity as a limited partner which creates general  
26 liability.

27 (c) All financial or proprietary data received, prepared,  
28 used, or retained by the state board in connection with  
29 investments authorized by paragraph (a), clause (1), (2), or  
30 (4), are nonpublic data under section 13.02, subdivision 9. As  
31 used in this paragraph, "financial or proprietary data" means  
32 information, as determined by the executive director, that is of  
33 a financial or proprietary nature, the release of which could  
34 cause competitive harm to the state board, the legal entity in  
35 which the state board has invested or has considered an  
36 investment, the managing entity of an investment, or a portfolio

1 company in which the legal entity holds an interest. Regardless  
 2 of whether they could be considered financial or proprietary  
 3 data, the following data received, prepared, used, or retained  
 4 by the state board in connection with investments authorized by  
 5 paragraph (a), clause (1), (2), or (4), are public at all times:

6 (1) the name and industry group classification of the legal  
 7 entity in which the state board has invested or in which the  
 8 state board has considered an investment;

9 (2) the state board commitment amount, if any;

10 (3) the funded amount of the state board's commitment to  
 11 date, if any;

12 (4) the market value of the investment by the state board;

13 (5) the state board's internal rate of return for the  
 14 investment, including expenditures and receipts used in the  
 15 calculation of the investment's internal rate of return; and

16 (6) the age of the investment in years.

17 Sec. 2. Minnesota Statutes 2004, section 13.635, is  
 18 amended by adding a subdivision to read:

19 Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government  
 20 data of the State Board of Investment related to ~~venture capital~~ Delete  
 21 investments are classified under section 11A.24, subdivision 6.

22 Sec. 3. [116P.081] [MINNESOTA EARLY STAGE VENTURE CAPITAL  
 23 INVESTMENTS.]

24 (a) For purposes of this section, "Minnesota early stage  
 25 company" means an early stage company with its headquarters and  
 26 principal place of business located in this state.

27 (b) Until June 30, 2019, the State Board of Investment must  
 28 invest at least \$25,000,000 of the principal of the Minnesota  
 29 environmental and natural resources trust fund in early stage  
 30 venture capital investments, subject to the following conditions:

31 (1) the board may not make initial investments of more than  
 32 a total of \$50,000,000 under this section;

33 (2) each separate investment vehicle must commit 50 percent  
 34 or more of its assets to investments in Minnesota early stage  
 35 companies;

36 (3) the board's investment may not exceed 50 percent of the

1 total investment in an investment vehicle;

2 (4) no new investment vehicles may be purchased after June  
3 30, 2008; and

4 (5) the board may reinvest returns from investments made  
5 under this section.

6 The board may set evaluation criteria for investment  
7 vehicles and fund managers of investments under this section  
8 different from those it uses for other investments.

9 (c) This section expires August 1, 2019.

10 Sec. 4. [EFFECTIVE DATE.]

11 This act is effective the day following final enactment.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1729: A bill for an act relating to the State  
4 Board of Investment; authorizing venture capital investments  
5 using the environmental and natural resources trust fund;  
6 classifying data related to certain venture capital investments;  
7 amending Minnesota Statutes 2004, sections 11A.24, subdivision  
8 6; 13.635, by adding a subdivision; proposing coding for new law  
9 in Minnesota Statutes, chapter 116P.

10 Reports the same back with the recommendation that the bill  
11 be amended as follows:

12 Page 2, line 27, after "financial" insert ", business," and  
13 after "data" insert "collected, created," and delete "prepared,"

14 Page 2, line 28, delete "used, or retained" and insert "or  
15 maintained"

16 Page 2, line 31, after "financial" insert ", business,"

17 Page 2, line 32, delete "information" and insert "data" and  
18 delete "executive director" and insert "responsible authority  
19 for the state board"

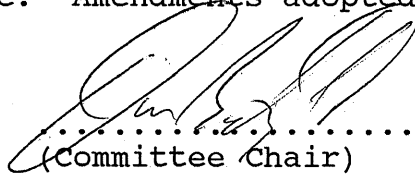
20 Page 2, line 33, after "financial" insert ", business,"

21 Page 3, line 2, after "financial" insert ", business,"

22 Page 3, line 20, delete "venture capital"

23 And when so amended the bill do pass and be re-referred to  
24 the Committee on Finance. Amendments adopted. Report adopted.

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26  
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28  
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30

  
.....  
(Committee Chair)

March 31, 2005.....  
(Date of Committee recommendation)

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and Fiscal Analysis**

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# Senate

State of Minnesota

## **S.F. No. 819 - State Employee Whistle-blower Investigations (First Engrossment)**

**Author:** Senator John Marty

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 2, 2005

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This bill provides a variety of procedures and resources that must be used when certain state employees are involuntarily terminated. These procedures include the preservation of specified employee records, and a prohibition on terminating a state employee because the state employee reports serious waste, inefficiency, or mismanagement.

**Section 1 [CERTAIN EMPLOYEE RECORDS.]** requires state agencies to preserve records for at least three years relating to a state employee who is involuntarily terminated from employment. Provides the terminated employee with the opportunity to review all records. Paragraph (b) creates liability for a state agency that violates this requirement and provides costs and attorney fees for employees who successfully enforce their rights under the statute. This section also requires reinstatement of the terminated employee, including lost wages, and health and retirement benefits if this procedure is violated. The records retention requirement does not apply to employees who are laid off.

**Section 2 [DISCHARGE, SUSPENSION, DEMOTION FOR CAUSE, SALARY DECREASE.]** clarifies that if an employee is discharged from the unclassified service while the employee is on leave from the classified service, all procedures necessary for terminating the employee from the classified service must be followed if the employee is to be terminated from that position as well.

**Section 3 [PUBLIC EMPLOYERS.]** prohibits the state and political subdivisions of this state from discharging, disciplining, threatening, penalizing, or otherwise discriminating against an employee who in good faith, reports on serious waste, inefficiency, or mismanagement in the



employee's place of employment, even if there is no violation of federal or state law. Paragraph (c) provides an employee who is involuntarily discharged in violation of this section of law to seek review of the discharge under contested case proceedings in chapter 14. Allows parties to any contested case proceeding reasonable access to relevant documents and witnesses before the hearing begins. In evaluating the case, the administrative law judge may consider the quality and integrity of any investigative process that was used by the agency.

TSB:rer

1 A bill for an act

2 relating to state government; preserving access to  
3 employee data for certain terminated state employees;  
4 prohibiting public employers from retaliating against  
5 employees who report waste or mismanagement; providing  
6 access to a contested case hearing for employees who  
7 claim whistle-blower status; amending Minnesota  
8 Statutes 2004, sections 43A.33, subdivision 1;  
9 181.932, by adding a subdivision; proposing coding for  
10 new law in Minnesota Statutes, chapter 15.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. [15.175] [CERTAIN EMPLOYEE RECORDS.]

13 (a) Data, records, files, and all written or electronic  
14 materials of, or relating to, a state employee who is  
15 involuntarily terminated from employment with a state agency  
16 must be preserved for a period of at least three years after the  
17 employee's termination from employment, or a longer period as  
18 required under section 138.17. A state employee who has been  
19 terminated may request the opportunity to review all data  
20 covered by this section. An agency responding to a request made  
21 under this section must provide a response within ten days after  
22 receiving a written request. This paragraph does not apply to  
23 an individual named on a layoff list prepared under chapter 43A.

24 (b) A state agency that destroys, shreds, or alters data,  
25 records, files, or materials in violation of this requirement is  
26 liable to the employee for damages resulting from that  
27 violation, plus costs and reasonable attorney fees incurred by  
28 the employee in enforcing the employee's rights under this

1 section. In addition, the employee is also entitled to  
2 reinstatement to the position from which the employee was  
3 terminated, plus reimbursement for lost wages and health and  
4 retirement benefits.

5 Sec. 2. Minnesota Statutes 2004, section 43A.33,  
6 subdivision 1, is amended to read:

7 Subdivision 1. [DISCHARGE, SUSPENSION, DEMOTION FOR CAUSE,  
8 SALARY DECREASE.] Managers and employees shall attempt to  
9 resolve disputes through informal means prior to the initiation  
10 of disciplinary action. No permanent employee in the classified  
11 service shall be reprimanded, discharged, suspended without pay,  
12 or demoted, except for just cause. The discharge of an employee  
13 from unclassified service who is on leave from the classified  
14 service does not affect or rescind the application of the  
15 procedures under this section to the discharge, if any, of the  
16 employee from the classified service.

17 Sec. 3. Minnesota Statutes 2004, section 181.932, is  
18 amended by adding a subdivision to read:

19 Subd. 1a. [PUBLIC EMPLOYERS.] (a) The state, including a  
20 state postsecondary educational institution or a political  
21 subdivision of the state as defined in section 6.56, subdivision  
22 1, may not discharge, discipline, threaten, penalize, or  
23 otherwise discriminate against an employee regarding the  
24 employee's compensation, terms, conditions, location, or  
25 privileges of employment because the employee, in good faith,  
26 reports or is in the process of preparing a report regarding  
27 serious waste, inefficiency, or mismanagement in the employee's  
28 place of employment that diminishes the value the public  
29 receives from the employer, even though the waste, inefficiency,  
30 or mismanagement reported does not in itself violate any federal  
31 or state law or rule.

32 (b) An employee contesting disciplinary action under  
33 paragraph (a) for the preparation of a report that was not  
34 submitted before the discipline must demonstrate the occurrence  
35 of the violation by clear and convincing evidence.

36 (c) A state employee who is involuntarily discharged from

1 the unclassified service and who claims the discharge violated  
2 this subdivision or subdivision 1 may seek review of the  
3 discharge under the contested case procedures in sections 14.48  
4 to 14.69. The jurisdiction of the Office of Administrative  
5 Hearings is limited to a determination whether the discharge was  
6 in violation of this subdivision or subdivision 1 and the  
7 provision of any appropriate remedies. The parties to the  
8 contested case proceeding must be allowed access to relevant  
9 documents and witnesses for a reasonable period of time before  
10 the hearing on a proceeding under this paragraph. The  
11 administrative law judge must consider the quality and integrity  
12 of the investigative process, if any, used by the agency when  
13 reviewing evidence submitted by the agency.

1 Senator ..... moves to amend S.F. No. 819 as follows:

2 Page 1, line 16 delete "three" and insert "two"

3 Page 1, line 24, after "(b)" insert "If a state agency  
4 terminates an employee subject to the protections in paragraph  
5 (a), the agency may provide the employee with written notice of  
6 the employee's right to review the data protected by paragraph  
7 (a). The notice must inform the employee that the employee has  
8 ten business days from the day the employee acknowledges the  
9 receipt of the notice to review the data. The notice must  
10 provide the name of a contact person within the agency who will  
11 make the data available to the employee for review. The agency  
12 may dispose of the data without reference to paragraph (a) ten  
13 business days or more after notifying the employee.

14 (c)"

1 To: Senator Betzold, Chair

2 Committee on Judiciary

3 Senator Skoglund,

4 Chair of the Subcommittee on Data Practices, to which was  
5 referred

6 S.F. No. 1253: A bill for an act relating to local  
7 government; authorizing the city of St. Paul to participate in  
8 the creation of, and to contract with, a nonprofit organization  
9 for management and operation of the RiverCentre complex.


10 Reports the same back with the recommendation that the bill  
11 be amended as follows:

12 Page 3, line 27, delete everything after "city"

13 Page 3, line 28, delete everything before the colon

14 Page 3, line 32, before the period, insert ", except that  
15 data received, created, or maintained by the nonprofit  
16 organization in the course of preparing or submitting requests  
17 for proposals or requests for bids relating to events involving  
18 the city of St. Paul shall be classified as nonpublic data under  
19 Minnesota Statutes, section 13.02, subdivision 9, or private  
20 data on individuals under Minnesota Statutes, section 13.02,  
21 subdivision 12, for five years from the date the data was  
22 initially received, created, or maintained by the nonprofit  
23 organization. The nonprofit organization shall be a civic  
24 center authority for purposes of Minnesota Statutes, section  
25 13.55"

26 And when so amended that the bill be recommended to pass  
27 and be referred to the full committee.

28   
29 .....  
30 (Subcommittee Chair)

31 March 29, 2005.....  
32 (Date of Subcommittee action)

Senators Pappas, Moua, Anderson and Cohen introduced--

S.F. No. 1253: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to local government; authorizing the city of  
3 St. Paul to participate in the creation of, and to  
4 contract with, a nonprofit organization for management  
5 and operation of the RiverCentre complex.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. [DEFINITIONS.]

8 Subdivision 1. [APPLICATION.] For the purposes of this  
9 act, the terms defined in this section have the meanings given  
10 them.

11 Subd. 2. [CITY.] "City" means the city of St. Paul, its  
12 mayor, city council, and any other board, authority, commission,  
13 or officer authorized by law, charter, or ordinance to exercise  
14 city powers of the nature referred to in this act.

15 Subd. 3. [RIVERCENTRE COMPLEX.] "RiverCentre complex"  
16 means collectively the auditorium, convention, conference and  
17 education center, arena, and parking ramp facilities presently  
18 and commonly known as the Roy Wilkins Auditorium, St. Paul  
19 RiverCentre, Xcel Energy Center, and RiverCentre Parking Ramp,  
20 including all property, real or personal, tangible or  
21 intangible, located in the city, intended to be used as part of  
22 the RiverCentre complex or additions to or extensions of it.

23 Sec. 2. [ST. PAUL; CREATION OF NONPROFIT ORGANIZATION.]

24 Subdivision 1. [AUTHORITY TO CREATE A NONPROFIT  
25 ORGANIZATION.] As required under Minnesota Statutes, section

1 465.717, and notwithstanding any other law, city charter  
2 provision, or ordinance to the contrary, the city of St. Paul  
3 may participate in the creation of a nonprofit organization for  
4 the purposes provided in this act.

5 Subd. 2. [GOVERNING BOARD; APPOINTMENT PROCESS.] (a) The  
6 mayor of the city, subject to approval by the city council,  
7 shall appoint a majority of the members of the governing board  
8 of the nonprofit organization performing all or a part of the  
9 activities necessary to carry out the purposes specified in this  
10 act. The mayor of the city may designate any officer or  
11 employee of the city to serve as a member of the governing board  
12 of any nonprofit organization.

13 (b) In addition to the appointments made by the mayor under  
14 paragraph (a), the mayor of the city shall designate three  
15 members of the city council to serve on the governing board of  
16 the nonprofit organization.

17 (c) Notwithstanding any provision contained in the articles  
18 of incorporation and bylaws of the nonprofit organization, any  
19 member of the governing board appointed by the mayor may be  
20 removed only by the mayor of the city for cause.

21 Subd. 3. [PRESIDENT.] The governing board of the nonprofit  
22 organization shall select, subject to the approval of the mayor  
23 of the city, a president to serve as chief executive officer and  
24 general manager of the nonprofit organization.

25 Subd. 4. [CONFLICTS OF INTEREST.] The procedures in  
26 Minnesota Statutes, section 317A.255, subdivision 1, paragraph  
27 (b), relating to director conflicts of interest, are not  
28 required if the contract or other transaction is between the  
29 city and the nonprofit organization.

30 Sec. 3. [RIVERCENTRE MANAGEMENT; OPERATIONS CONTRACT.]

31 Subdivision 1. [AUTHORITY TO CONTRACT WITH NONPROFIT  
32 ORGANIZATION.] The city may enter into an agreement with the  
33 nonprofit organization created in section 2 to equip, maintain,  
34 manage, and operate all or a portion of the RiverCentre complex  
35 and to manage and operate a convention bureau to market and  
36 promote the city as a tourist or convention center. Except as



1 otherwise provided in this act, the nonprofit organization may  
 2 only contract and utilize and expend funds for these purposes  
 3 under the direction of its governing board, subject to the  
 4 accounting, financial reporting, and other conditions that the  
 5 city may prescribe in a contract made under this act between the  
 6 city and the nonprofit organization. The nonprofit organization  
 7 may use the services of the office of the city attorney and the  
 8 city's purchasing department. All activities performed to carry  
 9 out these purposes are deemed to be for a public purpose.

10 Subd. 2. [BONDHOLDERS' RIGHTS AND RIVERCENTRE COMPLEX TAX  
 11 EXEMPTIONS PRESERVED.] (a) The city must protect the rights of  
 12 holders of bonds issued for the RiverCentre complex, including  
 13 preserving the tax-exempt status of the bonds.

14 (b) The use and operation of the RiverCentre complex by the  
 15 nonprofit organization with which the city contracts under this  
 16 act is a use, lease, or occupancy for public, governmental, and  
 17 municipal purposes, and the complex is exempt from taxation by  
 18 the state or any political subdivision of the state during such  
 19 use, to the extent it would be exempt if the complex was  
 20 equipped, maintained, managed, and operated by the city.

21 (c) Gross receipts of tickets and admissions to events at  
 22 the RiverCentre complex sponsored by the nonprofit organization  
 23 created in section 2 do not qualify for the sales tax exemption  
 24 under Minnesota Statutes, section 297A.70, subdivision 10.

25 Subd. 3. [APPLICABLE GENERAL LAWS.] The following statutes  
 26 apply to the nonprofit organization with which the city  
 27 contracts under this act the same as they apply to the city, to  
 28 ~~the extent practicable:~~

29 (a) Minnesota Statutes, chapter 13D, the Minnesota Open  
 30 Meeting Law; and

31 (b) Minnesota Statutes, chapter 13, the Government Data  
 32 Practices Act.

33 Subd. 4. [SUCCESSION.] The nonprofit organization with  
 34 which the city contracts under this act is the successor to all  
 35 powers, rights, assets, privileges, and interests held and  
 36 enjoyed by the RiverCentre authority on the effective date of

1 this act, and established by the provisions of Laws 1967,  
2 chapter 459, sections 1, 2, 4, and 8, subdivisions 2 and 3,  
3 clause (3), as amended; Laws 1982, chapter 523, article 25,  
4 sections 4 and 5, as amended; Laws 1998, chapter 404, sections  
5 81 and 82; and Minnesota Statutes, section 297A.98. On the  
6 effective date of the contract between the city and the  
7 nonprofit organization authorized by this act, the RiverCentre  
8 authority ceases to exist for only so long as the contract is in  
9 effect, and all other laws or provisions specifically relating  
10 to the RiverCentre authority and the RiverCentre complex that  
11 are not otherwise referenced in this act, do not apply to the  
12 nonprofit organization.

13       Sec. 4. [LIABILITY.]

14       The nonprofit organization with which the city contracts  
15 under this act is a "municipality," and the officers, directors,  
16 employees, and agents of the nonprofit organization are  
17 "employees, officers, or agents," under Minnesota Statutes,  
18 chapter 466, relating to tort liability. The city must defend,  
19 save harmless, and indemnify the nonprofit organization,  
20 including the nonprofit's officers, directors, employees, and  
21 agents, against any claim or demand arising out of the nonprofit  
22 organization's performance under the contract.

23       Sec. 5. [EFFECTIVE DATE.]

24       This act is effective the day after the city council and  
25 the chief clerical officer of the city of St. Paul have timely  
26 completed their compliance with Minnesota Statutes, section  
27 645.023, subdivisions 2 and 3.

1 Senator ..... moves to amend the Report of the Subcommittee  
2 on Judiciary (SS1253SUB) to S.F. No. 1253 as follows:

3 Page 1, after line 11, insert:

4 "Page 1, after line 6, insert:

5 "Section 1. Minnesota Statutes 2004, section 13.55, is  
6 amended by adding a subdivision to read:

7 Subd. 4. [CITY OF ST. PAUL DATA.] (a) For purposes of this  
8 subdivision, "nonprofit organization" means the nonprofit  
9 organization with which the city of St. Paul contracts to market  
10 and promote the city as a tourist or convention center.

11 (b) Data collected, received, created, or maintained by the  
12 nonprofit organization in the course of preparing or submitting  
13 any responses to request for proposals or requests for bids  
14 relating to events hosted, conducted, or sponsored by the  
15 nonprofit organization is classified as nonpublic data under  
16 section 13.02, subdivision 9; or private data under section  
17 13.02, subdivision 12, until the time provided in subdivision 2,  
18 paragraph (a) or (b), of this section. The nonprofit  
19 organization is a "civic center authority" for purposes of this  
20 section."

21 Page 1, delete lines 14 to 25

22 Renumber the sections in sequence and correct the internal  
23 references

24 Amend the title accordingly

1 Senator ..... moves to amend the Report of the Subcommittee  
2 on Judiciary (SS1253SUB) to S.F. No. 1253 as follows:

3 Page 1, after line 11, insert:

4 "Page 1, after line 6, insert:

5 "Section 1. Minnesota Statutes 2004, section 13.55, is  
6 amended by adding a subdivision to read:

7 Subd. 4. [CITY OF ST. PAUL DATA.] (a) For purposes of this  
8 subdivision, "nonprofit organization" means the nonprofit  
9 organization with which the city of St. Paul contracts to market  
10 and promote the city as a tourist or convention center.

11 (b) Data collected, received, created, or maintained by the  
12 nonprofit organization in the course of preparing or submitting  
13 any responses to request for proposals or requests for bids  
14 relating to events involving the city of St. Paul is classified  
15 as nonpublic data under section 13.02, subdivision 9; or private  
16 data under section 13.02, subdivision 12, for five years from  
17 the date the data was initially collected, received, created, or  
18 maintained by the nonprofit organization. The nonprofit  
19 organization is a "civic center authority" for purposes of this  
20 section."

21 Page 1, delete lines 14 to 25

22 Renumber the sections in sequence and correct the internal  
23 references

24 Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1253: A bill for an act relating to local  
4 government; authorizing the city of St. Paul to participate in  
5 the creation of, and to contract with, a nonprofit organization  
6 for management and operation of the RiverCentre complex.

7 Reports the same back with the recommendation that the bill  
8 be amended as follows:

9 Page 1, after line 6, insert:

10 "Section 1. Minnesota Statutes 2004, section 13.55, is  
11 amended by adding a subdivision to read:

12 Subd. 4. [CITY OF ST. PAUL DATA.] (a) For purposes of this  
13 subdivision, "nonprofit organization" means the nonprofit  
14 organization with which the city of St. Paul contracts to market  
15 and promote the city as a tourist or convention center.

16 (b) Data collected, received, created, or maintained by the  
17 nonprofit organization in the course of preparing or submitting  
18 any responses to requests for proposals or requests for bids  
19 relating to events hosted, conducted, or sponsored by the  
20 nonprofit organization is classified as nonpublic data under  
21 section 13.02, subdivision 9; or private data under section  
22 13.02, subdivision 12, until the time provided in subdivision 2,  
23 paragraph (a) or (b), of this section. The nonprofit  
24 organization is a "civic center authority" for purposes of this  
25 section."

26 Page 2, line 33, delete "2" and insert "3"

27 Page 3, line 23, delete "2" and insert "3"

28 Page 3, line 27, delete everything after "city"

29 Page 3, line 28, delete everything before the colon

30 Renumber the sections in sequence

31 Amend the title as follows:

32 Page 1, line 5, before the period, insert "; amending  
33 Minnesota Statutes 2004, section 13.55, by adding a subdivision"

34 And when so amended the bill do pass and be placed on the  
35 Consent Calendar. Amendments adopted. Report adopted.

36 .....  
37 (Committee Chair)

38  
39 March 31, 2005.....  
40 (Date of Committee recommendation)

1 A bill for an act

2 relating to health; modifying the Minnesota Emergency  
3 Health Powers Act; modifying authority of out-of-state  
4 license holders; amending Minnesota Statutes 2004,  
5 sections 12.03, subdivision 4d, by adding a  
6 subdivision; 12.22, subdivision 2a, by adding a  
7 subdivision; 12.31, subdivision 1; 12.32; 12.34,  
8 subdivision 1; 12.381; 12.39; 12.42; 13.3806,  
9 subdivision 1a; Laws 2002, chapter 402, section 21, as  
10 amended; proposing coding for new law in Minnesota  
11 Statutes, chapter 12.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

13 Section 1. Minnesota Statutes 2004, section 12.03, is  
14 amended by adding a subdivision to read:

15 Subd. 1e. [DECLARED EMERGENCY.] "Declared emergency" means  
16 a national security or peacetime emergency declared by the  
17 governor under section 12.31.

18 Sec. 2. Minnesota Statutes 2004, section 12.03,  
19 subdivision 4d, is amended to read:

20 Subd. 4d. [FACILITY.] "Facility" means any real property,  
21 building, structure, or other improvement to real property or  
22 any motor vehicle, rolling stock, aircraft, watercraft, or other  
23 means of transportation. Facility does not include a private  
24 residence but may include a licensed health care facility only  
25 when other alternatives are not feasible.

26 Sec. 3. Minnesota Statutes 2004, section 12.22,  
27 subdivision 2a, is amended to read:

28 Subd. 2a. [VOLUNTEER ASSISTANCE PROTECTIONS.] (a)

1 Individuals who volunteer to assist a local political  
2 subdivision during an emergency or disaster, who register with  
3 that subdivision, and who are under the direction and control of  
4 that subdivision, are considered an employee of that subdivision.

5 (b) Individuals who volunteer to assist the state during an  
6 emergency or disaster, who register with a state agency, and who  
7 are under the direction and control of the state agency are  
8 considered an employee of the state.

9 Sec. 4. Minnesota Statutes 2004, section 12.22, is amended  
10 by adding a subdivision to read:

11 Subd. 4. [OTHER LAW PRESERVED.] Nothing in this chapter  
12 shall be construed to remove any immunity from, defense to, or  
13 limitation on liability provided by the Minnesota Tort Claims  
14 Act, the Municipal Tort Claims Act, or other law.

15 Sec. 5. Minnesota Statutes 2004, section 12.31,  
16 subdivision 1, is amended to read:

17 Subdivision 1. [DECLARATION OF NATIONAL SECURITY  
18 EMERGENCY.] When information from the President of the United  
19 States, the Federal Emergency Management Agency, the Department  
20 of Defense, or the National Warning System indicates the  
21 imminence of a national security emergency within the United  
22 States, which means the several states, the District of  
23 Columbia, and the Commonwealth of Puerto Rico, or the occurrence  
24 within the state of Minnesota of a major disaster ~~or-public~~  
25 ~~health-emergency~~ from enemy sabotage or other hostile action,  
26 the governor may, by proclamation, declare that a national  
27 security emergency exists in all or any part of the state. If  
28 the legislature is then in regular session or, if it is not, if  
29 the governor concurrently with the proclamation declaring the  
30 emergency issues a call convening immediately both houses of the  
31 legislature, the governor may exercise for a period not to  
32 exceed 30 days the powers and duties conferred and imposed by  
33 sections 12.31 to 12.37 and 12.381. The lapse of these  
34 emergency powers does not, as regards any act occurring or  
35 committed within the 30-day period, deprive any person,  
36 political subdivision, municipal corporation, or body politic of

1 any right to compensation or reimbursement that it may have  
2 under this chapter.

3 Sec. 6. Minnesota Statutes 2004, section 12.32, is amended  
4 to read:

5 12.32 [GOVERNOR'S ORDERS AND RULES, EFFECT.]

6 Orders and rules promulgated by the governor under  
7 authority of section 12.21, subdivision 3, clause (1), when  
8 approved by the Executive Council and filed in the Office of the  
9 Secretary of State, have, during a national security emergency,  
10 peacetime emergency ~~declared-due-to-a-public-health-emergency~~,  
11 or energy supply emergency, the full force and effect of law.  
12 Rules and ordinances of any agency or political subdivision of  
13 the state inconsistent with the provisions of this chapter or  
14 with any order or rule having the force and effect of law issued  
15 under the authority of this chapter, is suspended during the  
16 period of time and to the extent that the emergency exists.

17 Sec. 7. Minnesota Statutes 2004, section 12.34,  
18 subdivision 1, is amended to read:

19 Subdivision 1. [EMERGENCY POWERS.] When necessary to save  
20 life, property, or the environment during a national security  
21 emergency or during a peacetime emergency ~~declared-due-to-a~~  
22 ~~public-health-emergency~~, the governor, the state director, or a  
23 member of a class of members of a state or local emergency  
24 management organization designated by the governor, may:

25 (1) require any person, except members of the federal or  
26 state military forces and officers of the state or a political  
27 subdivision, to perform services for emergency management  
28 purposes as directed by any of the persons described above; and

29 (2) commandeer, for emergency management purposes as  
30 directed by any of the persons described above, any motor  
31 vehicles, tools, appliances, medical supplies, or other personal  
32 property and any facilities.

33 Sec. 8. Minnesota Statutes 2004, section 12.381, is  
34 amended to read:

35 12.381 [SAFE DISPOSITION OF DEAD HUMAN BODIES.]

36 Subdivision 1. [POWERS FOR SAFE DISPOSITION.]



1 Notwithstanding chapter 149A and Minnesota Rules, chapter 4610,  
2 in connection with deaths related to a public-health declared  
3 ~~emergency and-during-a-national-security-emergency-declared-due~~  
4 ~~to-a-public-health-emergency-or-peacetime-emergency-declared-due~~  
5 ~~to-a-public-health-emergency~~, the governor may:

6 (1) direct measures to provide for the safe disposition of  
7 dead human bodies as may be reasonable and necessary for  
8 emergency response. Measures may include, but are not limited  
9 to, transportation, preparation, temporary mass burial and other  
10 interment, disinterment, and cremation of dead human bodies.  
11 Insofar as the emergency circumstances allow, the governor shall  
12 respect the religious rites, cultural customs, family wishes,  
13 and predeath directives of a decedent concerning final  
14 disposition. The governor may limit visitations or funeral  
15 ceremonies based on public health risks;

16 (2) consult with coroners and medical examiners, take  
17 possession or control of any dead human body, and order an  
18 autopsy of the body; and

19 (3) request any business or facility authorized to embalm,  
20 bury, cremate, inter, disinter, transport, or otherwise provide  
21 for disposition of a dead human body under the laws of this  
22 state to accept any dead human body or provide the use of its  
23 business or facility if the actions are reasonable and necessary  
24 for emergency management purposes and are within the safety  
25 precaution capabilities of the business or facility.

26 Subd. 2. [IDENTIFICATION OF BODIES; DATA CLASSIFICATION.]

27 (a) A person in charge of the body of a person believed to have  
28 died due to a public-health declared emergency shall maintain a  
29 written record of the body and all available information to  
30 identify the decedent, the circumstances of death, and  
31 disposition of the body. If a body cannot be identified, a  
32 qualified person shall, prior to disposition and to the extent  
33 possible, take fingerprints and one or more photographs of the  
34 remains and collect a DNA specimen from the body.

35 (b) All information gathered under this subdivision, other  
36 than data required for a death certificate under Minnesota

1 Rules, part 4601.2550, shall be death investigation data and  
2 shall be classified as nonpublic data according to section  
3 13.02, subdivision 9, or as private data on decedents according  
4 to section 13.10, subdivision 1. Death investigation data are  
5 not medical examiner data as defined in section 13.83. Data  
6 gathered under this subdivision shall be promptly forwarded to  
7 the commissioner of health. The commissioner may only disclose  
8 death investigation data to the extent necessary to assist  
9 relatives in identifying decedents or for public health or  
10 public safety investigations.

11 Sec. 9. Minnesota Statutes 2004, section 12.39, is amended  
12 to read:

13 12.39 [INDIVIDUAL TESTING OR TREATMENT; NOTICE, REFUSAL,  
14 CONSEQUENCE.]

15 Subdivision 1. [REFUSAL OF TREATMENT.] Notwithstanding  
16 laws, rules, or orders made or promulgated in response to a  
17 national security emergency, or peacetime emergency, ~~or-public~~  
18 ~~health-emergency,~~ individuals have a fundamental right to refuse  
19 medical treatment, testing, physical or mental examination,  
20 vaccination, participation in experimental procedures and  
21 protocols, collection of specimens, and preventive treatment  
22 programs. An individual who has been directed by the  
23 commissioner of health to submit to medical procedures and  
24 protocols because the individual is infected with or reasonably  
25 believed by the commissioner of health to be infected with or  
26 exposed to a toxic agent that can be transferred to another  
27 individual or a communicable disease, and the agent or  
28 communicable disease is the basis for which the national  
29 security emergency, or peacetime emergency, ~~or-public-health~~  
30 ~~emergency~~ was declared, and who refuses to submit to them may be  
31 ordered by the commissioner to be placed in isolation or  
32 quarantine according to parameters set forth in sections 144.419  
33 and 144.4195.

34 Subd. 2. [INFORMATION GIVEN.] ~~Where-feasible,~~ Before  
35 performing examinations, testing, treatment, or vaccination of  
36 an individual under subdivision 1, a health care provider shall

1 notify the individual of the right to refuse the examination,  
2 testing, treatment, or vaccination, and the consequences,  
3 including isolation or quarantine, upon refusal.

4 Sec. 10. Minnesota Statutes 2004, section 12.42, is  
5 amended to read:

6 12.42 [OUT-OF-STATE LICENSE HOLDERS; POWERS, DUTIES.]

7 During an a declared emergency or-disaster, a person who  
8 holds a license, certificate, or other permit issued by a state  
9 of the United States, the District of Columbia, or a province of  
10 Canada evidencing the meeting of qualifications for  
11 professional, mechanical, or other skills, may render aid  
12 involving those skills in this state when such aid is requested  
13 by the governor to meet the needs of the emergency. The  
14 license, certificate, or other permit of the person, while  
15 rendering aid, has the same force and effect as if issued in  
16 this state, subject to such limitations and conditions as the  
17 governor may prescribe.

18 Sec. 11. [12.61] [HOSPITAL OR MEDICAL TRANSPORT CAPACITIES  
19 EXCEEDED; RESPONDER LIABILITY LIMITATION.]

20 Subdivision 1. [DEFINITIONS.] For purposes of this section:

21 (1) "emergency plan" includes:

22 (i) any plan for managing an emergency threatening public  
23 health developed by the commissioner of health or a local public  
24 health agency;

25 (ii) any plan for managing an emergency threatening public  
26 health developed by one or more hospitals, clinics, nursing  
27 homes, or other health care facilities or providers and approved  
28 by the commissioner of health or local public health agency in  
29 consultation with emergency management officials; or

30 (iii) any provision for assistance by out-of-state  
31 responders under interstate or international compacts, including  
32 but not limited to the Emergency Management Assistance Compact.

33 Emergency plans shall, so far as practicable, include  
34 provisions for protecting children, the elderly, persons with  
35 disabilities, and persons with limited English proficiency;

36 (2) "regional hospital system" means all hospitals in one

1 of the hospital bioterrorism preparedness program geographic  
2 regions of the state set forth in the most recent hospital  
3 preparedness plan available on the Department of Health Web site  
4 at [www.health.state.mn.us/oep](http://www.health.state.mn.us/oep); and

5 (3) "responder" means any person or organization that  
6 provides health care or other health-related services in an  
7 emergency including, but not limited to, physicians, physician  
8 assistants, registered and other nurses, certified nursing  
9 assistants, or other staff within a health care provider  
10 organization, pharmacists, chiropractors, dentists, emergency  
11 medical technicians, members of a specialized medical response  
12 unit, laboratory technicians, morticians, registered first  
13 responders, mental health professionals, hospitals, nursing and  
14 boarding care facilities, home health care agencies, other  
15 long-term care providers, medical and dental clinics, and  
16 medical laboratories and including, but not limited to,  
17 ambulance service personnel and dispatch services and persons  
18 not registered as first responders but affiliated with a medical  
19 response unit and dispatched to the scene of an emergency by a  
20 public safety answering point or licensed ambulance service.

21 Subd. 2. [EMERGENCY EXECUTIVE ORDER.] (a) During a  
22 national security emergency or a peacetime emergency declared  
23 under section 12.31, the governor may issue an emergency  
24 executive order upon finding that the number of seriously ill or  
25 injured persons exceeds the emergency hospital or medical  
26 transport capacity of one or more regional hospital systems and  
27 that care for those persons has to be given in temporary care  
28 facilities.

29 (b) During the effective period of the emergency executive  
30 order, a responder in any impacted region acting consistent with  
31 emergency plans is not liable for any civil damages or  
32 administrative sanctions as a result of good-faith acts or  
33 omissions by that responder in rendering emergency care, advice,  
34 or assistance. This section does not apply in case of  
35 malfeasance in office or willful or wanton actions.

36 Sec. 12. Minnesota Statutes 2004, section 13.3806,

1 subdivision 1a, is amended to read:

2 Subd. 1a. [DEATH INVESTIGATION DATA.] Data gathered by the  
3 commissioner of health to identify the body of a person believed  
4 to have died due to a ~~public-health~~ declared emergency as  
5 defined in section 12.03, subdivision 9a le, the circumstances  
6 of death, and disposition of the body are classified in and may  
7 be released according to section 12.381, subdivision 2.

8 Sec. 13. Laws 2002, chapter 402, section 21, as amended by  
9 Laws 2004, chapter 279, article 11, section 7, is amended to  
10 read:

11 Sec. 21. [SUNSET.]

12 Sections ~~1 to 19~~, 2, 5, 8, 10, and 11 expire August 1, 2005.

13 Sec. 14. [EFFECTIVE DATE.]

14 Section 13 is effective the day following final enactment.

1 Senator ..... moves to amend S.F. No. 1483 as follows:

2 Page 3, after line 2, insert:

3 "Sec. 6. Minnesota Statutes 2004, section 12.31,  
4 subdivision 2, is amended to read:

5 Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.] (a) The  
6 governor may declare a peacetime emergency. A peacetime  
7 declaration of emergency may be declared only when an act of  
8 nature, a technological failure or malfunction, a terrorist  
9 incident, ~~a public health emergency~~, an industrial accident, a  
10 hazardous materials accident, or a civil disturbance endangers  
11 life and property and local government resources are inadequate  
12 to handle the situation. When the governor declares a peacetime  
13 emergency, the governor must immediately notify the majority  
14 leader of the senate and the speaker of the house of  
15 representatives. A peacetime emergency must not be continued  
16 for more than five days unless extended by resolution of the  
17 Executive Council up to 30 days. An order, or proclamation  
18 declaring, continuing, or terminating an emergency must be given  
19 prompt and general publicity and filed with the secretary of  
20 state.

21 ~~(b) This paragraph applies to a peacetime emergency~~  
22 ~~declared as a result of a public health emergency. If the~~  
23 ~~legislature is sitting in session at the time of the emergency~~  
24 ~~declaration, the governor may exercise the powers and duties~~  
25 ~~conferred by this chapter for the period allowed under paragraph~~  
26 ~~(a). If the legislature is not sitting in session when a~~  
27 ~~peacetime emergency is declared or renewed, the governor may~~  
28 ~~exercise the powers and duties conferred by this chapter for the~~  
29 ~~period allowed under paragraph (a) only if the governor issues a~~  
30 ~~call convening both houses of the legislature at the same time~~  
31 ~~the governor declares or renews the peacetime emergency. By~~  
32 majority vote of each house of the legislature, the legislature  
33 may terminate a peacetime emergency extending beyond 30 days.  
34 If the governor determines a need to extend the peacetime  
35 emergency declaration beyond 30 days and the legislature is not  
36 sitting in session, the governor must issue a call immediately

1 convening both houses of the legislature."

2 Page 7, line 5, after "organization" insert "whether paid  
3 or volunteer"

4 Page 8, line 12, delete "8,"

5 Page 8, line 14, delete "13" and insert "14"

6 Renumber the sections in sequence and correct the internal  
7 references

8 Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1483: A bill for an act relating to health;  
4 modifying the Minnesota Emergency Health Powers Act; modifying  
5 authority of out-of-state license holders; amending Minnesota  
6 Statutes 2004, sections 12.03, subdivision 4d, by adding a  
7 subdivision; 12.22, subdivision 2a, by adding a subdivision;  
8 12.31, subdivision 1; 12.32; 12.34, subdivision 1; 12.381;  
9 12.39; 12.42; 13.3806, subdivision 1a; Laws 2002, chapter 402,  
10 section 21, as amended; proposing coding for new law in  
11 Minnesota Statutes, chapter 12.

12 Reports the same back with the recommendation that the bill  
13 be amended as follows:

14 Page 3, after line 2, insert:

15 "Sec. 6. Minnesota Statutes 2004, section 12.31,  
16 subdivision 2, is amended to read:

17 Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.] (a) The  
18 governor may declare a peacetime emergency. A peacetime  
19 declaration of emergency may be declared only when an act of  
20 nature, a technological failure or malfunction, a terrorist  
21 incident, ~~a public health emergency~~, an industrial accident, a  
22 hazardous materials accident, or a civil disturbance endangers  
23 life and property and local government resources are inadequate  
24 to handle the situation. When the governor declares a peacetime  
25 emergency, the governor must immediately notify the majority and  
26 minority leaders of the senate and the speaker and majority and  
27 minority leaders of the house of representatives. A peacetime  
28 emergency must not be continued for more than five days unless  
29 extended by resolution of the Executive Council up to 30 days.  
30 An order, or proclamation declaring, continuing, or terminating  
31 an emergency must be given prompt and general publicity and  
32 filed with the secretary of state.

33 ~~(b) This paragraph applies to a peacetime emergency~~  
34 ~~declared as a result of a public health emergency. If the~~  
35 ~~legislature is sitting in session at the time of the emergency~~  
36 ~~declaration, the governor may exercise the powers and duties~~  
37 ~~conferred by this chapter for the period allowed under paragraph~~  
38 ~~(a). If the legislature is not sitting in session when a~~  
39 ~~peacetime emergency is declared or renewed, the governor may~~  
40 ~~exercise the powers and duties conferred by this chapter for the~~  
41 ~~period allowed under paragraph (a) only if the governor issues a~~



1 ~~call-convening-both-houses-of-the-legislature-at-the-same-time~~  
 2 ~~the-governor-declares-or-renews-the-peacetime-emergency. By~~  
 3 majority vote of each house of the legislature, the legislature  
 4 may terminate a peacetime emergency extending beyond 30 days.  
 5 If the governor determines a need to extend the peacetime  
 6 emergency declaration beyond 30 days and the legislature is not  
 7 sitting in session, the governor must issue a call immediately  
 8 convening both houses of the legislature."

9 Page 7, line 5, after "organization" insert "whether paid  
 10 or volunteer"

11 Page 8, line 12, delete "8," and after the period, insert  
 12 "The other sections expire August 1, 2007."

13 Page 8, line 14, delete "13" and insert "14"

14 Renumber the sections in sequence

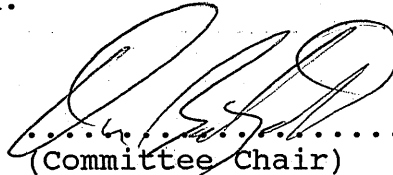
15 Amend the title as follows:

16 Page 1, line 5, after the semicolon, insert "providing  
 17 legislative emergency authority;"

18 Page 1, line 7, delete "subdivision 1" and insert  
 19 "subdivisions 1, 2"

20 And when so amended the bill do pass and be re-referred to  
 21 the Committee on Crime Prevention and Public Safety. Amendments  
 22 adopted. Report adopted.

23  
 24  
 25  
 26  
 27  
 28

  
 .....  
 (Committee Chair)

March 31, 2005.....  
 (Date of Committee recommendation)

1 **2002 Emergency Health Powers Act**  
2 **with proposed changes**

3 (note: based on bill introductions of HF1507/SF1482 and HF1555/SF1483)  
4

5 ~~(1) Sections 1 to 21 may be cited as the "Minnesota Emergency Health Powers Act" (delete)~~  
6

7 ~~(2) Section 12.03 Subd. 1c. [BIOTERRORISM.] "Bioterrorism" means the intentional use of any~~  
8 ~~microorganism, virus, infectious substance, or biological product that may be engineered as a result of~~  
9 ~~biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus,~~  
10 ~~infectious substance, or biological product, to cause death, disease, or other biological malfunction in a~~  
11 ~~human, an animal, a plant, or another living organism in order to influence the conduct of government or~~  
12 ~~to intimidate or coerce a civilian population. (delete)~~  
13

14 (3) Section 12.03 Subd. 4d. [FACILITY.] "Facility" means any real property, building, structure, or  
15 other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means  
16 of transportation. Facility does not include a private residence, but may include a licensed health care  
17 facility only when other alternatives are not feasible. (modify)  
18

19 (4) Section 12.03 Subd. 6a. [MEDICAL SUPPLIES.] "Medical supplies" means any medication,  
20 durable medical equipment, instruments, linens, or any other material that a health care provider deems  
21 not essential for the continued operation of the provider's practice or facility. The term medical supplies  
22 does not apply to medication, durable medical equipment, or other material that is personal property being  
23 used by individuals or that has been borrowed, leased, or rented by individuals for the purpose of  
24 treatment or care. (retain)  
25

26 ~~(5) Section 12.03 Subd. 9a. [PUBLIC HEALTH EMERGENCY.] "Public health emergency" means an~~  
27 ~~occurrence or imminent threat of an illness or health condition in Minnesota:~~

28 ~~—— (1) where there is evidence to believe the illness or health condition is caused by any of the~~  
29 ~~following:~~

30 ~~—— (i) bioterrorism; or~~

31 ~~—— (ii) the appearance of a new or novel or previously controlled or eradicated airborne infectious~~  
32 ~~agent or airborne biological toxin; and~~

33 ~~—— (2) the illness or health condition poses a high probability of any of the following harms:~~

34 ~~—— (i) a large number of deaths in the affected population;~~

35 ~~—— (ii) a large number of serious or long term disabilities in the affected population; or~~

36 ~~—— (iii) widespread exposure to an airborne infectious or airborne toxic agent that poses a significant~~  
37 ~~risk of substantial future harm to a large number of people in the affected population. (delete)~~  
38  
39

40 (6) Section 12.21 Subd. 3. [SPECIFIC AUTHORITY.] In performing duties under this chapter and to  
41 effect its policy and purpose, the governor may:

42 (1) make, amend, and rescind the necessary orders and rules to carry out the provisions of this  
43 chapter and section 216C.15 within the limits of the authority conferred by this section, with due  
44 consideration of the plans of the federal government and without complying with sections 14.001 to  
45 14.69, but no order or rule has the effect of law except as provided by section 12.32;

46 (2) ensure that a comprehensive emergency operations plan and emergency management program  
47 for this state are developed and maintained, and are integrated into and coordinated with the emergency  
48 plans of the federal government and of other states to the fullest possible extent;

49 (3) in accordance with the emergency operations plan and the emergency management program of  
50 this state, procure supplies, equipment, and facilities, institute training programs and public information  
51 programs, and take all other preparatory steps, including the partial or full activation of emergency

1 management organizations in advance of actual disaster to ensure the furnishing of adequately trained and  
2 equipped forces of emergency management personnel in time of need;

3 (4) make studies and surveys of the industries, resources, and facilities in this state as may be  
4 necessary to ascertain the capabilities of the state for emergency management and to plan for the most  
5 efficient emergency use of those industries, resources, and facilities;

6 (5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements with other  
7 states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans between political  
8 subdivisions of this state;

9 (6) delegate administrative authority vested in the governor under this chapter, except the power to  
10 make rules, and provide for the subdelegation of that authority;

11 (7) cooperate with the president and the heads of the armed forces, the emergency management  
12 agency of the United States and other appropriate federal officers and agencies, and with the officers and  
13 agencies of other states in matters pertaining to the emergency management of the state and nation,  
14 including the direction or control of:

15 (i) emergency preparedness drills and exercises;

16 (ii) warnings and signals for drills or actual emergencies and the mechanical devices to be used in  
17 connection with them;

18 (iii) shutting off water mains, gas mains, electric power connections and the suspension of all other  
19 utility services;

20 (iv) the conduct of persons in the state, including entrance or exit from any stricken or threatened  
21 public place, occupancy of facilities, and the movement and cessation of movement of pedestrians and,  
22 vehicular traffic, and all forms of private and public transportation during, prior, and subsequent to drills  
23 or actual emergencies;

24 (v) public meetings or gatherings; and

25 (vi) the evacuation, reception, and sheltering of persons;

26 (8) contribute to a political subdivision, within the limits of the appropriation for that purpose, not  
27 more than 25 percent of the cost of acquiring organizational equipment that meets standards established  
28 by the governor;

29 (9) formulate and execute, with the approval of the executive council, plans and rules for the  
30 control of traffic in order to provide for the rapid and safe movement over public highways and streets of  
31 troops, vehicles of a military nature, and materials for national defense and war or for use in any war  
32 industry, for the conservation of critical materials, or for emergency management purposes; coordinate  
33 the activities of the departments or agencies of the state and its political subdivisions concerned directly  
34 or indirectly with public highways and streets, in a manner that will best effectuate those plans;

35 (10) alter or adjust by executive order, without complying with sections 14.01 to 14.69, the  
36 working hours, work days and work week of, and annual and sick leave provisions and payroll laws  
37 regarding all state employees in the executive branch as the governor deems necessary to minimize the  
38 impact of the disaster or emergency, conforming the alterations or adjustments to existing state laws,  
39 rules, and collective bargaining agreements to the extent practicable;

40 (11) authorize the commissioner of children, families, and learning to alter school schedules,  
41 curtail school activities, or order schools closed without affecting state aid to schools, as defined in  
42 section 120A.05, subdivisions 9, 11, 13, and 17, and including charter schools under section 124D.10, and  
43 elementary schools enrolling prekindergarten pupils in district programs; and

44 (12) transfer the direction, personnel, or functions of state agencies to perform or facilitate  
45 response and recovery programs. **(retain)**

46  
47 (7) Section 12.31, Subdivision 1. [DECLARATION OF NATIONAL SECURITY EMERGENCY.]  
48 When information from the President of the United States, the Federal Emergency Management Agency,  
49 the Department of Defense, or the National Warning System indicates the imminence of a national  
50 security emergency within the United States, which means the several states, the District of Columbia,  
51 and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major

1 disaster or public health emergency from enemy sabotage or other hostile action, the governor may, by  
2 proclamation, declare that a national security emergency exists in all or any part of the state. If the  
3 legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation  
4 declaring the emergency issues a call convening immediately both houses of the legislature, the governor  
5 may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections  
6 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring  
7 or committed within the 30-day period, deprive any person, political subdivision, municipal corporation,  
8 or body politic of any right to compensation or reimbursement that it may have under this chapter.

9 **(modify)**

10  
11 ~~(8) Section 12.31 Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.]~~

12 ~~(b) This paragraph applies to a peacetime emergency declared as a result of a public health emergency.  
13 If the legislature is sitting in session at the time of the emergency declaration, the governor may exercise  
14 the powers and duties conferred by this chapter for the period allowed under paragraph (a). If the  
15 legislature is not sitting in session when a peacetime emergency is declared or renewed, the governor may  
16 exercise the powers and duties conferred by this chapter for the period allowed under paragraph (a) only  
17 if the governor issues a call convening both houses of the legislature at the same time the governor  
18 declares or renews the peacetime emergency. **(delete)**~~

19  
20 (9) Section 12.31 Subd. 3. [EFFECT OF DECLARATION OF PEACETIME EMERGENCY.] A  
21 declaration of a peacetime emergency in accordance with this section authorizes the governor to exercise  
22 for a period not to exceed the time specified in this section the powers and duties conferred and imposed  
23 by this chapter for a peacetime emergency and invokes the necessary portions of the state emergency  
24 operations plan developed pursuant to section 12.21, subdivision 3, relating to response and recovery  
25 aspects and may authorize aid and assistance under the plan. **(retain)**

26  
27 ~~(10) Section 12.311 [DECLARATION DUE TO A PUBLIC HEALTH EMERGENCY.]~~

28 ~~— (a) Before the governor declares a national security emergency due to a public health emergency or  
29 peacetime emergency due to a public health emergency, the governor or state director of emergency  
30 management shall consult with the commissioner of public safety, the state director of homeland security,  
31 the commissioner of health, and additional public health experts and other experts. If the public health  
32 emergency occurs on Indian lands, the governor or state director of emergency management shall consult  
33 with tribal authorities before the governor makes such a declaration. Nothing in this section shall be  
34 construed to limit the governor's authority to act without such consultation when the situation calls for  
35 prompt and timely action.~~

36 ~~— (b) Upon the declaration of an emergency due to a public health emergency, the governor and the  
37 commissioner of health must immediately report to the leadership in the house of representatives and  
38 senate, as well as the chairs and ranking minority members of the judiciary and health committees,  
39 regarding the imposition of the public health emergency and how it may affect the public. **(delete)**~~

40  
41  
42 ~~(11) Section 12.312 [TERMINATION OF DECLARATION; PUBLIC HEALTH EMERGENCY.]~~

43 ~~— Subdivision 1. [AUTOMATIC TERMINATION; RENEWAL.] Notwithstanding any other provision  
44 of this chapter, a national security emergency declared due to a public health emergency or peacetime  
45 emergency declared due to a public health emergency is — terminated automatically 30 days after its  
46 original declaration unless the emergency is renewed by the governor using the procedure specified in  
47 section 12.31, subdivision 2, paragraph (b). Any renewal is terminated automatically after 30 days unless  
48 again renewed by the governor.~~

49 ~~— Subd. 2. [TERMINATION BY LEGISLATURE.] By a majority vote of each house of the legislature,  
50 the legislature may terminate a national security emergency declared due to a public health emergency or  
51 peacetime emergency declared due to a public health — emergency at any time from the date of original~~

1 ~~declaration. A termination by the legislature under this subdivision overrides any renewal by the~~  
2 ~~governor under subdivision 1. (delete)~~  
3

4 (12) Section 12.32 [GOVERNOR'S ORDERS AND RULES, EFFECT.]

5 Orders and rules promulgated by the governor under authority of section 12.21, subdivision 3,  
6 clause (1), when approved by the executive council and filed in the office of the secretary of state, have,  
7 during a national security emergency, peacetime emergency ~~declared due to a public health emergency~~, or  
8 energy supply emergency, the full force and effect of law. Rules and ordinances of any agency or  
9 political subdivision of the state inconsistent with the provisions of this chapter or with any order or rule  
10 having the force and effect of law issued under the authority of this chapter, is suspended during the  
11 period of time and to the extent that the emergency exists. **(modify)**  
12

13 (13) Section 12.34 Subdivision 1. [EMERGENCY POWERS.] When necessary to save life, property, or  
14 the environment during a national security emergency or during a peacetime emergency ~~declared due to a~~  
15 ~~public health emergency~~, the governor, the state director, or a member of a class of members of a state or  
16 local emergency management organization designated by the governor, may:

17 (1) require any person, except members of the federal or state military forces and officers of the  
18 state or a political subdivision, to perform services for emergency management purposes as directed by  
19 any of the persons described above; and

20 (2) commandeer, for emergency management purposes as directed by any of the persons described  
21 above, any motor vehicle, tools, appliances, medical supplies, or other personal property and any  
22 facilities. **(modify)**  
23

24 (14) Section 12.381 [SAFE DISPOSITION OF DEAD HUMAN BODIES.]

25 Subdivision 1. [POWERS FOR SAFE DISPOSITION.]

26 Notwithstanding chapter 149A and Minnesota Rules, chapter 4610, in connection with deaths related  
27 to a ~~public health declared emergency and during a national security emergency declared due to a public~~  
28 ~~health emergency or peacetime emergency declared due to a public health emergency~~, the governor may:

29 (1) direct measures to provide for the safe disposition of dead human bodies as may be reasonable  
30 and necessary for emergency response. Measures may include, but are not limited to, transportation,  
31 preparation, temporary mass burial and other interment, disinterment, and cremation of dead human  
32 bodies. Insofar as the emergency circumstances allow, the governor shall respect the religious rites,  
33 cultural customs, family wishes, and predeath directives of a decedent concerning final disposition. The  
34 governor may limit visitations or funeral ceremonies based on public health risks;

35 (2) consult with coroners and medical examiners, take possession or control of any dead human  
36 body, and order an autopsy of the body; and

37 (3) request any business or facility authorized to embalm, bury, cremate, inter, disinter, transport,  
38 or otherwise provide for disposition of a dead human body under the laws of this state to accept any dead  
39 human body or provide the use of its business or facility if the actions are reasonable and necessary for  
40 emergency management purposes and are within the safety precaution capabilities of the business or  
41 facility.

42 Subd. 2. [IDENTIFICATION OF BODIES.] A person in charge of the body of a person believed  
43 to have died due to a ~~public health declared~~ emergency shall maintain a written record of the body and all  
44 available information to identify the decedent, the circumstances of death, and disposition of the body.  
45 If a body cannot be identified, a qualified person shall, prior to disposition and to the extent possible, take  
46 fingerprints and one or more photographs of the remains and collect a DNA specimen from the body. All  
47 information gathered under this subdivision, other than data required for a death certificate under  
48 Minnesota Rules, part 4601.2550, shall be death investigation data and shall be classified as nonpublic  
49 data according to section 13.02, subdivision 9, or as private data on decedents according to section 13.10,  
50 subdivision 1. Death investigation data are not medical examiner data as defined in section 13.83. Data  
51 gathered under this subdivision shall be promptly forwarded to the commissioner of health. The

1 commissioner may only disclose death investigation data to the extent necessary to assist relatives in  
2 identifying decedents or for public health or public safety investigations. **(modify)**

3  
4 (15) Section 12.39 [TESTING AND TREATMENTS.] Subdivision 1. [REFUSAL OF TREATMENT.]  
5 Notwithstanding laws, rules, or orders made or promulgated in response to a national security emergency,  
6 peacetime emergency, or ~~public health emergency~~, individuals have a fundamental right to refuse medical  
7 treatment, testing, physical or mental examination, vaccination, participation in experimental procedures  
8 and protocols, collection of specimens, and preventive treatment programs. An individual who has been  
9 directed by the commissioner of health to submit to medical procedures and protocols because the  
10 individual is infected with or reasonably believed by the commissioner of health to be infected with or  
11 exposed to a toxic agent that can be transferred to another individual or a communicable disease, and the  
12 agent or communicable disease is the basis for which the national security emergency, peacetime  
13 emergency, or ~~public health emergency~~ was declared, and who refuses to submit to them may be ordered  
14 by the commissioner to be placed in isolation or quarantine according to parameters set forth in sections  
15 144.419 and 144.4195.

16 Subd. 2. [INFORMATION GIVEN.] ~~Where feasible~~, Before performing examinations, testing,  
17 treatment, or vaccination of an individual under subdivision 1, a health care provider shall notify the  
18 individual of the right to refuse the examination, testing, treatment, or vaccination, and the consequences,  
19 including isolation or quarantine, upon refusal. **(modify)**

20  
21 (16) Section 13.3806 Subd. 1a. [DEATH INVESTIGATION DATA.] Data gathered by the  
22 commissioner of health to identify the body of a person believed to have died due to a ~~public health~~  
23 declared emergency as defined in section 12.03, subdivision 9a 1e, the circumstances of death, and  
24 disposition of the body are classified in and may be released according to section 12.381, subdivision 2.  
25 **(modify)**

26  
27  
28 \*\*\*\*\*  
29 (17) Section 13.3806 Subd. 10a. [ISOLATION OR QUARANTINE DIRECTIVE.] Data in a directive  
30 issued by the commissioner of health under section 144.4195, subdivision 2, to isolate or quarantine a  
31 person or group of persons are classified in section 144.4195, subdivision 6. **(retain)**

32  
33 (18) Section 144.419 [ISOLATION AND QUARANTINE OF PERSONS.] Subdivision 1.  
34 [DEFINITIONS.] For purposes of ~~this section and section 144.4195~~ sections 144.419 to 144.4196, the  
35 following definitions apply:

36 (1) "bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or  
37 biological product that may be engineered as a result of biotechnology, or any naturally occurring or  
38 bioengineered component of any such microorganism, virus, infectious substance, or biological product,  
39 to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living  
40 organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

41 (2) "communicable disease" means a disease caused by a living organism or virus and believed to  
42 be caused by bioterrorism or a new or novel or previously controlled or eradicated infectious agent  
43 or biological toxin that can be transmitted person to person and for which isolation or quarantine is an  
44 effective control strategy, excluding a disease that is directly transmitted as defined under section  
45 144.4172, subdivision 5;

46 (3) "isolation" means separation, during the period of communicability, of a person infected with a  
47 communicable disease, in a place and under conditions so as to prevent direct or indirect transmission of  
48 an infectious agent to others; and

49 (4) "quarantine" means restriction, during a period of communicability, of activities or travel of an  
50 otherwise healthy person who likely has been exposed to a communicable disease to prevent disease  
51 transmission during the period of communicability in the event the person is infected. **(modify)**

1  
2 Subd. 2. [GENERAL REQUIREMENTS.] (a) The commissioner of health or any person acting  
3 under the commissioner's authority shall comply with paragraphs (b) to (h) when isolating or quarantining  
4 individuals or groups of individuals.

5 (b) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread  
6 of a communicable or potentially communicable disease to others and may include, but are not limited to,  
7 confinement to private homes or other private or public premises.

8 (c) Isolated individuals must be confined separately from quarantined individuals.

9 (d) The health status of isolated and quarantined individuals must be monitored regularly to  
10 determine if they require continued isolation or quarantine. To adequately address emergency health  
11 situations, isolated and quarantined individuals shall be given a reliable means to communicate 24 hours a  
12 day with health officials and to summon emergency health services.

13 (e) If a quarantined individual subsequently becomes infectious or is reasonably believed to have  
14 become infectious with a communicable or potentially communicable disease, the individual must be  
15 isolated according to section 144.4195.

16 (f) Isolated and quarantined individuals must be immediately released when they pose no known  
17 risk of transmitting a communicable or potentially communicable disease to others.

18 (g) The needs of persons isolated and quarantined shall be addressed in a systematic and competent  
19 fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication  
20 between those in isolation or quarantine and those outside these settings, medication, and competent  
21 medical care.

22 (h) Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner  
23 and be designed to minimize the likelihood of further transmission of infection or other harms to persons  
24 isolated and quarantined. **(retain)**

25  
26 Subd. 3. [TERMINATION.] The isolation or quarantine of a person must terminate automatically  
27 on the expiration date of a court order authorizing isolation or quarantine that is issued according to  
28 section 144.4195, or before the expiration date if the commissioner of health determines that isolation or  
29 quarantine of the person is no longer necessary to protect the public. **(retain)**

30  
31 Subd. 4. [RIGHT TO REFUSE TREATMENT.] Any person who is isolated or quarantined  
32 according to this section and section 144.4195 has a fundamental right to refuse medical treatment,  
33 testing, physical or mental examination, vaccination, participation in experimental procedures and  
34 protocols, collection of specimens, and preventive treatment programs. A person who has been directed  
35 by the commissioner of health or any person acting under the commissioner's authority to submit to  
36 medical procedures and protocols because the person is infected with or reasonably believed by the  
37 commissioner or by the person acting under the commissioner's authority to be infected with or exposed  
38 to a communicable disease and who refuses to submit to them may be subject to continued isolation or  
39 quarantine according to the parameters set forth in section 144.4195. **(retain)**

40  
41 Subd. 5. [CITIZEN RIGHT TO ENTRY.] (a) No person, other than a person authorized by the  
42 commissioner of health or authorized by any person acting under the commissioner's authority, shall enter  
43 an isolation or quarantine area. If, by reason of an unauthorized entry into an isolation or quarantine area,  
44 a person poses a danger to public health, the person may be subject to isolation or quarantine according to  
45 this section and section 144.4195.

46 (b) A family member of a person isolated or quarantined has a right to choose to enter into an isolation  
47 or quarantine area. The commissioner of health must permit the family member entry into the isolation or  
48 quarantine area if the family member signs a consent form stating that the family member has been  
49 informed of the potential health risks, isolation and quarantine guidelines, and the consequences of  
50 entering the area. The family member may not hold the department of health, the commissioner of health,  
51 or the state responsible for any consequences of entering the isolation or quarantine area. If, by reason of

1 entry into an isolation or quarantine area under this paragraph, a person poses a danger to public health,  
2 the person may be subject to isolation or quarantine according to this section and section 144.4195.

3 **(retain)**

4  
5 (19) Section 144.4195 [DUE PROCESS FOR ISOLATION OR QUARANTINE OF PERSONS.]

6 Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR QUARANTINE.] (a) Before  
7 isolating or quarantining a person or group of persons, the commissioner of health shall obtain a written,  
8 ex parte order authorizing the isolation or quarantine from the district court of Ramsey county, the county  
9 where the person or group of persons is located, or a county adjoining the county where the person or  
10 group of persons is located. The evidence or testimony in support of an application may be made or taken  
11 by telephone, facsimile transmission, video equipment, or other electronic communication. The court  
12 shall grant the order upon a finding that probable cause exists to believe isolation or quarantine is  
13 warranted to protect the public health.

14 (b) The order must state the specific facts justifying isolation or quarantine, must state that the  
15 person being isolated or quarantined has a right to a court hearing under this section and a right to be  
16 represented by counsel during any proceeding under this section, and must be provided immediately to  
17 each person isolated or quarantined. The commissioner of health shall provide a copy of the authorizing  
18 order to the commissioner of public safety and other peace officers known to the commissioner to have  
19 jurisdiction over the site of the isolation or quarantine. If feasible, the commissioner of health shall give  
20 each person being isolated or quarantined an estimate of the expected period of the person's isolation or  
21 quarantine.

22 (c) If it is impracticable to provide individual orders to a group of persons isolated or quarantined,  
23 one order shall suffice to isolate or quarantine a group of persons believed to have been commonly  
24 infected with or exposed to a communicable disease. A copy of the order and notice shall be posted in a  
25 conspicuous place:

26 (1) in the isolation or quarantine premises, but only if the persons to be isolated or quarantined are  
27 already at the isolation or quarantine premises and have adequate access to the order posted there; or

28 (2) in another location where the group of persons to be isolated or quarantined is located, such  
29 that the persons have adequate access to the order posted there. If the court determines that posting the  
30 order according to clause (1) or (2) is impractical due to the number of persons to be isolated or  
31 quarantined or the geographical area affected, the court must use the best means available to ensure that  
32 the affected persons are fully informed of the order and notice.

33 (d) Any peace officer, as defined in section 144.4803, subdivision 16, shall enforce an order under  
34 this section and may use all necessary and lawful means to apprehend, hold, transport, quarantine, or  
35 isolate a person subject to the order. "Necessary and lawful means" include reasonable force but not  
36 deadly force as defined in section 609.066, subdivision 1. the commissioner or an agent of a local board  
37 of health authorized under section 145A.04 shall advise the peace officer on request of protective  
38 measures recommended to protect the officer from possible transmission of the communicable disease.  
39 The peace officer may act upon telephone, facsimile, or other electronic notification of the order from the  
40 court, commissioner of health, agent of a local board of health, or commissioner of public safety.

41 (e) No person may be isolated or quarantined pursuant to an order issued under this subdivision  
42 for longer than 21 days without a court hearing under subdivision 3 to determine whether isolation or  
43 quarantine should continue. A person who is isolated or quarantined may request a court hearing under  
44 subdivision 3 at any time before the expiration of the order. **(modify)**

45  
46 Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.]

47 (a) Notwithstanding subdivision 1, the commissioner of health may by directive isolate or quarantine a  
48 person or group of persons without first obtaining a written, ex parte order from the court if a delay in  
49 isolating or quarantining the person or group of persons would significantly jeopardize the commissioner  
50 of health's ability to prevent or limit the transmission of a communicable or potentially communicable  
51 disease to others. The directive shall specify the known period of incubation or communicability or the



1 estimated period under the commissioner's best medical judgment when the disease is unknown. The  
2 directive remains in effect for the period specified unless amended by the commissioner or superseded by  
3 a court order. The commissioner must provide the person or group of persons subject to the temporary  
4 hold with notice that the person has a right to request a court hearing under this section and a right to be  
5 represented by counsel during a proceeding under this section. If it is impracticable to provide individual  
6 notice to each person subject to the temporary hold, notice of these rights may be posted in the same  
7 manner as the posting of orders under subdivision 1, paragraph (c). ~~Following the imposition of isolation~~  
8 ~~or quarantine under this subdivision, As soon as the commissioner has executed the directive and initiated~~  
9 ~~notice of the parties subject to it, the commissioner of health shall within 24 hours initiate the process to~~  
10 apply for a written, ex parte order pursuant to subdivision 1 authorizing the isolation or quarantine. The  
11 court must rule within 24 hours of receipt of the application. If the person is under a temporary hold, the  
12 person may not be held in isolation or quarantine after the temporary hold expires unless the court issues  
13 an ex parte order under subdivision 1.

14 (b) Any peace officer, as defined in section 144.4803, subdivision 16, shall enforce an order  
15 under this section and may use all necessary and lawful means to apprehend, hold, transport, quarantine,  
16 or isolate a person subject to the order. "Necessary and lawful means" include reasonable force but not  
17 deadly force as defined in section 609.066, subdivision 1. the commissioner or an agent of a local board  
18 of health authorized under section 145A.04 shall advise the peace officer on request of protective  
19 measures recommended to protect the officer from possible transmission of the communicable disease.  
20 The peace officer may act upon telephone, facsimile, or other electronic notification of the order from the  
21 court, commissioner of health, agent of a local board of health, or commissioner of public safety.

22 (c) If a person subject to a commissioner's directive under paragraph (a) is already  
23 institutionalized in an appropriate health care facility, the commissioner of health may direct the facility  
24 to continue to hold the person. The facility shall take all reasonable measures to prevent the person from  
25 exposing others to the communicable disease. (modify)  
26

27 Subd. 3. [COURT HEARING.] (a) A person isolated or quarantined under an order issued  
28 pursuant to subdivision 1 or a temporary hold under subdivision 2 or the person's representative may  
29 petition the court to contest the court order or temporary hold at any time prior to the expiration of the  
30 order or temporary hold. If a petition is filed, the court must hold a hearing within 72 hours from the date  
31 of the filing. A petition for a hearing does not stay the order of isolation or quarantine. At the hearing,  
32 the commissioner of health must show by clear and convincing evidence that the isolation or quarantine is  
33 warranted to protect the public health.

34 (b) If the commissioner of health wishes to extend the order for isolation or quarantine past the  
35 period of time stated in subdivision 1, paragraph (d), the commissioner must petition the court to do so.  
36 Notice of the hearing must be served upon the person or persons who are being isolated or quarantined at  
37 least three days before the hearing. If it is impracticable to provide individual notice to large groups who  
38 are isolated or quarantined, a copy of the notice may be posted in the same manner as described under  
39 subdivision 1, paragraph (c).

40 (c) The notice must contain the following information:

41 (1) the time, date, and place of the hearing;

42 (2) the grounds and underlying facts upon which continued isolation or quarantine is sought;

43 (3) the person's right to appear at the hearing; and

44 (4) the person's right to counsel, including the right, if indigent, to be represented by counsel  
45 designated by the court or county of venue.

46 (d) The court may order the continued isolation or quarantine of the person or group of persons if it  
47 finds by clear and convincing evidence that the person or persons would pose an imminent health threat to  
48 others if isolation or quarantine was lifted. In no case may the isolation or quarantine continue longer  
49 than 30 days from the date of the court order issued under this subdivision unless the commissioner  
50 petitions the court for an extension. Any hearing to extend an order is governed by this subdivision.

51 (retain)

1  
2 Subd. 4. [HEARING ON CONDITIONS OF ISOLATION OR QUARANTINE.] A person  
3 isolated or quarantined may request a hearing in district court for remedies regarding the treatment during  
4 and the terms and conditions of isolation or quarantine. Upon receiving a request for a hearing under this  
5 subdivision, the court shall fix a date for a hearing that is within seven days of the receipt of the request  
6 by the court. The request for a hearing does not alter the order for isolation or quarantine. If the court  
7 finds that the isolation or quarantine of the individual is not in compliance with section 144.419, the court  
8 may fashion remedies appropriate to the circumstances of the emergency and in keeping with this chapter.  
9 **(retain)**

10  
11 Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] (a) Court orders issued pursuant to  
12 subdivision 3 or 4 shall be based upon clear and convincing evidence and a written record of the  
13 disposition of the case shall be made and retained.

14 (b) Any person subject to isolation or quarantine has the right to be represented by counsel or  
15 other lawful representative. Persons not otherwise represented may request the court to appoint counsel at  
16 the expense of the Department of health or of a local public health board that has entered into a written  
17 delegation agreement with the commissioner under subdivision 7. The court shall appoint counsel when  
18 so requested an may have one counsel represent a group of persons similarly situated. The appointments  
19 shall be only for representation under subdivisions 3 and 4 and for appeals of orders under subdivisions 3  
20 and 4. On counsel's request., the commissioner or an agent of a local board of health authorized under  
21 section 145A.04 shall advise counsel of protective measures recommended to protect counsel from  
22 possible transmission of the communicable disease. Appointments shall be made and counsel  
23 compensated according to procedures developed by the Supreme Court. Counsel appointed for a  
24 respondent is not required to pursue an appeal if, in the opinion of counsel, there is insufficient basis for  
25 proceeding.

26 (c) The court may choose to conduct a hearing under subdivision 3 or 4 by telephonic,  
27 interactive video, or other electronic means to maintain isolation or quarantine precautions and reduce the  
28 risk of spread of a communicable disease. Otherwise, the manner in which the request for a hearing is  
29 filed and acted upon shall be in accordance with the existing laws and rules of the courts of this state or, if  
30 the isolation or quarantine occurs during a national security or peacetime emergency, any rules that are  
31 developed by the courts for use during a national security or peacetime emergency. (modify)

32  
33 Subd. 6. [DATA PRIVACY.] Data on individuals contained in the commissioner's directive under  
34 subdivision 2 are health data under section 13.3805, subdivision 1. **(retain)**

35  
36 Subd. 7. [DELEGATION.] The commissioner may delegate any authority prescribed in  
37 subdivision 1 or 3 to the local public health board, according to chapter 145A. **(retain)**

38  
39 Sec. 21. [SUNSET.]

40 Sections ~~1-19~~ 1, 2, 5, 8, 10, 11 expire August 1, 2005. **(modify)**

41  
42  
43  
44 Prepared by the Minnesota Department of Health  
45 3-29-05

Dear Senator Limmer,

On Thursday morning, March 31, Sen. Lourey's Health Powers bills, Senate Files 1482 and 1483, will be heard in the Judiciary committee. Please include and distribute this letter as testimony.

Both bills make permanent the state's authority to detain law-abiding citizens on the mere possibility that they have been exposed to a communicable disease. No disaster or emergency must be declared. The authority to detain citizens is ongoing 365 days a year. Furthermore, the bill allows any force short of "deadly force" to be used by the police to "apprehend, hold, transport, quarantine, or isolate" law-abiding citizens.

This legislation would allow health officials to detain a single citizen or restrict the movement of hundreds of people at a time. No judge need be contacted. No court order is required, - until later. This is unsupervised use of government power. Furthermore, health officials can use the threat of detention to force citizens to submit to vaccination, testing, and treatment and, if the person complies, never report the the activity to a judge or anyone.

These bills gives the executive branch of government authority to deny civil liberties and restrict freedom - not just in disasters but also in non-emergency situations. Please do not allow citizens to be stripped of their constitutional and due process rights.

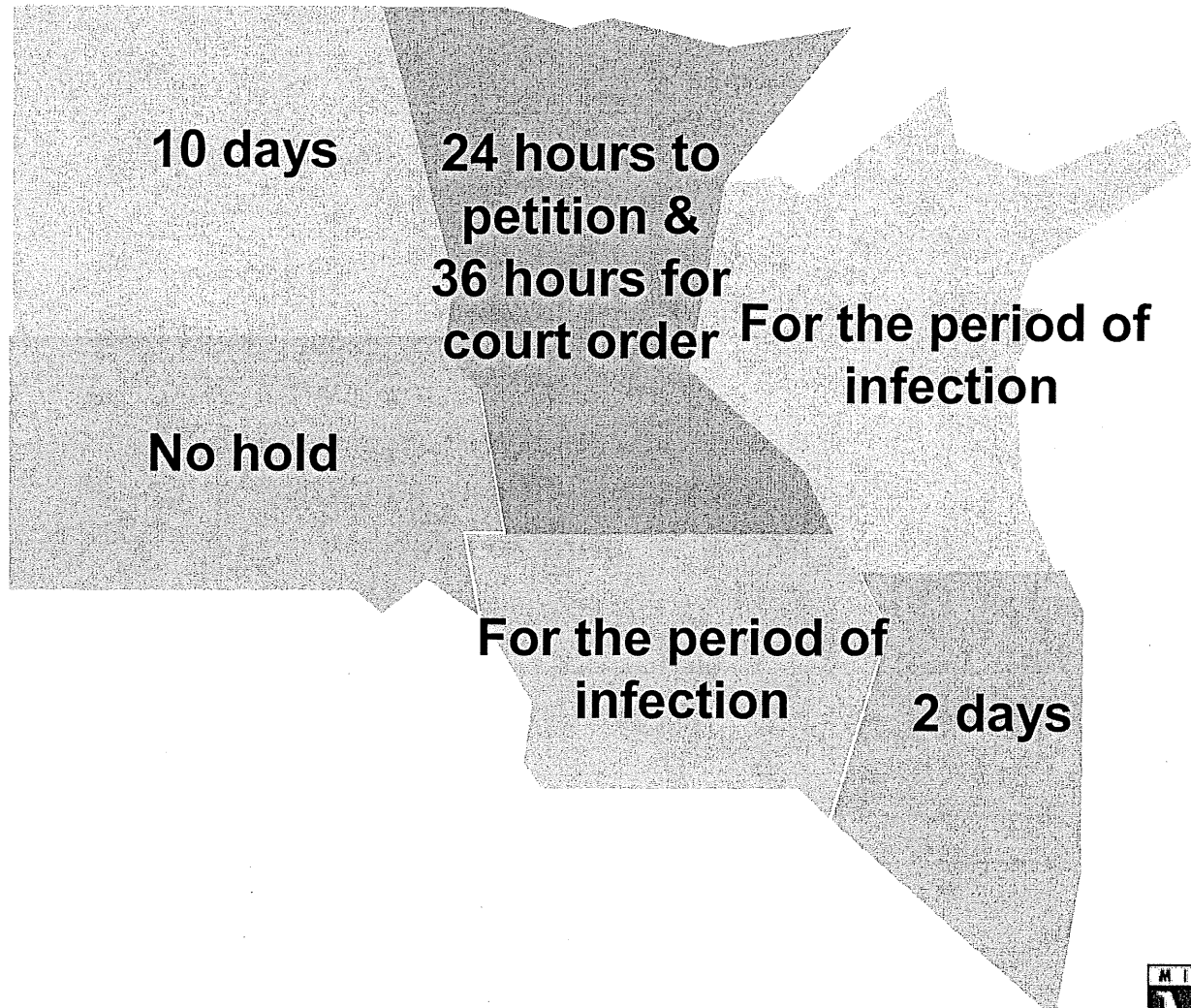
Sincerely,

Dr. Gregory M. Sheehan  
1215 Rice Street  
St. Paul, MN 55117  
651.488.7251

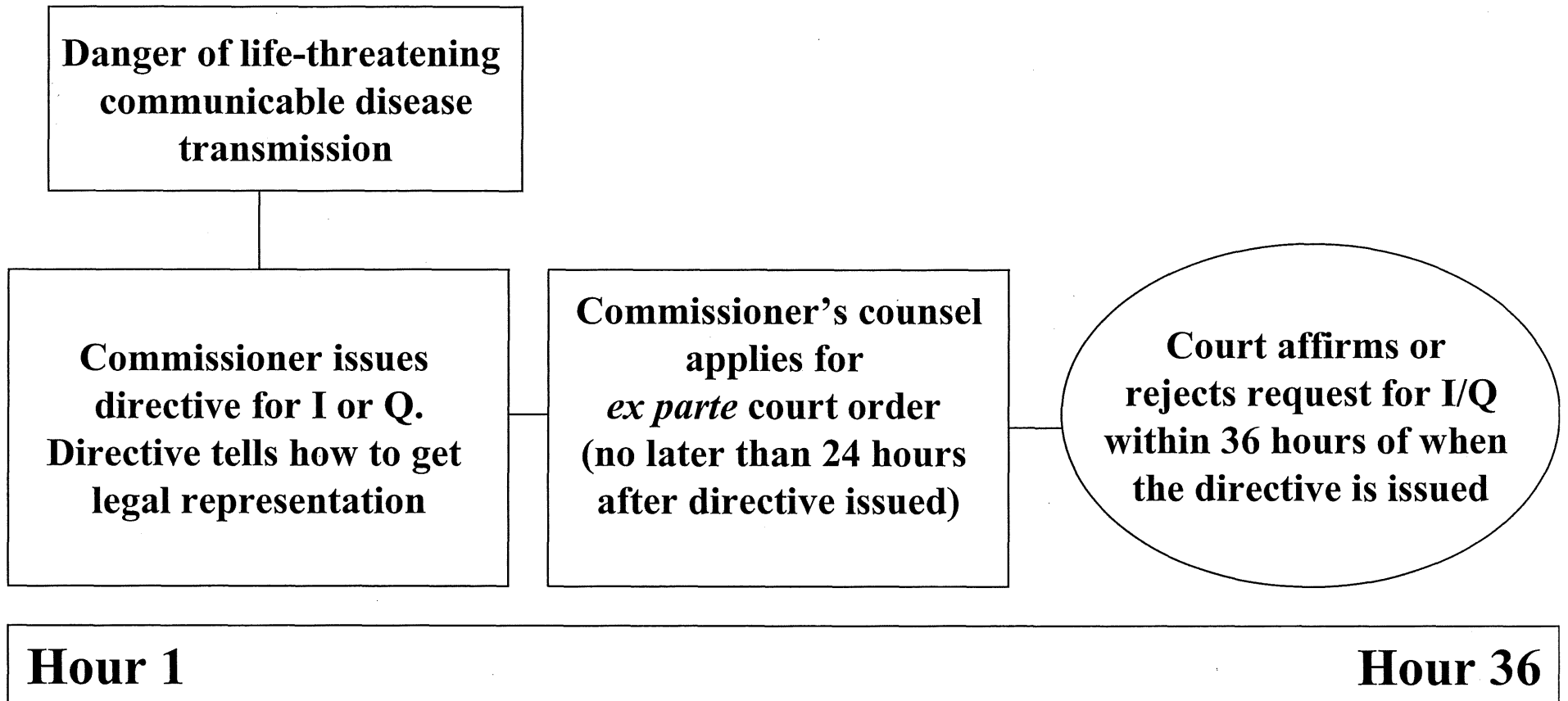
and home

7262 Yuma Lane North  
Maple Grove, MN 55311  
763-416-9974

# Isolation or Quarantine Temporary Holds by State or Local Public Health



# Minnesota Isolation or Quarantine Temporary Hold and Court Review Timeline (HF1507 / SF1482)



1                                   A bill for an act  
2           relating to health; modifying provisions for isolation  
3           and quarantine of persons exposed to or infected with  
4           a communicable disease; amending Minnesota Statutes  
5           2004, sections 144.419, subdivision 1; 144.4195,  
6           subdivisions 1, 2, 5; Laws 2002, chapter 402, section  
7           21, as amended; proposing coding for new law in  
8           Minnesota Statutes, chapter 144.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10           Section 1. Minnesota Statutes 2004, section 144.419,  
11           subdivision 1, is amended to read:

12           Subdivision 1. [DEFINITIONS.] For purposes of ~~this-section~~  
13           ~~and-section-144.4195~~ sections 144.419 to 144.4195, the following  
14           definitions apply:

15           (1) "bioterrorism" means the intentional use of any  
16           microorganism, virus, infectious substance, or biological  
17           product that may be engineered as a result of biotechnology, or  
18           any naturally occurring or bioengineered component of any such  
19           microorganism, virus, infectious substance, or biological  
20           product, to cause death, disease, or other biological  
21           malfunction in a human, an animal, a plant, or another living  
22           organism in order to influence the conduct of government or to  
23           intimidate or coerce a civilian population;

24           (2) "communicable disease" means a disease caused by a  
25           living organism or virus and believed to be caused by  
26           bioterrorism or a new or novel or previously controlled or  
27           eradicated infectious agent or biological toxin that can be

1 transmitted person to person and for which isolation or  
2 quarantine is an effective control strategy, excluding a disease  
3 that is directly transmitted as defined under section 144.4172,  
4 subdivision 5;

5 (3) "isolation" means separation, during the period of  
6 communicability, of a person infected with a communicable  
7 disease, in a place and under conditions so as to prevent direct  
8 or indirect transmission of an infectious agent to others; and

9 (4) "quarantine" means restriction, during a period of  
10 communicability, of activities or travel of an otherwise healthy  
11 person who likely has been exposed to a communicable disease to  
12 prevent disease transmission during the period of  
13 communicability in the event the person is infected.

14 Sec. 2. Minnesota Statutes 2004, section 144.4195,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR  
17 QUARANTINE.] (a) Before isolating or quarantining a person or  
18 group of persons, the commissioner of health shall obtain a  
19 written, ex parte order authorizing the isolation or quarantine  
20 from the District Court of Ramsey County, the county where the  
21 person or group of persons is located, or a county adjoining the  
22 county where the person or group of persons is located. The  
23 evidence or testimony in support of an application may be made  
24 or taken by telephone, facsimile transmission, video equipment,  
25 or other electronic communication. The court shall grant the  
26 order upon a finding that probable cause exists to believe  
27 isolation or quarantine is warranted to protect the public  
28 health.

29 (b) The order must state the specific facts justifying  
30 isolation or quarantine, must state that the person being  
31 isolated or quarantined has a right to a court hearing under  
32 this section and a right to be represented by counsel during any  
33 proceeding under this section, and must be provided immediately  
34 to each person isolated or quarantined. The commissioner of  
35 health shall provide a copy of the authorizing order to the  
36 commissioner of public safety and other peace officers known to

1 the commissioner to have jurisdiction over the site of the  
2 isolation or quarantine. If feasible, the commissioner of  
3 health shall give each person being isolated or quarantined an  
4 estimate of the expected period of the person's isolation or  
5 quarantine.

6 (c) If it is impracticable to provide individual orders to  
7 a group of persons isolated or quarantined, one order shall  
8 suffice to isolate or quarantine a group of persons believed to  
9 have been commonly infected with or exposed to a communicable  
10 disease. A copy of the order and notice shall be posted in a  
11 conspicuous place:

12 (1) in the isolation or quarantine premises, but only if  
13 the persons to be isolated or quarantined are already at the  
14 isolation or quarantine premises and have adequate access to the  
15 order posted there; or

16 (2) in another location where the group of persons to be  
17 isolated or quarantined is located, such that the persons have  
18 adequate access to the order posted there.

19 If the court determines that posting the order according to  
20 clause (1) or (2) is impractical due to the number of persons to  
21 be isolated or quarantined or the geographical area affected,  
22 the court must use the best means available to ensure that the  
23 affected persons are fully informed of the order and notice.

24 (d) Any peace officer, as defined in section 144.4803,  
25 subdivision 16, shall enforce an order under this section and  
26 may use all necessary and lawful means to apprehend, hold,  
27 transport, quarantine, or isolate a person subject to the  
28 order. "Necessary and lawful means" include reasonable force  
29 but not deadly force as defined in section 609.066, subdivision  
30 1. The commissioner or an agent of a local board of health  
31 authorized under section 145A.04 shall advise the peace officer  
32 on request of protective measures recommended to protect the  
33 officer from possible transmission of the communicable disease.  
34 The peace officer may act upon telephone, facsimile, or other  
35 electronic notification of the order from the court,  
36 commissioner of health, agent of a local board of health, or



1 commissioner of public safety.

2 (e) No person may be isolated or quarantined pursuant to an  
3 order issued under this subdivision for longer than 21 days  
4 without a court hearing under subdivision 3 to determine whether  
5 isolation or quarantine should continue. A person who is  
6 isolated or quarantined may request a court hearing under  
7 subdivision 3 at any time before the expiration of the order.

8 Sec. 3. Minnesota Statutes 2004, section 144.4195,  
9 subdivision 2, is amended to read:

10 Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.]

11 (a) Notwithstanding subdivision 1, the commissioner of health  
12 may by directive isolate or quarantine a person or group of  
13 persons without first obtaining a written, ex parte order from  
14 the court if a delay in isolating or quarantining the person or  
15 group of persons would significantly jeopardize the commissioner  
16 of health's ability to prevent or limit the transmission of a  
17 communicable or potentially communicable disease to others. The  
18 directive shall specify the known period of incubation or  
19 communicability or the estimated period under the commissioner's  
20 best medical judgment when the disease is unknown. The  
21 directive remains in effect for the period specified unless  
22 amended by the commissioner or superseded by a court order. The  
23 commissioner must provide the person or group of persons subject  
24 to the temporary hold with notice that the person has a right to  
25 request a court hearing under this section and a right to be  
26 represented by counsel during a proceeding under this section.  
27 If it is impracticable to provide individual notice to each  
28 person subject to the temporary hold, notice of these rights may  
29 be posted in the same manner as the posting of orders under  
30 subdivision 1, paragraph (c). ~~Following-the-imposition-of~~  
31 ~~isolation-or-quarantine-under-this-subdivision~~ Immediately after  
32 the commissioner has executed the directive and initiated notice  
33 of the parties subject to it, but no later than 24 hours after  
34 executing the directive, the commissioner of-health shall within  
35 24-hours apply for a written, ex parte order pursuant to  
36 subdivision 1 authorizing the isolation or quarantine. The

1 court must rule within 24 hours of receipt of the  
2 application. ~~If the person is under a temporary hold, the~~  
3 ~~person may not be held in isolation or quarantine after the~~  
4 ~~temporary hold expires unless the court issues an ex parte order~~  
5 ~~under subdivision 1.~~

6 (b) Any peace officer, as defined in section 144.4803,  
7 subdivision 16, shall enforce a commissioner's directive under  
8 paragraph (a), and may use all necessary and lawful means to  
9 apprehend, hold, transport, quarantine, or isolate a person  
10 subject to the order. "Necessary and lawful means" include  
11 reasonable force but not deadly force as defined in section  
12 609.066, subdivision 1. The commissioner or an agent of a local  
13 board of health authorized under section 145A.04 shall advise  
14 the peace officer on request of protective measures recommended  
15 to protect the officer from possible transmission of the  
16 communicable disease. The peace officer may act upon telephone,  
17 facsimile, or other electronic notification of the order from  
18 the court, commissioner of health, agent of a local board of  
19 health, or commissioner of public safety.

20 (c) If a person subject to a commissioner's directive under  
21 paragraph (a) is already institutionalized in an appropriate  
22 health care facility, the commissioner of health may direct the  
23 facility to continue to hold the person. The facility shall  
24 take all reasonable measures to prevent the person from exposing  
25 others to the communicable disease.

26 Sec. 4. Minnesota Statutes 2004, section 144.4195,  
27 subdivision 5, is amended to read:

28 Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] (a) Court  
29 orders issued pursuant to subdivision 3 or 4 shall be based upon  
30 clear and convincing evidence and a written record of the  
31 disposition of the case shall be made and retained.

32 (b) Any person subject to isolation or quarantine has the  
33 right to be represented by counsel ~~or other lawful~~  
34 ~~representative.~~ Persons not otherwise represented may request  
35 the court to appoint counsel at the expense of the Department of  
36 Health or of a local public health board that has entered into a

1 written delegation agreement with the commissioner under  
2 subdivision 7. The court shall appoint counsel when so  
3 requested and may have one counsel represent a group of persons  
4 similarly situated. The appointments shall be only for  
5 representation under subdivisions 3 and 4 and for appeals of  
6 orders under subdivisions 3 and 4. On counsel's request, the  
7 commissioner or an agent of a local board of health authorized  
8 under section 145A.04 shall advise counsel of protective  
9 measures recommended to protect counsel from possible  
10 transmission of the communicable disease. Appointments shall be  
11 made and counsel compensated according to procedures developed  
12 by the Supreme Court. Counsel appointed for a respondent is not  
13 required to pursue an appeal if, in the opinion of counsel,  
14 there is insufficient basis for proceeding.

15 (c) The court may choose to conduct a hearing under  
16 subdivision 3 or 4 by telephonic, interactive video, or other  
17 electronic means to maintain isolation or quarantine precautions  
18 and reduce the risk of spread of a communicable disease.  
19 Otherwise, the manner in which the request for a hearing is  
20 filed and acted upon shall be in accordance with the existing  
21 laws and rules of the courts of this state or, if the isolation  
22 or quarantine occurs during a national security or peacetime  
23 emergency, any rules that are developed by the courts for use  
24 during a national security or peacetime emergency.

25 Sec. 5. [144.4197] [EMERGENCY VACCINE ADMINISTRATION AND  
26 LEGEND DRUG DISPENSING.]

27 When a mayor, county board chair, or legal successor to  
28 such official has declared a local emergency under section 12.29  
29 or the governor has declared an emergency under section 12.31,  
30 subdivision 1 or 2, the commissioner of health may authorize any  
31 person, including, but not limited to, any person licensed or  
32 otherwise credentialed under chapters 144E, 147 to 148, 150A,  
33 151, 153, or 156, to administer vaccinations or dispense legend  
34 drugs if the commissioner determines that such action is  
35 necessary to protect the health and safety of the public. The  
36 authorization shall be in writing and shall contain the

1 categories of persons included in the authorization, any  
2 additional training required before performance of the  
3 vaccination or drug dispensing by such persons, any supervision  
4 required for performance of the vaccination or drug dispensing,  
5 and the duration of the authorization. The commissioner may, in  
6 writing, extend the scope and duration of the authorization as  
7 the emergency warrants. Any person authorized by the  
8 commissioner under this section shall not be subject to criminal  
9 liability, administrative penalty, professional discipline, or  
10 other administrative sanction for good faith performance of the  
11 vaccination or drug dispensing duties assigned according to this  
12 section.

13       Sec. 6. Laws 2002, chapter 402, section 21, as amended by  
14 Laws 2004, chapter 279, article 11, section 7, is amended to  
15 read:

16       Sec. 21. [SUNSET.]

17       Sections ~~1 to 19~~, 2, 5, 8, 10, and 11 expire August 1, 2005.

18       Sec. 7. [EFFECTIVE DATE.]

19       Section 6 is effective the day following final enactment.

- 1 Senator ..... moves to amend S.F. No. 1482 as follows:
- 2 Page 5, line 2, before the period, insert "or as soon as
- 3 practicable thereafter" and reinstate the stricken language
- 4 Page 5, lines 3 to 5, reinstate the stricken language

1 Senator ..... moves to amend S.F. No. 1482 as follows:

2 Page 3, line 24, delete the new language and insert "Any  
3 peace officer, as defined in section 144.4803, subdivision 16,  
4 may use all necessary and lawful means to apprehend, hold,  
5 transport, quarantine, or isolate a person subject to the order  
6 if the person flees or forcibly resists the officer. This  
7 subdivision is authority to carry out enforcement duties under  
8 this section."

9 Page 3, delete lines 25 to 29

10 Page 3, line 30, delete "1."

11 Page 5, delete lines 6 to 11 and insert:

12 "(b) Any peace officer, as defined in section 144.4803,  
13 subdivision 16, may use all necessary and lawful means to  
14 apprehend, hold, transport, quarantine, or isolate a person  
15 subject to the commissioner's directive if the person flees or  
16 forcibly resists the officer. This subdivision is authority to  
17 carry out enforcement duties under this section."

18 Page 5, line 12, delete "609.066, subdivision 1."

1 Senator ..... moves to amend S.F. No. 1482 as follows:

2 Page 4, line 15, strike "significantly"

3 Page 4, line 17, after the second "communicable" insert  
4 "life-threatening"

5 Page 4, lines 31 and 32, delete the new language

6 Page 4, line 33, delete the new language and before the  
7 comma, insert "Immediately upon executing the directive and  
8 initiating notice of the parties subject to it"

9 Page 4, line 34, delete the new language

10 Page 4, line 35, before "apply" insert "initiate the  
11 process to"

12 Page 5, line 5, after the stricken period, insert "If the  
13 court does not rule within 36 hours after the execution of the  
14 directive, the directive shall expire."

15 (b) At the same time the commissioner initiates the process  
16 to apply for a written, ex parte order under paragraph (a), the  
17 commissioner shall notify the governor, the president of the  
18 senate, the speaker of the house, and the chairs of the senate  
19 and house committees having jurisdiction over health policy that  
20 a directive for a temporary hold has been issued under this  
21 subdivision. Notice under this paragraph is governed by the  
22 data privacy provisions of section 144.4195, subdivision 6."

23 Page 5, line 6, delete "(b)" and insert "(c)"

24 Page 5, line 20, delete "(c)" and insert "(d)"

25 Page 6, line 12, after the period, insert "The procedures  
26 shall provide standards for determining indigency for purposes  
27 of appeal. A person seeking an appeal who does not meet the  
28 indigency standard must reimburse the Department of Health or  
29 local public health board for the attorney fees and costs  
30 incurred in the person's appeal."

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## S.F. No. 361 - Data Practices Technical Changes

**Author:** Senator Wes Skoglund

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** January 24, 2005

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**S.F. No. 361, sections 1 to 28**, substitutes the term “government entity” for various phrases throughout the government data practices chapter that refer to government entities. “Government entity” is defined in **Minnesota Statutes, section 13.02, subdivision 7a**.

**Section 29** makes explicit that parents have an unlimited right to inspect the educational records of a disabled child.

**Section 30** substitutes “not public” for the term “confidential” in one place in the law enforcement data provisions of **Minnesota Statutes, section 13.82**.

**Section 31** repeals the prior provision on disabled children’s educational records.

HW:cs





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## S.F. No. 608 - Department of Commerce Law Enforcement Data

**Author:** Senator Don Betzold

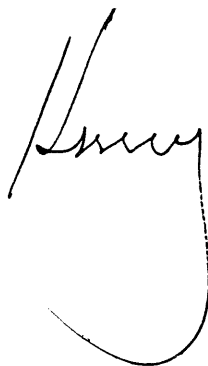
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 8, 2005

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**S.F. No. 608** subjects all law enforcement data generated by the state Commerce Department to the provisions of **Minnesota Statutes, section 13.82**, the comprehensive law enforcement data section.

HW:cs



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## S.F. No. 965 - Applicant Data

**Author:** Senator Don Betzold

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 21, 2005

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**S.F. No. 965** provides that personnel data about applicants for appointment to state and local government boards and commissions is public from the time an application is submitted.

HW:cs



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## S.F. No. 966 - Charges for Copies of Public Data

**Author:** Senator Don Betzold

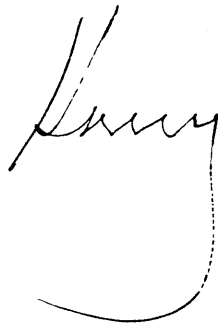
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 16, 2005

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**S.F. No. 966** allows authorities to charge a per copy fee for 300 or fewer copies of public data provided to a person under the data practices law.

HW:cs



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**S.F. No. 1023 - Classifying Licensing Data**

**Author:** Senator James P. Metzen

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** March 14, 2005

HW

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**S.F. No. 1023** makes public data of the following information related to licensed welfare programs:

- (a) information about injuries and deaths in licensed welfare programs;
- (b) the names of perpetrators of maltreatment;
- (c) the nature of a disqualification for which a variance from a licensing rule was allowed;  
and
- (d) disclosure that a person has successfully passed a background study.

HW:cs

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**S.F. No. 1212 - Service Cooperative Claims Data**

**Author:** Senator Steve Kelley

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)



**Date:** March 15, 2005

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**S.F. No. 1212** repeals Minnesota Statutes, section 13.203, which classifies as nonpublic data, claims experience and related information received by Minnesota service cooperatives in connection with group health and dental plans.

HW:cs

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**S.F. No. 1833 - Comprehensive Incident-Based Reporting**

**Author:** Senator Wesley Skoglund

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** March 28, 2005



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**S.F. No. 1833** provides for the treatment of information gathered and disseminated by the Comprehensive Incident-Based Reporting System (CIBRS) managed by the Bureau of Criminal Apprehension (BCA).

**Subdivision 1** defines "CIBRS" and "law enforcement agency."

**Subdivision 2** allows CIBRS data to be used only by law enforcement agencies and only for criminal investigations and background checks.

**Subdivision 3** classifies CIBRS data and regulates changes in classification. CIBRS data becomes private when an investigation becomes inactive or when the data has not been updated for 120 days.

**Subdivision 4** limits use of data to law enforcement personnel certified by the BCA.

**Subdivision 5** regulates the access to the data of the subject of the data.

**Subdivision 6** provides procedures for the challenge to data by the subject of data.

HW:rd

## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Additional Justifiable Homicide Circumstances	NIBRS Standard	NIBRS Data Element
Address (multiple occurrences per incident)		There may be a future need to find the individual or where the incident occurred
Address Number	US Postal Code	
Street Name, Street Type, Direction, PO Boxes, RR numbers, RFD numbers,	Free-form Text - 36 Characters - alpha numeric - and special characters	
Apartment/Suite Number	Free-form Text - 10 characters - alpha numeric - and special characters	
City	Free-form Text - 20 characters - alpha only	
State	US Postal Code table - 2 characters - alpha only	
Zip Code	10 characters	
Country	Free-form Text - 20 characters - alpha only	
Address Type	Pick List (tbd)	Descriptor (residence, business, etc)
Age of Individual	Calculated by CIBRS based on the date of birth associated with an individual - Whole completed years - 3 character - numeric	XXX
Age of Arrestee (calculated)	NIBRS Standard	NIBRS Data Element
Age of Offender (calculated)	NIBRS Standard	NIBRS Data Element
Age of Victim (calculated)	NIBRS Standard	NIBRS Data Element
Agency - Submitting	XXX	XXX
Agency - Responsible	XXX	XXX
Aggravated Assault/Homicide Circumstances (up to 2)	NIBRS Standard	NIBRS Data Element
Arrest Date	NIBRS Standard	NIBRS Data Element
Arrest Transaction Number	NIBRS Standard	NIBRS Data Element
Arrestee Sequence Number	NIBRS Standard	NIBRS Data Element
Arrestee Was Armed With (up to 2)	NIBRS Standard	NIBRS Data Element
Bias Motivation	NIBRS Standard	NIBRS Data Element
Cleared Exceptionally	NIBRS Standard	NIBRS Data Element

## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Date Recovered (up to 10)	NIBRS Standard	NIBRS Data Element
Disposition of Arrestee Under 18	NIBRS Standard	NIBRS Data Element
Estimated Drug Quantity & Fraction (up to 3)	NIBRS Standard	NIBRS Data Element
Ethnicity of Arrestee	NIBRS Standard	NIBRS Data Element
Ethnicity of Victim	NIBRS Standard	NIBRS Data Element
Exceptional Clearance Date	NIBRS Standard	NIBRS Data Element
Incident Date & Hour	NIBRS Standard	NIBRS Data Element
Incident Disposition	XXX	XXX
Incident Number	NIBRS Standard	NIBRS Data Element
Individual's Date of Birth	NCIC Format??	Searchable Criteria
Individual's Eye Color	XXX	Personal descriptor
Individual's Hair Color	XXX	Personal descriptor
Individual's Height	XXX	Personal descriptor
Individual's Name	XXX	Searchable Criteria
Individual's Nickname	XXX	Searchable Criteria
Individual's Phone Number	XXX	Searchable Criteria
Individual's Phone Number Type	XXX	Searchable Criteria
Individual's Role in the Incident	XXX	Searchable Criteria
Individual's Scars/Marks/Tattoos	XXX	Personal descriptor & Searchable Criteria
Individual's Age	XXX	XXX
Individual's Build	XXX	XXX
Individual's Weight	XXX	Personal Descriptor
Is the Individual a Juvenile (Y/N)	XXX	Potential Data Classification Indicator (Calculated)
Location Type	NIBRS Standard	NIBRS Data Element
Location Type (street, single-family home, wherever an incident occurs) bar - apartment - etc	XXX	XXX



## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Method of Entry	NIBRS Standard	NIBRS Data Element
Multiple Arrestee Segments Indicator	NIBRS Standard	NIBRS Data Element
Name		To identify the individual or business involved
Surname	50 char, alphanumeric, allows all special characters	
Given name	30 char, alphanumeric, allows all special characters	
Middle name	30 char, alphanumeric, allows all special characters	
Suffix	Tabled List -	
Title	Tabled List -	
Name Type	XXX	
Name Association	XXX	To link aliases
Number of Premises Entered	NIBRS Standard	NIBRS Data Element
Number of Recovered Motor Vehicles	NIBRS Standard	NIBRS Data Element
Number of Stolen Motor Vehicles	NIBRS Standard	NIBRS Data Element
Offender Numbers to be Related (up to 10)	NIBRS Standard	NIBRS Data Element
Offender Sequence Number	NIBRS Standard	NIBRS Data Element
Offender(s) Suspected of Using (up to 3)	NIBRS Standard	NIBRS Data Element
Offense Attempted/Completed	NIBRS Standard	NIBRS Data Element
ORI Number	NIBRS Standard	NIBRS Data Element
Property Description (up to 10)	NIBRS Standard	NIBRS Data Element
Race of Arrestee	NIBRS Standard	NIBRS Data Element
Race of Offender	NIBRS Standard	NIBRS Data Element
Race of Victim	NIBRS Standard	NIBRS Data Element
Relationships Victim to Offenders (up to 10)	NIBRS Standard	NIBRS Data Element
Resident Status of Arrestee	NIBRS Standard	NIBRS Data Element
Resident Status of Victim	NIBRS Standard	NIBRS Data Element
Sex of Arrestee	NIBRS Standard	NIBRS Data Element

## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Sex of Offender	NIBRS Standard	NIBRS Data Element
Sex of Victim	NIBRS Standard	NIBRS Data Element
Suspected Drug Type (up to 3)	NIBRS Standard	NIBRS Data Element
Type Criminal Activity (up to 3)	NIBRS Standard	NIBRS Data Element
Type Drug Measurement (up to 3)	NIBRS Standard	NIBRS Data Element
Type Injury (up to 5)	NIBRS Standard	NIBRS Data Element
Type of Arrest	NIBRS Standard	NIBRS Data Element
Type of Victim	NIBRS Standard	NIBRS Data Element
Type Property/Loss	NIBRS Standard	NIBRS Data Element
Type Weapon/Force Involved (up to 3)	NIBRS Standard	NIBRS Data Element
UCR Arrest Offense Code	NIBRS Standard	NIBRS Data Element
UCR Offense Code	NIBRS Standard	NIBRS Data Element
Value of Property (up to 10)	NIBRS Standard	NIBRS Data Element
Vehicle Associated - Incident-related	XXX	Searchable Criteria
Victim Connected to UCR Offense Code (up to 10)	NIBRS Standard	NIBRS Data Element
Victim Sequence Number	NIBRS Standard	NIBRS Data Element
Employer/School Data (name, address, open text - shift worker, etc)	XXX	XXX

- There was also a discussion regarding including submitting agency contact information. At this meeting it was discussed that the best way to handle this set of data would be in a separate database that could be queried or referenced by a CIBRS user. The ability to find a submitting agency contact will be added as a business requirement of the CIBRS database.

3/31/05

To: Members of the Senate Judiciary Committee  
From: Richard Neumeister   
Re: S.F.361 CIBRS portion of the bill

CIBRS is an important tool for law enforcement if set up right with accountability and transparency. CIBRS will collect details on categories of crime, including offenses, weapons, injury, location property loss and individual characteristics of the victims, offenders, arrestees, and complainants. Addresses will also be included.

Areas of concern that I believe need to still be addressed are as follows:

Should CIBRS data be used for background investigations and checks?

CIBRS data is raw investigative data which will be fraught with inaccuracies until verified with other sources. It is not necessarily subjected to quality control and is subject to change upon further investigation. CIBRS data are allegations of incidents that have been reported to the police. I believe that the BCA personnel will tell you that CIBRS data is open to error due to the process of data collection. Allowing access to CIBRS data will hurt individuals causing loss of opportunities, reputation, and privacy. It will also allow for discrimination. Relevancy and timeliness of the data are also important.

Accountability standards that need to be clarified either in statute or by rule.

Will BCA do the compliance audits and how often will they be performed? Existing accountability provisions should be reviewed. There should also be a process for retention and destruction of data on the CIBRS system.

## NewsBank InfoWeb

## America's Newspapers

POLICE DATA NETWORK CLOSED FOR NOW  
SECURITY BREACH ALLEGED AS EXISTING SYSTEM SCRUTINIZED

Saint Paul Pioneer Press

November 1, 2003

Author: PATRICK HOWE

Associated Press

**Estimated printed pages: 4**

A computer network used to share police files among more than 175 law enforcement departments in Minnesota has been closed after a state lawmaker learned "beyond a shadow of a doubt" someone had hacked into the system to demonstrate its vulnerability.

"A security breach was alleged. We take that extremely seriously. We've taken the system off line in this particular case," Bob Johnson, director of the state's CrimNet program, said Friday.

He said he does not know how long the file sharing system -- known as the Multiple Jurisdictional Network Organization -- will be down.

Johnson said an investigation is under way to confirm whether and how **MJNO** was breached. He stressed that any breach did not compromise parts of CrimNet, the umbrella term describing various efforts to link different criminal justice data systems in the state.

Johnson announced the possible breach at a criminal justice information task force meeting Friday morning after state Rep. Mary Liz Holberg, a Republican from Lakeville, first made the allegation.

Holberg, who already planned to hold hearings on **MJNO**, said in an interview she was approached by a person who is not supposed to have access to the network and who showed her information the system had on her.

"It was proven to me that an individual that was not law enforcement, beyond a shadow of a doubt, had access to the system," she said.

She said she contacted Gov. Tim Pawlenty's office about the flaw and subsequently verified the information was from the system by seeking a copy of her own **MJNO** file from a local police agency.

Police agencies who participate in the system use a password-protected Internet site to access more than 8 million police records, including the names of suspects, witnesses and people who have sought handgun permits in addition to the names of people who have been arrested or convicted of a crime.

Since 2001, when it began operating on a statewide basis, the system has been owned by the nonprofit Minnesota Chiefs of Police Association, though the state took over its operation as a pilot project in March.

Johnson said the state had been planning security upgrades to the police network.

In an e-mail to members of the network apparently sent Friday, Dennis Delmont, the executive director

of the chiefs association, said the system will be moved behind a Minnesota Bureau of Criminal Apprehension computer firewall and that BCA and CrIMNet computer experts are investigating.

"If there has been an illegal compromise of **MJNO** we will seek criminal prosecution of those responsible," Delmont wrote in a letter obtained by the St. Cloud Times. "If there was no compromise we will try to determine the rationale for such a claim and seek civil and/or legislative relief."

In recent weeks, lawmakers and other critics had begun to raise concerns about the system, questioning its security features as well as the state's involvement.

Agencies in neighboring states have begun to join the network and some officers have access to it from their squad cars.

The basic concept began in 1992, when police in Crystal asked to view the records of their Minneapolis counterparts. In 1997, some 22 police agencies banded together to win a federal grant to build a prototype. Eventually, it was turned over to the nonprofit police chiefs association to run and administer.

So far, the network has been paid for through federal grants and subscribing agencies paying fees of \$50 to \$500. In March, the state leased rights to use it for 18 months in exchange for investing up to \$150,000 to upgrade the system. It's housed on a state Web server -- [www.mjno.state.mn.us](http://www.mjno.state.mn.us) -- and state employees run it.

The state is exploring absorbing **MJNO** permanently after the lease is up, Johnson said in a recent interview.

When an officer gets a hit on a name searched in the **MJNO** network, the screen he calls up shows the person's name, date of birth, the number and type of case that brought them to police attention and the person's role in the matter.

Delmont, of the chiefs association, said it's up to police to verify the accuracy of the information they access. He said the association doesn't own or alter the data. The **MJNO**, he says, is merely a pipe linking one agency's data to another.

"(Critics are) concerned why the Chiefs of Police Association collects all this information on them. The answer is, we don't," he said. "We facilitate the collection by pointing to the data."

Testimonials on **MJNO**'s Web site laud its ease of use. One investigator says it helped him do in four hours what would have taken his full staff a week. Another boasts that "tools like **MJNO** are changing the way we do business."

Scott Chapman may have been one of the first people outside of law enforcement to become aware of the reach of **MJNO**. He said the experience left him feeling violated.

Last March, Chapman, a computer systems administrator, was at a political rally outside U.S. Rep. John Kline's office. He was carrying a sign reading "Freedom is not free," to balance people protesting the war in Iraq, he said.

As the rally neared an end, a Burnsville police sergeant asked to search his fanny pack. Chapman protested but eventually handed it over. Finding nothing unusual, the officer allowed him to leave.

Chapman said the experience left him shaken and curious why he'd been singled out.

The answer came from a friendly file clerk and the police report on the incident. Chapman learned that the officer was suspicious in part because he'd searched the **MJNO** and found Chapman had requested but been denied a concealed carry permit. (Chapman had since been granted a permit, though that wasn't in the records)

"Here I've done nothing wrong. I've done everything right. I applied for a legal permit and followed the process," Chapman said. "Now I find out that my name is commingled with all of the felons and arrestees and everyone else? It just seems wrong.

"I'm a white guy from the 'burbs and I was stopped and illegally searched. Can you imagine what it must be like for a guy who's not a white guy from the 'burbs?"

His attorney, gun-rights activist David Gross, says he is exploring a possible lawsuit over the incident.

Gross questions the accuracy of the information and the security of the system. He believes the system should be shut down because it was never authorized by the Legislature and doesn't comply with parts of the state's records law, the Data Practices Act.

"There's all sorts of philosophical questions," he said. "What is it? Why did they need to create it? Is it lawful to create it? Why in the hell, if they needed it and wanted it to exist, didn't they go through the state government to create it?"

He said he believes state law demands that citizens have access to any data collected on them, provided they aren't the suspect of an investigation. Delmont said those questions should be taken to the agencies that hold the actual records, not **MJNO**.

Largely thanks to Chapman's efforts to bring the system to their attention, lawmakers are beginning to ask questions.

As a lawmaker who has served on key police and law committees, Holberg said she initially dismissed talk about a secret, privately run database, assuming she would have heard about it if it existed. "I thought it sounded so bizarre it couldn't be true."

Holberg said she can see the benefits of the system to police, but she's grown concerned enough to plan hearings on **MJNO** for the next legislative session.

"There needs to be major big-time discussion from a public policy standpoint before we get much further down the road."

Edition: City  
Section: LOCAL  
Page: B4

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## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Additional Justifiable Homicide Circumstances	NIBRS Standard	NIBRS Data Element
Address (multiple occurrences per incident)		There may be a future need to find the individual or where the incident occurred
Address Number	US Postal Code	
Street Name, Street Type, Direction, PO Boxes, RR numbers, RFD numbers,	Free-form Text - 36 Characters - alpha numeric - and special characters	
Apartment/Suite Number	Free-form Text - 10 characters - alpha numeric - and special characters	
City	Free-form Text - 20 characters - alpha only	
State	US Postal Code table - 2 characters - alpha only	
Zip Code	10 characters	
Country	Free-form Text - 20 characters - alpha only	
Address Type	Pick List (tbd)	
Age of Individual	Calculated by CIBRS based on the date of birth associated with an individual - Whole completed years - 3 character - numeric	XXX
Age of Arrestee (calculated)	NIBRS Standard	NIBRS Data Element
Age of Offender (calculated)	NIBRS Standard	NIBRS Data Element
Age of Victim (calculated)	NIBRS Standard	NIBRS Data Element
Agency - Submitting	XXX	XXX
Agency - Responsible	XXX	XXX
Aggravated Assault/Homicide Circumstances (up to 2)	NIBRS Standard	NIBRS Data Element
Arrest Date	NIBRS Standard	NIBRS Data Element
Arrest Transaction Number	NIBRS Standard	NIBRS Data Element
Arrestee Sequence Number	NIBRS Standard	NIBRS Data Element
Arrestee Was Armed With (up to 2)	NIBRS Standard	NIBRS Data Element
Bias Motivation	NIBRS Standard	NIBRS Data Element
Cleared Exceptionally	NIBRS Standard	NIBRS Data Element

## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Date Recovered (up to 10)	NIBRS Standard	NIBRS Data Element
Disposition of Arrestee Under 18	NIBRS Standard	NIBRS Data Element
Estimated Drug Quantity & Fraction (up to 3)	NIBRS Standard	NIBRS Data Element
Ethnicity of Arrestee	NIBRS Standard	NIBRS Data Element
Ethnicity of Victim	NIBRS Standard	NIBRS Data Element
Exceptional Clearance Date	NIBRS Standard	NIBRS Data Element
Incident Date & Hour	NIBRS Standard	NIBRS Data Element
Incident Disposition	XXX	XXX
Incident Number	NIBRS Standard	NIBRS Data Element
Individual's Date of Birth	NCIC Format??	Searchable Criteria
Individual's Eye Color	XXX	Personal descriptor
Individual's Hair Color	XXX	Personal descriptor
Individual's Height	XXX	Personal descriptor
Individual's Name	XXX	Searchable Criteria
Individual's Nickname	XXX	Searchable Criteria
Individual's Phone Number	XXX	Searchable Criteria
Individual's Phone Number Type	XXX	Searchable Criteria
Individual's Role in the Incident	XXX	Searchable Criteria
Individual's Scars/Marks/Tattoos	XXX	Personal descriptor & Searchable Criteria
Individual's Age	XXX	XXX
Individual's Build	XXX	XXX
Individual's Weight	XXX	Personal Descriptor
Is the Individual a Juvenile (Y/N)	XXX	Potential Data Classification Indicator (Calculated)
Location Type	NIBRS Standard	NIBRS Data Element
Location Type (street, single-family home, wherever an incident occurs) bar - apartment - etc	XXX	XXX



## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Method of Entry	NIBRS Standard	NIBRS Data Element
Multiple Arrestee Segments Indicator	NIBRS Standard	NIBRS Data Element
Name		To identify the individual or business involved
Surname	50 char, alphanumeric, allows all special characters	
Given name	30 char, alphanumeric, allows all special characters	
Middle name	30 char, alphanumeric, allows all special characters	
Suffix	Tabled List -	
Title	Tabled List -	
Name Type	XXX	To determine role (subject, victim, witness, alias, business, etc)
Name Association	XXX	To link aliases
Number of Premises Entered	NIBRS Standard	NIBRS Data Element
Number of Recovered Motor Vehicles	NIBRS Standard	NIBRS Data Element
Number of Stolen Motor Vehicles	NIBRS Standard	NIBRS Data Element
Offender Numbers to be Related (up to 10)	NIBRS Standard	NIBRS Data Element
Offender Sequence Number	NIBRS Standard	NIBRS Data Element
Offender(s) Suspected of Using (up to 3)	NIBRS Standard	NIBRS Data Element
Offense Attempted/Completed	NIBRS Standard	NIBRS Data Element
ORI Number	NIBRS Standard	NIBRS Data Element
Property Description (up to 10)	NIBRS Standard	NIBRS Data Element
Race of Arrestee	NIBRS Standard	NIBRS Data Element
Race of Offender	NIBRS Standard	NIBRS Data Element
Race of Victim	NIBRS Standard	NIBRS Data Element
Relationships Victim to Offenders (up to 10)	NIBRS Standard	NIBRS Data Element
Resident Status of Arrestee	NIBRS Standard	NIBRS Data Element
Resident Status of Victim	NIBRS Standard	NIBRS Data Element
Sex of Arrestee	NIBRS Standard	NIBRS Data Element

## Proposed CIBRS Data Elements

Element Name	Existing Standard or Recommendation	Why include it?
Sex of Offender	NIBRS Standard	NIBRS Data Element
Sex of Victim	NIBRS Standard	NIBRS Data Element
Suspected Drug Type (up to 3)	NIBRS Standard	NIBRS Data Element
Type Criminal Activity (up to 3)	NIBRS Standard	NIBRS Data Element
Type Drug Measurement (up to 3)	NIBRS Standard	NIBRS Data Element
Type Injury (up to 5)	NIBRS Standard	NIBRS Data Element
Type of Arrest	NIBRS Standard	NIBRS Data Element
Type of Victim	NIBRS Standard	NIBRS Data Element
Type Property/Loss	NIBRS Standard	NIBRS Data Element
Type Weapon/Force Involved (up to 3)	NIBRS Standard	NIBRS Data Element
UCR Arrest Offense Code	NIBRS Standard	NIBRS Data Element
UCR Offense Code	NIBRS Standard	NIBRS Data Element
Value of Property (up to 10)	NIBRS Standard	NIBRS Data Element
Vehicle Associated - Incident-related	XXX	Searchable Criteria
Victim Connected to UCR Offense Code (up to 10)	NIBRS Standard	NIBRS Data Element
Victim Sequence Number	NIBRS Standard	NIBRS Data Element
Employer/School Data (name, address, open text - shift worker, etc)	XXX	XXX

- There was also a discussion regarding including submitting agency contact information. At this meeting it was discussed that the best way to handle this set of data would be in a separate database that could be queried or referenced by a CIBRS user. The ability to find a submitting agency contact will be added as a business requirement of the CIBRS database.

1 Senator ..... moves to amend S.F. No. 361 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 13.01,  
4 subdivision 1, is amended to read:

5 Subdivision 1. [APPLICABILITY.] All ~~state-agencies,~~  
6 ~~political-subdivisions-and-statewide-systems~~ government entities  
7 shall be governed by this chapter.

8 Sec. 2. Minnesota Statutes 2004, section 13.01,  
9 subdivision 3, is amended to read:

10 Subd. 3. [SCOPE.] This chapter regulates the collection,  
11 creation, storage, maintenance, dissemination, and access to  
12 government data in ~~state-agencies,-statewide-systems,-and~~  
13 ~~political-subdivisions~~ government entities. It establishes a  
14 presumption that government data are public and are accessible  
15 by the public for both inspection and copying unless there is  
16 federal law, a state statute, or a temporary classification of  
17 data that provides that certain data are not public.

18 Sec. 3. Minnesota Statutes 2004, section 13.02,  
19 subdivision 7, is amended to read:

20 Subd. 7. [GOVERNMENT DATA.] "Government data" means all  
21 data collected, created, received, maintained or disseminated by  
22 any ~~state-agency,-political-subdivision,-or-statewide~~  
23 ~~system~~ government entity regardless of its physical form,  
24 storage media or conditions of use.

25 Sec. 4. Minnesota Statutes 2004, section 13.03,  
26 subdivision 1, is amended to read:

27 Subdivision 1. [PUBLIC DATA.] All government data  
28 collected, created, received, maintained or disseminated by a  
29 ~~state-agency,-political-subdivision,-or-statewide~~  
30 ~~system~~ government entity shall be public unless classified by  
31 statute, or temporary classification pursuant to section 13.06,  
32 or federal law, as nonpublic or protected nonpublic, or with  
33 respect to data on individuals, as private or confidential. The  
34 responsible authority in every ~~state-agency,-political~~  
35 ~~subdivision-and-statewide-system~~ government entity shall keep  
36 records containing government data in such an arrangement and

1 condition as to make them easily accessible for convenient use.  
2 Photographic, photostatic, microphotographic, or microfilmed  
3 records shall be considered as accessible for convenient use  
4 regardless of the size of such records.

5 Sec. 5. Minnesota Statutes 2004, section 13.03,  
6 subdivision 2, is amended to read:

7 Subd. 2. [PROCEDURES.] (a) The responsible authority in  
8 every ~~state-agency, political-subdivision, and statewide~~  
9 system government entity shall establish procedures, consistent  
10 with this chapter, to insure that requests for government data  
11 are received and complied with in an appropriate and prompt  
12 manner.

13 (b) The responsible authority shall prepare public access  
14 procedures in written form and update them no later than August  
15 1 of each year as necessary to reflect any changes in personnel  
16 or circumstances that might affect public access to government  
17 data. The responsible authority shall make copies of the  
18 written public access procedures easily available to the public  
19 by distributing free copies of the procedures to the public or  
20 by posting a copy of the procedures in a conspicuous place  
21 within the government entity that is easily accessible to the  
22 public.

23 (c) Full convenience and comprehensive accessibility shall  
24 be allowed to researchers including historians, genealogists and  
25 other scholars to carry out extensive research and complete  
26 copying of all records containing government data except as  
27 otherwise expressly provided by law.

28 A responsible authority may designate one or more designees.

29 Sec. 6. Minnesota Statutes 2004, section 13.03,  
30 subdivision 3, is amended to read:

31 Subd. 3. [REQUEST FOR ACCESS TO DATA.] (a) Upon request to  
32 a responsible authority or designee, a person shall be permitted  
33 to inspect and copy public government data at reasonable times  
34 and places, and, upon request, shall be informed of the data's  
35 meaning. If a person requests access for the purpose of  
36 inspection, the responsible authority may not assess a charge or

1 require the requesting person to pay a fee to inspect data.

2 (b) For purposes of this section, "inspection" includes,  
3 but is not limited to, the visual inspection of paper and  
4 similar types of government data. Inspection does not include  
5 printing copies by the government entity, unless printing a copy  
6 is the only method to provide for inspection of the data. In  
7 the case of data stored in electronic form and made available in  
8 electronic form on a remote access basis to the public by the  
9 government entity, inspection includes remote access to the data  
10 by the public and the ability to print copies of or download the  
11 data on the public's own computer equipment. Nothing in this  
12 section prohibits a government entity from charging a reasonable  
13 fee for remote access to data under a specific statutory grant  
14 of authority. A government entity may charge a fee for remote  
15 access to data where either the data or the access is enhanced  
16 at the request of the person seeking access.

17 (c) The responsible authority or designee shall provide  
18 copies of public data upon request. If a person requests copies  
19 or electronic transmittal of the data to the person, the  
20 responsible authority may require the requesting person to pay  
21 the actual costs of searching for and retrieving government  
22 data, including the cost of employee time, and for making,  
23 certifying, compiling, and electronically transmitting the  
24 copies of the data or the data, but may not charge for  
25 separating public from not public data. However, if 300 or  
26 fewer paper copies are requested, for readily available  
27 documents actual costs shall not be used, and instead the  
28 responsible authority may assess a set fee per copy, which shall  
29 not exceed 25 cents for each separate page. If the responsible  
30 authority or designee is not able to provide copies at the time  
31 a request is made, copies shall be supplied as soon as  
32 reasonably possible.

33 (d) When a request under this subdivision involves any  
34 person's receipt of copies of public government data that has  
35 commercial value and is a substantial and discrete portion of or  
36 an entire formula, pattern, compilation, program, device,

1 method, technique, process, database, or system developed with a  
2 significant expenditure of public funds by the agency, the  
3 responsible authority may charge a reasonable fee for the  
4 information in addition to the costs of making, certifying, and  
5 compiling the copies. Any fee charged must be clearly  
6 demonstrated by the agency to relate to the actual development  
7 costs of the information. The responsible authority, upon the  
8 request of any person, shall provide sufficient documentation to  
9 explain and justify the fee being charged.

10 (e) The responsible authority of a state agency, statewide  
11 system, or political subdivision that maintains public  
12 government data in a computer storage medium shall provide to  
13 any person making a request under this section a copy of any  
14 public data contained in that medium, in electronic form, if the  
15 government entity can reasonably make the copy or have a copy  
16 made. This does not require a government entity to provide the  
17 data in an electronic format or program that is different from  
18 the format or program in which the data are maintained by the  
19 government entity. The entity may require the requesting person  
20 to pay the actual cost of providing the copy.

21 (f) If the responsible authority or designee determines  
22 that the requested data is classified so as to deny the  
23 requesting person access, the responsible authority or designee  
24 shall inform the requesting person of the determination either  
25 orally at the time of the request, or in writing as soon after  
26 that time as possible, and shall cite the specific statutory  
27 section, temporary classification, or specific provision of  
28 federal law on which the determination is based. Upon the  
29 request of any person denied access to data, the responsible  
30 authority or designee shall certify in writing that the request  
31 has been denied and cite the specific statutory section,  
32 temporary classification, or specific provision of federal law  
33 upon which the denial was based.

34 Sec. 7. Minnesota Statutes 2004, section 13.03,  
35 subdivision 4, is amended to read:

36 Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF

1 DISSEMINATION AMONG AGENCIES.] (a) The classification of data in  
2 the possession of an agency entity shall change if it is  
3 required to do so to comply with either judicial or  
4 administrative rules pertaining to the conduct of legal actions  
5 or with a specific statute applicable to the data in the  
6 possession of the disseminating or receiving agency entity.

7 (b) If data on individuals is classified as both private  
8 and confidential by this chapter, or any other statute or  
9 federal law, the data is private.

10 (c) To the extent that government data is disseminated to  
11 ~~state-agencies, political-subdivisions, or statewide-systems~~ a  
12 government entity by another ~~state-agency, political~~  
13 ~~subdivision, or statewide-system~~ government entity, the data  
14 disseminated shall have the same classification in the hands of  
15 the agency entity receiving it as it had in the hands of the  
16 entity providing it.

17 (d) If a ~~state-agency, statewide-system, or political~~  
18 ~~subdivision~~ government entity disseminates data to another ~~state~~  
19 ~~agency, statewide-system, or political-subdivision~~ government  
20 entity, a classification provided for by law in the hands of the  
21 entity receiving the data does not affect the classification of  
22 the data in the hands of the entity that disseminates the data.

23 Sec. 8. Minnesota Statutes 2004, section 13.03,  
24 subdivision 5, is amended to read:

25 Subd. 5. [COPYRIGHT OR PATENT OF GOVERNMENT DATA.] A ~~state~~  
26 ~~agency, statewide-system, or political-subdivision~~ government  
27 entity may enforce a copyright or acquire a patent for a  
28 computer software program or components of a program created by  
29 that government agency entity without statutory authority. In  
30 the event that a government agency entity acquires a patent to a  
31 computer software program or component of a program, the data  
32 shall be treated as trade secret information pursuant to section  
33 13.37.

34 Sec. 9. Minnesota Statutes 2004, section 13.03,  
35 subdivision 6, is amended to read:

36 Subd. 6. [DISCOVERABILITY OF NOT PUBLIC DATA.] If a ~~state~~

1 ~~agency, political subdivision, or statewide system~~ government  
2 entity opposes discovery of government data or release of data  
3 pursuant to court order on the grounds that the data are  
4 classified as not public, the party that seeks access to the  
5 data may bring before the appropriate presiding judicial  
6 officer, arbitrator, or administrative law judge an action to  
7 compel discovery or an action in the nature of an action to  
8 compel discovery.

9       The presiding officer shall first decide whether the data  
10 are discoverable or releasable pursuant to the rules of evidence  
11 and of criminal, civil, or administrative procedure appropriate  
12 to the action.

13       If the data are discoverable the presiding officer shall  
14 decide whether the benefit to the party seeking access to the  
15 data outweighs any harm to the confidentiality interests of the  
16 ~~agency~~ entity maintaining the data, or of any person who has  
17 provided the data or who is the subject of the data, or to the  
18 privacy interest of an individual identified in the data. In  
19 making the decision, the presiding officer shall consider  
20 whether notice to the subject of the data is warranted and, if  
21 warranted, what type of notice must be given. The presiding  
22 officer may fashion and issue any protective orders necessary to  
23 assure proper handling of the data by the parties. If the data  
24 are a videotape of a child victim or alleged victim alleging,  
25 explaining, denying, or describing an act of physical or sexual  
26 abuse, the presiding officer shall consider the provisions of  
27 section 611A.90, subdivision 2, paragraph (b).

28       Sec. 10. Minnesota Statutes 2004, section 13.03,  
29 subdivision 8, is amended to read:

30       Subd. 8. [CHANGE TO CLASSIFICATION OF DATA NOT ON  
31 INDIVIDUALS.] Except for security information, nonpublic and  
32 protected nonpublic data shall become public either ten years  
33 after the creation of the data by the government ~~agency~~ entity  
34 or ten years after the data was received or collected by any  
35 governmental ~~agency~~ entity unless the responsible authority for  
36 the originating or custodial ~~agency~~ entity for the data



1 reasonably determines that, if the data were made available to  
2 the public or to the data subject, the harm to the public or to  
3 a data subject would outweigh the benefit to the public or to  
4 the data subject. If the responsible authority denies access to  
5 the data, the person denied access may challenge the denial by  
6 bringing an action in district court seeking release of the  
7 data. The action shall be brought in the district court located  
8 in the county where the data are being maintained, or, in the  
9 case of data maintained by a state agency, in any county. The  
10 data in dispute shall be examined by the court in camera. In  
11 deciding whether or not to release the data, the court shall  
12 consider the benefits and harms in the same manner as set forth  
13 above. The court shall make a written statement of findings in  
14 support of its decision.

15 Sec. 11. Minnesota Statutes 2004, section 13.04,  
16 subdivision 2, is amended to read:

17 Subd. 2. [INFORMATION REQUIRED TO BE GIVEN INDIVIDUAL.] An  
18 individual asked to supply private or confidential data  
19 concerning the individual shall be informed of: (a) the purpose  
20 and intended use of the requested data within the collecting  
21 ~~state-agency, political-subdivision, or statewide~~  
22 system government entity; (b) whether the individual may refuse  
23 or is legally required to supply the requested data; (c) any  
24 known consequence arising from supplying or refusing to supply  
25 private or confidential data; and (d) the identity of other  
26 persons or entities authorized by state or federal law to  
27 receive the data. This requirement shall not apply when an  
28 individual is asked to supply investigative data, pursuant to  
29 section 13.82, subdivision 7, to a law enforcement officer.

30 Sec. 12. Minnesota Statutes 2004, section 13.04,  
31 subdivision 4, is amended to read:

32 Subd. 4. [PROCEDURE WHEN DATA IS NOT ACCURATE OR  
33 COMPLETE.] (a) An individual subject of the data may contest the  
34 accuracy or completeness of public or private data. To exercise  
35 this right, an individual shall notify in writing the  
36 responsible authority describing the nature of the

1 disagreement. The responsible authority shall within 30 days  
2 either: (1) correct the data found to be inaccurate or  
3 incomplete and attempt to notify past recipients of inaccurate  
4 or incomplete data, including recipients named by the  
5 individual; or (2) notify the individual that the authority  
6 believes the data to be correct. Data in dispute shall be  
7 disclosed only if the individual's statement of disagreement is  
8 included with the disclosed data.

9 The determination of the responsible authority may be  
10 appealed pursuant to the provisions of the Administrative  
11 Procedure Act relating to contested cases. Upon receipt of an  
12 appeal by an individual, the commissioner shall, before issuing  
13 the order and notice of a contested case hearing required by  
14 chapter 14, try to resolve the dispute through education,  
15 conference, conciliation, or persuasion. If the parties  
16 consent, the commissioner may refer the matter to mediation.  
17 Following these efforts, the commissioner shall dismiss the  
18 appeal or issue the order and notice of hearing.

19 (b) Data on individuals that have been successfully  
20 challenged by an individual must be completed, corrected, or  
21 destroyed by a state agency, political subdivision, or statewide  
22 system without regard to the requirements of section 138.17.

23 After completing, correcting, or destroying successfully  
24 challenged data, a ~~state-agency, political-subdivision, or~~  
25 ~~statewide-system~~ government entity may retain a copy of the  
26 commissioner of administration's order issued under chapter 14  
27 or, if no order were issued, a summary of the dispute between  
28 the parties that does not contain any particulars of the  
29 successfully challenged data.

30 Sec. 13. Minnesota Statutes 2004, section 13.05,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [PUBLIC DOCUMENT OF DATA CATEGORIES.] The  
33 responsible authority shall prepare a public document containing  
34 the authority's name, title and address, and a description of  
35 each category of record, file, or process relating to private or  
36 confidential data on individuals maintained by the

1 authority's ~~state-agency,--statewide-system,--or-political~~  
2 subdivision government entity. Forms used to collect private  
3 and confidential data shall be included in the public document.  
4 Beginning August 1, 1977 and annually thereafter, the  
5 responsible authority shall update the public document and make  
6 any changes necessary to maintain the accuracy of the document.  
7 The document shall be available from the responsible authority  
8 to the public in accordance with the provisions of sections  
9 13.03 and 15.17.

10 Sec. 14. Minnesota Statutes 2004, section 13.05,  
11 subdivision 4, is amended to read:

12 Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.]  
13 Private or confidential data on an individual shall not be  
14 collected, stored, used, or disseminated by ~~political~~  
15 ~~subdivisions,--statewide-systems,--or-state-agencies~~ government  
16 entities for any purposes other than those stated to the  
17 individual at the time of collection in accordance with section  
18 13.04, except as provided in this subdivision.

19 (a) Data collected prior to August 1, 1975, and which have  
20 not been treated as public data, may be used, stored, and  
21 disseminated for the purposes for which the data was originally  
22 collected or for purposes which are specifically approved by the  
23 commissioner as necessary to public health, safety, or welfare.

24 (b) Private or confidential data may be used and  
25 disseminated to individuals or ~~agencies~~ entities specifically  
26 authorized access to that data by state, local, or federal law  
27 enacted or promulgated after the collection of the data.

28 (c) Private or confidential data may be used and  
29 disseminated to individuals or ~~agencies~~ entities subsequent to  
30 the collection of the data when the responsible authority  
31 maintaining the data has requested approval for a new or  
32 different use or dissemination of the data and that request has  
33 been specifically approved by the commissioner as necessary to  
34 carry out a function assigned by law.

35 (d) Private data may be used by and disseminated to any  
36 person or ~~agency~~ entity if the individual subject or subjects of

1 the data have given their informed consent. Whether a data  
2 subject has given informed consent shall be determined by rules  
3 of the commissioner. The format for informed consent is as  
4 follows, unless otherwise prescribed by the HIPAA, Standards for  
5 Privacy of Individually Identifiable Health Information, 65 Fed.  
6 Reg. 82, 461 (2000) (to be codified as Code of Federal  
7 Regulations, title 45, section 164): informed consent shall not  
8 be deemed to have been given by an individual subject of the  
9 data by the signing of any statement authorizing any person  
10 or agency entity to disclose information about the individual to  
11 an insurer or its authorized representative, unless the  
12 statement is:

13 (1) in plain language;

14 (2) dated;

15 (3) specific in designating the particular persons or  
16 agencies the data subject is authorizing to disclose information  
17 about the data subject;

18 (4) specific as to the nature of the information the  
19 subject is authorizing to be disclosed;

20 (5) specific as to the persons or agencies entities to whom  
21 the subject is authorizing information to be disclosed;

22 (6) specific as to the purpose or purposes for which the  
23 information may be used by any of the parties named in clause  
24 (5), both at the time of the disclosure and at any time in the  
25 future;

26 (7) specific as to its expiration date which should be  
27 within a reasonable period of time, not to exceed one year  
28 except in the case of authorizations given in connection with  
29 applications for (i) life insurance or noncancelable or  
30 guaranteed renewable health insurance and identified as such,  
31 two years after the date of the policy or (ii) medical  
32 assistance under chapter 256B or MinnesotaCare under chapter  
33 256L, which shall be ongoing during all terms of eligibility,  
34 for individual education plan health-related services provided  
35 by a school district under section 125A.21, subdivision 2.

36 The responsible authority may require a person requesting

1 copies of data under this paragraph to pay the actual costs of  
2 making, certifying, and compiling the copies.

3 (e) Private or confidential data on an individual may be  
4 discussed at a meeting open to the public to the extent provided  
5 in section 13D.05.

6 Sec. 15. Minnesota Statutes 2004, section 13.05,  
7 subdivision 6, is amended to read:

8 Subd. 6. [CONTRACTS.] Except as provided in section 13.46,  
9 subdivision 5, in any contract between a ~~governmental~~  
10 ~~unit~~ government entity subject to this chapter and any person,  
11 when the contract requires that data on individuals be made  
12 available to the contracting parties by the ~~governmental-unit~~  
13 government entity, that data shall be administered consistent  
14 with this chapter. A contracting party shall maintain the data  
15 on individuals which it received according to the statutory  
16 provisions applicable to the data.

17 Sec. 16. Minnesota Statutes 2004, section 13.05,  
18 subdivision 7, is amended to read:

19 Subd. 7. [PREPARATION OF SUMMARY DATA.] The use of summary  
20 data derived from private or confidential data on individuals  
21 under the jurisdiction of one or more responsible authorities is  
22 permitted. Unless classified pursuant to section 13.06, another  
23 statute, or federal law, summary data is public. The  
24 responsible authority shall prepare summary data from private or  
25 confidential data on individuals upon the request of any person  
26 if the request is in writing and the cost of preparing the  
27 summary data is borne by the requesting person. The responsible  
28 authority may delegate the power to prepare summary data (1) to  
29 the administrative officer responsible for any central  
30 repository of summary data; or (2) to a person outside of ~~its~~  
31 ~~agency~~ the entity if the person's purpose is set forth, in  
32 writing, and the person agrees not to disclose, and the  
33 ~~agency~~ entity reasonably determines that the access will not  
34 compromise private or confidential data on individuals.

35 Sec. 17. Minnesota Statutes 2004, section 13.05,  
36 subdivision 8, is amended to read:

1 Subd. 8. [PUBLICATION OF ACCESS PROCEDURES.] The  
2 responsible authority shall prepare a public document setting  
3 forth in writing the rights of the data subject pursuant to  
4 section 13.04 and the specific procedures in effect in the state  
5 ~~agency, statewide-system-or-political-subdivision~~ government  
6 entity for access by the data subject to public or private data  
7 on individuals.

8 Sec. 18. Minnesota Statutes 2004, section 13.05,  
9 subdivision 9, is amended to read:

10 Subd. 9. [INTERGOVERNMENTAL ACCESS OF DATA.] A responsible  
11 authority shall allow another responsible authority access to  
12 data classified as not public only when the access is authorized  
13 or required by statute or federal law. An agency entity that  
14 supplies government data under this subdivision may require the  
15 requesting agency entity to pay the actual cost of supplying the  
16 data.

17 Sec. 19. Minnesota Statutes 2004, section 13.06,  
18 subdivision 1, is amended to read:

19 Subdivision 1. [APPLICATION TO COMMISSIONER.]  
20 Notwithstanding the provisions of section 13.03, the responsible  
21 authority of a ~~state-agency, political-subdivision, or statewide~~  
22 system government entity may apply to the commissioner for  
23 permission to classify data or types of data on individuals as  
24 private or confidential, or data not on individuals as nonpublic  
25 or protected nonpublic, for its own use and for the use of other  
26 similar ~~agencies, political-subdivisions, or statewide~~  
27 systems government entities on a temporary basis until a  
28 proposed statute can be acted upon by the legislature. The  
29 application for temporary classification is public.

30 Upon the filing of an application for temporary  
31 classification, the data which is the subject of the application  
32 shall be deemed to be classified as set forth in the application  
33 for a period of 45 days, or until the application is  
34 disapproved, rejected, or granted by the commissioner, whichever  
35 is earlier.

36 If the commissioner determines that an application has been

1 submitted for purposes not consistent with this section, the  
2 commissioner may immediately reject the application, give notice  
3 of that rejection to the applicant, and return the application.  
4 When the applicant receives the notice of rejection from the  
5 commissioner, the data which was the subject of the application  
6 shall have the classification it had before the application was  
7 submitted to the commissioner.

8 Sec. 20. Minnesota Statutes 2004, section 13.06,  
9 subdivision 2, is amended to read:

10 Subd. 2. [CONTENTS OF APPLICATION FOR PRIVATE OR  
11 CONFIDENTIAL DATA.] An application for temporary classification  
12 of data on individuals shall include and the applicant shall  
13 have the burden of clearly establishing that no statute  
14 currently exists which either allows or forbids classification  
15 as private or confidential; and either

16 (a) that data similar to that for which the temporary  
17 classification is sought has been treated as either private or  
18 confidential by other ~~state-agencies-or-political~~  
19 ~~subdivisions~~ government entities, and by the public; or

20 (b) that a compelling need exists for immediate temporary  
21 classification, which if not granted could adversely affect the  
22 public interest or the health, safety, well being or reputation  
23 of the data subject.

24 Sec. 21. Minnesota Statutes 2004, section 13.06,  
25 subdivision 3, is amended to read:

26 Subd. 3. [CONTENTS OF APPLICATION FOR NONPUBLIC OR  
27 NONPUBLIC PROTECTED DATA.] An application for temporary  
28 classification of government data not on individuals shall  
29 include and the applicant shall have the burden of clearly  
30 establishing that no statute currently exists which either  
31 allows or forbids classification as nonpublic or protected  
32 nonpublic; and either

33 (a) that data similar to that for which the temporary  
34 classification is sought has been treated as nonpublic or  
35 protected nonpublic by other ~~state-agencies-or-political~~  
36 ~~subdivisions~~ government entities, and by the public; or

1 (b) public access to the data would render unworkable a  
2 program authorized by law; or

3 (c) that a compelling need exists for immediate temporary  
4 classification, which if not granted could adversely affect the  
5 health, safety or welfare of the public.

6 Sec. 22. Minnesota Statutes 2004, section 13.06,  
7 subdivision 4, is amended to read:

8 Subd. 4. [PROCEDURE WHEN CLASSIFICATION AFFECTS OTHERS.]

9 If the commissioner determines that an application for temporary  
10 classification involves data which would reasonably be  
11 classified in the same manner by all ~~agencies, political~~  
12 ~~subdivisions, or statewide systems~~ government entities similar  
13 to the one which made the application, the commissioner may  
14 approve or disapprove the classification for data of the kind  
15 which is the subject of the application for the use of  
16 all ~~agencies, political subdivisions, or statewide~~  
17 ~~systems~~ government entities similar to the applicant. On  
18 deeming this approach advisable, the commissioner shall provide  
19 notice of the proposed action by publication in the State  
20 Register within ten days of receiving the application. Within  
21 30 days after publication in the State Register an  
22 affected ~~agency, political subdivision,~~ government entity or the  
23 ~~public, or statewide system~~ may submit comments on the  
24 commissioner's proposal. The commissioner shall consider any  
25 comments received when granting or denying a classification for  
26 data of the kind which is the subject of the application, for  
27 the use of all ~~agencies, political subdivisions, or statewide~~  
28 ~~systems~~ government entities similar to the applicant. Within 45  
29 days after the close of the period for submitting comment, the  
30 commissioner shall grant or disapprove the application.  
31 Applications processed under this subdivision shall be either  
32 approved or disapproved by the commissioner within 90 days of  
33 the receipt of the application. For purposes of subdivision 1,  
34 the data which is the subject of the classification shall be  
35 deemed to be classified as set forth in the application for a  
36 period of 90 days, or until the application is disapproved or



1 granted by the commissioner, whichever is earlier. If requested  
2 in the application, or determined to be necessary by the  
3 commissioner, the data in the application shall be so classified  
4 for all ~~agencies, political subdivisions, or statewide~~  
5 systems government entities similar to the applicant until the  
6 application is disapproved or granted by the commissioner,  
7 whichever is earlier. Proceedings after the grant or  
8 disapproval shall be governed by the provisions of subdivision 5.

9 Sec. 23. Minnesota Statutes 2004, section 13.07, is  
10 amended to read:

11 13.07 [DUTIES OF THE COMMISSIONER.]

12 The commissioner shall promulgate rules, in accordance with  
13 the rulemaking procedures in the Administrative Procedure Act  
14 which shall apply to ~~state agencies, statewide systems and~~  
15 political subdivisions government entities to implement the  
16 enforcement and administration of this chapter. The rules shall  
17 not affect section 13.04, relating to rights of subjects of  
18 data. Prior to the adoption of rules authorized by this section  
19 the commissioner shall give notice to all state agencies and  
20 political subdivisions in the same manner and in addition to  
21 other parties as required by section 14.06 of the date and place  
22 of hearing, enclosing a copy of the rules to be adopted.

23 Sec. 24. Minnesota Statutes 2004, section 13.072,  
24 subdivision 4, is amended to read:

25 Subd. 4. [DATA SUBMITTED TO COMMISSIONER.] A ~~state agency,~~  
26 ~~statewide system, or political subdivision~~ government entity may  
27 submit not public data to the commissioner for the purpose of  
28 requesting or responding to a person's request for an opinion.  
29 Government data submitted to the commissioner by a ~~state agency,~~  
30 ~~statewide system, or political subdivision~~ government  
31 entity or  
32 copies of government data submitted by other persons have the  
33 same classification as the data have when held by the ~~state~~  
34 ~~agency, statewide system, or political subdivision~~ government  
35 entity. If the nature of the opinion is such that the release  
36 of the opinion would reveal not public data, the commissioner  
may issue an opinion using pseudonyms for individuals. Data

1 maintained by the commissioner, in the record of an opinion  
2 issued using pseudonyms that would reveal the identities of  
3 individuals protected by the use of the pseudonyms, are private  
4 data on individuals.

5 Sec. 25. Minnesota Statutes 2004, section 13.073,  
6 subdivision 3, is amended to read:

7 Subd. 3. [BASIC TRAINING.] The basic training component  
8 should be designed to meet the basic information policy needs of  
9 all government employees and public officials with a focus on  
10 key data practices laws and procedures that apply to all  
11 government entities. The commissioner should design the basic  
12 training component in a manner that minimizes duplication of the  
13 effort and cost for government entities to provide basic  
14 training. The commissioner may develop general programs and  
15 materials for basic training such as video presentations, data  
16 practices booklets, and training guides. The commissioner may  
17 assist state and local government ~~agencies~~ entities in  
18 developing training expertise within their own ~~agencies~~ entities  
19 and offer assistance for periodic training sessions for this  
20 purpose.

21 Sec. 26. Minnesota Statutes 2004, section 13.08,  
22 subdivision 1, is amended to read:

23 Subdivision 1. [ACTION FOR DAMAGES.] Notwithstanding  
24 section 466.03, a ~~political-subdivision,~~ responsible authority,  
25 ~~statewide-system,~~ or state-agency government entity which  
26 violates any provision of this chapter is liable to a person or  
27 representative of a decedent who suffers any damage as a result  
28 of the violation, and the person damaged or a representative in  
29 the case of private data on decedents or confidential data on  
30 decedents may bring an action against the ~~political-subdivision,~~  
31 ~~responsible authority,-statewide-system~~ or state-agency  
32 government entity to cover any damages sustained, plus costs and  
33 reasonable attorney fees. In the case of a willful violation,  
34 the ~~political-subdivision,-statewide-system-or-state~~  
35 agency government entity shall, in addition, be liable to  
36 exemplary damages of not less than \$100, nor more than \$10,000

1 for each violation. The state is deemed to have waived any  
2 immunity to a cause of action brought under this chapter.

3 Sec. 27. Minnesota Statutes 2004, section 13.08,  
4 subdivision 2, is amended to read:

5 Subd. 2. [INJUNCTION.] A ~~political-subdivision,~~  
6 ~~responsible authority,~~~~statewide-system~~ or ~~state-agency~~  
7 government entity which violates or proposes to violate this  
8 chapter may be enjoined by the district court. The court may  
9 make any order or judgment as may be necessary to prevent the  
10 use or employment by any person of any practices which violate  
11 this chapter.

12 Sec. 28. Minnesota Statutes 2004, section 13.08,  
13 subdivision 5, is amended to read:

14 Subd. 5. [IMMUNITY FROM LIABILITY.] A ~~state-agency,~~  
15 ~~statewide-system,~~~~political-subdivision,~~ government entity or  
16 person that releases not public data pursuant to an order under  
17 section 13.03, subdivision 6 is immune from civil and criminal  
18 liability.

19 Sec. 29. Minnesota Statutes 2004, section 13.203, is  
20 amended to read:

21 13.203 [SERVICE COOPERATIVE CLAIMS DATA.]

22 (a) Claims experience and all related information received  
23 from carriers and claims administrators participating in a group  
24 health or dental plan, including any long-term disability plan,  
25 offered through the Minnesota service cooperatives to Minnesota  
26 school districts and other political subdivisions, and survey  
27 information collected from employees and employers participating  
28 in these plans and programs, except when the executive director  
29 of a Minnesota service cooperative determines that release of  
30 the data will not be detrimental to the plan or program, are  
31 classified as nonpublic data not on individuals.

32 (b) Any data classified by this section must, upon request,  
33 be disclosed to the following:

34 (1) a company bidding to provide insurance coverage to a  
35 public entity that is provided insurance by the service  
36 cooperative;

1       (2) a government entity participating in the service  
2 cooperative;

3       (3) an exclusive bargaining representative that represents  
4 employees who receive insurance through the service cooperative;  
5 and

6       (4) the Minnesota commissioners of employee relations and  
7 finance.

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

10       Sec. 30. Minnesota Statutes 2004, section 13.32, is  
11 amended by adding a subdivision to read:

12       Subd. 10. [EDUCATION RECORDS; CHILD WITH DISABILITY.]

13 Nothing in this chapter shall be construed as limiting the  
14 frequency of inspection of the educational records of a child  
15 with a disability by the child's parent or guardian or by the  
16 child upon the child reaching the age of majority. An agency or  
17 institution may not charge a fee to search for or to retrieve  
18 the educational records. An agency or institution that receives  
19 a request for copies of the educational records of a child with  
20 a disability may charge a fee that reflects the costs of  
21 reproducing the records except when to do so would impair the  
22 ability of the child's parent or guardian, or the child who has  
23 reached the age of majority, to exercise their right to inspect  
24 and review those records.

25       Sec. 31. Minnesota Statutes 2004, section 13.3805, is  
26 amended by adding a subdivision to read:

27       Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS;  
28 INVESTIGATIVE DATA.] Except for investigative data under section  
29 626.556, all investigative data maintained by the Department of  
30 Health's Office of Health-Facility Complaints are subject to  
31 provisions of and classified pursuant to section 626.557,  
32 subdivision 12b, paragraphs (b) to (d). Notwithstanding  
33 sections 626.556, subdivision 11, and 626.557, subdivision 12b,  
34 paragraph (b), data identifying an individual substantiated as  
35 the perpetrator are public data. For purposes of this  
36 subdivision, an individual is substantiated as the perpetrator

1 if the commissioner of health determines that the individual is  
2 the perpetrator and the determination of the commissioner is  
3 upheld after the individual either exercises applicable  
4 administrative appeal rights or fails to exercise these rights  
5 within the time allowed by law.

6 Sec. 32. Minnesota Statutes 2004, section 13.43,  
7 subdivision 1, is amended to read:

8 Subdivision 1. [DEFINITION.] As used in this section,  
9 "personnel data" means data on individuals collected because the  
10 individual is or was an employee of or an applicant for  
11 employment by, performs services on a voluntary basis for, or  
12 acts as an independent contractor with a ~~state-agency,-statewide~~  
13 ~~system-or-political-subdivision-or-is-a-member-of-or-an~~  
14 ~~applicant-for-an-advisory-board-or-commission~~ government entity.  
15 Personnel data includes data submitted by an employee to a  
16 government entity as part of an organized self-evaluation effort  
17 by the government entity to request suggestions from all  
18 employees on ways to cut costs, make government more efficient,  
19 or improve the operation of government. An employee who is  
20 identified in a suggestion shall have access to all data in the  
21 suggestion except the identity of the employee making the  
22 suggestion.

23 Sec. 33. Minnesota Statutes 2004, section 13.43,  
24 subdivision 2, is amended to read:

25 Subd. 2. [PUBLIC DATA.] (a) Except for employees described  
26 in subdivision 5 and subject to the limitations described in  
27 subdivision 5a, the following personnel data on current and  
28 former employees, volunteers, and independent contractors of  
29 a ~~state-agency,-statewide-system,-or-political-subdivision-and~~  
30 ~~members-of-advisory-boards-or-commissions~~ government entity is  
31 public:

32 (1) name; employee identification number, which must not be  
33 the employee's Social Security number; actual gross salary;  
34 salary range; contract fees; actual gross pension; the value and  
35 nature of employer paid fringe benefits; and the basis for and  
36 the amount of any added remuneration, including expense

1 reimbursement, in addition to salary;

2 (2) job title and bargaining unit; job description;  
3 education and training background; and previous work experience;

4 (3) date of first and last employment;

5 (4) the existence and status of any complaints or charges  
6 against the employee, regardless of whether the complaint or  
7 charge resulted in a disciplinary action;

8 (5) the final disposition of any disciplinary action  
9 together with the specific reasons for the action and data  
10 documenting the basis of the action, excluding data that would  
11 identify confidential sources who are employees of the public  
12 body;

13 (6) the terms of any agreement settling any dispute arising  
14 out of an employment relationship, including a buyout agreement  
15 as defined in section 123B.143, subdivision 2, paragraph (a);  
16 except that the agreement must include specific reasons for the  
17 agreement if it involves the payment of more than \$10,000 of  
18 public money;

19 (7) work location; a work telephone number; badge number;  
20 and honors and awards received; and

21 (8) payroll time sheets or other comparable data that are  
22 only used to account for employee's work time for payroll  
23 purposes, except to the extent that release of time sheet data  
24 would reveal the employee's reasons for the use of sick or other  
25 medical leave or other not public data.

26 (b) For purposes of this subdivision, a final disposition  
27 occurs when the state agency, statewide system, or political  
28 subdivision makes its final decision about the disciplinary  
29 action, regardless of the possibility of any later proceedings  
30 or court proceedings. In the case of arbitration proceedings  
31 arising under collective bargaining agreements, a final  
32 disposition occurs at the conclusion of the arbitration  
33 proceedings, or upon the failure of the employee to elect  
34 arbitration within the time provided by the collective  
35 bargaining agreement. Final disposition includes a resignation  
36 by an individual when the resignation occurs after the final

1 decision of the state agency, statewide system, political  
2 subdivision, or arbitrator.

3 (c) The state agency, statewide system, or political  
4 subdivision may display a photograph of a current or former  
5 employee to a prospective witness as part of the state agency's,  
6 statewide system's, or political subdivision's investigation of  
7 any complaint or charge against the employee.

8 (d) A complainant has access to a statement provided by the  
9 complainant to a state agency, statewide system, or political  
10 subdivision in connection with a complaint or charge against an  
11 employee.

12 (e) Notwithstanding paragraph (a), clause (5), upon  
13 completion of an investigation of a complaint or charge against  
14 a public official, or if a public official resigns or is  
15 terminated from employment while the complaint or charge is  
16 pending, all data relating to the complaint or charge are  
17 public, unless access to the data would jeopardize an active  
18 investigation or reveal confidential sources. For purposes of  
19 this paragraph, "public official" means:

20 (1) the head of a state agency and deputy and assistant  
21 state agency heads;

22 (2) members of boards or commissions required by law to be  
23 appointed by the governor or other elective officers; and

24 (3) executive or administrative heads of departments,  
25 bureaus, divisions, or institutions.

26 Sec. 34. Minnesota Statutes 2004, section 13.43,  
27 subdivision 3, is amended to read:

28 Subd. 3. [APPLICANT DATA.] Except for applicants described  
29 in subdivision 5, the following personnel data on current and  
30 former applicants for employment by a ~~state-agency, statewide~~  
31 ~~system-or-political-subdivision-or-appointment-to-an-advisory~~  
32 ~~board-or-commission~~ government entity is public: veteran  
33 status; relevant test scores; rank on eligible list; job  
34 history; education and training; and work availability. Names  
35 of applicants shall be private data except when certified as  
36 eligible for appointment to a vacancy or when applicants are

1 considered by the appointing authority to be finalists for a  
2 position in public employment. For purposes of this  
3 subdivision, "finalist" means an individual who is selected to  
4 be interviewed by the appointing authority prior to selection.  
5 ~~Names-and-home-addresses-of-applicants-for-appointment-to-and~~  
6 ~~members-of-an-advisory-board-or-commission-are-public-~~

7 Sec. 35. Minnesota Statutes 2004, section 13.46,  
8 subdivision 4, is amended to read:

9 Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

10 (1) "licensing data" means all data collected, maintained,  
11 used, or disseminated by the welfare system pertaining to  
12 persons licensed or registered or who apply for licensure or  
13 registration or who formerly were licensed or registered under  
14 the authority of the commissioner of human services;

15 (2) "client" means a person who is receiving services from  
16 a licensee or from an applicant for licensure; and

17 (3) "personal and personal financial data" means Social  
18 Security numbers, identity of and letters of reference,  
19 insurance information, reports from the Bureau of Criminal  
20 Apprehension, health examination reports, and social/home  
21 studies.

22 (b) (1) Except as provided in paragraph (c), the following  
23 data on current and former licensees are public: name, address,  
24 telephone number of licensees, date of receipt of a completed  
25 application, dates of licensure, licensed capacity, type of  
26 client preferred, variances granted, record of training and  
27 education in child care and child development, type of dwelling,  
28 name and relationship of other family members, previous license  
29 history, class of license, and the existence and status of  
30 complaints, and the number of serious injuries to or deaths of  
31 individuals in the licensed program as reported to the  
32 commissioner of human services, the local social services  
33 agency, or any other county welfare agency. For purposes of  
34 this clause, a serious injury is one that is treated by a  
35 physician. When a correction order or fine has been issued, a  
36 license is suspended, immediately suspended, revoked, denied, or



1 made conditional, or a complaint is resolved, the following data  
 2 on current and former licensees are public: the substance and  
 3 investigative findings of the licensing or maltreatment  
 4 complaint, licensing violation, or substantiated maltreatment;  
 5 the record of informal resolution of a licensing violation;  
 6 orders of hearing; findings of fact; conclusions of law;  
 7 specifications of the final correction order, fine, suspension,  
 8 immediate suspension, revocation, denial, or conditional license  
 9 contained in the record of licensing action; and the status of  
 10 any appeal of these actions. When-an-individual-licensee-is-a  
 11 substantiated-perpetrator-of-maltreatment,-and-the-substantiated  
 12 maltreatment-is-a-reason-for-the-licensing-action,-the-identity  
 13 of-the-licensee-as-a-perpetrator-is-public-data.--For-purposes  
 14 of-this-clause,-a-person-is-a-substantiated-perpetrator-if-the  
 15 maltreatment-determination-has-been-upheld-under-section  
 16 626.556,-subdivision-10i,-626.557,-subdivision-9d,-or-256.045,-  
 17 or-an-individual-or-facility-has-not-timely-exercised-appeal  
 18 rights-under-these-sections.

19       (2) Notwithstanding sections 626.556, subdivision 11, and  
 20 626.557, subdivision 12b, when any person subject to  
 21 disqualification under section 245C.14 in connection with a  
 22 license to provide family day care for children, child care  
 23 center services, foster care for children in the provider's  
 24 home, or foster care or day care services for adults in the  
 25 provider's home is a substantiated perpetrator of maltreatment,  
 26 and the substantiated maltreatment is a reason for a licensing  
 27 action, the identity of the substantiated perpetrator of  
 28 maltreatment is public data. For purposes of this clause, a  
 29 person is a substantiated perpetrator if the maltreatment  
 30 determination has been upheld under section 256.045; 626.556,  
 31 subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if  
 32 an individual or facility has not timely exercised appeal rights  
 33 under these sections.

34       (2) (3) For applicants who withdraw their application prior  
 35 to licensure or denial of a license, the following data are  
 36 public: the name of the applicant, the city and county in which

1 the applicant was seeking licensure, the dates of the  
2 commissioner's receipt of the initial application and completed  
3 application, the type of license sought, and the date of  
4 withdrawal of the application.

5 ~~(3)~~ (4) For applicants who are denied a license, the  
6 following data are public: the name of the applicant, the city  
7 and county in which the applicant was seeking licensure, the  
8 dates of the commissioner's receipt of the initial application  
9 and completed application, the type of license sought, the date  
10 of denial of the application, the nature of the basis for the  
11 denial, and the status of any appeal of the denial.

12 ~~(4)~~ (5) The following data on persons subject to  
13 disqualification under section 245C.14 in connection with a  
14 license to provide family day care for children, child care  
15 center services, foster care for children in the provider's  
16 home, or foster care or day care services for adults in the  
17 provider's home, are public: the nature of any disqualification  
18 set aside under section 245C.22, subdivisions 2 and 4, and the  
19 reasons for setting aside the disqualification; the nature of  
20 any disqualification for which a variance was granted under  
21 sections 245A.04, subdivision 9; and 245C.30, and the reasons  
22 for granting any variance under section 245A.04, subdivision 9;  
23 and, if applicable, the disclosure that any person subject to a  
24 background study under section 245C.03, subdivision 1, has  
25 successfully passed a background study.

26 ~~(5)~~ (6) When maltreatment is substantiated under section  
27 626.556 or 626.557 and the victim and the substantiated  
28 perpetrator are affiliated with a program licensed under chapter  
29 245A, the commissioner of human services, local social services  
30 agency, or county welfare agency may inform the license holder  
31 where the maltreatment occurred of the identity of the  
32 substantiated perpetrator and the victim.

33 (c) The following are private data on individuals under  
34 section 13.02, subdivision 12, or nonpublic data under section  
35 13.02, subdivision 9: personal and personal financial data on  
36 family day care program and family foster care program

1 applicants and licensees and their family members who provide  
2 services under the license.

3 (d) The following are private data on individuals: the  
4 identity of persons who have made reports concerning licensees  
5 or applicants that appear in inactive investigative data, and  
6 the records of clients or employees of the licensee or applicant  
7 for licensure whose records are received by the licensing agency  
8 for purposes of review or in anticipation of a contested  
9 matter. The names of reporters under sections 626.556 and  
10 626.557 may be disclosed only as provided in section 626.556,  
11 subdivision 11, or 626.557, subdivision 12b.

12 (e) Data classified as private, confidential, nonpublic, or  
13 protected nonpublic under this subdivision become public data if  
14 submitted to a court or administrative law judge as part of a  
15 disciplinary proceeding in which there is a public hearing  
16 concerning a license which has been suspended, immediately  
17 suspended, revoked, or denied.

18 (f) Data generated in the course of licensing  
19 investigations that relate to an alleged violation of law are  
20 investigative data under subdivision 3.

21 (g) Data that are not public data collected, maintained,  
22 used, or disseminated under this subdivision that relate to or  
23 are derived from a report as defined in section 626.556,  
24 subdivision 2, or 626.5572, subdivision 18, are subject to the  
25 destruction provisions of sections 626.556, subdivision 11c, and  
26 626.557, subdivision 12b.

27 (h) Upon request, not public data collected, maintained,  
28 used, or disseminated under this subdivision that relate to or  
29 are derived from a report of substantiated maltreatment as  
30 defined in section 626.556 or 626.557 may be exchanged with the  
31 Department of Health for purposes of completing background  
32 studies pursuant to section 144.057 and with the Department of  
33 Corrections for purposes of completing background studies  
34 pursuant to section 241.021.

35 (i) Data on individuals collected according to licensing  
36 activities under chapters 245A and 245C, and data on individuals

1 collected by the commissioner of human services according to  
2 maltreatment investigations under sections 626.556 and 626.557,  
3 may be shared with the Department of Human Rights, the  
4 Department of Health, the Department of Corrections, the  
5 Ombudsman for Mental Health and Retardation, and the  
6 individual's professional regulatory board when there is reason  
7 to believe that laws or standards under the jurisdiction of  
8 those agencies may have been violated.

9 (j) In addition to the notice of determinations required  
10 under section 626.556, subdivision 10f, if the commissioner or  
11 the local social services agency has determined that an  
12 individual is a substantiated perpetrator of maltreatment of a  
13 child based on sexual abuse, as defined in section 626.556,  
14 subdivision 2, and the commissioner or local social services  
15 agency knows that the individual is a person responsible for a  
16 child's care in another facility, the commissioner or local  
17 social services agency shall notify the head of that facility of  
18 this determination. The notification must include an  
19 explanation of the individual's available appeal rights and the  
20 status of any appeal. If a notice is given under this  
21 paragraph, the government entity making the notification shall  
22 provide a copy of the notice to the individual who is the  
23 subject of the notice.

24 Sec. 36. Minnesota Statutes 2004, section 13.601, is  
25 amended by adding a subdivision to read:

26 Subd. 3. [APPLICANTS FOR ELECTION OR APPOINTMENT.] All  
27 data about applicants for election or appointment to a public  
28 body, including those public bodies subject to chapter 13D, are  
29 public.

30 Sec. 37. Minnesota Statutes 2004, section 13.82,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [APPLICATION.] This section shall apply to  
33 agencies which carry on a law enforcement function, including  
34 but not limited to municipal police departments, county sheriff  
35 departments, fire departments, the Bureau of Criminal  
36 Apprehension, the Minnesota State Patrol, the Board of Peace

1 Officer Standards and Training, ~~the Division of Insurance-Fraud~~  
 2 ~~Prevention-in~~ the Department of Commerce, and the program  
 3 integrity section of, and county human service agency client and  
 4 provider fraud prevention and control units operated or  
 5 supervised by the Department of Human Services.

6 Sec. 38. Minnesota Statutes 2004, section 13.82,  
 7 subdivision 16, is amended to read:

8 Subd. 16. [PUBLIC ACCESS.] When data is classified as  
 9 public under this section, a law enforcement agency shall not be  
 10 required to make the actual physical data available to the  
 11 public if it is not administratively feasible to segregate the  
 12 public data from the ~~confidential~~ not public. However, the  
 13 agency must make the information described as public data  
 14 available to the public in a reasonable manner. When  
 15 investigative data becomes inactive, as described in subdivision  
 16 7, the actual physical data associated with that investigation,  
 17 including the public data, shall be available for public access.

18 Sec. 39. Minnesota Statutes 2004, section 270B.01,  
 19 subdivision 5, is amended to read:

20 Subd. 5. [TAXPAYER IDENTITY.] "Taxpayer identity" means  
 21 the name of a person with respect to whom a return is filed, or  
 22 the person's mailing address, or the person's taxpayer  
 23 identifying number. "Taxpayer identity" does not include the  
 24 state taxpayer identifying number of a business entity, which is  
 25 classified as public data.

26 Sec. 40. Minnesota Statutes 2004, section 270B.03,  
 27 subdivision 1, is amended to read:

28 Subdivision 1. [WHO MAY INSPECT.] Returns and return  
 29 information must, on request, be made open to inspection by or  
 30 disclosure to the data subject. The request must be made in  
 31 writing or in accordance with written procedures of the chief  
 32 disclosure officer of the department that have been approved by  
 33 the commissioner to establish the identification of the person  
 34 making the request as the data subject. For purposes of this  
 35 chapter, the following are the data subject:

36 (1) in the case of an individual return, that individual;

1 (2) in the case of an income tax return filed jointly,  
2 either of the individuals with respect to whom the return is  
3 filed;

4 ~~(3) in the case of a partnership return, any person who was~~  
5 ~~a member of the partnership during any part of the period~~  
6 ~~covered by the return;~~

7 ~~(4) in the case of the return of a corporation or its~~  
8 ~~subsidiary;~~

9 ~~(i) any person designated by resolution of the board of~~  
10 ~~directors or other similar governing body;~~

11 ~~(ii) any officer or employee of the corporation upon~~  
12 ~~written request signed by any officer and attested to by the~~  
13 ~~secretary or another officer;~~

14 ~~(iii) any bona fide shareholder of record owning one~~  
15 ~~percent or more of the outstanding stock of the corporation;~~

16 ~~(iv) if the corporation is a corporation that has made an~~  
17 ~~election under section 1362 of the Internal Revenue Code of~~  
18 ~~1986, as amended through December 31, 1988, any person who was a~~  
19 ~~shareholder during any part of the period covered by the return~~  
20 ~~during which an election was in effect; or~~

21 ~~(v) if the corporation has been dissolved, any person~~  
22 ~~authorized by state law to act for the corporation or any person~~  
23 ~~who would have been authorized if the corporation had not been~~  
24 ~~dissolved~~ in the case of a return filed by a business entity, an  
25 officer of a corporation, a shareholder owning more than one  
26 percent of the stock, or any shareholder of an S corporation; a  
27 general partner in a partnership; the owner of a sole  
28 proprietorship; a member or manager of a limited liability  
29 company; a participant in a joint venture; the individual who  
30 signed the return on behalf of the business entity; or an  
31 employee who is responsible for handling the tax matters of the  
32 business entity, such as the tax manager, bookkeeper, or  
33 managing agent;

34 ~~(5)~~ (4) in the case of an estate return:

35 (i) the personal representative or trustee of the estate;  
36 and

1 (ii) any beneficiary of the estate as shown on the federal  
2 estate tax return;

3 ~~(6)~~ (5) in the case of a trust return:

4 (i) the trustee or trustees, jointly or separately; and

5 (ii) any beneficiary of the trust as shown in the trust  
6 instrument;

7 ~~(7)~~ (6) if liability has been assessed to a transferee  
8 under section 289A.31, subdivision 3, the transferee is the data  
9 subject with regard to the returns and return information  
10 relating to the assessed liability;

11 ~~(8)~~ (7) in the case of an Indian tribal government or an  
12 Indian tribal government-owned entity,

13 (i) the chair of the tribal government, or

14 (ii) any person authorized by the tribal government; and

15 ~~(9)~~ (8) in the case of a successor as defined in section  
16 270.102, subdivision 1, paragraph (b), the successor is the data  
17 subject and information may be disclosed as provided by section  
18 270.102, subdivision 4.

19 Sec. 41. [299C.40] [COMPREHENSIVE INCIDENT-BASED REPORTING  
20 SYSTEM.]

21 Subdivision 1. [DEFINITIONS.] (a) The definitions in this  
22 subdivision apply to this section.

23 (b) "CIBRS" means the Comprehensive Incident-Based  
24 Reporting System, located in the Department of Public Safety and  
25 managed by the Bureau of Criminal Apprehension, Criminal Justice  
26 Information Systems Section. A reference in this section to  
27 "CIBRS" includes the Bureau of Criminal Apprehension.

28 (c) "Law enforcement agency" means a Minnesota municipal  
29 police department, a Minnesota county sheriff's department, the  
30 Bureau of Criminal Apprehension, or the Minnesota State Patrol.

31 Subd. 2. [PURPOSE.] CIBRS is a statewide system containing  
32 data from law enforcement agencies. Data in CIBRS must be made  
33 available to law enforcement agencies only for purposes of  
34 criminal investigations being conducted in order to prepare a  
35 case against a person, whether known or unknown, for the  
36 commission of a crime or other offense, or for purposes of

1 background investigations required by state statute.

2 Subd. 3. [DATA CLASSIFICATION; GENERAL RULE; CHANGES IN  
3 CLASSIFICATION; AUDIT TRAIL.] (a) The classification of data in  
4 the law enforcement agency does not change after the data is  
5 submitted to CIBRS.

6 (b) Data on individuals created, collected, received,  
7 maintained, or disseminated by CIBRS is classified as  
8 confidential data on individuals as defined in section 13.02,  
9 subdivision 3, and becomes private data on individuals as  
10 defined in section 13.02, subdivision 12, as provided by this  
11 section.

12 (c) Data not on individuals created, collected, received,  
13 maintained, or disseminated by CIBRS is classified as protected  
14 nonpublic data as defined in section 13.02, subdivision 13, and  
15 becomes nonpublic data as defined in section 13.02, subdivision  
16 9, as provided by this section.

17 (d) Confidential or protected nonpublic data created,  
18 collected, received, maintained, or disseminated by CIBRS must  
19 automatically change classification from confidential data to  
20 private data or from protected nonpublic data to nonpublic data  
21 on the earlier of the following dates:

22 (1) upon receipt by CIBRS of notice from a law enforcement  
23 agency that an investigation has become inactive; or

24 (2) when the data has not been updated by the law  
25 enforcement agency that submitted it for a period of 120 days.

26 (e) For the purposes of this section, an investigation  
27 becomes inactive upon the occurrence of any of the events listed  
28 in section 13.82, subdivision 7, clauses (a) to (c).

29 (f) Ten days before making a data classification change  
30 because data has not been updated, CIBRS must notify the law  
31 enforcement agency that submitted the data that a classification  
32 change will be made on the 120th day. The notification must  
33 inform the law enforcement agency that the data will retain its  
34 classification as confidential or protected nonpublic data if  
35 the law enforcement agency updates the data or notifies CIBRS  
36 that the investigation is still active before the 120th day. A



1 new 120-day period begins if the data is updated or if a law  
2 enforcement agency notifies CIBRS that an active investigation  
3 is continuing.

4 (g) A law enforcement agency that submits data to CIBRS  
5 must notify CIBRS if an investigation has become inactive so  
6 that the data is classified as private data or nonpublic data.  
7 The law enforcement agency must provide this notice to CIBRS  
8 within ten days after an investigation becomes inactive.

9 (h) All queries and responses and all actions in which data  
10 is submitted to CIBRS, changes classification, or is  
11 disseminated by CIBRS to any law enforcement agency must be  
12 recorded in the CIBRS audit trail.

13 Subd. 4. [ACCESS TO CIBRS DATA BY LAW ENFORCEMENT AGENCY  
14 PERSONNEL.] Only law enforcement agency personnel with  
15 certification from the Bureau of Criminal Apprehension may  
16 access CIBRS data. The bureau shall by rule under chapter 14  
17 provide procedures for certification of law enforcement agency  
18 personnel allowed access to CIBRS data. Access to CIBRS data by  
19 particular law enforcement agency personnel may be limited  
20 through the use of purpose codes that correspond to the official  
21 duties and training level of the personnel. The bureau may  
22 designate persons who may have access to CIBRS data only as  
23 necessary to operate or maintain CIBRS.

24 Subd. 5. [ACCESS TO CIBRS DATA BY DATA SUBJECT.] Upon  
25 request to the Bureau of Criminal Apprehension or to a law  
26 enforcement agency participating in CIBRS, an individual shall  
27 be informed whether the individual is the subject of private or  
28 confidential data held by CIBRS. An individual who is the  
29 subject of private data held by CIBRS may obtain access to the  
30 data by making a request to the Bureau of Criminal Apprehension  
31 or to a participating law enforcement agency. Private data  
32 provided to the subject under this subdivision must also include  
33 the name of the law enforcement agency that submitted the data  
34 to CIBRS and the name, telephone number, and address of the  
35 responsible authority of that law enforcement agency.

36 Subd. 6. [CHALLENGE TO COMPLETENESS AND ACCURACY OF DATA.]

1 An individual who is the subject of public or private data held  
2 by CIBRS and who wants to challenge the completeness or accuracy  
3 of the data under section 13.04, subdivision 4, must notify in  
4 writing the responsible authority of the participating law  
5 enforcement agency. A law enforcement agency must notify the  
6 Bureau of Criminal Apprehension when data held by CIBRS is  
7 challenged. The notification must identify the data that was  
8 challenged and the subject of the data. CIBRS must include any  
9 notification received under this paragraph whenever  
10 disseminating data about which no determination has been made.  
11 When the responsible authority of a law enforcement agency  
12 completes, corrects, or destroys successfully challenged data,  
13 the corrected data must be submitted to CIBRS and any future  
14 dissemination must be of the corrected data.

15 Sec. 42. [REPEALER.]

16 Minnesota Statutes 2004, section 13.04, subdivision 5, is  
17 repealed."

18 Delete the title and insert:

19 "A bill for an act relating to data practices; providing  
20 for the collection and dissemination of data; proposing and  
21 modifying classifications of data; providing for sharing and  
22 release of certain public data; amending Minnesota Statutes  
23 2004, sections 13.01, subdivisions 1, 3; 13.02, subdivision 7;  
24 13.03, subdivisions 1, 2, 3, 4, 5, 6, 8; 13.04, subdivisions 2,  
25 4; 13.05, subdivisions 1, 4, 6, 7, 8, 9; 13.06, subdivisions 1,  
26 2, 3, 4; 13.07; 13.072, subdivision 4; 13.073, subdivision 3;  
27 13.08, subdivisions 1, 2, 5; 13.203; 13.32, by adding a  
28 subdivision; 13.3805, by adding a subdivision; 13.43,  
29 subdivisions 1, 2, 3; 13.46, subdivision 4; 13.601, by adding a  
30 subdivision; 13.82, subdivisions 1, 16; 270B.01, subdivision 5;  
31 270B.03, subdivision 1; proposing coding for new law in  
32 Minnesota Statutes, chapters 299C; repealing Minnesota Statutes  
33 2004, section 13.04, subdivision 5."

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0361A-1) to S.F. No. 361 as follows:

3 Pages 2 to 4, delete section 6

4 Renumber the sections in sequence and correct the internal  
5 references

6 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. <sup>361</sup> ..... as follows:

2 Page ..., after line ..., insert:

3 "Sec. ... Minnesota Statutes 2004, section 3.978,  
4 subdivision 2, is amended to read:

5 Subd. 2. [INQUIRY AND INSPECTION POWER; DUTY TO AID  
6 LEGISLATIVE AUDITOR.] All public officials and their deputies  
7 and employees, and all corporations, firms, and individuals  
8 having business involving the receipt, disbursement, or custody  
9 of public funds shall at all times afford reasonable facilities  
10 for examinations by the legislative auditor, make returns and  
11 reports required by the legislative auditor, attend and answer  
12 under oath the legislative auditor's lawful inquiries, produce  
13 and exhibit all books, accounts, documents, data of any  
14 classification, and property that the legislative auditor  
15 may ~~desire~~ need to inspect, and in all things aid the  
16 legislative auditor in the performance of duties."

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0361A-1) to S.F. No. 361 as follows:

3 Page 18, after line 24, insert:

4 "Sec. 31. Minnesota Statutes 2004, section 13.3215, is  
5 amended to read:

6 13.3215 [UNIVERSITY OF MINNESOTA DATA.]

7 Claims experience and all related information received from  
8 carriers and claims administrators participating in a University  
9 of Minnesota group health, dental, life, or disability insurance  
10 plan or the University of Minnesota workers' compensation  
11 program, and survey information collected from employees or  
12 students participating in these plans and programs, except when  
13 the university determines that release of the data will not be  
14 detrimental to the plan or program, are classified as nonpublic  
15 data not on individuals pursuant to section 13.02, subdivision 9.

16 Any data classified by this section must, upon request, be  
17 disclosed to the following:

18 (1) a company bidding to provide insurance coverage to a  
19 public entity that is provided insurance by the service  
20 cooperative;

21 (2) a government entity participating in the service  
22 cooperative;

23 (3) an exclusive bargaining representative that represents  
24 employees who receive insurance through the service cooperative;  
25 and

26 (4) the Minnesota commissioners of employee relations and  
27 finance."

28 Page 26, after line 29, insert:

29 "Sec. 38. Minnesota Statutes 2004, section 13.67, is  
30 amended to read:

31 13.67 [EMPLOYEE RELATIONS DATA.]

32 The following data collected, created, or maintained by the  
33 Department of Employee Relations are classified as nonpublic  
34 data pursuant to section 13.02, subdivision 9:

35 (a) the commissioner's plan prepared by the department,  
36 pursuant to section 3.855, which governs the compensation and

1 terms and conditions of employment for employees not covered by  
2 collective bargaining agreements until the plan is submitted to  
3 the Legislative Commission on Employee Relations;

4 (b) data pertaining to grievance or interest arbitration  
5 that has not been presented to the arbitrator or other party  
6 during the arbitration process;

7 (c) notes and preliminary drafts of reports prepared during  
8 personnel investigations and personnel management reviews of  
9 state departments and agencies;

10 (d) the managerial plan prepared by the department pursuant  
11 to section 43A.18 that governs the compensation and terms and  
12 conditions of employment for employees in managerial positions,  
13 as specified in section 43A.18, subdivision 3, until the plan is  
14 submitted to the Legislative Commission on Employee Relations;  
15 and

16 (e) claims experience and all related information received  
17 from carriers and claims administrators participating in either  
18 the state group insurance plan, the Minnesota employee insurance  
19 program, the state workers' compensation program, or the public  
20 employees insurance program as defined in chapter 43A, and  
21 survey information collected from employees and employers  
22 participating in these plans and programs, except when the  
23 department determines that release of the data will not be  
24 detrimental to the plan or program.

25 Any data classified by this section must, upon request, be  
26 disclosed to the following:

27 (1) a company bidding to provide insurance coverage to a  
28 public entity that is provided insurance by the service  
29 cooperative;

30 (2) a government entity participating in the service  
31 cooperative;

32 (3) an exclusive bargaining representative that represents  
33 employees who receive insurance through the service cooperative;  
34 and

35 (4) the Minnesota commissioners of employee relations and  
36 finance."

- 1        Renumber the sections in sequence and correct the internal
- 2 references
- 3        Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 361: A bill for an act relating to government  
4 data practices; making technical, conforming, and clarifying  
5 changes to the Minnesota Government Data Practices Act; amending  
6 Minnesota Statutes 2004, sections 13.01, subdivisions 1, 3;  
7 13.02, subdivision 7; 13.03, subdivisions 1, 2, 3, 4, 5, 6, 8;  
8 13.04, subdivisions 2, 4; 13.05, subdivisions 1, 4, 6, 7, 8, 9;  
9 13.06, subdivisions 1, 2, 3, 4; 13.07; 13.072, subdivision 4;  
10 13.073, subdivision 3; 13.08, subdivisions 1, 2, 5; 13.32, by  
11 adding a subdivision; 13.82, subdivision 16; repealing Minnesota  
12 Statutes 2004, section 13.04, subdivision 5.

13 Reports the same back with the recommendation that the bill  
14 be amended as follows:

15 Delete everything after the enacting clause and insert:

16 "Section 1. Minnesota Statutes 2004, section 3.978,  
17 subdivision 2, is amended to read:

18 Subd. 2. [INQUIRY AND INSPECTION POWER; DUTY TO AID  
19 LEGISLATIVE AUDITOR.] All public officials and their deputies  
20 and employees, and all corporations, firms, and individuals  
21 having business involving the receipt, disbursement, or custody  
22 of public funds shall at all times afford reasonable facilities  
23 for examinations by the legislative auditor, make returns and  
24 reports required by the legislative auditor, attend and answer  
25 under oath the legislative auditor's lawful inquiries, produce  
26 and exhibit all books, accounts, documents, data of any  
27 classification, and property that the legislative auditor  
28 may ~~desire~~ need to inspect, and in all things aid the  
29 legislative auditor in the performance of duties.

30 Sec. 2. Minnesota Statutes 2004, section 13.01,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [APPLICABILITY.] All ~~state-agencies,~~  
33 ~~political-subdivisions-and-statewide-systems~~ government entities  
34 shall be governed by this chapter.

35 Sec. 3. Minnesota Statutes 2004, section 13.01,  
36 subdivision 3, is amended to read:

37 Subd. 3. [SCOPE.] This chapter regulates the collection,  
38 creation, storage, maintenance, dissemination, and access to  
39 government data in ~~state-agencies,-statewide-systems,-and~~  
40 ~~political-subdivisions~~ government entities. It establishes a  
41 presumption that government data are public and are accessible



1 by the public for both inspection and copying unless there is  
2 federal law, a state statute, or a temporary classification of  
3 data that provides that certain data are not public.

4 Sec. 4. Minnesota Statutes 2004, section 13.02,  
5 subdivision 7, is amended to read:

6 Subd. 7. [GOVERNMENT DATA.] "Government data" means all  
7 data collected, created, received, maintained or disseminated by  
8 any ~~state-agency, political-subdivision, or statewide~~  
9 system government entity regardless of its physical form,  
10 storage media or conditions of use.

11 Sec. 5. Minnesota Statutes 2004, section 13.03,  
12 subdivision 1, is amended to read:

13 Subdivision 1. [PUBLIC DATA.] All government data  
14 collected, created, received, maintained or disseminated by a  
15 ~~state-agency, political-subdivision, or statewide~~  
16 system government entity shall be public unless classified by  
17 statute, or temporary classification pursuant to section 13.06,  
18 or federal law, as nonpublic or protected nonpublic, or with  
19 respect to data on individuals, as private or confidential. The  
20 responsible authority in every ~~state-agency, political~~  
21 subdivision-and-statewide-system government entity shall keep  
22 records containing government data in such an arrangement and  
23 condition as to make them easily accessible for convenient use.  
24 Photographic, photostatic, microphotographic, or microfilmed  
25 records shall be considered as accessible for convenient use  
26 regardless of the size of such records.

27 Sec. 6. Minnesota Statutes 2004, section 13.03,  
28 subdivision 2, is amended to read:

29 Subd. 2. [PROCEDURES.] (a) The responsible authority in  
30 every ~~state-agency, political-subdivision, and statewide~~  
31 system government entity shall establish procedures, consistent  
32 with this chapter, to insure that requests for government data  
33 are received and complied with in an appropriate and prompt  
34 manner.

35 (b) The responsible authority shall prepare public access  
36 procedures in written form and update them no later than August

1 1 of each year as necessary to reflect any changes in personnel  
2 or circumstances that might affect public access to government  
3 data. The responsible authority shall make copies of the  
4 written public access procedures easily available to the public  
5 by distributing free copies of the procedures to the public or  
6 by posting a copy of the procedures in a conspicuous place  
7 within the government entity that is easily accessible to the  
8 public.

9 (c) Full convenience and comprehensive accessibility shall  
10 be allowed to researchers including historians, genealogists and  
11 other scholars to carry out extensive research and complete  
12 copying of all records containing government data except as  
13 otherwise expressly provided by law.

14 A responsible authority may designate one or more designees.

15 Sec. 7. Minnesota Statutes 2004, section 13.03,  
16 subdivision 4, is amended to read:

17 Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF  
18 DISSEMINATION AMONG AGENCIES.] (a) The classification of data in  
19 the possession of an agency entity shall change if it is  
20 required to do so to comply with either judicial or  
21 administrative rules pertaining to the conduct of legal actions  
22 or with a specific statute applicable to the data in the  
23 possession of the disseminating or receiving agency entity.

24 (b) If data on individuals is classified as both private  
25 and confidential by this chapter, or any other statute or  
26 federal law, the data is private.

27 (c) To the extent that government data is disseminated to  
28 ~~state-agencies,-political-subdivisions,-or-statewide-systems~~ a  
29 government entity by another ~~state-agency,-political~~  
30 ~~subdivision,-or-statewide-system~~ government entity, the data  
31 disseminated shall have the same classification in the hands of  
32 the agency entity receiving it as it had in the hands of the  
33 entity providing it.

34 (d) If a ~~state-agency,-statewide-system,-or-political~~  
35 ~~subdivision~~ government entity disseminates data to another ~~state~~  
36 ~~agency,-statewide-system,-or-political-subdivision~~ government

1 entity, a classification provided for by law in the hands of the  
2 entity receiving the data does not affect the classification of  
3 the data in the hands of the entity that disseminates the data.

4 Sec. 8. Minnesota Statutes 2004, section 13.03,  
5 subdivision 5, is amended to read:

6 Subd. 5. [COPYRIGHT OR PATENT OF GOVERNMENT DATA.] A state  
7 agency~~, statewide-system, or political-subdivision~~ government  
8 entity may enforce a copyright or acquire a patent for a  
9 computer software program or components of a program created by  
10 that government agency entity without statutory authority. In  
11 the event that a government agency entity acquires a patent to a  
12 computer software program or component of a program, the data  
13 shall be treated as trade secret information pursuant to section  
14 13.37.

15 Sec. 9. Minnesota Statutes 2004, section 13.03,  
16 subdivision 6, is amended to read:

17 Subd. 6. [DISCOVERABILITY OF NOT PUBLIC DATA.] If a state  
18 agency~~, political-subdivision, or statewide-system~~ government  
19 entity opposes discovery of government data or release of data  
20 pursuant to court order on the grounds that the data are  
21 classified as not public, the party that seeks access to the  
22 data may bring before the appropriate presiding judicial  
23 officer, arbitrator, or administrative law judge an action to  
24 compel discovery or an action in the nature of an action to  
25 compel discovery.

26 The presiding officer shall first decide whether the data  
27 are discoverable or releasable pursuant to the rules of evidence  
28 and of criminal, civil, or administrative procedure appropriate  
29 to the action.

30 If the data are discoverable the presiding officer shall  
31 decide whether the benefit to the party seeking access to the  
32 data outweighs any harm to the confidentiality interests of the  
33 agency entity maintaining the data, or of any person who has  
34 provided the data or who is the subject of the data, or to the  
35 privacy interest of an individual identified in the data. In  
36 making the decision, the presiding officer shall consider

1 whether notice to the subject of the data is warranted and, if  
2 warranted, what type of notice must be given. The presiding  
3 officer may fashion and issue any protective orders necessary to  
4 assure proper handling of the data by the parties. If the data  
5 are a videotape of a child victim or alleged victim alleging,  
6 explaining, denying, or describing an act of physical or sexual  
7 abuse, the presiding officer shall consider the provisions of  
8 section 611A.90, subdivision 2, paragraph (b).

9 Sec. 10. Minnesota Statutes 2004, section 13.03,  
10 subdivision 8, is amended to read:

11 Subd. 8. [CHANGE TO CLASSIFICATION OF DATA NOT ON  
12 INDIVIDUALS.] Except for security information, nonpublic and  
13 protected nonpublic data shall become public either ten years  
14 after the creation of the data by the government agency entity  
15 or ten years after the data was received or collected by any  
16 governmental agency entity unless the responsible authority for  
17 the originating or custodial agency entity for the data  
18 reasonably determines that, if the data were made available to  
19 the public or to the data subject, the harm to the public or to  
20 a data subject would outweigh the benefit to the public or to  
21 the data subject. If the responsible authority denies access to  
22 the data, the person denied access may challenge the denial by  
23 bringing an action in district court seeking release of the  
24 data. The action shall be brought in the district court located  
25 in the county where the data are being maintained, or, in the  
26 case of data maintained by a state agency, in any county. The  
27 data in dispute shall be examined by the court in camera. In  
28 deciding whether or not to release the data, the court shall  
29 consider the benefits and harms in the same manner as set forth  
30 above. The court shall make a written statement of findings in  
31 support of its decision.

32 Sec. 11. Minnesota Statutes 2004, section 13.04,  
33 subdivision 2, is amended to read:

34 Subd. 2. [INFORMATION REQUIRED TO BE GIVEN INDIVIDUAL.] An  
35 individual asked to supply private or confidential data  
36 concerning the individual shall be informed of: (a) the purpose

1 and intended use of the requested data within the collecting  
2 ~~state-agency,-political-subdivision,-or-statewide~~  
3 system government entity; (b) whether the individual may refuse  
4 or is legally required to supply the requested data; (c) any  
5 known consequence arising from supplying or refusing to supply  
6 private or confidential data; and (d) the identity of other  
7 persons or entities authorized by state or federal law to  
8 receive the data. This requirement shall not apply when an  
9 individual is asked to supply investigative data, pursuant to  
10 section 13.82, subdivision 7, to a law enforcement officer.

11 Sec. 12. Minnesota Statutes 2004, section 13.04,  
12 subdivision 4, is amended to read:

13 Subd. 4. [PROCEDURE WHEN DATA IS NOT ACCURATE OR  
14 COMPLETE.] (a) An individual subject of the data may contest the  
15 accuracy or completeness of public or private data. To exercise  
16 this right, an individual shall notify in writing the  
17 responsible authority describing the nature of the  
18 disagreement. The responsible authority shall within 30 days  
19 either: (1) correct the data found to be inaccurate or  
20 incomplete and attempt to notify past recipients of inaccurate  
21 or incomplete data, including recipients named by the  
22 individual; or (2) notify the individual that the authority  
23 believes the data to be correct. Data in dispute shall be  
24 disclosed only if the individual's statement of disagreement is  
25 included with the disclosed data.

26 The determination of the responsible authority may be  
27 appealed pursuant to the provisions of the Administrative  
28 Procedure Act relating to contested cases. Upon receipt of an  
29 appeal by an individual, the commissioner shall, before issuing  
30 the order and notice of a contested case hearing required by  
31 chapter 14, try to resolve the dispute through education,  
32 conference, conciliation, or persuasion. If the parties  
33 consent, the commissioner may refer the matter to mediation.  
34 Following these efforts, the commissioner shall dismiss the  
35 appeal or issue the order and notice of hearing.

36 (b) Data on individuals that have been successfully

1 challenged by an individual must be completed, corrected, or  
2 destroyed by a state agency, political subdivision, or statewide  
3 system without regard to the requirements of section 138.17.

4 After completing, correcting, or destroying successfully  
5 challenged data, a ~~state-agency, political-subdivision, or~~  
6 ~~statewide-system~~ government entity may retain a copy of the  
7 commissioner of administration's order issued under chapter 14  
8 or, if no order were issued, a summary of the dispute between  
9 the parties that does not contain any particulars of the  
10 successfully challenged data.

11 Sec. 13. Minnesota Statutes 2004, section 13.05,  
12 subdivision 1, is amended to read:

13 Subdivision 1. [PUBLIC DOCUMENT OF DATA CATEGORIES.] The  
14 responsible authority shall prepare a public document containing  
15 the authority's name, title and address, and a description of  
16 each category of record, file, or process relating to private or  
17 confidential data on individuals maintained by the  
18 authority's ~~state-agency, statewide-system, or political~~  
19 ~~subdivision~~ government entity. Forms used to collect private  
20 and confidential data shall be included in the public document.  
21 Beginning August 1, 1977 and annually thereafter, the  
22 responsible authority shall update the public document and make  
23 any changes necessary to maintain the accuracy of the document.  
24 The document shall be available from the responsible authority  
25 to the public in accordance with the provisions of sections  
26 13.03 and 15.17.

27 Sec. 14. Minnesota Statutes 2004, section 13.05,  
28 subdivision 4, is amended to read:

29 Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.]  
30 Private or confidential data on an individual shall not be  
31 collected, stored, used, or disseminated by ~~political~~  
32 ~~subdivisions, statewide-systems, or state-agencies~~ government  
33 entities for any purposes other than those stated to the  
34 individual at the time of collection in accordance with section  
35 13.04, except as provided in this subdivision.

36 (a) Data collected prior to August 1, 1975, and which have

1 not been treated as public data, may be used, stored, and  
2 disseminated for the purposes for which the data was originally  
3 collected or for purposes which are specifically approved by the  
4 commissioner as necessary to public health, safety, or welfare.

5 (b) Private or confidential data may be used and  
6 disseminated to individuals or ~~agencies~~ entities specifically  
7 authorized access to that data by state, local, or federal law  
8 enacted or promulgated after the collection of the data.

9 (c) Private or confidential data may be used and  
10 disseminated to individuals or ~~agencies~~ entities subsequent to  
11 the collection of the data when the responsible authority  
12 maintaining the data has requested approval for a new or  
13 different use or dissemination of the data and that request has  
14 been specifically approved by the commissioner as necessary to  
15 carry out a function assigned by law.

16 (d) Private data may be used by and disseminated to any  
17 person or ~~agency~~ entity if the individual subject or subjects of  
18 the data have given their informed consent. Whether a data  
19 subject has given informed consent shall be determined by rules  
20 of the commissioner. The format for informed consent is as  
21 follows, unless otherwise prescribed by the HIPAA, Standards for  
22 Privacy of Individually Identifiable Health Information, 65 Fed.  
23 Reg. 82, 461 (2000) (to be codified as Code of Federal  
24 Regulations, title 45, section 164): informed consent shall not  
25 be deemed to have been given by an individual subject of the  
26 data by the signing of any statement authorizing any person  
27 or ~~agency~~ entity to disclose information about the individual to  
28 an insurer or its authorized representative, unless the  
29 statement is:

30 (1) in plain language;

31 (2) dated;

32 (3) specific in designating the particular persons or  
33 agencies the data subject is authorizing to disclose information  
34 about the data subject;

35 (4) specific as to the nature of the information the  
36 subject is authorizing to be disclosed;

1 (5) specific as to the persons or ~~agencies~~ entities to whom  
2 the subject is authorizing information to be disclosed;

3 (6) specific as to the purpose or purposes for which the  
4 information may be used by any of the parties named in clause  
5 (5), both at the time of the disclosure and at any time in the  
6 future;

7 (7) specific as to its expiration date which should be  
8 within a reasonable period of time, not to exceed one year  
9 except in the case of authorizations given in connection with  
10 applications for (i) life insurance or noncancelable or  
11 guaranteed renewable health insurance and identified as such,  
12 two years after the date of the policy or (ii) medical  
13 assistance under chapter 256B or MinnesotaCare under chapter  
14 256L, which shall be ongoing during all terms of eligibility,  
15 for individual education plan health-related services provided  
16 by a school district under section 125A.21, subdivision 2.

17 The responsible authority may require a person requesting  
18 copies of data under this paragraph to pay the actual costs of  
19 making, certifying, and compiling the copies.

20 (e) Private or confidential data on an individual may be  
21 discussed at a meeting open to the public to the extent provided  
22 in section 13D.05.

23 Sec. 15. Minnesota Statutes 2004, section 13.05,  
24 subdivision 6, is amended to read:

25 Subd. 6. [CONTRACTS.] Except as provided in section 13.46,  
26 subdivision 5, in any contract between a ~~governmental~~  
27 unit government entity subject to this chapter and any person,  
28 when the contract requires that data on individuals be made  
29 available to the contracting parties by the ~~governmental-unit~~  
30 government entity, that data shall be administered consistent  
31 with this chapter. A contracting party shall maintain the data  
32 on individuals which it received according to the statutory  
33 provisions applicable to the data.

34 Sec. 16. Minnesota Statutes 2004, section 13.05,  
35 subdivision 7, is amended to read:

36 Subd. 7. [PREPARATION OF SUMMARY DATA.] The use of summary



1 data derived from private or confidential data on individuals  
2 under the jurisdiction of one or more responsible authorities is  
3 permitted. Unless classified pursuant to section 13.06, another  
4 statute, or federal law, summary data is public. The  
5 responsible authority shall prepare summary data from private or  
6 confidential data on individuals upon the request of any person  
7 if the request is in writing and the cost of preparing the  
8 summary data is borne by the requesting person. The responsible  
9 authority may delegate the power to prepare summary data (1) to  
10 the administrative officer responsible for any central  
11 repository of summary data; or (2) to a person outside of ~~its~~  
12 agency the entity if the person's purpose is set forth, in  
13 writing, and the person agrees not to disclose, and the  
14 agency entity reasonably determines that the access will not  
15 compromise private or confidential data on individuals.

16 Sec. 17. Minnesota Statutes 2004, section 13.05,  
17 subdivision 8, is amended to read:

18 Subd. 8. [PUBLICATION OF ACCESS PROCEDURES.] The  
19 responsible authority shall prepare a public document setting  
20 forth in writing the rights of the data subject pursuant to  
21 section 13.04 and the specific procedures in effect in the state  
22 ~~agency, statewide system or political subdivision~~ government  
23 entity for access by the data subject to public or private data  
24 on individuals.

25 Sec. 18. Minnesota Statutes 2004, section 13.05,  
26 subdivision 9, is amended to read:

27 Subd. 9. [INTERGOVERNMENTAL ACCESS OF DATA.] A responsible  
28 authority shall allow another responsible authority access to  
29 data classified as not public only when the access is authorized  
30 or required by statute or federal law. An agency entity that  
31 supplies government data under this subdivision may require the  
32 requesting agency entity to pay the actual cost of supplying the  
33 data.

34 Sec. 19. Minnesota Statutes 2004, section 13.06,  
35 subdivision 1, is amended to read:

36 Subdivision 1. [APPLICATION TO COMMISSIONER.]

1 Notwithstanding the provisions of section 13.03, the responsible  
2 authority of a ~~state-agency,-political-subdivision,-or-statewide~~  
3 system government entity may apply to the commissioner for  
4 permission to classify data or types of data on individuals as  
5 private or confidential, or data not on individuals as nonpublic  
6 or protected nonpublic, for its own use and for the use of other  
7 similar ~~agencies,-political-subdivisions,-or-statewide~~  
8 systems government entities on a temporary basis until a  
9 proposed statute can be acted upon by the legislature. The  
10 application for temporary classification is public.

11 Upon the filing of an application for temporary  
12 classification, the data which is the subject of the application  
13 shall be deemed to be classified as set forth in the application  
14 for a period of 45 days, or until the application is  
15 disapproved, rejected, or granted by the commissioner, whichever  
16 is earlier.

17 If the commissioner determines that an application has been  
18 submitted for purposes not consistent with this section, the  
19 commissioner may immediately reject the application, give notice  
20 of that rejection to the applicant, and return the application.  
21 When the applicant receives the notice of rejection from the  
22 commissioner, the data which was the subject of the application  
23 shall have the classification it had before the application was  
24 submitted to the commissioner.

25 Sec. 20. Minnesota Statutes 2004, section 13.06,  
26 subdivision 2, is amended to read:

27 Subd. 2. [CONTENTS OF APPLICATION FOR PRIVATE OR  
28 CONFIDENTIAL DATA.] An application for temporary classification  
29 of data on individuals shall include and the applicant shall  
30 have the burden of clearly establishing that no statute  
31 currently exists which either allows or forbids classification  
32 as private or confidential; and either

33 (a) that data similar to that for which the temporary  
34 classification is sought has been treated as either private or  
35 confidential by other ~~state-agencies-or-political~~  
36 subdivisions government entities, and by the public; or

1 (b) that a compelling need exists for immediate temporary  
2 classification, which if not granted could adversely affect the  
3 public interest or the health, safety, well being or reputation  
4 of the data subject.

5 Sec. 21. Minnesota Statutes 2004, section 13.06,  
6 subdivision 3, is amended to read:

7 Subd. 3. [CONTENTS OF APPLICATION FOR NONPUBLIC OR  
8 NONPUBLIC PROTECTED DATA.] An application for temporary  
9 classification of government data not on individuals shall  
10 include and the applicant shall have the burden of clearly  
11 establishing that no statute currently exists which either  
12 allows or forbids classification as nonpublic or protected  
13 nonpublic; and either

14 (a) that data similar to that for which the temporary  
15 classification is sought has been treated as nonpublic or  
16 protected nonpublic by other ~~state-agencies-or-political~~  
17 ~~subdivisions~~ government entities, and by the public; or

18 (b) public access to the data would render unworkable a  
19 program authorized by law; or

20 (c) that a compelling need exists for immediate temporary  
21 classification, which if not granted could adversely affect the  
22 health, safety or welfare of the public.

23 Sec. 22. Minnesota Statutes 2004, section 13.06,  
24 subdivision 4, is amended to read:

25 Subd. 4. [PROCEDURE WHEN CLASSIFICATION AFFECTS OTHERS.]  
26 If the commissioner determines that an application for temporary  
27 classification involves data which would reasonably be  
28 classified in the same manner by all ~~agencies,-political~~  
29 ~~subdivisions,-or-statewide-systems~~ government entities similar  
30 to the one which made the application, the commissioner may  
31 approve or disapprove the classification for data of the kind  
32 which is the subject of the application for the use of  
33 all ~~agencies,-political-subdivisions,-or-statewide~~  
34 ~~systems~~ government entities similar to the applicant. On  
35 deeming this approach advisable, the commissioner shall provide  
36 notice of the proposed action by publication in the State

1 Register within ten days of receiving the application. Within  
2 30 days after publication in the State Register an  
3 affected ~~agency, political-subdivision,~~ government entity or the  
4 ~~public, or statewide-system~~ may submit comments on the  
5 commissioner's proposal. The commissioner shall consider any  
6 comments received when granting or denying a classification for  
7 data of the kind which is the subject of the application, for  
8 the use of all ~~agencies, political-subdivisions, or statewide~~  
9 ~~systems~~ government entities similar to the applicant. Within 45  
10 days after the close of the period for submitting comment, the  
11 commissioner shall grant or disapprove the application.  
12 Applications processed under this subdivision shall be either  
13 approved or disapproved by the commissioner within 90 days of  
14 the receipt of the application. For purposes of subdivision 1,  
15 the data which is the subject of the classification shall be  
16 deemed to be classified as set forth in the application for a  
17 period of 90 days, or until the application is disapproved or  
18 granted by the commissioner, whichever is earlier. If requested  
19 in the application, or determined to be necessary by the  
20 commissioner, the data in the application shall be so classified  
21 for all ~~agencies, political-subdivisions, or statewide~~  
22 ~~systems~~ government entities similar to the applicant until the  
23 application is disapproved or granted by the commissioner,  
24 whichever is earlier. Proceedings after the grant or  
25 disapproval shall be governed by the provisions of subdivision 5.

26 Sec. 23. Minnesota Statutes 2004, section 13.07, is  
27 amended to read:

28 13.07 [DUTIES OF THE COMMISSIONER.]

29 The commissioner shall promulgate rules, in accordance with  
30 the rulemaking procedures in the Administrative Procedure Act  
31 which shall apply to ~~state-agencies, statewide-systems-and~~  
32 ~~political-subdivisions~~ government entities to implement the  
33 enforcement and administration of this chapter. The rules shall  
34 not affect section 13.04, relating to rights of subjects of  
35 data. Prior to the adoption of rules authorized by this section  
36 the commissioner shall give notice to all state agencies and

1 political subdivisions in the same manner and in addition to  
2 other parties as required by section 14.06 of the date and place  
3 of hearing, enclosing a copy of the rules to be adopted.

4 Sec. 24. Minnesota Statutes 2004, section 13.072,  
5 subdivision 4, is amended to read:

6 Subd. 4. [DATA SUBMITTED TO COMMISSIONER.] A ~~state-agency,~~  
7 ~~statewide-system,-or-political-subdivision~~ government entity may  
8 submit not public data to the commissioner for the purpose of  
9 requesting or responding to a person's request for an opinion.  
10 Government data submitted to the commissioner by a ~~state-agency,~~  
11 ~~statewide-system,-or-political-subdivision~~ government entity or  
12 copies of government data submitted by other persons have the  
13 same classification as the data have when held by the state  
14 ~~agency,-statewide-system,-or-political-subdivision~~ government  
15 entity. If the nature of the opinion is such that the release  
16 of the opinion would reveal not public data, the commissioner  
17 may issue an opinion using pseudonyms for individuals. Data  
18 maintained by the commissioner, in the record of an opinion  
19 issued using pseudonyms that would reveal the identities of  
20 individuals protected by the use of the pseudonyms, are private  
21 data on individuals.

22 Sec. 25. Minnesota Statutes 2004, section 13.073,  
23 subdivision 3, is amended to read:

24 Subd. 3. [BASIC TRAINING.] The basic training component  
25 should be designed to meet the basic information policy needs of  
26 all government employees and public officials with a focus on  
27 key data practices laws and procedures that apply to all  
28 government entities. The commissioner should design the basic  
29 training component in a manner that minimizes duplication of the  
30 effort and cost for government entities to provide basic  
31 training. The commissioner may develop general programs and  
32 materials for basic training such as video presentations, data  
33 practices booklets, and training guides. The commissioner may  
34 assist state and local government ~~ageneies~~ entities in  
35 developing training expertise within their own ~~ageneies~~ entities  
36 and offer assistance for periodic training sessions for this

1 purpose.

2 Sec. 26. Minnesota Statutes 2004, section 13.08,  
3 subdivision 1, is amended to read:

4 Subdivision 1. [ACTION FOR DAMAGES.] Notwithstanding  
5 section 466.03, a ~~political-subdivision~~, responsible authority,  
6 ~~statewide-system~~, or state-agency government entity which  
7 violates any provision of this chapter is liable to a person or  
8 representative of a decedent who suffers any damage as a result  
9 of the violation, and the person damaged or a representative in  
10 the case of private data on decedents or confidential data on  
11 decedents may bring an action against the ~~political-subdivision~~,  
12 responsible authority, ~~statewide-system~~ or state-agency  
13 government entity to cover any damages sustained, plus costs and  
14 reasonable attorney fees. In the case of a willful violation,  
15 the ~~political-subdivision, statewide-system-or-state~~  
16 agency government entity shall, in addition, be liable to  
17 exemplary damages of not less than \$100, nor more than \$10,000  
18 for each violation. The state is deemed to have waived any  
19 immunity to a cause of action brought under this chapter.

20 Sec. 27. Minnesota Statutes 2004, section 13.08,  
21 subdivision 2, is amended to read:

22 Subd. 2. [INJUNCTION.] A ~~political-subdivision~~,  
23 responsible authority, ~~statewide-system~~ or state-agency  
24 government entity which violates or proposes to violate this  
25 chapter may be enjoined by the district court. The court may  
26 make any order or judgment as may be necessary to prevent the  
27 use or employment by any person of any practices which violate  
28 this chapter.

29 Sec. 28. Minnesota Statutes 2004, section 13.08,  
30 subdivision 5, is amended to read:

31 Subd. 5. [IMMUNITY FROM LIABILITY.] A state-agency,  
32 ~~statewide-system, political-subdivision~~, government entity or  
33 person that releases not public data pursuant to an order under  
34 section 13.03, subdivision 6 is immune from civil and criminal  
35 liability.

36 Sec. 29. Minnesota Statutes 2004, section 13.203, is

1 amended to read:

2 13.203 [SERVICE COOPERATIVE CLAIMS DATA.]

3 (a) Claims experience and all related information received  
4 from carriers and claims administrators participating in a group  
5 health or dental plan, including any long-term disability plan,  
6 offered through the Minnesota service cooperatives to Minnesota  
7 school districts and other political subdivisions, and survey  
8 information collected from employees and employers participating  
9 in these plans and programs, except when the executive director  
10 of a Minnesota service cooperative determines that release of  
11 the data will not be detrimental to the plan or program, are  
12 classified as nonpublic data not on individuals.

13 (b) Any data classified by this section must, upon request,  
14 be disclosed to the following:

15 (1) a company bidding to provide insurance coverage to a  
16 public entity that is provided insurance by the service  
17 cooperative;

18 (2) a government entity participating in the service  
19 cooperative;

20 (3) an exclusive bargaining representative that represents  
21 employees who receive insurance through the service cooperative;  
22 and

23 (4) the Minnesota commissioners of employee relations and  
24 finance.

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

27 Sec. 30. Minnesota Statutes 2004, section 13.32, is  
28 amended by adding a subdivision to read:

29 Subd. 10. [EDUCATION RECORDS; CHILD WITH DISABILITY.]

30 Nothing in this chapter shall be construed as limiting the  
31 frequency of inspection of the educational records of a child  
32 with a disability by the child's parent or guardian or by the  
33 child upon the child reaching the age of majority. An agency or  
34 institution may not charge a fee to search for or to retrieve  
35 the educational records. An agency or institution that receives  
36 a request for copies of the educational records of a child with

1 a disability may charge a fee that reflects the costs of  
2 reproducing the records except when to do so would impair the  
3 ability of the child's parent or guardian, or the child who has  
4 reached the age of majority, to exercise their right to inspect  
5 and review those records.

6 Sec. 31. Minnesota Statutes 2004, section 13.3805, is  
7 amended by adding a subdivision to read:

8 Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS;  
9 INVESTIGATIVE DATA.] Except for investigative data under section  
10 626.556, all investigative data maintained by the Department of  
11 Health's Office of Health Facility Complaints are subject to  
12 provisions of and classified pursuant to section 626.557,  
13 subdivision 12b, paragraphs (b) to (d). Notwithstanding  
14 sections 626.556, subdivision 11, and 626.557, subdivision 12b,  
15 paragraph (b), data identifying an individual substantiated as  
16 the perpetrator are public data. For purposes of this  
17 subdivision, an individual is substantiated as the perpetrator  
18 if the commissioner of health determines that the individual is  
19 the perpetrator and the determination of the commissioner is  
20 upheld after the individual either exercises applicable  
21 administrative appeal rights or fails to exercise these rights  
22 within the time allowed by law.

23 Sec. 32. Minnesota Statutes 2004, section 13.43,  
24 subdivision 1, is amended to read:

25 Subdivision 1. [DEFINITION.] As used in this section,  
26 "personnel data" means data on individuals collected because the  
27 individual is or was an employee of or an applicant for  
28 employment by, performs services on a voluntary basis for, or  
29 acts as an independent contractor with a ~~state-agency, statewide~~  
30 ~~system-or-political-subdivision-or-is-a-member-of-or-an~~  
31 ~~applicant-for-an-advisory-board-or-commission~~ government entity.  
32 Personnel data includes data submitted by an employee to a  
33 government entity as part of an organized self-evaluation effort  
34 by the government entity to request suggestions from all  
35 employees on ways to cut costs, make government more efficient,  
36 or improve the operation of government. An employee who is



1 identified in a suggestion shall have access to all data in the  
2 suggestion except the identity of the employee making the  
3 suggestion.

4 Sec. 33. Minnesota Statutes 2004, section 13.43,  
5 subdivision 2, is amended to read:

6 Subd. 2. [PUBLIC DATA.] (a) Except for employees described  
7 in subdivision 5 and subject to the limitations described in  
8 subdivision 5a, the following personnel data on current and  
9 former employees, volunteers, and independent contractors of  
10 ~~a state-agency,-statewide-system,-or-political-subdivision-and~~  
11 ~~members-of-advisory-boards-or-commissions~~ government entity is  
12 public:

13 (1) name; employee identification number, which must not be  
14 the employee's Social Security number; actual gross salary;  
15 salary range; contract fees; actual gross pension; the value and  
16 nature of employer paid fringe benefits; and the basis for and  
17 the amount of any added remuneration, including expense  
18 reimbursement, in addition to salary;

19 (2) job title and bargaining unit; job description;  
20 education and training background; and previous work experience;

21 (3) date of first and last employment;

22 (4) the existence and status of any complaints or charges  
23 against the employee, regardless of whether the complaint or  
24 charge resulted in a disciplinary action;

25 (5) the final disposition of any disciplinary action  
26 together with the specific reasons for the action and data  
27 documenting the basis of the action, excluding data that would  
28 identify confidential sources who are employees of the public  
29 body;

30 (6) the terms of any agreement settling any dispute arising  
31 out of an employment relationship, including a buyout agreement  
32 as defined in section 123B.143, subdivision 2, paragraph (a);  
33 except that the agreement must include specific reasons for the  
34 agreement if it involves the payment of more than \$10,000 of  
35 public money;

36 (7) work location; a work telephone number; badge number;

1 and honors and awards received; and

2 (8) payroll time sheets or other comparable data that are  
3 only used to account for employee's work time for payroll  
4 purposes, except to the extent that release of time sheet data  
5 would reveal the employee's reasons for the use of sick or other  
6 medical leave or other not public data.

7 (b) For purposes of this subdivision, a final disposition  
8 occurs when the state agency, statewide system, or political  
9 subdivision makes its final decision about the disciplinary  
10 action, regardless of the possibility of any later proceedings  
11 or court proceedings. In the case of arbitration proceedings  
12 arising under collective bargaining agreements, a final  
13 disposition occurs at the conclusion of the arbitration  
14 proceedings, or upon the failure of the employee to elect  
15 arbitration within the time provided by the collective  
16 bargaining agreement. Final disposition includes a resignation  
17 by an individual when the resignation occurs after the final  
18 decision of the state agency, statewide system, political  
19 subdivision, or arbitrator.

20 (c) The state agency, statewide system, or political  
21 subdivision may display a photograph of a current or former  
22 employee to a prospective witness as part of the state agency's,  
23 statewide system's, or political subdivision's investigation of  
24 any complaint or charge against the employee.

25 (d) A complainant has access to a statement provided by the  
26 complainant to a state agency, statewide system, or political  
27 subdivision in connection with a complaint or charge against an  
28 employee.

29 (e) Notwithstanding paragraph (a), clause (5), upon  
30 completion of an investigation of a complaint or charge against  
31 a public official, or if a public official resigns or is  
32 terminated from employment while the complaint or charge is  
33 pending, all data relating to the complaint or charge are  
34 public, unless access to the data would jeopardize an active  
35 investigation or reveal confidential sources. For purposes of  
36 this paragraph, "public official" means:

1 (1) the head of a state agency and deputy and assistant  
2 state agency heads;

3 (2) members of boards or commissions required by law to be  
4 appointed by the governor or other elective officers; and

5 (3) executive or administrative heads of departments,  
6 bureaus, divisions, or institutions.

7 Sec. 34. Minnesota Statutes 2004, section 13.43,  
8 subdivision 3, is amended to read:

9 Subd. 3. [APPLICANT DATA.] Except for applicants described  
10 in subdivision 5, the following personnel data on current and  
11 former applicants for employment by a ~~state-agency,-statewide~~  
12 ~~system-or-political-subdivision-or-appointment-to-an-advisory~~  
13 ~~board-or-commission~~ government entity is public: veteran  
14 status; relevant test scores; rank on eligible list; job  
15 history; education and training; and work availability. Names  
16 of applicants shall be private data except when certified as  
17 eligible for appointment to a vacancy or when applicants are  
18 considered by the appointing authority to be finalists for a  
19 position in public employment. For purposes of this  
20 subdivision, "finalist" means an individual who is selected to  
21 be interviewed by the appointing authority prior to selection.  
22 ~~Names-and-home-addresses-of-applicants-for-appointment-to-and~~  
23 ~~members-of-an-advisory-board-or-commission-are-public.~~

24 Sec. 35. Minnesota Statutes 2004, section 13.46,  
25 subdivision 4, is amended to read:

26 Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

27 (1) "licensing data" means all data collected, maintained,  
28 used, or disseminated by the welfare system pertaining to  
29 persons licensed or registered or who apply for licensure or  
30 registration or who formerly were licensed or registered under  
31 the authority of the commissioner of human services;

32 (2) "client" means a person who is receiving services from  
33 a licensee or from an applicant for licensure; and

34 (3) "personal and personal financial data" means Social  
35 Security numbers, identity of and letters of reference,  
36 insurance information, reports from the Bureau of Criminal

1 Apprehension, health examination reports, and social/home  
2 studies.

3 (b)(1) Except as provided in paragraph (c), the following  
4 data on current and former licensees are public: name, address,  
5 telephone number of licensees, date of receipt of a completed  
6 application, dates of licensure, licensed capacity, type of  
7 client preferred, variances granted, record of training and  
8 education in child care and child development, type of dwelling,  
9 name and relationship of other family members, previous license  
10 history, class of license, and the existence and status of  
11 complaints, and the number of serious injuries to or deaths of  
12 individuals in the licensed program as reported to the  
13 commissioner of human services, the local social services  
14 agency, or any other county welfare agency. For purposes of  
15 this clause, a serious injury is one that is treated by a  
16 physician. When a correction order or fine has been issued, a  
17 license is suspended, immediately suspended, revoked, denied, or  
18 made conditional, or a complaint is resolved, the following data  
19 on current and former licensees are public: the substance and  
20 investigative findings of the licensing or maltreatment  
21 complaint, licensing violation, or substantiated maltreatment;  
22 the record of informal resolution of a licensing violation;  
23 orders of hearing; findings of fact; conclusions of law;  
24 specifications of the final correction order, fine, suspension,  
25 immediate suspension, revocation, denial, or conditional license  
26 contained in the record of licensing action; and the status of  
27 any appeal of these actions. When-an-individual-licensee-is-a  
28 substantiated-perpetrator-of-maltreatment,-and-the-substantiated  
29 maltreatment-is-a-reason-for-the-licensing-action,-the-identity  
30 of-the-licensee-as-a-perpetrator-is-public-data.--For-purposes  
31 of-this-clause,-a-person-is-a-substantiated-perpetrator-if-the  
32 maltreatment-determination-has-been-upheld-under-section  
33 626.5567-subdivision-10i7-626.5577-subdivision-9d7-or-256.0457  
34 or-an-individual-or-facility-has-not-timely-exercised-appeal  
35 rights-under-these-sections.

36 (2) Notwithstanding sections 626.556, subdivision 11, and

1 626.557, subdivision 12b, when any person subject to  
2 disqualification under section 245C.14 in connection with a  
3 license to provide family day care for children, child care  
4 center services, foster care for children in the provider's  
5 home, or foster care or day care services for adults in the  
6 provider's home is a substantiated perpetrator of maltreatment,  
7 and the substantiated maltreatment is a reason for a licensing  
8 action, the identity of the substantiated perpetrator of  
9 maltreatment is public data. For purposes of this clause, a  
10 person is a substantiated perpetrator if the maltreatment  
11 determination has been upheld under section 256.045; 626.556,  
12 subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if  
13 an individual or facility has not timely exercised appeal rights  
14 under these sections.

15       ~~(2)~~ (3) For applicants who withdraw their application prior  
16 to licensure or denial of a license, the following data are  
17 public: the name of the applicant, the city and county in which  
18 the applicant was seeking licensure, the dates of the  
19 commissioner's receipt of the initial application and completed  
20 application, the type of license sought, and the date of  
21 withdrawal of the application.

22       ~~(3)~~ (4) For applicants who are denied a license, the  
23 following data are public: the name of the applicant, the city  
24 and county in which the applicant was seeking licensure, the  
25 dates of the commissioner's receipt of the initial application  
26 and completed application, the type of license sought, the date  
27 of denial of the application, the nature of the basis for the  
28 denial, and the status of any appeal of the denial.

29       ~~(4)~~ (5) The following data on persons subject to  
30 disqualification under section 245C.14 in connection with a  
31 license to provide family day care for children, child care  
32 center services, foster care for children in the provider's  
33 home, or foster care or day care services for adults in the  
34 provider's home, are public: the nature of any disqualification  
35 set aside under section 245C.22, subdivisions 2 and 4, and the  
36 reasons for setting aside the disqualification; the nature of

1 any disqualification for which a variance was granted under  
2 sections 245A.04, subdivision 9; and 245C.30, and the reasons  
3 for granting any variance under section 245A.04, subdivision 9;  
4 and, if applicable, the disclosure that any person subject to a  
5 background study under section 245C.03, subdivision 1, has  
6 successfully passed a background study.

7       ~~(5)~~ (6) When maltreatment is substantiated under section  
8 626.556 or 626.557 and the victim and the substantiated  
9 perpetrator are affiliated with a program licensed under chapter  
10 245A, the commissioner of human services, local social services  
11 agency, or county welfare agency may inform the license holder  
12 where the maltreatment occurred of the identity of the  
13 substantiated perpetrator and the victim.

14       (c) The following are private data on individuals under  
15 section 13.02, subdivision 12, or nonpublic data under section  
16 13.02, subdivision 9: personal and personal financial data on  
17 family day care program and family foster care program  
18 applicants and licensees and their family members who provide  
19 services under the license.

20       (d) The following are private data on individuals: the  
21 identity of persons who have made reports concerning licensees  
22 or applicants that appear in inactive investigative data, and  
23 the records of clients or employees of the licensee or applicant  
24 for licensure whose records are received by the licensing agency  
25 for purposes of review or in anticipation of a contested  
26 matter. The names of reporters under sections 626.556 and  
27 626.557 may be disclosed only as provided in section 626.556,  
28 subdivision 11, or 626.557, subdivision 12b.

29       (e) Data classified as private, confidential, nonpublic, or  
30 protected nonpublic under this subdivision become public data if  
31 submitted to a court or administrative law judge as part of a  
32 disciplinary proceeding in which there is a public hearing  
33 concerning a license which has been suspended, immediately  
34 suspended, revoked, or denied.

35       (f) Data generated in the course of licensing  
36 investigations that relate to an alleged violation of law are

1 investigative data under subdivision 3.

2 (g) Data that are not public data collected, maintained,  
3 used, or disseminated under this subdivision that relate to or  
4 are derived from a report as defined in section 626.556,  
5 subdivision 2, or 626.5572, subdivision 18, are subject to the  
6 destruction provisions of sections 626.556, subdivision 11c, and  
7 626.557, subdivision 12b.

8 (h) Upon request, not public data collected, maintained,  
9 used, or disseminated under this subdivision that relate to or  
10 are derived from a report of substantiated maltreatment as  
11 defined in section 626.556 or 626.557 may be exchanged with the  
12 Department of Health for purposes of completing background  
13 studies pursuant to section 144.057 and with the Department of  
14 Corrections for purposes of completing background studies  
15 pursuant to section 241.021.

16 (i) Data on individuals collected according to licensing  
17 activities under chapters 245A and 245C, and data on individuals  
18 collected by the commissioner of human services according to  
19 maltreatment investigations under sections 626.556 and 626.557,  
20 may be shared with the Department of Human Rights, the  
21 Department of Health, the Department of Corrections, the  
22 Ombudsman for Mental Health and Retardation, and the  
23 individual's professional regulatory board when there is reason  
24 to believe that laws or standards under the jurisdiction of  
25 those agencies may have been violated.

26 (j) In addition to the notice of determinations required  
27 under section 626.556, subdivision 10f, if the commissioner or  
28 the local social services agency has determined that an  
29 individual is a substantiated perpetrator of maltreatment of a  
30 child based on sexual abuse, as defined in section 626.556,  
31 subdivision 2, and the commissioner or local social services  
32 agency knows that the individual is a person responsible for a  
33 child's care in another facility, the commissioner or local  
34 social services agency shall notify the head of that facility of  
35 this determination. The notification must include an  
36 explanation of the individual's available appeal rights and the

1 status of any appeal. If a notice is given under this  
2 paragraph, the government entity making the notification shall  
3 provide a copy of the notice to the individual who is the  
4 subject of the notice.

5 Sec. 36. Minnesota Statutes 2004, section 13.601, is  
6 amended by adding a subdivision to read:

7 Subd. 3. [APPLICANTS FOR ELECTION OR APPOINTMENT.] All  
8 data about applicants for election or appointment to a public  
9 body, including those public bodies subject to chapter 13D, are  
10 public.

11 Sec. 37. Minnesota Statutes 2004, section 13.82,  
12 subdivision 1, is amended to read:

13 Subdivision 1. [APPLICATION.] This section shall apply to  
14 agencies which carry on a law enforcement function, including  
15 but not limited to municipal police departments, county sheriff  
16 departments, fire departments, the Bureau of Criminal  
17 Apprehension, the Minnesota State Patrol, the Board of Peace  
18 Officer Standards and Training, ~~the Division of Insurance-Fraud~~  
19 ~~Prevention-in~~ the Department of Commerce, and the program  
20 integrity section of, and county human service agency client and  
21 provider fraud prevention and control units operated or  
22 supervised by the Department of Human Services.

23 Sec. 38. Minnesota Statutes 2004, section 13.82,  
24 subdivision 16, is amended to read:

25 Subd. 16. [PUBLIC ACCESS.] When data is classified as  
26 public under this section, a law enforcement agency shall not be  
27 required to make the actual physical data available to the  
28 public if it is not administratively feasible to segregate the  
29 public data from the ~~confidential~~ not public. However, the  
30 agency must make the information described as public data  
31 available to the public in a reasonable manner. When  
32 investigative data becomes inactive, as described in subdivision  
33 7, the actual physical data associated with that investigation,  
34 including the public data, shall be available for public access.

35 Sec. 39. [41A.0235] [BOARD MEETINGS BY TELEPHONE OR OTHER  
36 ELECTRONIC MEANS.]



1 (a) If compliance with section 13D.02 is impractical, the  
2 Minnesota Agricultural and Economic Development Board may  
3 conduct a meeting of its members by telephone or other  
4 electronic means so long as the following conditions are met:

5 (1) all members of the board participating in the meeting,  
6 wherever their physical location, can hear one another and can  
7 hear all discussion and testimony;

8 (2) members of the public present at the regular meeting  
9 location of the board can hear clearly and understand all  
10 discussion and testimony and all votes of members of the board;

11 (3) at least one member of the board is physically present  
12 at the regular meeting location; and

13 (4) all votes are conducted by roll call, so each member's  
14 vote on each issue can be identified and recorded.

15 (b) Each member of the board participating in a meeting by  
16 telephone or other electronic means is considered present at the  
17 meeting for purposes of determining a quorum and participating  
18 in all proceedings.

19 (c) If telephone or other electronic means is used to  
20 conduct a meeting, the board, to the extent practical, shall  
21 allow a person to monitor the meeting electronically from a  
22 remote location. The board may require the person making such a  
23 connection to pay for documented marginal costs that the board  
24 incurs as a result of the additional connection.

25 (d) If telephone or other electronic means is used to  
26 conduct a regular, special, or emergency meeting, the board  
27 shall provide notice of the regular meeting location, of the  
28 fact that some members may participate by telephone or other  
29 electronic means, and of the provisions of paragraph (c). The  
30 timing and method of providing notice is governed by section  
31 13D.04.

32 Sec. 40. Minnesota Statutes 2004, section 116J.68, is  
33 amended by adding a subdivision to read:

34 Subd. 5. [ADVISORY BOARD MEETINGS.] (a) If compliance with  
35 section 13D.02 is impractical, the Small Business Development  
36 Center Advisory Board, created pursuant to United State Code,

1 title 15, section 648, may conduct a meeting of its members by  
2 telephone or other electronic means so long as the following  
3 conditions are met:

4 (1) all members of the board participating in the meeting,  
5 wherever their physical location, can hear one another and can  
6 hear all discussion and testimony;

7 (2) members of the public present at the regular meeting  
8 location of the board can hear clearly and understand all  
9 discussion and testimony and all votes of members of the board;

10 (3) at least one member of the board is physically present  
11 at the regular meeting location; and

12 (4) all votes are conducted by roll call, so each member's  
13 vote on each issue can be identified and recorded.

14 (b) Each member of the board participating in a meeting by  
15 telephone or other electronic means is considered present at the  
16 meeting for purposes of determining a quorum and participating  
17 in all proceedings.

18 (c) If telephone or other electronic means is used to  
19 conduct a meeting, the board, to the extent practical, shall  
20 allow a person to monitor the meeting electronically from a  
21 remote location. The board may require the person making such a  
22 connection to pay for documented marginal costs that the board  
23 incurs as a result of the additional connection.

24 (d) If telephone or other electronic means is used to  
25 conduct a regular, special, or emergency meeting, the board  
26 shall provide notice of the regular meeting location, of the  
27 fact that some members may participate by telephone or other  
28 electronic means, and of the provisions of paragraph (c). The  
29 timing and method of providing notice is governed by section  
30 13D.04.

31 Sec. 41. Minnesota Statutes 2004, section 116L.03, is  
32 amended by adding a subdivision to read:

33 Subd. 8. [BOARD MEETINGS.] (a) If compliance with section  
34 13D.02 is impractical, the Minnesota Job Skills Partnership  
35 Board may conduct a meeting of its members by telephone or other  
36 electronic means so long as the following conditions are met:

1 (1) all members of the board participating in the meeting,  
2 wherever their physical location, can hear one another and can  
3 hear all discussion and testimony;

4 (2) members of the public present at the regular meeting  
5 location of the board can hear clearly and understand all  
6 discussion and testimony and all votes of members of the board;

7 (3) at least one member of the board is physically present  
8 at the regular meeting location; and

9 (4) all votes are conducted by roll call, so each member's  
10 vote on each issue can be identified and recorded.

11 (b) Each member of the board participating in a meeting by  
12 telephone or other electronic means is considered present at the  
13 meeting for purposes of determining a quorum and participating  
14 in all proceedings.

15 (c) If telephone or other electronic means is used to  
16 conduct a meeting, the board, to the extent practical, shall  
17 allow a person to monitor the meeting electronically from a  
18 remote location. The board may require the person making such a  
19 connection to pay for documented marginal costs that the board  
20 incurs as a result of the additional connection.

21 (d) If telephone or other electronic means is used to  
22 conduct a regular, special, or emergency meeting, the board  
23 shall provide notice of the regular meeting location, of the  
24 fact that some members may participate by telephone or other  
25 electronic means, and of the provisions of paragraph (c). The  
26 timing and method of providing notice is governed by section  
27 13D.04.

28 Sec. 42. Minnesota Statutes 2004, section 116L.665, is  
29 amended by adding a subdivision to read:

30 Subd. 2a. [COUNCIL MEETINGS.] (a) If compliance with  
31 section 13D.02 is impractical, the Governor's Workforce  
32 Development Council may conduct a meeting of its members by  
33 telephone or other electronic means so long as the following  
34 conditions are met:

35 (1) all members of the council participating in the  
36 meeting, wherever their physical location, can hear one another

1 and can hear all discussion and testimony;

2 (2) members of the public present at the regular meeting  
3 location of the council can hear clearly and understand all  
4 discussion and testimony and all votes of members of the  
5 council;

6 (3) at least one member of the council is physically  
7 present at the regular meeting location; and

8 (4) all votes are conducted by roll call, so each member's  
9 vote on each issue can be identified and recorded.

10 (b) Each member of the council participating in a meeting  
11 by telephone or other electronic means is considered present at  
12 the meeting for purposes of determining a quorum and  
13 participating in all proceedings.

14 (c) If telephone or other electronic means is used to  
15 conduct a meeting, the council, to the extent practical, shall  
16 allow a person to monitor the meeting electronically from a  
17 remote location. The council may require the person making such  
18 a connection to pay for documented marginal costs that the  
19 council incurs as a result of the additional connection.

20 (d) If telephone or other electronic means is used to  
21 conduct a regular, special, or emergency meeting, the council  
22 shall provide notice of the regular meeting location, of the  
23 fact that some members may participate by telephone or other  
24 electronic means, and of the provisions of paragraph (c). The  
25 timing and method of providing notice is governed by section  
26 13D.04.

27 Sec. 43. Minnesota Statutes 2004, section 116M.15, is  
28 amended by adding a subdivision to read:

29 Subd. 5. [BOARD MEETING.] (a) If compliance with section  
30 13D.02 is impractical, the Urban Initiative Board may conduct a  
31 meeting of its members by telephone or other electronic means so  
32 long as the following conditions are met:

33 (1) all members of the board participating in the meeting,  
34 wherever their physical location, can hear one another and can  
35 hear all discussion and testimony;

36 (2) members of the public present at the regular meeting

1 location of the board can hear clearly and understand all  
2 discussion and testimony and all votes of members of the board;

3 (3) at least one member of the board is physically present  
4 at the regular meeting location; and

5 (4) all votes are conducted by roll call, so each member's  
6 vote on each issue can be identified and recorded.

7 (b) Each member of the board participating in a meeting by  
8 telephone or other electronic means is considered present at the  
9 meeting for purposes of determining a quorum and participating  
10 in all proceedings.

11 (c) If telephone or other electronic means is used to  
12 conduct a meeting, the board, to the extent practical, shall  
13 allow a person to monitor the meeting electronically from a  
14 remote location. The board may require the person making such a  
15 connection to pay for documented marginal costs that the board  
16 incurs as a result of the additional connection.

17 (d) If telephone or other electronic means is used to  
18 conduct a regular, special, or emergency meeting, the board  
19 shall provide notice of the regular meeting location, of the  
20 fact that some members may participate by telephone or other  
21 electronic means, and of the provisions of paragraph (c). The  
22 timing and method of providing notice is governed by section  
23 13D.04.

24 Sec. 44. Minnesota Statutes 2004, section 116U.25, is  
25 amended to read:

26 116U.25 [EXPLORE MINNESOTA TOURISM COUNCIL.]

27 (a) The director shall be advised by the Explore Minnesota  
28 Tourism Council consisting of up to 28 voting members appointed  
29 by the governor for four-year terms, including:

30 (1) the director of Explore Minnesota Tourism who serves as  
31 the chair;

32 (2) eleven representatives of statewide associations  
33 representing bed and breakfast establishments, golf, festivals  
34 and events, counties, convention and visitor bureaus, lodging,  
35 resorts, trails, campgrounds, restaurants, and chambers of  
36 commerce;

1 (3) one representative from each of the four tourism  
2 marketing regions of the state as designated by the office;

3 (4) six representatives of the tourism business  
4 representing transportation, retail, travel agencies, tour  
5 operators, travel media, and convention facilities;

6 (5) one or more ex-officio nonvoting members including at  
7 least one from the University of Minnesota Tourism Center;

8 (6) four legislators, two from each house, one each from  
9 the two largest political party caucuses in each house,  
10 appointed according to the rules of the respective houses; and

11 (7) other persons, if any, as designated from time to time  
12 by the governor.

13 (b) The council shall act to serve the broader interests of  
14 tourism in Minnesota by promoting activities that support,  
15 maintain, and expand the state's domestic and international  
16 travel market, thereby generating increased visitor  
17 expenditures, tax revenue, and employment.

18 (c) Filling of membership vacancies is as provided in  
19 section 15.059. The terms of one-half of the members shall be  
20 coterminous with the governor and the terms of the remaining  
21 one-half of the members shall end on the first Monday in January  
22 one year after the terms of the other members. Members may  
23 serve until their successors are appointed and qualify. Members  
24 are not compensated. A member may be reappointed.

25 (d) The council shall meet at least four times per year and  
26 at other times determined by the council. Notwithstanding  
27 section 15.059, the council does not expire.

28 (e) If compliance with section 13D.02 is impractical, the  
29 Explore Minnesota Tourism Council may conduct a meeting of its  
30 members by telephone or other electronic means so long as the  
31 following conditions are met:

32 (1) all members of the council participating in the  
33 meeting, wherever their physical location, can hear one another  
34 and can hear all discussion and testimony;

35 (2) members of the public present at the regular meeting  
36 location of the council can hear clearly and understand all

1 discussion and testimony and all votes of members of the  
2 council;

3 (3) at least one member of the council is physically  
4 present at the regular meeting location; and

5 (4) all votes are conducted by roll call, so each member's  
6 vote on each issue can be identified and recorded.

7 (f) Each member of the council participating in a meeting  
8 by telephone or other electronic means is considered present at  
9 the meeting for purposes of determining a quorum and  
10 participating in all proceedings.

11 (g) If telephone or other electronic means is used to  
12 conduct a meeting, the council, to the extent practical, shall  
13 allow a person to monitor the meeting electronically from a  
14 remote location. The council may require the person making such  
15 a connection to pay for documented marginal costs that the  
16 council incurs as a result of the additional connection.

17 (h) If telephone or other electronic means is used to  
18 conduct a regular, special, or emergency meeting, the council  
19 shall provide notice of the regular meeting location, of the  
20 fact that some members may participate by telephone or other  
21 electronic means, and of the provisions of paragraph (g). The  
22 timing and method of providing notice is governed by section  
23 13D.04.

24 Sec. 45. Minnesota Statutes 2004, section 270B.01,  
25 subdivision 5, is amended to read:

26 Subd. 5. [TAXPAYER IDENTITY.] "Taxpayer identity" means  
27 the name of a person with respect to whom a return is filed, or  
28 the person's mailing address, or the person's taxpayer  
29 identifying number. "Taxpayer identity" does not include the  
30 state taxpayer identifying number of a business entity, which is  
31 classified as public data.

32 Sec. 46. Minnesota Statutes 2004, section 270B.03,  
33 subdivision 1, is amended to read:

34 Subdivision 1. [WHO MAY INSPECT.] Returns and return  
35 information must, on request, be made open to inspection by or  
36 disclosure to the data subject. The request must be made in

1 writing or in accordance with written procedures of the chief  
2 disclosure officer of the department that have been approved by  
3 the commissioner to establish the identification of the person  
4 making the request as the data subject. For purposes of this  
5 chapter, the following are the data subject:

6 (1) in the case of an individual return, that individual;

7 (2) in the case of an income tax return filed jointly,  
8 either of the individuals with respect to whom the return is  
9 filed;

10 ~~(3) in the case of a partnership return, any person who was~~  
11 ~~a member of the partnership during any part of the period~~  
12 ~~covered by the return;~~

13 ~~(4) in the case of the return of a corporation or its~~  
14 ~~subsidiary:~~

15 ~~(i) any person designated by resolution of the board of~~  
16 ~~directors or other similar governing body;~~

17 ~~(ii) any officer or employee of the corporation upon~~  
18 ~~written request signed by any officer and attested to by the~~  
19 ~~secretary or another officer;~~

20 ~~(iii) any bona fide shareholder of record owning one~~  
21 ~~percent or more of the outstanding stock of the corporation;~~

22 ~~(iv) if the corporation is a corporation that has made an~~  
23 ~~election under section 1362 of the Internal Revenue Code of~~  
24 ~~1986, as amended through December 31, 1988, any person who was a~~  
25 ~~shareholder during any part of the period covered by the return~~  
26 ~~during which an election was in effect; or~~

27 ~~(v) if the corporation has been dissolved, any person~~  
28 ~~authorized by state law to act for the corporation or any person~~  
29 ~~who would have been authorized if the corporation had not been~~  
30 dissolved in the case of a return filed by a business entity, an  
31 officer of a corporation, a shareholder owning more than one  
32 percent of the stock, or any shareholder of an S corporation; a  
33 general partner in a partnership; the owner of a sole  
34 proprietorship; a member or manager of a limited liability  
35 company; a participant in a joint venture; the individual who  
36 signed the return on behalf of the business entity; or an



1 employee who is responsible for handling the tax matters of the  
2 business entity, such as the tax manager, bookkeeper, or  
3 managing agent;

4 ~~(5)~~ (4) in the case of an estate return:

5 (i) the personal representative or trustee of the estate;  
6 and

7 (ii) any beneficiary of the estate as shown on the federal  
8 estate tax return;

9 ~~(6)~~ (5) in the case of a trust return:

10 (i) the trustee or trustees, jointly or separately; and

11 (ii) any beneficiary of the trust as shown in the trust  
12 instrument;

13 ~~(7)~~ (6) if liability has been assessed to a transferee  
14 under section 289A.31, subdivision 3, the transferee is the data  
15 subject with regard to the returns and return information  
16 relating to the assessed liability;

17 ~~(8)~~ (7) in the case of an Indian tribal government or an  
18 Indian tribal government-owned entity,

19 (i) the chair of the tribal government, or

20 (ii) any person authorized by the tribal government; and

21 ~~(9)~~ (8) in the case of a successor as defined in section  
22 270.102, subdivision 1, paragraph (b), the successor is the data  
23 subject and information may be disclosed as provided by section  
24 270.102, subdivision 4.

25 Sec. 47. [299C.40] [COMPREHENSIVE INCIDENT-BASED REPORTING  
26 SYSTEM.]

27 Subdivision 1. [DEFINITIONS.] (a) The definitions in this  
28 subdivision apply to this section.

29 (b) "CIBRS" means the Comprehensive Incident-Based  
30 Reporting System, located in the Department of Public Safety and  
31 managed by the Bureau of Criminal Apprehension, Criminal Justice  
32 Information Systems Section. A reference in this section to  
33 "CIBRS" includes the Bureau of Criminal Apprehension.

34 (c) "Law enforcement agency" means a Minnesota municipal  
35 police department, a Minnesota county sheriff's department, the  
36 Bureau of Criminal Apprehension, or the Minnesota State Patrol.

1        Subd. 2. [PURPOSE.] CIBRS is a statewide system containing  
2 data from law enforcement agencies. Data in CIBRS must be made  
3 available to law enforcement agencies only for purposes of  
4 criminal investigations being conducted in order to prepare a  
5 case against a person, whether known or unknown, for the  
6 commission of a crime or other offense, or for purposes of  
7 background investigations required by state statute.

8        Subd. 3. [DATA CLASSIFICATION; GENERAL RULE; CHANGES IN  
9 CLASSIFICATION; AUDIT TRAIL.] (a) The classification of data in  
10 the law enforcement agency does not change after the data is  
11 submitted to CIBRS.

12        (b) Data on individuals created, collected, received,  
13 maintained, or disseminated by CIBRS is classified as  
14 confidential data on individuals as defined in section 13.02,  
15 subdivision 3, and becomes private data on individuals as  
16 defined in section 13.02, subdivision 12, as provided by this  
17 section.

18        (c) Data not on individuals created, collected, received,  
19 maintained, or disseminated by CIBRS is classified as protected  
20 nonpublic data as defined in section 13.02, subdivision 13, and  
21 becomes nonpublic data as defined in section 13.02, subdivision  
22 9, as provided by this section.

23        (d) Confidential or protected nonpublic data created,  
24 collected, received, maintained, or disseminated by CIBRS must  
25 automatically change classification from confidential data to  
26 private data or from protected nonpublic data to nonpublic data  
27 on the earlier of the following dates:

28        (1) upon receipt by CIBRS of notice from a law enforcement  
29 agency that an investigation has become inactive; or

30        (2) when the data has not been updated by the law  
31 enforcement agency that submitted it for a period of 120 days.

32        (e) For the purposes of this section, an investigation  
33 becomes inactive upon the occurrence of any of the events listed  
34 in section 13.82, subdivision 7, clauses (a) to (c).

35        (f) Ten days before making a data classification change  
36 because data has not been updated, CIBRS must notify the law

1 enforcement agency that submitted the data that a classification  
2 change will be made on the 120th day. The notification must  
3 inform the law enforcement agency that the data will retain its  
4 classification as confidential or protected nonpublic data if  
5 the law enforcement agency updates the data or notifies CIBRS  
6 that the investigation is still active before the 120th day. A  
7 new 120-day period begins if the data is updated or if a law  
8 enforcement agency notifies CIBRS that an active investigation  
9 is continuing.

10 (g) A law enforcement agency that submits data to CIBRS  
11 must notify CIBRS if an investigation has become inactive so  
12 that the data is classified as private data or nonpublic data.  
13 The law enforcement agency must provide this notice to CIBRS  
14 within ten days after an investigation becomes inactive.

15 (h) All queries and responses and all actions in which data  
16 is submitted to CIBRS, changes classification, or is  
17 disseminated by CIBRS to any law enforcement agency must be  
18 recorded in the CIBRS audit trail.

19 Subd. 4. [ACCESS TO CIBRS DATA BY LAW ENFORCEMENT AGENCY  
20 PERSONNEL.] Only law enforcement agency personnel with  
21 certification from the Bureau of Criminal Apprehension may  
22 access CIBRS data. The bureau shall by rule under chapter 14  
23 provide procedures for certification of law enforcement agency  
24 personnel allowed access to CIBRS data. Access to CIBRS data by  
25 particular law enforcement agency personnel may be limited  
26 through the use of purpose codes that correspond to the official  
27 duties and training level of the personnel. The bureau may  
28 designate persons who may have access to CIBRS data only as  
29 necessary to operate or maintain CIBRS.

30 Subd. 5. [ACCESS TO CIBRS DATA BY DATA SUBJECT.] Upon  
31 request to the Bureau of Criminal Apprehension or to a law  
32 enforcement agency participating in CIBRS, an individual shall  
33 be informed whether the individual is the subject of private or  
34 confidential data held by CIBRS. An individual who is the  
35 subject of private data held by CIBRS may obtain access to the  
36 data by making a request to the Bureau of Criminal Apprehension

1 or to a participating law enforcement agency. Private data  
2 provided to the subject under this subdivision must also include  
3 the name of the law enforcement agency that submitted the data  
4 to CIBRS and the name, telephone number, and address of the  
5 responsible authority of that law enforcement agency.

6 Subd. 6. [CHALLENGE TO COMPLETENESS AND ACCURACY OF DATA.]

7 An individual who is the subject of public or private data held  
8 by CIBRS and who wants to challenge the completeness or accuracy  
9 of the data under section 13.04, subdivision 4, must notify in  
10 writing the responsible authority of the participating law  
11 enforcement agency. A law enforcement agency must notify the  
12 Bureau of Criminal Apprehension when data held by CIBRS is  
13 challenged. The notification must identify the data that was  
14 challenged and the subject of the data. CIBRS must include any  
15 notification received under this paragraph whenever  
16 disseminating data about which no determination has been made.  
17 When the responsible authority of a law enforcement agency  
18 completes, corrects, or destroys successfully challenged data,  
19 the corrected data must be submitted to CIBRS and any future  
20 dissemination must be of the corrected data.

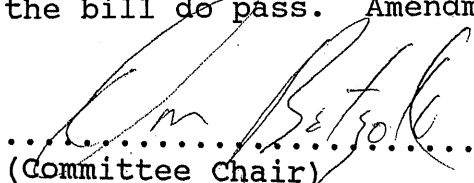
21 Sec. 48. [REPEALER.]

22 Minnesota Statutes 2004, section 13.04, subdivision 5, is  
23 repealed."

24 Delete the title and insert:

25 "A bill for an act relating to data practices; providing  
26 for the collection and dissemination of data; proposing and  
27 modifying classifications of data; providing for sharing and  
28 release of certain public data; allowing certain boards to  
29 conduct meetings by telephone or other electronic means;  
30 amending Minnesota Statutes 2004, sections 3.978, subdivision 2;  
31 13.01, subdivisions 1, 3; 13.02, subdivision 7; 13.03,  
32 subdivisions 1, 2, 4, 5, 6, 8; 13.04, subdivisions 2, 4; 13.05,  
33 subdivisions 1, 4, 6, 7, 8, 9; 13.06, subdivisions 1, 2, 3, 4;  
34 13.07; 13.072, subdivision 4; 13.073, subdivision 3; 13.08,  
35 subdivisions 1, 2, 5; 13.203; 13.32, by adding a subdivision;  
36 13.3805, by adding a subdivision; 13.43, subdivisions 1, 2, 3;  
37 13.46, subdivision 4; 13.601, by adding a subdivision; 13.82,  
38 subdivisions 1, 16; 116J.68, by adding a subdivision; 116L.03,  
39 by adding a subdivision; 116L.665, by adding a subdivision;  
40 116M.15, by adding a subdivision; 116U.25; 270B.01, subdivision  
41 5; 270B.03, subdivision 1; proposing coding for new law in  
42 Minnesota Statutes, chapters 41A; 299C; repealing Minnesota  
43 Statutes 2004, section 13.04, subdivision 5."

44 And when so amended the bill do pass. Amendments adopted.  
45 Report adopted.

  
.....  
(Committee Chair)

March 31, 2005.....  
(Date of Committee recommendation)

Senator Betzold introduced--

S.F. No. 966: Referred to the Committee on Judiciary:

2

1                                   A bill for an act

2           relating to government data practices; providing a

3           maximum copy fee for certain copies of data; amending

4           Minnesota Statutes 2004, section 13.03, subdivision 3.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6           Section 1. Minnesota Statutes 2004, section 13.03,

7           subdivision 3, is amended to read:

8           Subd. 3. [REQUEST FOR ACCESS TO DATA.] (a) Upon request to

9           a responsible authority or designee, a person shall be permitted

10          to inspect and copy public government data at reasonable times

11          and places, and, upon request, shall be informed of the data's

12          meaning. If a person requests access for the purpose of

13          inspection, the responsible authority may not assess a charge or

14          require the requesting person to pay a fee to inspect data.

15          (b) For purposes of this section, "inspection" includes,

16          but is not limited to, the visual inspection of paper and

17          similar types of government data. Inspection does not include

18          printing copies by the government entity, unless printing a copy

19          is the only method to provide for inspection of the data. In

20          the case of data stored in electronic form and made available in

21          electronic form on a remote access basis to the public by the

22          government entity, inspection includes remote access to the data

23          by the public and the ability to print copies of or download the

24          data on the public's own computer equipment. Nothing in this

25          section prohibits a government entity from charging a reasonable

1 fee for remote access to data under a specific statutory grant  
2 of authority. A government entity may charge a fee for remote  
3 access to data where either the data or the access is enhanced  
4 at the request of the person seeking access.

5 (c) The responsible authority or designee shall provide  
6 copies of public data upon request. If a person requests copies  
7 or electronic transmittal of the data to the person, the  
8 responsible authority may require the requesting person to pay  
9 the actual costs of searching for and retrieving government  
10 data, including the cost of employee time, and for making,  
11 certifying, compiling, and electronically transmitting the  
12 copies of the data or the data, but may not charge for  
13 separating public from not public data. However, if 300 or  
14 fewer paper copies are requested, actual costs shall not be  
15 used, and instead the responsible authority may assess a set fee  
16 per copy, which shall not exceed .. cents for each page. If the  
17 responsible authority or designee is not able to provide copies  
18 at the time a request is made, copies shall be supplied as soon  
19 as reasonably possible.

20 (d) When a request under this subdivision involves any  
21 person's receipt of copies of public government data that has  
22 commercial value and is a substantial and discrete portion of or  
23 an entire formula, pattern, compilation, program, device,  
24 method, technique, process, database, or system developed with a  
25 significant expenditure of public funds by the agency, the  
26 responsible authority may charge a reasonable fee for the  
27 information in addition to the costs of making, certifying, and  
28 compiling the copies. Any fee charged must be clearly  
29 demonstrated by the agency to relate to the actual development  
30 costs of the information. The responsible authority, upon the  
31 request of any person, shall provide sufficient documentation to  
32 explain and justify the fee being charged.

33 (e) The responsible authority of a state agency, statewide  
34 system, or political subdivision that maintains public  
35 government data in a computer storage medium shall provide to  
36 any person making a request under this section a copy of any

1 public data contained in that medium, in electronic form, if the  
2 government entity can reasonably make the copy or have a copy  
3 made. This does not require a government entity to provide the  
4 data in an electronic format or program that is different from  
5 the format or program in which the data are maintained by the  
6 government entity. The entity may require the requesting person  
7 to pay the actual cost of providing the copy.

8 (f) If the responsible authority or designee determines  
9 that the requested data is classified so as to deny the  
10 requesting person access, the responsible authority or designee  
11 shall inform the requesting person of the determination either  
12 orally at the time of the request, or in writing as soon after  
13 that time as possible, and shall cite the specific statutory  
14 section, temporary classification, or specific provision of  
15 federal law on which the determination is based. Upon the  
16 request of any person denied access to data, the responsible  
17 authority or designee shall certify in writing that the request  
18 has been denied and cite the specific statutory section,  
19 temporary classification, or specific provision of federal law  
20 upon which the denial was based.

1 To: Senator Betzold, Chair  
2 Committee on Judiciary  
3 Senator Skoglund,

4 Chair of the Subcommittee on Data Practices, to which was  
5 referred

6 S.F. No. 966: A bill for an act relating to government  
7 data practices; providing a maximum copy fee for certain copies  
8 of data; amending Minnesota Statutes 2004, section 13.03,  
9 subdivision 3.

10 Reports the same back with the recommendation that the bill  
11 be amended as follows:

12 Page 2, line 14, after "requested," insert "for readily  
13 available documents"

14 Page 2, line 16, delete ".." and insert "25" and after  
15 "each" insert "separate"

16 And when so amended that the bill be recommended to pass  
17 and be referred to the full committee.

18 .....  
19 (Subcommittee Chair)  
20  
21 February 24, 2005.....  
22 (Date of Subcommittee action)



1 Senator ..... moves to amend the Report of the Subcommittee  
2 on Data Practices (SS0966SUB) to S.F. No. 966 as follows:

3 Page 1, lines 12 and 13, delete "for readily available  
4 documents" and insert "for readily available black and white  
5 documents of an 8-1/2 by 11 inch or an 8-1/2 by 14 inch size"

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 819 - State Employee Whistle-blower  
Investigations (First Engrossment)**

**Author:** Senator John Marty

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 2, 2005

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This bill provides a variety of procedures and resources that must be used when certain state employees are involuntarily terminated. These procedures include the preservation of specified employee records, and a prohibition on terminating a state employee because the state employee reports serious waste, inefficiency, or mismanagement.

**Section 1 [CERTAIN EMPLOYEE RECORDS.]** requires state agencies to preserve records for at least three years relating to a state employee who is involuntarily terminated from employment. Provides the terminated employee with the opportunity to review all records: Paragraph (b) creates liability for a state agency that violates this requirement and provides costs and attorney fees for employees who successfully enforce their rights under the statute. This section also requires reinstatement of the terminated employee, including lost wages, and health and retirement benefits if this procedure is violated. The records retention requirement does not apply to employees who are laid off.

**Section 2 [DISCHARGE, SUSPENSION, DEMOTION FOR CAUSE, SALARY DECREASE.]** clarifies that if an employee is discharged from the unclassified service while the employee is on leave from the classified service, all procedures necessary for terminating the employee from the classified service must be followed if the employee is to be terminated from that position as well.

**Section 3 [PUBLIC EMPLOYERS.]** prohibits the state and political subdivisions of this state from discharging, disciplining, threatening, penalizing, or otherwise discriminating against an employee who in good faith, reports on serious waste, inefficiency, or mismanagement in the

employee's place of employment, even if there is no violation of federal or state law. Paragraph (c) provides an employee who is involuntarily discharged in violation of this section of law to seek review of the discharge under contested case proceedings in chapter 14. Allows parties to any contested case proceeding reasonable access to relevant documents and witnesses before the hearing begins. In evaluating the case, the administrative law judge may consider the quality and integrity of any investigative process that was used by the agency.

TSB:rer

1 Senator ..... moves to amend S.F. No. 819 as follows:  
2 Page 1, line 16 delete "three" and insert "two"  
3 Page 1, line 24, after "(b)" insert "If a state agency  
4 terminates an employee subject to the protections in paragraph  
5 (a), the agency may provide the employee with written notice of  
6 the employee's right to review the data protected by paragraph  
7 (a). The notice must inform the employee that the employee has  
8 ten business days from the day the employee acknowledges the  
9 receipt of the notice to review the data. The notice must  
10 provide the name of a contact person within the agency who will  
11 make the data available to the employee for review. The agency  
12 may dispose of the data without reference to paragraph (a) ten  
13 business days or more after notifying the employee.

14 (c)"

1 A bill for an act  
 2 relating to state government; preserving access to  
 3 employee data for certain terminated state employees;  
 4 prohibiting public employers from retaliating against  
 5 employees who report waste or mismanagement; providing  
 6 access to a contested case hearing for employees who  
 7 claim whistle-blower status; amending Minnesota  
 8 Statutes 2004, sections 43A.33, subdivision 1;  
 9 181.932, by adding a subdivision; proposing coding for  
 10 new law in Minnesota Statutes, chapter 15.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. [15.175] [CERTAIN EMPLOYEE RECORDS.]

13 (a) Data, records, files, and all written or electronic  
 14 materials of, or relating to, a state employee who is  
 15 involuntarily terminated from employment with a state agency  
 16 must be preserved for a period of at least three years after the  
 17 employee's termination from employment, or a longer period as  
 18 required under section 138.17. A state employee who has been  
 19 terminated may request the opportunity to review all data  
 20 covered by this section. An agency responding to a request made  
 21 under this section must provide a response within ten days after  
 22 receiving a written request. This paragraph does not apply to  
 23 an individual named on a layoff list prepared under chapter 43A.

24 (b) A state agency that destroys, shreds, or alters data,  
 25 records, files, or materials in violation of this requirement is  
 26 liable to the employee for damages resulting from that  
 27 violation, plus costs and reasonable attorney fees incurred by  
 28 the employee in enforcing the employee's rights under this

1 section. In addition, the employee is also entitled to  
2 reinstatement to the position from which the employee was  
3 terminated, plus reimbursement for lost wages and health and  
4 retirement benefits.

5 Sec. 2. Minnesota Statutes 2004, section 43A.33,  
6 subdivision 1, is amended to read:

7 Subdivision 1. [DISCHARGE, SUSPENSION, DEMOTION FOR CAUSE,  
8 SALARY DECREASE.] Managers and employees shall attempt to  
9 resolve disputes through informal means prior to the initiation  
10 of disciplinary action. No permanent employee in the classified  
11 service shall be reprimanded, discharged, suspended without pay,  
12 or demoted, except for just cause. The discharge of an employee  
13 from unclassified service who is on leave from the classified  
14 service does not affect or rescind the application of the  
15 procedures under this section to the discharge, if any, of the  
16 employee from the classified service.

17 Sec. 3. Minnesota Statutes 2004, section 181.932, is  
18 amended by adding a subdivision to read:

19 Subd. 1a. [PUBLIC EMPLOYERS.] (a) The state, including a  
20 state postsecondary educational institution or a political  
21 subdivision of the state as defined in section 6.56, subdivision  
22 1, may not discharge, discipline, threaten, penalize, or  
23 otherwise discriminate against an employee regarding the  
24 employee's compensation, terms, conditions, location, or  
25 privileges of employment because the employee, in good faith,  
26 reports or is in the process of preparing a report regarding  
27 serious waste, inefficiency, or mismanagement in the employee's  
28 place of employment that diminishes the value the public  
29 receives from the employer, even though the waste, inefficiency,  
30 or mismanagement reported does not in itself violate any federal  
31 or state law or rule.

32 (b) An employee contesting disciplinary action under  
33 paragraph (a) for the preparation of a report that was not  
34 submitted before the discipline must demonstrate the occurrence  
35 of the violation by clear and convincing evidence.

36 (c) A state employee who is involuntarily discharged from

1 the unclassified service and who claims the discharge violated  
2 this subdivision or subdivision 1 may seek review of the  
3 discharge under the contested case procedures in sections 14.48  
4 to 14.69. The jurisdiction of the Office of Administrative  
5 Hearings is limited to a determination whether the discharge was  
6 in violation of this subdivision or subdivision 1 and the  
7 provision of any appropriate remedies. The parties to the  
8 contested case proceeding must be allowed access to relevant  
9 documents and witnesses for a reasonable period of time before  
10 the hearing on a proceeding under this paragraph. The  
11 administrative law judge must consider the quality and integrity  
12 of the investigative process, if any, used by the agency when  
13 reviewing evidence submitted by the agency.

**Senate Counsel, Research,  
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER  
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**Senate**

**State of Minnesota**

**S.F. No. 1211 - Adoption Consents and Placement Resources**

**Author:** Senator Don Betzold

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** March 7, 2005

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**S.F. No. 1211** revises adoption procedures for children under the child protection law.

**Section 1** requires the Commissioner of Human Service's consent for adoption of a child under child protection.

**Sections 2 to 4** exempt adoptions of children under child protection from certain notice, consent, and other requirements of the general adoption law.

**Section 5** provides that a social service agency must approve a prospective adoptive home for a child being adopted out of foster care. It also provides that a child must be moved to another prospective adoptive parent if adoption by an identified prospective adoptive parent is not possible.

**Section 6** requires a background check by the responsible social service agency of a relative or parent when a child, subject to the child protection law, is being placed with one of them.

**Section 7** requires the responsible social services agency to make, for a child subject to child protection, an assessment of a noncustodial parent or relative who is to provide care for the child.

HW:cs





1 Senator ..... moves to amend S.F. No. 1211 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 259.24,  
4 subdivision 1, is amended to read:

5 Subdivision 1. [EXCEPTIONS.] No child shall be adopted  
6 without the consent of the child's parents and the child's  
7 guardian, if there be one, except in the following instances:

8 (a) Consent shall not be required of a parent not entitled  
9 to notice of the proceedings.

10 (b) Consent shall not be required of a parent who has  
11 abandoned the child, or of a parent who has lost custody of the  
12 child through a divorce decree or a decree of dissolution, and  
13 upon whom notice has been served as required by section 259.49.

14 (c) Consent shall not be required of a parent whose  
15 parental rights to the child have been terminated by a juvenile  
16 court or who has lost custody of a child through a final  
17 commitment of the juvenile court or through a decree in a prior  
18 adoption proceeding.

19 (d) If there be no parent or guardian qualified to consent  
20 to the adoption, the consent ~~may~~ shall be given by the  
21 commissioner. After the court accepts a parent's consent to the  
22 adoption under section 260C.201, subdivision 11, consent by the  
23 commissioner or commissioner's delegate is also necessary.  
24 Agreement to the identified prospective adoptive parent by the  
25 responsible social services agency under section 260C.201,  
26 subdivision 11, does not constitute the required consent.

27 (e) The commissioner or agency having authority to place a  
28 child for adoption pursuant to section 259.25, subdivision 1,  
29 shall have the exclusive right to consent to the adoption of  
30 such child. The commissioner or agency shall make every effort  
31 to place siblings together for adoption. Notwithstanding any  
32 rule to the contrary, the commissioner may delegate the right to  
33 consent to the adoption or separation of siblings, if it is in  
34 the child's best interest, to a local social services agency.

35 Sec. 2. Minnesota Statutes 2004, section 259.24,  
36 subdivision 2a, is amended to read:

1 Subd. 2a. [TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO  
2 ADOPTION.] (a) Not sooner than 72 hours after the birth of a  
3 child and not later than 60 days after the child's placement in  
4 a prospective adoptive home, a person whose consent is required  
5 under this section shall execute a consent.

6 (b) Unless all birth parents from whom consent is required  
7 under this section are involved in making the adoptive placement  
8 and intend to consent to the adoption, a birth parent who  
9 intends to execute a consent to an adoption must give notice to  
10 the child's other birth parent of the intent to consent to the  
11 adoption prior to or within 72 hours following the placement of  
12 the child, if the other birth parent's consent to the adoption  
13 is required under subdivision 1. The birth parent who receives  
14 notice shall have 60 days after the placement of the child to  
15 either consent or refuse to consent to the adoption. If the  
16 birth parent who receives notice fails to take either of these  
17 actions, that parent shall be deemed to have irrevocably  
18 consented to the child's adoption. The notice provisions of  
19 chapter 260C and the rules of juvenile protection procedure  
20 shall apply to both parents when the consent to adopt is  
21 executed under section 260C.201, subdivision 11.

22 (c) When notice is required under this subdivision, it  
23 shall be provided to the other birth parent according to the  
24 Rules of Civil Procedure for service of a summons and complaint.

25 Sec. 3. Minnesota Statutes 2004, section 259.24,  
26 subdivision 5, is amended to read:

27 Subd. 5. [EXECUTION.] All consents to an adoption shall be  
28 in writing, executed before two competent witnesses, and  
29 acknowledged by the consenting party. In addition, all consents  
30 to an adoption, except those by the commissioner, the  
31 commissioner's agent, a licensed child-placing agency, an adult  
32 adoptee, or the child's parent in a petition for adoption by a  
33 stepparent, shall be executed before a representative of the  
34 commissioner, the commissioner's agent, or a licensed  
35 child-placing agency. All consents by a parent:

36 (1) shall contain notice to the parent of the substance of

1 subdivision 6a, providing for the right to withdraw  
2 consent unless the parent will not have the right to withdraw  
3 consent because consent was executed under section 260C.201,  
4 subdivision 11 following proper notice that consent given under  
5 that provision is irrevocable upon acceptance by the court as  
6 provided in section 259.24, subdivision 6a; and

7 (2) shall contain the following written notice in all  
8 capital letters at least one-eighth inch high:

9 "This agency will submit your consent to adoption to the  
10 court. The consent itself does not terminate your parental  
11 rights. Parental rights to a child may be terminated only by an  
12 adoption decree or by a court order terminating parental  
13 rights. Unless the child is adopted or your parental rights are  
14 terminated, you may be asked to support the child."

15 Consents shall be filed in the adoption proceedings at any  
16 time before the matter is heard provided, however, that a  
17 consent executed and acknowledged outside of this state, either  
18 in accordance with the law of this state or in accordance with  
19 the law of the place where executed, is valid.

20 Sec. 4. Minnesota Statutes 2004, section 259.24,  
21 subdivision 6a, is amended to read:

22 Subd. 6a. [WITHDRAWAL OF CONSENT.] Except for consents  
23 executed under section 260C.201, subdivision 11, a parent's  
24 consent to adoption may be withdrawn for any reason within ten  
25 working days after the consent is executed and acknowledged.  
26 Written notification of withdrawal of consent must be received  
27 by the agency to which the child was surrendered no later than  
28 the tenth working day after the consent is executed and  
29 acknowledged. On the day following the tenth working day after  
30 execution and acknowledgment, the consent shall become  
31 irrevocable, except upon order of a court of competent  
32 jurisdiction after written findings that consent was obtained by  
33 fraud. A consent to adopt executed under section 260C.201,  
34 subdivision 11, is irrevocable upon proper notice to both  
35 parents of the effect of a consent to adopt and acceptance by  
36 the court, except upon order of the same court after written

1 findings that the consent was obtained by fraud. In proceedings  
2 to determine the existence of fraud, the adoptive parents and  
3 the child shall be made parties. The proceedings shall be  
4 conducted to preserve the confidentiality of the adoption  
5 process. There shall be no presumption in the proceedings  
6 favoring the birth parents over the adoptive parents.

7 Sec. 5. Minnesota Statutes 2004, section 260C.201,  
8 subdivision 11, is amended to read:

9 Subd. 11. [REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT  
10 PLACEMENT DETERMINATION.] (a) This subdivision and subdivision  
11 11a do not apply in cases where the child is in placement due  
12 solely to the child's developmental disability or emotional  
13 disturbance, where legal custody has not been transferred to the  
14 responsible social services agency, and where the court finds  
15 compelling reasons under section 260C.007, subdivision 8, to  
16 continue the child in foster care past the time periods  
17 specified in this subdivision. Foster care placements of  
18 children due solely to their disability are governed by section  
19 260C.141, subdivision 2b. In all other cases where the child is  
20 in foster care or in the care of a noncustodial parent under  
21 subdivision 1, the court shall conduct a hearing to determine  
22 the permanent status of a child not later than 12 months after  
23 the child is placed in foster care or in the care of a  
24 noncustodial parent.

25 For purposes of this subdivision, the date of the child's  
26 placement in foster care is the earlier of the first  
27 court-ordered placement or 60 days after the date on which the  
28 child has been voluntarily placed in foster care by the child's  
29 parent or guardian. For purposes of this subdivision, time  
30 spent by a child under the protective supervision of the  
31 responsible social services agency in the home of a noncustodial  
32 parent pursuant to an order under subdivision 1 counts towards  
33 the requirement of a permanency hearing under this subdivision  
34 or subdivision 11a.

35 For purposes of this subdivision, 12 months is calculated  
36 as follows:

1 (1) during the pendency of a petition alleging that a child  
2 is in need of protection or services, all time periods when a  
3 child is placed in foster care or in the home of a noncustodial  
4 parent are cumulated;

5 (2) if a child has been placed in foster care within the  
6 previous five years under one or more previous petitions, the  
7 lengths of all prior time periods when the child was placed in  
8 foster care within the previous five years are cumulated. If a  
9 child under this clause has been in foster care for 12 months or  
10 more, the court, if it is in the best interests of the child and  
11 for compelling reasons, may extend the total time the child may  
12 continue out of the home under the current petition up to an  
13 additional six months before making a permanency determination.

14 (b) Unless the responsible social services agency  
15 recommends return of the child to the custodial parent or  
16 parents, not later than 30 days prior to this hearing, the  
17 responsible social services agency shall file pleadings in  
18 juvenile court to establish the basis for the juvenile court to  
19 order permanent placement of the child according to paragraph  
20 (d). Notice of the hearing and copies of the pleadings must be  
21 provided pursuant to section 260C.152. If a termination of  
22 parental rights petition is filed before the date required for  
23 the permanency planning determination and there is a trial under  
24 section 260C.163 scheduled on that petition within 90 days of  
25 the filing of the petition, no hearing need be conducted under  
26 this subdivision.

27 (c) At the conclusion of the hearing, the court shall order  
28 the child returned to the care of the parent or guardian from  
29 whom the child was removed or order a permanent placement in the  
30 child's best interests. The "best interests of the child" means  
31 all relevant factors to be considered and evaluated. Transfer  
32 of permanent legal and physical custody, termination of parental  
33 rights, or guardianship and legal custody to the commissioner  
34 through a consent to adopt are preferred permanency options for  
35 a child who cannot return home.

36 (d) If the child is not returned to the home, the court

1 must order one of the following dispositions:

2 (1) permanent legal and physical custody to a relative in  
3 the best interests of the child according to the following  
4 conditions:

5 (i) an order for transfer of permanent legal and physical  
6 custody to a relative shall only be made after the court has  
7 reviewed the suitability of the prospective legal and physical  
8 custodian;

9 (ii) in transferring permanent legal and physical custody  
10 to a relative, the juvenile court shall follow the standards  
11 applicable under this chapter and chapter 260, and the  
12 procedures set out in the juvenile court rules;

13 (iii) an order establishing permanent legal and physical  
14 custody under this subdivision must be filed with the family  
15 court;

16 (iv) a transfer of legal and physical custody includes  
17 responsibility for the protection, education, care, and control  
18 of the child and decision making on behalf of the child;

19 (v) the social services agency may bring a petition or  
20 motion naming a fit and willing relative as a proposed permanent  
21 legal and physical custodian. The commissioner of human  
22 services shall annually prepare for counties information that  
23 must be given to proposed custodians about their legal rights  
24 and obligations as custodians together with information on  
25 financial and medical benefits for which the child is eligible;  
26 and

27 (vi) the juvenile court may maintain jurisdiction over the  
28 responsible social services agency, the parents or guardian of  
29 the child, the child, and the permanent legal and physical  
30 custodian for purposes of ensuring appropriate services are  
31 delivered to the child and permanent legal custodian or for the  
32 purpose of ensuring conditions ordered by the court related to  
33 the care and custody of the child are met;

34 (2) termination of parental rights according to the  
35 following conditions:

36 (i) unless the social services agency has already filed a

1 petition for termination of parental rights under section  
2 260C.307, the court may order such a petition filed and all the  
3 requirements of sections 260C.301 to 260C.328 remain applicable;  
4 and

5 (ii) an adoption completed subsequent to a determination  
6 under this subdivision may include an agreement for  
7 communication or contact under section 259.58;

8 (3) long-term foster care according to the following  
9 conditions:

10 (i) the court may order a child into long-term foster care  
11 only if it finds compelling reasons that neither an award of  
12 permanent legal and physical custody to a relative, nor  
13 termination of parental rights is in the child's best interests;  
14 and

15 (ii) further, the court may only order long-term foster  
16 care for the child under this section if it finds the following:

17 (A) the child has reached age 12 and reasonable efforts by  
18 the responsible social services agency have failed to locate an  
19 adoptive family for the child; or

20 (B) the child is a sibling of a child described in subitem  
21 (A) and the siblings have a significant positive relationship  
22 and are ordered into the same long-term foster care home;

23 (4) foster care for a specified period of time according to  
24 the following conditions:

25 (i) foster care for a specified period of time may be  
26 ordered only if:

27 (A) the sole basis for an adjudication that the child is in  
28 need of protection or services is the child's behavior;

29 (B) the court finds that foster care for a specified period  
30 of time is in the best interests of the child; and

31 (C) the court finds compelling reasons that neither an  
32 award of permanent legal and physical custody to a relative, nor  
33 termination of parental rights is in the child's best interests;

34 (ii) the order does not specify that the child continue in  
35 foster care for any period exceeding one year; or

36 (5) guardianship and legal custody to the commissioner of

1 human services under the following procedures and conditions:

2 (i) there is an identified prospective adoptive home that  
3 has agreed to adopt the child, agreed to by the responsible  
4 social services agency having legal custody of the child  
5 pursuant to court order under this section, and the court  
6 accepts the parent's voluntary consent to adopt under section  
7 259.24;

8 (ii) if the court accepts a consent to adopt in lieu of  
9 ordering one of the other enumerated permanency dispositions,  
10 the court must review the matter at least every 90 days. The  
11 review will address the reasonable efforts of the agency to  
12 achieve a finalized adoption;

13 (iii) a consent to adopt under this clause vests all legal  
14 authority regarding the child, including guardianship and legal  
15 custody of the child, with the commissioner of human services as  
16 if the child were a state ward after termination of parental  
17 rights;

18 (iv) the court must forward a copy of the consent to adopt,  
19 together with a certified copy of the order transferring  
20 guardianship and legal custody to the commissioner, to the  
21 commissioner; and

22 (v) if an adoption is not finalized by the identified  
23 prospective adoptive parent within 12 months of the execution of  
24 the consent to adopt under this clause, the commissioner of  
25 human services or the commissioner's delegate shall pursue  
26 adoptive placement in another home unless the commissioner  
27 certifies that the failure to finalize is not due to either an  
28 action or a failure to act by the prospective adoptive parent;  
29 and

30 (vi) notwithstanding item (v), the commissioner of human  
31 services or the commissioner's designee must pursue adoptive  
32 placement in another home as soon as the commissioner or  
33 commissioner's designee determines that finalization of the  
34 adoption with the identified prospective adoptive parent is not  
35 possible, that the identified prospective adoptive parent is not  
36 willing to adopt the child, that the identified prospective



1 adoptive parent is not cooperative in completing the steps  
2 necessary to finalize the adoption, or upon the commissioner's  
3 determination to withhold consent to the adoption.

4 (e) In ordering a permanent placement of a child, the court  
5 must be governed by the best interests of the child, including a  
6 review of the relationship between the child and relatives and  
7 the child and other important persons with whom the child has  
8 resided or had significant contact.

9 (f) Once a permanent placement determination has been made  
10 and permanent placement has been established, further court  
11 reviews are necessary if:

12 (1) the placement is long-term foster care or foster care  
13 for a specified period of time;

14 (2) the court orders further hearings because it has  
15 retained jurisdiction of a transfer of permanent legal and  
16 physical custody matter;

17 (3) an adoption has not yet been finalized; or

18 (4) there is a disruption of the permanent or long-term  
19 placement.

20 (g) Court reviews of an order for long-term foster care,  
21 whether under this section or section 260C.317, subdivision 3,  
22 paragraph (d), or foster care for a specified period of time  
23 must be conducted at least yearly and must review the child's  
24 out-of-home placement plan and the reasonable efforts of the  
25 agency to:

26 (1) identify a specific long-term foster home for the child  
27 or a specific foster home for the time the child is specified to  
28 be out of the care of the parent, if one has not already been  
29 identified;

30 (2) support continued placement of the child in the  
31 identified home, if one has been identified;

32 (3) ensure appropriate services are provided to the child  
33 during the period of long-term foster care or foster care for a  
34 specified period of time;

35 (4) plan for the child's independence upon the child's  
36 leaving long-term foster care living as required under section

1 260C.212, subdivision 1; and

2 (5) where placement is for a specified period of time, a  
3 plan for the safe return of the child to the care of the parent.

4 (h) An order under this subdivision must include the  
5 following detailed findings:

6 (1) how the child's best interests are served by the order;

7 (2) the nature and extent of the responsible social service  
8 agency's reasonable efforts, or, in the case of an Indian child,  
9 active efforts to reunify the child with the parent or parents;

10 (3) the parent's or parents' efforts and ability to use  
11 services to correct the conditions which led to the out-of-home  
12 placement; and

13 (4) whether the conditions which led to the out-of-home  
14 placement have been corrected so that the child can return home.

15 (i) An order for permanent legal and physical custody of a  
16 child may be modified under sections 518.18 and 518.185. The  
17 social services agency is a party to the proceeding and must  
18 receive notice. A parent may only seek modification of an order  
19 for long-term foster care upon motion and a showing by the  
20 parent of a substantial change in the parent's circumstances  
21 such that the parent could provide appropriate care for the  
22 child and that removal of the child from the child's permanent  
23 placement and the return to the parent's care would be in the  
24 best interest of the child.

25 (j) The court shall issue an order required under this  
26 section within 15 days of the close of the proceedings. The  
27 court may extend issuing the order an additional 15 days when  
28 necessary in the interests of justice and the best interests of  
29 the child.

30 Sec. 6. [260C.209] [BACKGROUND CHECKS.]

31 Subdivision 1. [SUBJECTS.] (a) The responsible social  
32 services agency must conduct a background check under this  
33 section of the following:

34 (1) a noncustodial parent or nonadjudicated parent who is  
35 being assessed for purposes of providing day-to-day care of a  
36 child temporarily or permanently under section 260C.212,

1 subdivision 4, and any member of the parent's household who is  
2 over the age of 13 when there is reasonable cause to believe  
3 that the parent or household member over age 13 has a criminal  
4 history or a history of maltreatment of a child or vulnerable  
5 adult which would endanger the child's health, safety, or  
6 welfare;

7 (2) an individual whose suitability for relative placement  
8 under section 260C.212, subdivision 5, is being determined, and  
9 any member of the relative's household who is over the age of 13  
10 when:

11 (i) the relative must be licensed for foster care; or

12 (ii) the agency must conduct a background study under  
13 section 259.53, subdivision 2; or

14 (iii) the agency has reasonable cause to believe the  
15 relative or household member over the age of 13 has a criminal  
16 history which would not make transfer of permanent legal and  
17 physical custody to the relative under section 260C.201,  
18 subdivision 11, in the child's best interest; and

19 (3) a parent, following an out-of-home placement:

20 (i) when the responsible social service agency has  
21 reasonable cause to believe that the parent has been convicted  
22 of a crime directly related to the parent's capacity to maintain  
23 the child's health, safety, or welfare; or

24 (ii) the parent is the subject of an open investigation of,  
25 or has been the subject of a substantiated allegation of, child  
26 or vulnerable-adult maltreatment within the past ten years.

27 (b) "Reasonable cause" means that the agency has received  
28 information or a report from the subject or a third person that  
29 creates an articulable suspicion that the individual has a  
30 history that may pose a risk to the health, safety, or welfare  
31 of the child. The information or report must be specific to the  
32 potential subject of the background check and shall not be based  
33 on the race, religion, ethnic background, age, class, or  
34 lifestyle of the potential subject.

35 Subd. 2. [GENERAL PROCEDURES.] (a) When conducting a  
36 background check under subdivision 1, the agency may require the

1 individual being assessed to provide sufficient information to  
2 ensure an accurate assessment under this section, including:

3 (1) the individual's first, middle, and last name and all  
4 other names by which the individual has been known;

5 (2) home address, zip code, city, county, and state of  
6 residence for the past ten years;

7 (3) sex;

8 (4) date of birth; and

9 (5) driver's license number or state identification number.

10 (b) When notified by the responsible social services agency  
11 that it is conducting an assessment under this section, the  
12 Bureau of Criminal Apprehension, commissioners of health and  
13 human services, law enforcement, and county agencies must  
14 provide the responsible social services agency or county  
15 attorney with the following information on the individual being  
16 assessed: criminal history data, reports about the maltreatment  
17 of adults substantiated under section 626.557, and reports of  
18 maltreatment of minors substantiated under section 626.556.

19 Subd. 3. [MULTISTATE INFORMATION.] (a) For any assessment  
20 completed under this section, if the responsible social services  
21 agency has reasonable cause to believe that the individual is a  
22 multistate offender, the individual must provide the responsible  
23 social services agency or the county attorney with a set of  
24 classifiable fingerprints obtained from an authorized law  
25 enforcement agency. The responsible social services agency or  
26 county attorney may obtain criminal history data from the  
27 National Criminal Records Repository by submitting the  
28 fingerprints to the Bureau of Criminal Apprehension.

29 (b) For purposes of this subdivision, the responsible  
30 social services agency has reasonable cause when, but not  
31 limited to:

32 (1) information from the Bureau of Criminal Apprehension  
33 indicates that the individual is a multistate offender;

34 (2) information from the Bureau of Criminal Apprehension  
35 indicates that multistate offender status is undetermined;

36 (3) the social services agency has received a report from

1 the individual or a third party indicating that the individual  
2 has a criminal history in a jurisdiction other than Minnesota;  
3 or

4 (4) the individual is or has been a resident of a state  
5 other than Minnesota at any time during the prior ten years.

6 Subd. 4. [NOTICE UPON RECEIPT.] The responsible social  
7 services agency must provide the subject of the background study  
8 with the results of the study under this section within 15  
9 business days of receipt or at least 15 days prior to hearing at  
10 which the results will be presented, whichever comes first. The  
11 subject may provide written information to the agency that the  
12 results are incorrect and may provide additional or clarifying  
13 information to the agency and to the court through a party to  
14 the proceeding. This provision does not apply to any background  
15 study conducted under chapters 245A and 245C.

16 Sec. 7. Minnesota Statutes 2004, section 260C.212,  
17 subdivision 4, is amended to read:

18 Subd. 4. [RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR  
19 CHILDREN IN PLACEMENT.] (a) When a child is in placement, the  
20 responsible social services agency shall make diligent efforts  
21 to identify, locate, and, where appropriate, offer services to  
22 both parents of the child.

23 (1) ~~¶~~ The responsible social services agency shall assess  
24 whether a noncustodial or nonadjudicated parent is willing and  
25 capable of providing for the day-to-day care of the child  
26 temporarily or permanently. An assessment under this clause may  
27 include, but is not limited to, obtaining information under  
28 section 260C.209. If after assessment, the responsible social  
29 services agency determines that a noncustodial or nonadjudicated  
30 parent is willing and capable of providing day-to-day care of  
31 the child, the responsible social services agency may seek  
32 authority from the custodial parent or the court to have that  
33 parent assume day-to-day care of the child. If a parent is not  
34 an adjudicated parent, the responsible social services agency  
35 shall require the nonadjudicated parent to cooperate with  
36 paternity establishment procedures as part of the case plan.

1 (2) If, after assessment, the responsible social services  
2 agency determines that the child cannot be in the day-to-day  
3 care of either parent<sub>7</sub>:

4 (i) the agency shall prepare an out-of-home placement plan  
5 addressing the conditions that each parent must meet before the  
6 child can be in that parent's day-to-day care;

7 (ii) provide a parent who is the subject of a background  
8 study under section 260C.209, 15 days' notice that it intends to  
9 use the study to recommend against putting the child with that  
10 parent, as well as the notice provided in section 260C.209,  
11 subdivision 4, and the court shall afford the parent an  
12 opportunity to be heard concerning the study; and

13 (iii) the results of a background study of a noncustodial  
14 parent shall not be used by the agency to determine that the  
15 parent is incapable of providing day-to-day care of the child  
16 unless the agency reasonably believes that placement of the  
17 child into the home of that parent would endanger the child's  
18 health, safety, or welfare.

19 (3) If, after the provision of services following an  
20 out-of-home placement plan under this section, the child cannot  
21 return to the care of the parent from whom the child was removed  
22 or who had legal custody at the time the child was placed in  
23 foster care, the agency may petition on behalf of a noncustodial  
24 parent to establish legal custody with that parent under section  
25 260C.201, subdivision 11. If paternity has not already been  
26 established, it may be established in the same proceeding in the  
27 manner provided for under chapter 257.

28 (4) The responsible social services agency may be relieved  
29 of the requirement to locate and offer services to both parents  
30 by the juvenile court upon a finding of good cause after the  
31 filing of a petition under section 260C.141.

32 (b) The responsible social services agency shall give  
33 notice to the parent or parents or guardian of each child in a  
34 residential facility, other than a child in placement due solely  
35 to that child's developmental disability or emotional  
36 disturbance, of the following information:

1 (1) that residential care of the child may result in  
2 termination of parental rights or an order permanently placing  
3 the child out of the custody of the parent, but only after  
4 notice and a hearing as required under chapter 260C and the  
5 juvenile court rules;

6 (2) time limits on the length of placement and of  
7 reunification services, including the date on which the child is  
8 expected to be returned to and safely maintained in the home of  
9 the parent or parents or placed for adoption or otherwise  
10 permanently removed from the care of the parent by court order;

11 (3) the nature of the services available to the parent;

12 (4) the consequences to the parent and the child if the  
13 parent fails or is unable to use services to correct the  
14 circumstances that led to the child's placement;

15 (5) the first consideration for placement with relatives;

16 (6) the benefit to the child in getting the child out of  
17 residential care as soon as possible, preferably by returning  
18 the child home, but if that is not possible, through a permanent  
19 legal placement of the child away from the parent;

20 (7) when safe for the child, the benefits to the child and  
21 the parent of maintaining visitation with the child as soon as  
22 possible in the course of the case and, in any event, according  
23 to the visitation plan under this section; and

24 (8) the financial responsibilities and obligations, if any,  
25 of the parent or parents for the support of the child during the  
26 period the child is in the residential facility.

27 (c) The responsible social services agency shall inform a  
28 parent considering voluntary placement of a child who is not  
29 developmentally disabled or emotionally disturbed of the  
30 following information:

31 (1) the parent and the child each has a right to separate  
32 legal counsel before signing a voluntary placement agreement,  
33 but not to counsel appointed at public expense;

34 (2) the parent is not required to agree to the voluntary  
35 placement, and a parent who enters a voluntary placement  
36 agreement may at any time request that the agency return the

1 child. If the parent so requests, the child must be returned  
2 within 24 hours of the receipt of the request;

3 (3) evidence gathered during the time the child is  
4 voluntarily placed may be used at a later time as the basis for  
5 a petition alleging that the child is in need of protection or  
6 services or as the basis for a petition seeking termination of  
7 parental rights or other permanent placement of the child away  
8 from the parent;

9 (4) if the responsible social services agency files a  
10 petition alleging that the child is in need of protection or  
11 services or a petition seeking the termination of parental  
12 rights or other permanent placement of the child away from the  
13 parent, the parent would have the right to appointment of  
14 separate legal counsel and the child would have a right to the  
15 appointment of counsel and a guardian ad litem as provided by  
16 law, and that counsel will be appointed at public expense if  
17 they are unable to afford counsel; and

18 (5) the timelines and procedures for review of voluntary  
19 placements under subdivision 3, and the effect the time spent in  
20 voluntary placement on the scheduling of a permanent placement  
21 determination hearing under section 260C.201, subdivision 11.

22 (d) When an agency accepts a child for placement, the  
23 agency shall determine whether the child has had a physical  
24 examination by or under the direction of a licensed physician  
25 within the 12 months immediately preceding the date when the  
26 child came into the agency's care. If there is documentation  
27 that the child has had an examination within the last 12 months,  
28 the agency is responsible for seeing that the child has another  
29 physical examination within one year of the documented  
30 examination and annually in subsequent years. If the agency  
31 determines that the child has not had a physical examination  
32 within the 12 months immediately preceding placement, the agency  
33 shall ensure that the child has an examination within 30 days of  
34 coming into the agency's care and once a year in subsequent  
35 years."



1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1211: A bill for an act relating to child  
4 protection; providing for a background check of an individual  
5 being considered as a custodian; modifying requirements for  
6 adoption consents and placement resources for children who are  
7 in the legal custody of a social services agency; amending  
8 Minnesota Statutes 2004, sections 259.24, subdivisions 1, 2a, 5,  
9 6a; 260C.201, subdivision 11; 260C.212, subdivision 4; proposing  
10 coding for new law in Minnesota Statutes, chapter 260C.

11 Reports the same back with the recommendation that the bill  
12 be amended as follows:

13 Delete everything after the enacting clause and insert:

14 "Section 1. Minnesota Statutes 2004, section 259.24,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [EXCEPTIONS.] No child shall be adopted  
17 without the consent of the child's parents and the child's  
18 guardian, if there be one, except in the following instances:

19 (a) Consent shall not be required of a parent not entitled  
20 to notice of the proceedings.

21 (b) Consent shall not be required of a parent who has  
22 abandoned the child, or of a parent who has lost custody of the  
23 child through a divorce decree or a decree of dissolution, and  
24 upon whom notice has been served as required by section 259.49.

25 (c) Consent shall not be required of a parent whose  
26 parental rights to the child have been terminated by a juvenile  
27 court or who has lost custody of a child through a final  
28 commitment of the juvenile court or through a decree in a prior  
29 adoption proceeding.

30 (d) If there be no parent or guardian qualified to consent  
31 to the adoption, the consent ~~may~~ shall be given by the  
32 commissioner. After the court accepts a parent's consent to the  
33 adoption under section 260C.201, subdivision 11, consent by the  
34 commissioner or commissioner's delegate is also necessary.  
35 Agreement to the identified prospective adoptive parent by the  
36 responsible social services agency under section 260C.201,  
37 subdivision 11, does not constitute the required consent.

38 (e) The commissioner or agency having authority to place a  
39 child for adoption pursuant to section 259.25, subdivision 1,  
40 shall have the exclusive right to consent to the adoption of

1 such child. The commissioner or agency shall make every effort  
2 to place siblings together for adoption. Notwithstanding any  
3 rule to the contrary, the commissioner may delegate the right to  
4 consent to the adoption or separation of siblings, if it is in  
5 the child's best interest, to a local social services agency.

6 Sec. 2. Minnesota Statutes 2004, section 259.24,  
7 subdivision 2a, is amended to read:

8 Subd. 2a. [TIME OF CONSENT; NOTICE OF INTENT TO CONSENT TO  
9 ADOPTION.] (a) Not sooner than 72 hours after the birth of a  
10 child and not later than 60 days after the child's placement in  
11 a prospective adoptive home, a person whose consent is required  
12 under this section shall execute a consent.

13 (b) Unless all birth parents from whom consent is required  
14 under this section are involved in making the adoptive placement  
15 and intend to consent to the adoption, a birth parent who  
16 intends to execute a consent to an adoption must give notice to  
17 the child's other birth parent of the intent to consent to the  
18 adoption prior to or within 72 hours following the placement of  
19 the child, if the other birth parent's consent to the adoption  
20 is required under subdivision 1. The birth parent who receives  
21 notice shall have 60 days after the placement of the child to  
22 either consent or refuse to consent to the adoption. If the  
23 birth parent who receives notice fails to take either of these  
24 actions, that parent shall be deemed to have irrevocably  
25 consented to the child's adoption. The notice provisions of  
26 chapter 260C and the rules of juvenile protection procedure  
27 shall apply to both parents when the consent to adopt is  
28 executed under section 260C.201, subdivision 11.

29 (c) When notice is required under this subdivision, it  
30 shall be provided to the other birth parent according to the  
31 Rules of Civil Procedure for service of a summons and complaint.

32 Sec. 3. Minnesota Statutes 2004, section 259.24,  
33 subdivision 5, is amended to read:

34 Subd. 5. [EXECUTION.] All consents to an adoption shall be  
35 in writing, executed before two competent witnesses, and  
36 acknowledged by the consenting party. In addition, all consents

1 to an adoption, except those by the commissioner, the  
2 commissioner's agent, a licensed child-placing agency, an adult  
3 adoptee, or the child's parent in a petition for adoption by a  
4 stepparent, shall be executed before a representative of the  
5 commissioner, the commissioner's agent, or a licensed  
6 child-placing agency. All consents by a parent:

7 (1) shall contain notice to the parent of the substance of  
8 subdivision 6a, providing for the right to withdraw  
9 consent unless the parent will not have the right to withdraw  
10 consent because consent was executed under section 260C.201,  
11 subdivision 11, following proper notice that consent given under  
12 that provision is irrevocable upon acceptance by the court as  
13 provided in section 259.24, subdivision 6a; and

14 (2) shall contain the following written notice in all  
15 capital letters at least one-eighth inch high:

16 "This agency will submit your consent to adoption to the  
17 court. The consent itself does not terminate your parental  
18 rights. Parental rights to a child may be terminated only by an  
19 adoption decree or by a court order terminating parental  
20 rights. Unless the child is adopted or your parental rights are  
21 terminated, you may be asked to support the child."

22 Consents shall be filed in the adoption proceedings at any  
23 time before the matter is heard provided, however, that a  
24 consent executed and acknowledged outside of this state, either  
25 in accordance with the law of this state or in accordance with  
26 the law of the place where executed, is valid.

27 Sec. 4. Minnesota Statutes 2004, section 259.24,  
28 subdivision 6a, is amended to read:

29 Subd. 6a. [WITHDRAWAL OF CONSENT.] Except for consents  
30 executed under section 260C.201, subdivision 11, a parent's  
31 consent to adoption may be withdrawn for any reason within ten  
32 working days after the consent is executed and acknowledged.  
33 Written notification of withdrawal of consent must be received  
34 by the agency to which the child was surrendered no later than  
35 the tenth working day after the consent is executed and  
36 acknowledged. On the day following the tenth working day after

1 execution and acknowledgment, the consent shall become  
2 irrevocable, except upon order of a court of competent  
3 jurisdiction after written findings that consent was obtained by  
4 fraud. A consent to adopt executed under section 260C.201,  
5 subdivision 11, is irrevocable upon proper notice to both  
6 parents of the effect of a consent to adopt and acceptance by  
7 the court, except upon order of the same court after written  
8 findings that the consent was obtained by fraud. In proceedings  
9 to determine the existence of fraud, the adoptive parents and  
10 the child shall be made parties. The proceedings shall be  
11 conducted to preserve the confidentiality of the adoption  
12 process. There shall be no presumption in the proceedings  
13 favoring the birth parents over the adoptive parents.

14 Sec. 5. Minnesota Statutes 2004, section 260C.201,  
15 subdivision 11, is amended to read:

16 Subd. 11. [REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT  
17 PLACEMENT DETERMINATION.] (a) This subdivision and subdivision  
18 11a do not apply in cases where the child is in placement due  
19 solely to the child's developmental disability or emotional  
20 disturbance, where legal custody has not been transferred to the  
21 responsible social services agency, and where the court finds  
22 compelling reasons under section 260C.007, subdivision 8, to  
23 continue the child in foster care past the time periods  
24 specified in this subdivision. Foster care placements of  
25 children due solely to their disability are governed by section  
26 260C.141, subdivision 2b. In all other cases where the child is  
27 in foster care or in the care of a noncustodial parent under  
28 subdivision 1, the court shall conduct a hearing to determine  
29 the permanent status of a child not later than 12 months after  
30 the child is placed in foster care or in the care of a  
31 noncustodial parent.

32 For purposes of this subdivision, the date of the child's  
33 placement in foster care is the earlier of the first  
34 court-ordered placement or 60 days after the date on which the  
35 child has been voluntarily placed in foster care by the child's  
36 parent or guardian. For purposes of this subdivision, time

1 spent by a child under the protective supervision of the  
2 responsible social services agency in the home of a noncustodial  
3 parent pursuant to an order under subdivision 1 counts towards  
4 the requirement of a permanency hearing under this subdivision  
5 or subdivision 11a.

6 For purposes of this subdivision, 12 months is calculated  
7 as follows:

8 (1) during the pendency of a petition alleging that a child  
9 is in need of protection or services, all time periods when a  
10 child is placed in foster care or in the home of a noncustodial  
11 parent are cumulated;

12 (2) if a child has been placed in foster care within the  
13 previous five years under one or more previous petitions, the  
14 lengths of all prior time periods when the child was placed in  
15 foster care within the previous five years are cumulated. If a  
16 child under this clause has been in foster care for 12 months or  
17 more, the court, if it is in the best interests of the child and  
18 for compelling reasons, may extend the total time the child may  
19 continue out of the home under the current petition up to an  
20 additional six months before making a permanency determination.

21 (b) Unless the responsible social services agency  
22 recommends return of the child to the custodial parent or  
23 parents, not later than 30 days prior to this hearing, the  
24 responsible social services agency shall file pleadings in  
25 juvenile court to establish the basis for the juvenile court to  
26 order permanent placement of the child according to paragraph  
27 (d). Notice of the hearing and copies of the pleadings must be  
28 provided pursuant to section 260C.152. If a termination of  
29 parental rights petition is filed before the date required for  
30 the permanency planning determination and there is a trial under  
31 section 260C.163 scheduled on that petition within 90 days of  
32 the filing of the petition, no hearing need be conducted under  
33 this subdivision.

34 (c) At the conclusion of the hearing, the court shall order  
35 the child returned to the care of the parent or guardian from  
36 whom the child was removed or order a permanent placement in the

1 child's best interests. The "best interests of the child" means  
2 all relevant factors to be considered and evaluated. Transfer  
3 of permanent legal and physical custody, termination of parental  
4 rights, or guardianship and legal custody to the commissioner  
5 through a consent to adopt are preferred permanency options for  
6 a child who cannot return home.

7 (d) If the child is not returned to the home, the court  
8 must order one of the following dispositions:

9 (1) permanent legal and physical custody to a relative in  
10 the best interests of the child according to the following  
11 conditions:

12 (i) an order for transfer of permanent legal and physical  
13 custody to a relative shall only be made after the court has  
14 reviewed the suitability of the prospective legal and physical  
15 custodian;

16 (ii) in transferring permanent legal and physical custody  
17 to a relative, the juvenile court shall follow the standards  
18 applicable under this chapter and chapter 260, and the  
19 procedures set out in the juvenile court rules;

20 (iii) an order establishing permanent legal and physical  
21 custody under this subdivision must be filed with the family  
22 court;

23 (iv) a transfer of legal and physical custody includes  
24 responsibility for the protection, education, care, and control  
25 of the child and decision making on behalf of the child;

26 (v) the social services agency may bring a petition or  
27 motion naming a fit and willing relative as a proposed permanent  
28 legal and physical custodian. The commissioner of human  
29 services shall annually prepare for counties information that  
30 must be given to proposed custodians about their legal rights  
31 and obligations as custodians together with information on  
32 financial and medical benefits for which the child is eligible;  
33 and

34 (vi) the juvenile court may maintain jurisdiction over the  
35 responsible social services agency, the parents or guardian of  
36 the child, the child, and the permanent legal and physical

1 custodian for purposes of ensuring appropriate services are  
2 delivered to the child and permanent legal custodian or for the  
3 purpose of ensuring conditions ordered by the court related to  
4 the care and custody of the child are met;

5 (2) termination of parental rights according to the  
6 following conditions:

7 (i) unless the social services agency has already filed a  
8 petition for termination of parental rights under section  
9 260C.307, the court may order such a petition filed and all the  
10 requirements of sections 260C.301 to 260C.328 remain applicable;  
11 and

12 (ii) an adoption completed subsequent to a determination  
13 under this subdivision may include an agreement for  
14 communication or contact under section 259.58;

15 (3) long-term foster care according to the following  
16 conditions:

17 (i) the court may order a child into long-term foster care  
18 only if it finds compelling reasons that neither an award of  
19 permanent legal and physical custody to a relative, nor  
20 termination of parental rights is in the child's best interests;  
21 and

22 (ii) further, the court may only order long-term foster  
23 care for the child under this section if it finds the following:

24 (A) the child has reached age 12 and reasonable efforts by  
25 the responsible social services agency have failed to locate an  
26 adoptive family for the child; or

27 (B) the child is a sibling of a child described in subitem  
28 (A) and the siblings have a significant positive relationship  
29 and are ordered into the same long-term foster care home;

30 (4) foster care for a specified period of time according to  
31 the following conditions:

32 (i) foster care for a specified period of time may be  
33 ordered only if:

34 (A) the sole basis for an adjudication that the child is in  
35 need of protection or services is the child's behavior;

36 (B) the court finds that foster care for a specified period

1 of time is in the best interests of the child; and

2 (C) the court finds compelling reasons that neither an  
3 award of permanent legal and physical custody to a relative, nor  
4 termination of parental rights is in the child's best interests;

5 (ii) the order does not specify that the child continue in  
6 foster care for any period exceeding one year; or

7 (5) guardianship and legal custody to the commissioner of  
8 human services under the following procedures and conditions:

9 (i) there is an identified prospective adoptive home that  
10 has agreed to adopt the child, agreed to by the responsible  
11 social services agency having legal custody of the child  
12 pursuant to court order under this section, and the court  
13 accepts the parent's voluntary consent to adopt under section  
14 259.24;

15 (ii) if the court accepts a consent to adopt in lieu of  
16 ordering one of the other enumerated permanency dispositions,  
17 the court must review the matter at least every 90 days. The  
18 review will address the reasonable efforts of the agency to  
19 achieve a finalized adoption;

20 (iii) a consent to adopt under this clause vests all legal  
21 authority regarding the child, including guardianship and legal  
22 custody of the child, with the commissioner of human services as  
23 if the child were a state ward after termination of parental  
24 rights;

25 (iv) the court must forward a copy of the consent to adopt,  
26 together with a certified copy of the order transferring  
27 guardianship and legal custody to the commissioner, to the  
28 commissioner; and

29 (v) if an adoption is not finalized by the identified  
30 prospective adoptive parent within 12 months of the execution of  
31 the consent to adopt under this clause, the commissioner of  
32 human services or the commissioner's delegate shall pursue  
33 adoptive placement in another home unless the commissioner  
34 certifies that the failure to finalize is not due to either an  
35 action or a failure to act by the prospective adoptive parent;  
36 and



1        (vi) notwithstanding item (v), the commissioner of human  
2 services or the commissioner's designee must pursue adoptive  
3 placement in another home as soon as the commissioner or  
4 commissioner's designee determines that finalization of the  
5 adoption with the identified prospective adoptive parent is not  
6 possible, that the identified prospective adoptive parent is not  
7 willing to adopt the child, that the identified prospective  
8 adoptive parent is not cooperative in completing the steps  
9 necessary to finalize the adoption, or upon the commissioner's  
10 determination to withhold consent to the adoption.

11        (e) In ordering a permanent placement of a child, the court  
12 must be governed by the best interests of the child, including a  
13 review of the relationship between the child and relatives and  
14 the child and other important persons with whom the child has  
15 resided or had significant contact.

16        (f) Once a permanent placement determination has been made  
17 and permanent placement has been established, further court  
18 reviews are necessary if:

19        (1) the placement is long-term foster care or foster care  
20 for a specified period of time;

21        (2) the court orders further hearings because it has  
22 retained jurisdiction of a transfer of permanent legal and  
23 physical custody matter;

24        (3) an adoption has not yet been finalized; or

25        (4) there is a disruption of the permanent or long-term  
26 placement.

27        (g) Court reviews of an order for long-term foster care,  
28 whether under this section or section 260C.317, subdivision 3,  
29 paragraph (d), or foster care for a specified period of time  
30 must be conducted at least yearly and must review the child's  
31 out-of-home placement plan and the reasonable efforts of the  
32 agency to:

33        (1) identify a specific long-term foster home for the child  
34 or a specific foster home for the time the child is specified to  
35 be out of the care of the parent, if one has not already been  
36 identified;

1 (2) support continued placement of the child in the  
2 identified home, if one has been identified;

3 (3) ensure appropriate services are provided to the child  
4 during the period of long-term foster care or foster care for a  
5 specified period of time;

6 (4) plan for the child's independence upon the child's  
7 leaving long-term foster care living as required under section  
8 260C.212, subdivision 1; and

9 (5) where placement is for a specified period of time, a  
10 plan for the safe return of the child to the care of the parent.

11 (h) An order under this subdivision must include the  
12 following detailed findings:

13 (1) how the child's best interests are served by the order;

14 (2) the nature and extent of the responsible social service  
15 agency's reasonable efforts, or, in the case of an Indian child,  
16 active efforts to reunify the child with the parent or parents;

17 (3) the parent's or parents' efforts and ability to use  
18 services to correct the conditions which led to the out-of-home  
19 placement; and

20 (4) whether the conditions which led to the out-of-home  
21 placement have been corrected so that the child can return home.

22 (i) An order for permanent legal and physical custody of a  
23 child may be modified under sections 518.18 and 518.185. The  
24 social services agency is a party to the proceeding and must  
25 receive notice. A parent may only seek modification of an order  
26 for long-term foster care upon motion and a showing by the  
27 parent of a substantial change in the parent's circumstances  
28 such that the parent could provide appropriate care for the  
29 child and that removal of the child from the child's permanent  
30 placement and the return to the parent's care would be in the  
31 best interest of the child.

32 (j) The court shall issue an order required under this  
33 section within 15 days of the close of the proceedings. The  
34 court may extend issuing the order an additional 15 days when  
35 necessary in the interests of justice and the best interests of  
36 the child.

1 Sec. 6. [260C.209] [BACKGROUND CHECKS.]

2 Subdivision 1. [SUBJECTS.] (a) The responsible social  
3 services agency must conduct a background check under this  
4 section of the following:

5 (1) a noncustodial parent or nonadjudicated parent who is  
6 being assessed for purposes of providing day-to-day care of a  
7 child temporarily or permanently under section 260C.212,  
8 subdivision 4, and any member of the parent's household who is  
9 over the age of 13 when there is reasonable cause to believe  
10 that the parent or household member over age 13 has a criminal  
11 history or a history of maltreatment of a child or vulnerable  
12 adult which would endanger the child's health, safety, or  
13 welfare;

14 (2) an individual whose suitability for relative placement  
15 under section 260C.212, subdivision 5, is being determined, and  
16 any member of the relative's household who is over the age of 13  
17 when:

18 (i) the relative must be licensed for foster care; or

19 (ii) the agency must conduct a background study under  
20 section 259.53, subdivision 2; or

21 (iii) the agency has reasonable cause to believe the  
22 relative or household member over the age of 13 has a criminal  
23 history which would not make transfer of permanent legal and  
24 physical custody to the relative under section 260C.201,  
25 subdivision 11, in the child's best interest; and

26 (3) a parent, following an out-of-home placement:

27 (i) when the responsible social service agency has  
28 reasonable cause to believe that the parent has been convicted  
29 of a crime directly related to the parent's capacity to maintain  
30 the child's health, safety, or welfare; or

31 (ii) the parent is the subject of an open investigation of,  
32 or has been the subject of a substantiated allegation of, child  
33 or vulnerable-adult maltreatment within the past ten years.

34 (b) "Reasonable cause" means that the agency has received  
35 information or a report from the subject or a third person that  
36 creates an articulable suspicion that the individual has a

1 history that may pose a risk to the health, safety, or welfare  
2 of the child. The information or report must be specific to the  
3 potential subject of the background check and shall not be based  
4 on the race, religion, ethnic background, age, class, or  
5 lifestyle of the potential subject.

6 Subd. 2. [GENERAL PROCEDURES.] (a) When conducting a  
7 background check under subdivision 1, the agency may require the  
8 individual being assessed to provide sufficient information to  
9 ensure an accurate assessment under this section, including:

10 (1) the individual's first, middle, and last name and all  
11 other names by which the individual has been known;

12 (2) home address, zip code, city, county, and state of  
13 residence for the past ten years;

14 (3) sex;

15 (4) date of birth; and

16 (5) driver's license number or state identification number.

17 (b) When notified by the responsible social services agency  
18 that it is conducting an assessment under this section, the  
19 Bureau of Criminal Apprehension, commissioners of health and  
20 human services, law enforcement, and county agencies must  
21 provide the responsible social services agency or county  
22 attorney with the following information on the individual being  
23 assessed: criminal history data, reports about the maltreatment  
24 of adults substantiated under section 626.557, and reports of  
25 maltreatment of minors substantiated under section 626.556.

26 Subd. 3. [MULTISTATE INFORMATION.] (a) For any assessment  
27 completed under this section, if the responsible social services  
28 agency has reasonable cause to believe that the individual is a  
29 multistate offender, the individual must provide the responsible  
30 social services agency or the county attorney with a set of  
31 classifiable fingerprints obtained from an authorized law  
32 enforcement agency. The responsible social services agency or  
33 county attorney may obtain criminal history data from the  
34 National Criminal Records Repository by submitting the  
35 fingerprints to the Bureau of Criminal Apprehension.

36 (b) For purposes of this subdivision, the responsible

1 social services agency has reasonable cause when, but not  
2 limited to:

3 (1) information from the Bureau of Criminal Apprehension  
4 indicates that the individual is a multistate offender;

5 (2) information from the Bureau of Criminal Apprehension  
6 indicates that multistate offender status is undetermined;

7 (3) the social services agency has received a report from  
8 the individual or a third party indicating that the individual  
9 has a criminal history in a jurisdiction other than Minnesota;

10 or

11 (4) the individual is or has been a resident of a state  
12 other than Minnesota at any time during the prior ten years.

13 Subd. 4. [NOTICE UPON RECEIPT.] The responsible social  
14 services agency must provide the subject of the background study  
15 with the results of the study under this section within 15  
16 business days of receipt or at least 15 days prior to hearing at  
17 which the results will be presented, whichever comes first. The  
18 subject may provide written information to the agency that the  
19 results are incorrect and may provide additional or clarifying  
20 information to the agency and to the court through a party to  
21 the proceeding. This provision does not apply to any background  
22 study conducted under chapters 245A and 245C.

23 Sec. 7. Minnesota Statutes 2004, section 260C.212,  
24 subdivision 4, is amended to read:

25 Subd. 4. [RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR  
26 CHILDREN IN PLACEMENT.] (a) When a child is in placement, the  
27 responsible social services agency shall make diligent efforts  
28 to identify, locate, and, where appropriate, offer services to  
29 both parents of the child.

30 (1) If The responsible social services agency shall assess  
31 whether a noncustodial or nonadjudicated parent is willing and  
32 capable of providing for the day-to-day care of the child  
33 temporarily or permanently. An assessment under this clause may  
34 include, but is not limited to, obtaining information under  
35 section 260C.209. If after assessment, the responsible social  
36 services agency determines that a noncustodial or nonadjudicated

1 parent is willing and capable of providing day-to-day care of  
2 the child, the responsible social services agency may seek  
3 authority from the custodial parent or the court to have that  
4 parent assume day-to-day care of the child. If a parent is not  
5 an adjudicated parent, the responsible social services agency  
6 shall require the nonadjudicated parent to cooperate with  
7 paternity establishment procedures as part of the case plan.

8 (2) If, after assessment, the responsible social services  
9 agency determines that the child cannot be in the day-to-day  
10 care of either parent<sup>7</sup>:

11 (i) the agency shall prepare an out-of-home placement plan  
12 addressing the conditions that each parent must meet before the  
13 child can be in that parent's day-to-day care;

14 (ii) provide a parent who is the subject of a background  
15 study under section 260C.209, 15 days' notice that it intends to  
16 use the study to recommend against putting the child with that  
17 parent, as well as the notice provided in section 260C.209,  
18 subdivision 4, and the court shall afford the parent an  
19 opportunity to be heard concerning the study; and

20 (iii) the results of a background study of a noncustodial  
21 parent shall not be used by the agency to determine that the  
22 parent is incapable of providing day-to-day care of the child  
23 unless the agency reasonably believes that placement of the  
24 child into the home of that parent would endanger the child's  
25 health, safety, or welfare.

26 (3) If, after the provision of services following an  
27 out-of-home placement plan under this section, the child cannot  
28 return to the care of the parent from whom the child was removed  
29 or who had legal custody at the time the child was placed in  
30 foster care, the agency may petition on behalf of a noncustodial  
31 parent to establish legal custody with that parent under section  
32 260C.201, subdivision 11. If paternity has not already been  
33 established, it may be established in the same proceeding in the  
34 manner provided for under chapter 257.

35 (4) The responsible social services agency may be relieved  
36 of the requirement to locate and offer services to both parents

1 by the juvenile court upon a finding of good cause after the  
2 filing of a petition under section 260C.141.

3 (b) The responsible social services agency shall give  
4 notice to the parent or parents or guardian of each child in a  
5 residential facility, other than a child in placement due solely  
6 to that child's developmental disability or emotional  
7 disturbance, of the following information:

8 (1) that residential care of the child may result in  
9 termination of parental rights or an order permanently placing  
10 the child out of the custody of the parent, but only after  
11 notice and a hearing as required under chapter 260C and the  
12 juvenile court rules;

13 (2) time limits on the length of placement and of  
14 reunification services, including the date on which the child is  
15 expected to be returned to and safely maintained in the home of  
16 the parent or parents or placed for adoption or otherwise  
17 permanently removed from the care of the parent by court order;

18 (3) the nature of the services available to the parent;

19 (4) the consequences to the parent and the child if the  
20 parent fails or is unable to use services to correct the  
21 circumstances that led to the child's placement;

22 (5) the first consideration for placement with relatives;

23 (6) the benefit to the child in getting the child out of  
24 residential care as soon as possible, preferably by returning  
25 the child home, but if that is not possible, through a permanent  
26 legal placement of the child away from the parent;

27 (7) when safe for the child, the benefits to the child and  
28 the parent of maintaining visitation with the child as soon as  
29 possible in the course of the case and, in any event, according  
30 to the visitation plan under this section; and

31 (8) the financial responsibilities and obligations, if any,  
32 of the parent or parents for the support of the child during the  
33 period the child is in the residential facility.

34 (c) The responsible social services agency shall inform a  
35 parent considering voluntary placement of a child who is not  
36 developmentally disabled or emotionally disturbed of the

1 following information:

2 (1) the parent and the child each has a right to separate  
3 legal counsel before signing a voluntary placement agreement,  
4 but not to counsel appointed at public expense;

5 (2) the parent is not required to agree to the voluntary  
6 placement, and a parent who enters a voluntary placement  
7 agreement may at any time request that the agency return the  
8 child. If the parent so requests, the child must be returned  
9 within 24 hours of the receipt of the request;

10 (3) evidence gathered during the time the child is  
11 voluntarily placed may be used at a later time as the basis for  
12 a petition alleging that the child is in need of protection or  
13 services or as the basis for a petition seeking termination of  
14 parental rights or other permanent placement of the child away  
15 from the parent;

16 (4) if the responsible social services agency files a  
17 petition alleging that the child is in need of protection or  
18 services or a petition seeking the termination of parental  
19 rights or other permanent placement of the child away from the  
20 parent, the parent would have the right to appointment of  
21 separate legal counsel and the child would have a right to the  
22 appointment of counsel and a guardian ad litem as provided by  
23 law, and that counsel will be appointed at public expense if  
24 they are unable to afford counsel; and

25 (5) the timelines and procedures for review of voluntary  
26 placements under subdivision 3, and the effect the time spent in  
27 voluntary placement on the scheduling of a permanent placement  
28 determination hearing under section 260C.201, subdivision 11.

29 (d) When an agency accepts a child for placement, the  
30 agency shall determine whether the child has had a physical  
31 examination by or under the direction of a licensed physician  
32 within the 12 months immediately preceding the date when the  
33 child came into the agency's care. If there is documentation  
34 that the child has had an examination within the last 12 months,  
35 the agency is responsible for seeing that the child has another  
36 physical examination within one year of the documented



1 examination and annually in subsequent years. If the agency  
 2 determines that the child has not had a physical examination  
 3 within the 12 months immediately preceding placement, the agency  
 4 shall ensure that the child has an examination within 30 days of  
 5 coming into the agency's care and once a year in subsequent  
 6 years."

7 And when so amended the bill do pass and be re-referred to  
 8 the Committee on Finance. Amendments adopted. Report adopted.

9

10  
 11  
 12  
 13  
 14

.....  
 (Committee Chair)

March 31, 2005.....  
 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 1920 - Custody and Parenting Time Safety Focus**

**Author:** Senator Thomas M. Neuville

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** March 28, 2005



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**S.F. No. 1920** allows the judge, in awarding temporary custody of children in domestic abuse proceedings, to consider the best interest factors set out in various laws but does not require him to make findings on best interest.

HW:cs

1 To: Senator Betzold, Chair

2 Committee on Judiciary

3 Senator Neuville,

4 Chair of the Subcommittee on Family Law, to which was  
5 referred

6 S.F. No. 1920: A bill for an act relating to domestic  
7 abuse; returning to a safety focus when awarding custody and  
8 parenting time in the context of a domestic abuse hearing;  
9 amending Minnesota Statutes 2004, section 518B.01, subdivision 6.

10 Reports the same back with the recommendation that the bill  
11 be amended as follows:

12 Delete everything after the enacting clause and insert:

13 "Section 1. Minnesota Statutes 2004, section 518B.01,  
14 subdivision 6, is amended to read:

15 Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and  
16 hearing, the court may provide relief as follows:

17 (1) restrain the abusing party from committing acts of  
18 domestic abuse;

19 (2) exclude the abusing party from the dwelling which the  
20 parties share or from the residence of the petitioner;

21 (3) exclude the abusing party from a reasonable area  
22 surrounding the dwelling or residence, which area shall be  
23 described specifically in the order;

24 (4) award temporary custody or establish temporary  
25 parenting time with regard to minor children of the parties on a  
26 basis which gives primary consideration to the safety of the  
27 victim and the children. ~~Except-for-cases-in-which-custody-is~~  
28 ~~contested~~; Findings under section 257.025, 518.17, or 518.175  
29 are not required. If the court finds that the safety of the  
30 victim or the children will be jeopardized by unsupervised or  
31 unrestricted parenting time, the court shall condition or  
32 restrict parenting time as to time, place, duration, or  
33 supervision, or deny parenting time entirely, as needed to guard  
34 the safety of the victim and the children. The court's decision  
35 on custody and parenting time shall in no way delay the issuance  
36 of an order for protection granting other relief provided for in  
37 this section. The court must not enter a parenting plan under  
38 section 518.1705 as part of an action for an order for

1 protection;

2 (5) on the same basis as is provided in chapter 518,  
3 establish temporary support for minor children or a spouse, and  
4 order the withholding of support from the income of the person  
5 obligated to pay the support according to chapter 518;

6 (6) provide upon request of the petitioner counseling or  
7 other social services for the parties, if married, or if there  
8 are minor children;

9 (7) order the abusing party to participate in treatment or  
10 counseling services, including requiring the abusing party to  
11 successfully complete a domestic abuse counseling program or  
12 educational program under section 518B.02;

13 (8) award temporary use and possession of property and  
14 restrain one or both parties from transferring, encumbering,  
15 concealing, or disposing of property except in the usual course  
16 of business or for the necessities of life, and to account to  
17 the court for all such transfers, encumbrances, dispositions,  
18 and expenditures made after the order is served or communicated  
19 to the party restrained in open court;

20 (9) exclude the abusing party from the place of employment  
21 of the petitioner, or otherwise limit access to the petitioner  
22 by the abusing party at the petitioner's place of employment;

23 (10) order the abusing party to pay restitution to the  
24 petitioner;

25 (11) order the continuance of all currently available  
26 insurance coverage without change in coverage or beneficiary  
27 designation; and

28 (12) order, in its discretion, other relief as it deems  
29 necessary for the protection of a family or household member,  
30 including orders or directives to the sheriff, constable, or  
31 other law enforcement or corrections officer as provided by this  
32 section.

33 (b) Any relief granted by the order for protection shall be  
34 for a fixed period not to exceed one year, except when the court  
35 determines a longer fixed period is appropriate. When a referee  
36 presides at the hearing on the petition, the order granting

1 relief becomes effective upon the referee's signature.

2 (c) An order granting the relief authorized in paragraph  
3 (a), clause (1), may not be vacated or modified in a proceeding  
4 for dissolution of marriage or legal separation, except that the  
5 court may hear a motion for modification of an order for  
6 protection concurrently with a proceeding for dissolution of  
7 marriage upon notice of motion and motion. The notice required  
8 by court rule shall not be waived. If the proceedings are  
9 consolidated and the motion to modify is granted, a separate  
10 order for modification of an order for protection shall be  
11 issued.

12 (d) An order granting the relief authorized in paragraph  
13 (a), clause (2) or (3), is not voided by the admittance of the  
14 abusing party into the dwelling from which the abusing party is  
15 excluded.

16 (e) If a proceeding for dissolution of marriage or legal  
17 separation is pending between the parties, the court shall  
18 provide a copy of the order for protection to the court with  
19 jurisdiction over the dissolution or separation proceeding for  
20 inclusion in its file.

21 (f) An order for restitution issued under this subdivision  
22 is enforceable as civil judgment.

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

25 Amend the title as follows:

26 Page 1, lines 2 and 3, delete "returning to a safety focus"  
27 and insert "limiting required findings"

28 And when so amended that the bill be recommended to pass  
29 and be referred to the full committee.

30 .....  
31 (Subcommittee Chair)  
32  
33 March 29, 2005.....  
34 (Date of Subcommittee action)

1 Senator ..... moves to amend S.F. No. 1920 as  
2 follows:

3 Delete everything after the enacting clause and insert:

4 "Section 1. Minnesota Statutes 2004, section 518B.01,  
5 subdivision 6, is amended to read:

6 Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and  
7 hearing, the court may provide relief as follows:

8 (1) restrain the abusing party from committing acts of  
9 domestic abuse;

10 (2) exclude the abusing party from the dwelling which the  
11 parties share or from the residence of the petitioner;

12 (3) exclude the abusing party from a reasonable area  
13 surrounding the dwelling or residence, which area shall be  
14 described specifically in the order;

15 (4) award temporary custody or establish temporary  
16 parenting time with regard to minor children of the parties on a  
17 basis which gives primary consideration to the safety of the  
18 victim and the children. ~~Except-for-cases-in-which-custody-is~~  
19 ~~contested~~, Findings under section 257.025, 518.17, or 518.175  
20 are not required. If the court finds that the safety of the  
21 victim or the children will be jeopardized by unsupervised or  
22 unrestricted parenting time, the court shall condition or  
23 restrict parenting time as to time, place, duration, or  
24 supervision, or deny parenting time entirely, as needed to guard  
25 the safety of the victim and the children. The court's decision  
26 on custody and parenting time shall in no way delay the issuance  
27 of an order for protection granting other relief provided for in  
28 this section. The court must not enter a parenting plan under  
29 section 518.1705 as part of an action for an order for  
30 protection;

31 (5) on the same basis as is provided in chapter 518,  
32 establish temporary support for minor children or a spouse, and  
33 order the withholding of support from the income of the person  
34 obligated to pay the support according to chapter 518;

35 (6) provide upon request of the petitioner counseling or  
36 other social services for the parties, if married, or if there

1 are minor children;

2 (7) order the abusing party to participate in treatment or  
3 counseling services, including requiring the abusing party to  
4 successfully complete a domestic abuse counseling program or  
5 educational program under section 518B.02;

6 (8) award temporary use and possession of property and  
7 restrain one or both parties from transferring, encumbering,  
8 concealing, or disposing of property except in the usual course  
9 of business or for the necessities of life, and to account to  
10 the court for all such transfers, encumbrances, dispositions,  
11 and expenditures made after the order is served or communicated  
12 to the party restrained in open court;

13 (9) exclude the abusing party from the place of employment  
14 of the petitioner, or otherwise limit access to the petitioner  
15 by the abusing party at the petitioner's place of employment;

16 (10) order the abusing party to pay restitution to the  
17 petitioner;

18 (11) order the continuance of all currently available  
19 insurance coverage without change in coverage or beneficiary  
20 designation; and

21 (12) order, in its discretion, other relief as it deems  
22 necessary for the protection of a family or household member,  
23 including orders or directives to the sheriff, constable, or  
24 other law enforcement or corrections officer as provided by this  
25 section.

26 (b) Any relief granted by the order for protection shall be  
27 for a fixed period not to exceed one year, except when the court  
28 determines a longer fixed period is appropriate. When a referee  
29 presides at the hearing on the petition, the order granting  
30 relief becomes effective upon the referee's signature.

31 (c) An order granting the relief authorized in paragraph  
32 (a), clause (1), may not be vacated or modified in a proceeding  
33 for dissolution of marriage or legal separation, except that the  
34 court may hear a motion for modification of an order for  
35 protection concurrently with a proceeding for dissolution of  
36 marriage upon notice of motion and motion. The notice required

1 by court rule shall not be waived. If the proceedings are  
2 consolidated and the motion to modify is granted, a separate  
3 order for modification of an order for protection shall be  
4 issued.

5 (d) An order granting the relief authorized in paragraph  
6 (a), clause (2) or (3), is not voided by the admittance of the  
7 abusing party into the dwelling from which the abusing party is  
8 excluded.

9 (e) If a proceeding for dissolution of marriage or legal  
10 separation is pending between the parties, the court shall  
11 provide a copy of the order for protection to the court with  
12 jurisdiction over the dissolution or separation proceeding for  
13 inclusion in its file.

14 (f) An order for restitution issued under this subdivision  
15 is enforceable as civil judgment.

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



1 Senator ..... moves to amend S.F. No. .... as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [244.057] [OFFENDERS RESIDING IN HOUSEHOLDS  
4 WITH CHILDREN; NOTICE TO CORRECTIONS AGENT.]

5 An offender required to register as a predatory offender  
6 under section 243.166 shall inform the offender's corrections  
7 agent if the offender is residing in a household where a child  
8 is residing. The offender shall inform the agent of the name,  
9 age, and relationship to the offender of all children residing  
10 in the household.

11 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
12 and applies to persons under correctional supervision on or  
13 after that date.

14 Sec. 2. [257.026] [NOTIFICATION OF RESIDENCE WITH CERTAIN  
15 CONVICTED PERSONS.]

16 A person who is granted custody of a child under this  
17 chapter or chapter 518 must notify the child's noncustodial  
18 parent, if any, the local welfare agency, and the court that  
19 granted the custody if the person with custody knowingly marries  
20 or lives in the same residence with a person who has been  
21 convicted of a crime listed in section 518.179, subdivision 2.

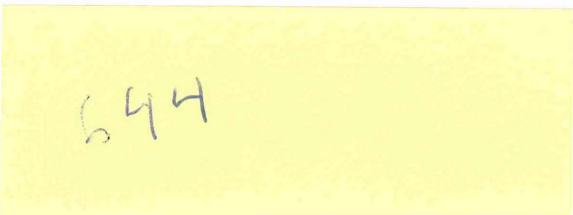
22 Sec. 3. Minnesota Statutes 2004, section 257.55,  
23 subdivision 1, is amended to read:

24 Subdivision 1. [PRESUMPTION.] A man is presumed to be the  
25 biological father of a child if:

26 (a) He and the child's biological mother are or have been  
27 married to each other and the child is born during the marriage,  
28 or within 280 days after the marriage is terminated by death,  
29 annulment, declaration of invalidity, dissolution, or divorce,  
30 or after a decree of legal separation is entered by a court.

31 The presumption in this paragraph does not apply if the man has  
32 joined in a recognition of parentage recognizing another man as  
33 the biological father under section 257.75, subdivision 1a;

34 (b) Before the child's birth, he and the child's biological  
35 mother have attempted to marry each other by a marriage  
36 solemnized in apparent compliance with law, although the



1 attempted marriage is or could be declared void, voidable, or  
2 otherwise invalid, and,

3 (1) if the attempted marriage could be declared invalid  
4 only by a court, the child is born during the attempted  
5 marriage, or within 280 days after its termination by death,  
6 annulment, declaration of invalidity, dissolution or divorce; or

7 (2) if the attempted marriage is invalid without a court  
8 order, the child is born within 280 days after the termination  
9 of cohabitation;

10 (c) After the child's birth, he and the child's biological  
11 mother have married, or attempted to marry, each other by a  
12 marriage solemnized in apparent compliance with law, although  
13 the attempted marriage is or could be declared void, voidable,  
14 or otherwise invalid, and,

15 (1) he has acknowledged his paternity of the child in  
16 writing filed with the state registrar of vital statistics;

17 (2) with his consent, he is named as the child's father on  
18 the child's birth record; or

19 (3) he is obligated to support the child under a written  
20 voluntary promise or by court order;

21 ~~(d) While the child is under the age of majority, he~~  
22 ~~receives the child into his home~~ During the first two years of  
23 the child's life, he resided in the same household with the  
24 child for at least 12 months and openly ~~holds~~ held out the child  
25 as his ~~biological child~~ own;

26 (e) He and the child's biological mother acknowledge his  
27 paternity of the child in a writing signed by both of them under  
28 section 257.34 and filed with the state registrar of vital  
29 statistics. If another man is presumed under this paragraph to  
30 be the child's father, acknowledgment may be effected only with  
31 the written consent of the presumed father or after the  
32 presumption has been rebutted;

33 ~~(f) Evidence of statistical probability of paternity based~~  
34 ~~on blood or genetic testing establishes the likelihood that he~~  
35 ~~is the father of the child, calculated with a prior probability~~  
36 ~~of no more than 0.5 (50 percent), is 99 percent or greater;~~

1       ~~(g)~~ He and the child's biological mother have executed a  
2 recognition of parentage in accordance with section 257.75 and  
3 another man is presumed to be the father under this subdivision;

4       ~~(h)~~ (g) He and the child's biological mother have executed  
5 a recognition of parentage in accordance with section 257.75 and  
6 another man and the child's mother have executed a recognition  
7 of parentage in accordance with section 257.75; or

8       ~~(i)~~ (h) He and the child's biological mother executed a  
9 recognition of parentage in accordance with section 257.75 when  
10 either or both of the signatories were less than 18 years of age.

11       Sec. 4. Minnesota Statutes 2004, section 257.57,  
12 subdivision 2, is amended to read:

13       Subd. 2. [ACTIONS UNDER OTHER PARAGRAPHS OF SECTION  
14 257.55, SUBDIVISION 1.] The child, the mother, or personal  
15 representative of the child, the public authority chargeable by  
16 law with the support of the child, the personal representative  
17 or a parent of the mother if the mother has died or is a minor,  
18 a man alleged or alleging himself to be the father, or the  
19 personal representative or a parent of the alleged father if the  
20 alleged father has died or is a minor may bring an action:

21       (1) at any time for the purpose of declaring the existence  
22 of the father and child relationship presumed under ~~section~~  
23 sections 257.55, subdivision 1, paragraph (d), (e), ~~(f)~~ (g), or  
24 (h), and 257.62, subdivision 5, paragraph (b), or the  
25 nonexistence of the father and child relationship presumed under  
26 section 257.55, subdivision 1, clause (d) of-that-subdivision;

27       (2) for the purpose of declaring the nonexistence of the  
28 father and child relationship presumed under section 257.55,  
29 subdivision 1, paragraph (e) or (g), only if the action is  
30 brought within six months after the person bringing the action  
31 obtains the results of blood or genetic tests that indicate that  
32 the presumed father is not the father of the child;

33       (3) for the purpose of declaring the nonexistence of the  
34 father and child relationship presumed under ~~section 257.55~~  
35 ~~subdivision 1, paragraph (f)~~ 257.62, subdivision 5, paragraph  
36 (b), only if the action is brought within three years after the

1 party bringing the action, or the party's attorney of record,  
2 has been provided the blood or genetic test results; or

3 (4) for the purpose of declaring the nonexistence of the  
4 father and child relationship presumed under section 257.75,  
5 subdivision 9, only if the action is brought by the minor  
6 signatory within six months after the minor signatory reaches  
7 the age of 18. In the case of a recognition of parentage  
8 executed by two minor signatories, the action to declare the  
9 nonexistence of the father and child relationship must be  
10 brought within six months after the youngest signatory reaches  
11 the age of 18.

12 Sec. 5. Minnesota Statutes 2004, section 257.62,  
13 subdivision 5, is amended to read:

14 Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of  
15 blood or genetic tests completed in a laboratory accredited by  
16 the American Association of Blood Banks indicate that the  
17 likelihood of the alleged father's paternity, calculated with a  
18 prior probability of no more than 0.5 (50 percent), is 92  
19 percent or greater, upon motion the court shall order the  
20 alleged father to pay temporary child support determined  
21 according to chapter 518. The alleged father shall pay the  
22 support money to the public authority if the public authority is  
23 a party and is providing services to the parties or, if not,  
24 into court pursuant to the Rules of Civil Procedure to await the  
25 results of the paternity proceedings.

26 (b) If the results of blood or genetic tests completed in a  
27 laboratory accredited by the American Association of Blood Banks  
28 indicate that likelihood of the alleged father's paternity,  
29 calculated with a prior probability of no more than 0.5 (50  
30 percent), is 99 percent or greater, there is an evidentiary  
31 presumption that the alleged father is ~~presumed-to-be~~ the parent  
32 and the party opposing the establishment of the alleged father's  
33 paternity has the burden of proving by clear and convincing  
34 evidence that the alleged father is not the father of the child.

35 Sec. 6. Minnesota Statutes 2004, section 257C.03,  
36 subdivision 7, is amended to read:

1 Subd. 7. [INTERESTED THIRD PARTY; BURDEN OF PROOF;  
2 FACTORS.] (a) To establish that an individual is an interested  
3 third party, the individual must:

4 (1) show by clear and convincing evidence that one of the  
5 following factors exist:

6 (i) the parent has abandoned, neglected, or otherwise  
7 exhibited disregard for the child's well-being to the extent  
8 that the child will be harmed by living with the parent;

9 (ii) placement of the child with the individual takes  
10 priority over preserving the day-to-day parent-child  
11 relationship because of the presence of physical or emotional  
12 danger to the child, or both; or

13 (iii) other extraordinary circumstances; and

14 (2) prove by a preponderance of the evidence that it is in  
15 the best interests of the child to be in the custody of the  
16 interested third party; and

17 (3) show by clear and convincing evidence that granting the  
18 petition would not violate section 518.179, subdivision 1a.

19 (b) The following factors must be considered by the court  
20 in determining an interested third party's petition:

21 (1) the amount of involvement the interested third party  
22 had with the child during the parent's absence or during the  
23 child's lifetime;

24 (2) the amount of involvement the parent had with the child  
25 during the parent's absence;

26 (3) the presence or involvement of other interested third  
27 parties;

28 (4) the facts and circumstances of the parent's absence;

29 (5) the parent's refusal to comply with conditions for  
30 retaining custody set forth in previous court orders;

31 (6) whether the parent now seeking custody was previously  
32 prevented from doing so as a result of domestic violence;

33 (7) whether a sibling of the child is already in the care  
34 of the interested third party; and

35 (8) the existence of a standby custody designation under  
36 chapter 257B.

1 (c) In determining the best interests of the child, the  
2 court must apply the standards in section 257C.04.

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

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

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

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

15 Sec. 8. Minnesota Statutes 2004, section 518.175,  
16 subdivision 3, is amended to read:

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

25 The court shall apply a best interests standard when  
26 considering the request of the parent with whom the child  
27 resides to move the child's residence to another state. The  
28 factors the court must consider in determining the child's best  
29 interests include, but are not limited to, the following:

30 (1) the nature, quality, extent of involvement, and  
31 duration of the child's relationship with the person proposing  
32 to relocate and with the nonrelocating person, siblings, and  
33 other significant persons in the child's life;

34 (2) the age, developmental stage, needs of the child, and  
35 the likely impact the relocation will have on the child's  
36 physical, educational, and emotional development, taking into

1 consideration any special needs of the child;

2 (3) the feasibility of preserving the relationship between  
3 the nonrelocating person and the child through suitable  
4 parenting time arrangements, considering the logistics and  
5 financial circumstances of the parties;

6 (4) the child's preference, taking into consideration the  
7 age and maturity of the child;

8 (5) whether there is an established pattern of conduct of  
9 the person seeking the relocation either to promote or thwart  
10 the relationship of the child and the nonrelocating person;

11 (6) whether the relocation of the child will enhance the  
12 general quality of the life for both the custodial parent  
13 seeking the relocation and the child including, but not limited  
14 to, financial or emotional benefit or educational opportunity;

15 (7) the reasons of each person for seeking or opposing the  
16 relocation; and

17 (8) the effect on the safety and welfare of the child, or  
18 of the parent requesting to move the child's residence, of  
19 domestic abuse, as defined in section 518B.01.

20 The burden of proof is upon the parent requesting to move  
21 the residence of the child to another state, except that if the  
22 court finds that the person requesting permission to move has  
23 been a victim of domestic abuse by the other parent, the burden  
24 of proof is upon the parent opposing the move. The court must  
25 consider all of the factors in this subdivision in determining  
26 the best interests of the child.

27 Sec. 9. Minnesota Statutes 2004, section 518.179, is  
28 amended by adding a subdivision to read:

29 Subd. 1a. [CUSTODY OF NONBIOLOGICAL CHILD.] A person  
30 convicted of a crime described in subdivision 2 may not be  
31 considered for custody of a child unless the child is the  
32 person's child by birth or adoption.

33 Sec. 10. Minnesota Statutes 2004, section 518.18, is  
34 amended to read:

35 518.18 [MODIFICATION OF ORDER.]

36 (a) Unless agreed to in writing by the parties, no motion

1 to modify a custody order or parenting plan may be made earlier  
2 than one year after the date of the entry of a decree of  
3 dissolution or legal separation containing a provision dealing  
4 with custody, except in accordance with paragraph (c).

5 (b) If a motion for modification has been heard, whether or  
6 not it was granted, unless agreed to in writing by the parties  
7 no subsequent motion may be filed within two years after  
8 disposition of the prior motion on its merits, except in  
9 accordance with paragraph (c).

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

17 (d) If the court has jurisdiction to determine child  
18 custody matters, the court shall not modify a prior custody  
19 order or a parenting plan provision which specifies the child's  
20 primary residence unless it finds, upon the basis of facts,  
21 including unwarranted denial of, or interference with, a duly  
22 established parenting time schedule, that have arisen since the  
23 prior order or that were unknown to the court at the time of the  
24 prior order, that a change has occurred in the circumstances of  
25 the child or the parties and that the modification is necessary  
26 to serve the best interests of the child. In applying these  
27 standards the court shall retain the custody arrangement or the  
28 parenting plan provision specifying the child's primary  
29 residence that was established by the prior order unless:

30 (i) the court finds that a change in the custody  
31 arrangement or primary residence is in the best interests of the  
32 child and the parties previously agreed, in a writing approved  
33 by a court, to apply the best interests standard in section  
34 518.17 or 257.025, as applicable; and, with respect to  
35 agreements approved by a court on or after April 28, 2000, both  
36 parties were represented by counsel when the agreement was



1 approved or the court found the parties were fully informed, the  
2 agreement was voluntary, and the parties were aware of its  
3 implications;

4 (ii) both parties agree to the modification;

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

7 (iv) the child's present environment endangers the child's  
8 physical or emotional health or impairs the child's emotional  
9 development and the harm likely to be caused by a change of  
10 environment is outweighed by the advantage of a change to the  
11 child; or

12 (v) the court has denied a request of the primary custodial  
13 parent to move the residence of the child to another state, and  
14 the primary custodial parent has relocated to another state  
15 despite the court's order.

16 In addition, a court may modify a custody order or  
17 parenting plan under section 631.52.

18 (e) In deciding whether to modify a prior joint custody  
19 order, the court shall apply the standards set forth in  
20 paragraph (d) unless: (1) the parties agree in writing to the  
21 application of a different standard, or (2) the party seeking  
22 the modification is asking the court for permission to move the  
23 residence of the child to another state.

24 (f) If a parent has been granted sole physical custody of a  
25 minor and the child subsequently lives with the other parent,  
26 and temporary sole physical custody has been approved by the  
27 court or by a court-appointed referee, the court may suspend the  
28 obligor's child support obligation pending the final custody  
29 determination. The court's order denying the suspension of  
30 child support must include a written explanation of the reasons  
31 why continuation of the child support obligation would be in the  
32 best interests of the child.

33 Sec. 11. Minnesota Statutes 2004, section 518.191,  
34 subdivision 2, is amended to read:

35 Subd. 2. [REQUIRED INFORMATION.] A summary real estate  
36 disposition judgment must contain the following information:

1 (1) the full caption and file number of the case and the title  
 2 "Summary Real Estate Disposition Judgment"; (2) the dates of the  
 3 parties' marriage and of the entry of the judgment and decree of  
 4 dissolution; (3) the names of the parties' attorneys or if  
 5 either or both appeared pro se; (4) the name of the judge and  
 6 referee, if any, who signed the order for judgment and decree;  
 7 (5) whether the judgment and decree resulted from a stipulation,  
 8 a default, or a trial and the appearances at the default or  
 9 trial; (6) if the judgment and decree resulted from a  
 10 stipulation, whether disposition of the property was stipulated  
 11 to by legal description; (7) if the judgment and decree resulted  
 12 from a default, whether the petition contained the legal  
 13 description of the property and disposition was made in  
 14 accordance with the request for relief, and service of the  
 15 summons and petition was made personally pursuant to the Rules  
 16 of Civil Procedure, Rule 4.03(a), or Minnesota Statutes, section  
 17 543.19; (8) whether either party changed the party's name  
 18 through the judgment and decree; ~~(7)~~ (9) the legal description  
 19 of each parcel of real estate; ~~(8)~~ (10) the name or names of the  
 20 persons awarded an interest in each parcel of real estate and a  
 21 description of the interest awarded; ~~(9)~~ (11) liens, mortgages,  
 22 encumbrances, or other interests in the real estate described in  
 23 the judgment and decree; and ~~(10)~~ (12) triggering or contingent  
 24 events set forth in the judgment and decree affecting the  
 25 disposition of each parcel of real estate.

26 Sec. 12. Minnesota Statutes 2004, section 518.54,  
 27 subdivision 4a, is amended to read:

28 Subd. 4a. [SUPPORT ORDER.] (a) "Support order" means a  
 29 judgment, decree, or order, whether temporary, final, or subject  
 30 to modification, issued by a court or administrative agency of  
 31 competent jurisdiction<sub>7</sub>:

32 (1) for the support and maintenance of a child, including a  
 33 child who has attained the age of majority under the law of the  
 34 issuing state<sub>7-er</sub>;

35 (2) for a child and the parent with whom the child is  
 36 living, that provides for monetary support, child care, medical

1 support including expenses for confinement and pregnancy,  
2 arrearages, or reimbursement~~7--and-that;~~ or  
3 (3) for the maintenance of a spouse.

4 (b) The support order may include related costs and fees,  
5 interest and penalties, income withholding, and other relief.  
6 This definition applies to orders issued under this chapter and  
7 chapters 256, 257, and 518C.

8 Sec. 13. Minnesota Statutes 2004, section 518.551,  
9 subdivision 1, is amended to read:

10 Subdivision 1. [SCOPE; PAYMENT TO PUBLIC AGENCY.] (a) This  
11 section applies to all proceedings involving a support order,  
12 including, but not limited to, a support order establishing an  
13 order for past support or reimbursement of public assistance.

14 (b) The court shall direct that all payments ordered for  
15 maintenance and or support be made to the public agency  
16 responsible for child support enforcement so long as the obligee  
17 is receiving or has applied for public assistance, or has  
18 applied for child support and or maintenance collection  
19 services. Public authorities responsible for child support  
20 enforcement may act on behalf of other public authorities  
21 responsible for child support enforcement. This includes the  
22 authority to represent the legal interests of or execute  
23 documents on behalf of the other public authority in connection  
24 with the establishment, enforcement, and collection of child  
25 support, maintenance, or medical support, and collection on  
26 judgments.

27 (c) Payments made to the public authority other than  
28 payments under section 518.6111 must be credited as of the date  
29 the payment is received by the central collections unit.

30 (d) Amounts received by the public agency responsible for  
31 child support enforcement greater than the amount granted to the  
32 obligee shall be remitted to the obligee.

33 Sec. 14. Minnesota Statutes 2004, section 518.58,  
34 subdivision 4, is amended to read:

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

1 form of future pension plan payments:

2 (1) is payable only to the extent of the amount of the  
3 pension plan benefit payable under the terms of the plan;

4 (2) is not payable for a period that exceeds the time that  
5 pension plan benefits are payable to the pension plan benefit  
6 recipient;

7 (3) is not payable in a lump sum amount from defined  
8 benefit pension plan assets attributable in any fashion to a  
9 spouse with the status of an active member, deferred retiree, or  
10 benefit recipient of a pension plan;

11 (4) if the former spouse to whom the payments are to be  
12 made dies prior to the end of the specified payment period with  
13 the right to any remaining payments accruing to an estate or to  
14 more than one survivor, is payable only to a trustee on behalf  
15 of the estate or the group of survivors for subsequent  
16 apportionment by the trustee; and

17 (5) in the case of defined benefit public pension plan  
18 benefits or rights, may not commence until the public plan  
19 member submits a valid application for a public pension plan  
20 benefit and the benefit becomes payable.

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

28 Delete the title and insert:

29 "A bill for an act relating to family law; requiring  
30 notification of noncustodial parents, corrections agents, local  
31 welfare agencies, and the court, of residence of a custodial  
32 parent with certain convicted persons; changing certain  
33 presumptions relating to paternity; disallowing certain  
34 convicted persons from becoming custodians of unrelated  
35 children; changing certain procedures for removal of a child's  
36 residence from Minnesota; requiring certain information in  
37 summary real estate disposition judgments; identifying pension  
38 plans subject to marital property division; authorizing the  
39 Department of Human Services to collect spousal maintenance;  
40 amending Minnesota Statutes 2004, sections 257.55, subdivision  
41 1; 257.57, subdivision 2; 257.62, subdivision 5; 257C.03,  
42 subdivision 7; 518.1705, subdivision 7; 518.175, subdivision 3;  
43 518.179, by adding a subdivision; 518.18; 518.191, subdivision

1 2; 518.54, subdivision 4a; 518.551, subdivision 1; 518.58,  
2 subdivision 4; proposing coding for new law in Minnesota  
3 Statutes, chapters 244; 257."

ADOPTED

- 4.5 nonexistence of the father and child relationship must be
- 4.6 brought within six months after the youngest signatory reaches
- 4.7 the age of 18.
- 4.8 Sec. 3. Minnesota Statutes 2004, section 257.62,
- 4.9 subdivision 5, is amended to read:
- 4.10 Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of
- 4.11 blood or genetic tests completed in a laboratory accredited by
- 4.12 the American Association of Blood Banks indicate that the
- 4.13 likelihood of the alleged father's paternity, calculated with a
- 4.14 prior probability of no more than 0.5 (50 percent), is 92
- 4.15 percent or greater, upon motion the court shall order the
- 4.16 alleged father to pay temporary child support determined
- 4.17 according to chapter 518. The alleged father shall pay the
- 4.18 support money to the public authority if the public authority is
- 4.19 a party and is providing services to the parties or, if not,
- 4.20 into court pursuant to the Rules of Civil Procedure to await the
- 4.21 results of the paternity proceedings.
- 4.22 (b) If the results of blood or genetic tests completed in a
- 4.23 laboratory accredited by the American Association of Blood Banks
- 4.24 indicate that likelihood of the alleged father's paternity,
- 4.25 calculated with a prior probability of no more than 0.5 (50
- 4.26 percent), is 99 percent or greater, there is an evidentiary
- 4.27 presumption that the alleged father is ~~presumed to be the parent~~ *biological father*
- 4.28 and the party opposing the establishment of the alleged father's
- 4.29 paternity has the burden of proving by clear and convincing
- 4.30 evidence that the alleged father is not the father of the child.

Please direct all comments concerning issues or legislation to your House Member or State Senator.

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General questions or comments.

A determination under this subdivision that the alleged father is the biological father does not preclude the adjudication of another man as the legal father pursuant to MS. 257.55, subd. 2, nor does it allow the donor of genetic material for assisted reproduction for the benefit of the recipient parent(s), whether sperm or ovum (egg), to claim to be the child's biological +/or legal parent.

1 costs. The court shall not modify an agreed order under this  
2 section unless it finds that the modification is necessary to  
3 serve the best interests of the minor adoptee, and:

4 (1) the modification is agreed to by the parties to the  
5 agreement; or

6 (2) exceptional circumstances have arisen since the agreed  
7 order was entered that justify modification of the order.

8 (d) For children under state guardianship when there is a  
9 written communication or contact agreement between prospective  
10 adoptive parents and birth relatives other than birth parents it  
11 must be included in the final adoption decree. If, prior to  
12 entry of the adoption decree, the prospective adoptive parents  
13 do not honor the communication or contact agreement, the court  
14 shall determine the terms of the communication and contact  
15 agreement."

16 And when so amended that the bill be recommended to pass  
17 and be referred to the full committee.

18 .....  
19 (Subcommittee Chair)  
20  
21 March 29, 2005.....  
22 (Date of Subcommittee action)

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 644: A bill for an act relating to family law;  
4 changing certain procedures for removal of a child's residence  
5 from Minnesota; amending Minnesota Statutes 2004, sections  
6 518.1705, subdivision 7; 518.175, subdivision 3; 518.18.

7 Reports the same back with the recommendation that the bill  
8 be amended as follows:

9 Delete everything after the enacting clause and insert:

10 "Section 1. [244.057] [OFFENDERS RESIDING IN HOUSEHOLDS  
11 WITH CHILDREN; NOTICE TO CORRECTIONS AGENT.]

12 An offender required to register as a predatory offender  
13 under section 243.166 shall inform the offender's corrections  
14 agent if the offender is residing in a household where a child  
15 is residing. The offender shall inform the agent of the name,  
16 age, and relationship to the offender of all children residing  
17 in the household.

18 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
19 and applies to persons under correctional supervision on or  
20 after that date.

21 Sec. 2. [257.026] [NOTIFICATION OF RESIDENCE WITH CERTAIN  
22 CONVICTED PERSONS.]

23 A person who is granted custody of a child under this  
24 chapter or chapter 518 must notify the child's noncustodial  
25 parent, if any, the local welfare agency, and the court that  
26 granted the custody if the person with custody knowingly marries  
27 or lives in the same residence with a person who has been  
28 convicted of a crime listed in section 518.179, subdivision 2.

29 Sec. 3. Minnesota Statutes 2004, section 257.55,  
30 subdivision 1, is amended to read:

31 Subdivision 1. [PRESUMPTION.] A man is presumed to be the  
32 biological father of a child if:

33 (a) He and the child's biological mother are or have been  
34 married to each other and the child is born during the marriage,  
35 or within 280 days after the marriage is terminated by death,  
36 annulment, declaration of invalidity, dissolution, or divorce,  
37 or after a decree of legal separation is entered by a court.

38 The presumption in this paragraph does not apply if the man has



1 joined in a recognition of parentage recognizing another man as  
2 the biological father under section 257.75, subdivision 1a;

3 (b) Before the child's birth, he and the child's biological  
4 mother have attempted to marry each other by a marriage  
5 solemnized in apparent compliance with law, although the  
6 attempted marriage is or could be declared void, voidable, or  
7 otherwise invalid, and,

8 (1) if the attempted marriage could be declared invalid  
9 only by a court, the child is born during the attempted  
10 marriage, or within 280 days after its termination by death,  
11 annulment, declaration of invalidity, dissolution or divorce; or

12 (2) if the attempted marriage is invalid without a court  
13 order, the child is born within 280 days after the termination  
14 of cohabitation;

15 (c) After the child's birth, he and the child's biological  
16 mother have married, or attempted to marry, each other by a  
17 marriage solemnized in apparent compliance with law, although  
18 the attempted marriage is or could be declared void, voidable,  
19 or otherwise invalid, and,

20 (1) he has acknowledged his paternity of the child in  
21 writing filed with the state registrar of vital statistics;

22 (2) with his consent, he is named as the child's father on  
23 the child's birth record; or

24 (3) he is obligated to support the child under a written  
25 voluntary promise or by court order;

26 ~~(d) While the child is under the age of majority, he~~  
27 ~~receives the child into his home~~ During the first two years of  
28 the child's life, he resided in the same household with the  
29 child for at least 12 months and openly ~~holds~~ held out the child  
30 as his ~~biological~~ child own;

31 (e) He and the child's biological mother acknowledge his  
32 paternity of the child in a writing signed by both of them under  
33 section 257.34 and filed with the state registrar of vital  
34 statistics. If another man is presumed under this paragraph to  
35 be the child's father, acknowledgment may be effected only with  
36 the written consent of the presumed father or after the

1 presumption has been rebutted;

2 ~~(f) Evidence of statistical probability of paternity based~~  
3 ~~on blood or genetic testing establishes the likelihood that he~~  
4 ~~is the father of the child, calculated with a prior probability~~  
5 ~~of no more than 0.5 (50 percent), is 99 percent or greater;~~

6 ~~(g)~~ He and the child's biological mother have executed a  
7 recognition of parentage in accordance with section 257.75 and  
8 another man is presumed to be the father under this subdivision;

9 ~~(h)~~ (g) He and the child's biological mother have executed  
10 a recognition of parentage in accordance with section 257.75 and  
11 another man and the child's mother have executed a recognition  
12 of parentage in accordance with section 257.75; or

13 ~~(i)~~ (h) He and the child's biological mother executed a  
14 recognition of parentage in accordance with section 257.75 when  
15 either or both of the signatories were less than 18 years of age.

16 Sec. 4. Minnesota Statutes 2004, section 257.57,  
17 subdivision 2, is amended to read:

18 Subd. 2. [ACTIONS UNDER OTHER PARAGRAPHS OF SECTION  
19 257.55, SUBDIVISION 1.] The child, the mother, or personal  
20 representative of the child, the public authority chargeable by  
21 law with the support of the child, the personal representative  
22 or a parent of the mother if the mother has died or is a minor,  
23 a man alleged or alleging himself to be the father, or the  
24 personal representative or a parent of the alleged father if the  
25 alleged father has died or is a minor may bring an action:

26 (1) at any time for the purpose of declaring the existence  
27 of the father and child relationship presumed under ~~section~~  
28 sections 257.55, subdivision 1, paragraph (d), (e), ~~(f)~~, (g), or  
29 (h), and 257.62, subdivision 5, paragraph (b), or the  
30 nonexistence of the father and child relationship presumed under  
31 section 257.55, subdivision 1, clause (d) of that subdivision;

32 (2) for the purpose of declaring the nonexistence of the  
33 father and child relationship presumed under section 257.55,  
34 subdivision 1, paragraph (e) or (g), only if the action is  
35 brought within six months after the person bringing the action  
36 obtains the results of blood or genetic tests that indicate that

1. the presumed father is not the father of the child;

2       (3) for the purpose of declaring the nonexistence of the  
3 father and child relationship presumed under section ~~257.557~~  
4 ~~subdivision-17-paragraph-(f)~~ 257.62, subdivision 5, paragraph  
5 (b), only if the action is brought within three years after the  
6 party bringing the action, or the party's attorney of record,  
7 has been provided the blood or genetic test results; or

8       (4) for the purpose of declaring the nonexistence of the  
9 father and child relationship presumed under section 257.75,  
10 subdivision 9, only if the action is brought by the minor  
11 signatory within six months after the minor signatory reaches  
12 the age of 18. In the case of a recognition of parentage  
13 executed by two minor signatories, the action to declare the  
14 nonexistence of the father and child relationship must be  
15 brought within six months after the youngest signatory reaches  
16 the age of 18.

17       Sec. 5. Minnesota Statutes 2004, section 257.62,  
18 subdivision 5, is amended to read:

19       Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of  
20 blood or genetic tests completed in a laboratory accredited by  
21 the American Association of Blood Banks indicate that the  
22 likelihood of the alleged father's paternity, calculated with a  
23 prior probability of no more than 0.5 (50 percent), is 92  
24 percent or greater, upon motion the court shall order the  
25 alleged father to pay temporary child support determined  
26 according to chapter 518. The alleged father shall pay the  
27 support money to the public authority if the public authority is  
28 a party and is providing services to the parties or, if not,  
29 into court pursuant to the Rules of Civil Procedure to await the  
30 results of the paternity proceedings.

31       (b) If the results of blood or genetic tests completed in a  
32 laboratory accredited by the American Association of Blood Banks  
33 indicate that likelihood of the alleged father's paternity,  
34 calculated with a prior probability of no more than 0.5 (50  
35 percent), is 99 percent or greater, there is an evidentiary  
36 presumption that the alleged father is ~~presumed-to-be~~ the parent

1 biological father and the party opposing the establishment of  
2 the alleged father's paternity has the burden of proving by  
3 clear and convincing evidence that the alleged father is not the  
4 father of the child.

5 A determination under this subdivision that the alleged  
6 father is the biological father does not preclude the  
7 adjudication of another man as the legal father pursuant to  
8 section 257.55, subdivision 2, nor does it allow the donor of  
9 genetic material for assisted reproduction for the benefit of  
10 the recipient parent(s), whether sperm or ovum (egg), to claim  
11 to be the child's biological and/or legal parent.

12 Sec. 6. Minnesota Statutes 2004, section 257C.03,  
13 subdivision 7, is amended to read:

14 Subd. 7. [INTERESTED THIRD PARTY; BURDEN OF PROOF;  
15 FACTORS.] (a) To establish that an individual is an interested  
16 third party, the individual must:

17 (1) show by clear and convincing evidence that one of the  
18 following factors exist:

19 (i) the parent has abandoned, neglected, or otherwise  
20 exhibited disregard for the child's well-being to the extent  
21 that the child will be harmed by living with the parent;

22 (ii) placement of the child with the individual takes  
23 priority over preserving the day-to-day parent-child  
24 relationship because of the presence of physical or emotional  
25 danger to the child, or both; or

26 (iii) other extraordinary circumstances; and

27 (2) prove by a preponderance of the evidence that it is in  
28 the best interests of the child to be in the custody of the  
29 interested third party; and

30 (3) show by clear and convincing evidence that granting the  
31 petition would not violate section 518.179, subdivision 1a.

32 (b) The following factors must be considered by the court  
33 in determining an interested third party's petition:

34 (1) the amount of involvement the interested third party  
35 had with the child during the parent's absence or during the  
36 child's lifetime;

1 (2) the amount of involvement the parent had with the child  
2 during the parent's absence;

3 (3) the presence or involvement of other interested third  
4 parties;

5 (4) the facts and circumstances of the parent's absence;

6 (5) the parent's refusal to comply with conditions for  
7 retaining custody set forth in previous court orders;

8 (6) whether the parent now seeking custody was previously  
9 prevented from doing so as a result of domestic violence;

10 (7) whether a sibling of the child is already in the care  
11 of the interested third party; and

12 (8) the existence of a standby custody designation under  
13 chapter 257B.

14 (c) In determining the best interests of the child, the  
15 court must apply the standards in section 257C.04.

16 Sec. 7. Minnesota Statutes 2004, section 259.58, is  
17 amended to read:

18 259.58 [COMMUNICATION OR CONTACT AGREEMENTS.]

19 Adoptive parents and a birth relative or foster parents may  
20 enter an agreement regarding communication with or contact  
21 between an adopted minor, adoptive parents, and a birth relative  
22 or foster parents under this section. An agreement may be  
23 entered between:

24 (1) adoptive parents and a birth parent;

25 (2) adoptive parents and any other birth relative or foster  
26 parent with whom the child resided before being adopted; or

27 (3) adoptive parents and any other birth relative if the  
28 child is adopted by a birth relative upon the death of both  
29 birth parents.

30 For purposes of this section, "birth relative" means a  
31 parent, stepparent, grandparent, brother, sister, uncle, or aunt  
32 of a minor adoptee. This relationship may be by blood,  
33 adoption, or marriage. For an Indian child, birth relative  
34 includes members of the extended family as defined by the law or  
35 custom of the Indian child's tribe or, in the absence of laws or  
36 custom, nieces, nephews, or first or second cousins, as provided

1 in the Indian Child Welfare Act, United States Code, title 25,  
2 section 1903.

3 (a) An agreement regarding communication with or contact  
4 between minor adoptees, adoptive parents, and a birth relative  
5 is not legally enforceable unless the terms of the agreement are  
6 contained in a written court order entered in accordance with  
7 this section. An order may be sought at any time before a  
8 decree of adoption is granted. The order must be issued within  
9 30 days of being submitted to the court or by the granting of  
10 the decree of adoption, whichever is earlier. The court shall  
11 not enter a proposed order unless the terms of the order have  
12 been approved in writing by the prospective adoptive parents, a  
13 birth relative or foster parent who desires to be a party to the  
14 agreement, and, if the child is in the custody of or under the  
15 guardianship of an agency, a representative of the agency. A  
16 birth parent must approve in writing of an agreement between  
17 adoptive parents and any other birth relative or foster parent,  
18 unless an action has been filed against the birth parent by a  
19 county under chapter 260. An agreement under this section need  
20 not disclose the identity of the parties to be legally  
21 enforceable. The court shall not enter a proposed order unless  
22 the court finds that the communication or contact between the  
23 minor adoptee, the adoptive parents, and a birth relative as  
24 agreed upon and contained in the proposed order would be in the  
25 minor adoptee's best interests. The court shall mail a  
26 certified copy of the order to the parties to the agreement or  
27 their representatives at the addresses provided by the  
28 petitioners.

29 (b) Failure to comply with the terms of an agreed order  
30 regarding communication or contact that has been entered by the  
31 court under this section is not grounds for:

- 32 (1) setting aside an adoption decree; or  
33 (2) revocation of a written consent to an adoption after  
34 that consent has become irrevocable.

35 (c) An agreed order entered under this section may be  
36 enforced by filing a petition or motion with the family court

1 that includes a certified copy of the order granting the  
2 communication, contact, or visitation, but only if the petition  
3 or motion is accompanied by an affidavit that the parties have  
4 mediated or attempted to mediate any dispute under the agreement  
5 or that the parties agree to a proposed modification. The  
6 prevailing party may be awarded reasonable attorney's fees and  
7 costs. The court shall not modify an agreed order under this  
8 section unless it finds that the modification is necessary to  
9 serve the best interests of the minor adoptee, and:

10 (1) the modification is agreed to by the parties to the  
11 agreement; or

12 (2) exceptional circumstances have arisen since the agreed  
13 order was entered that justify modification of the order.

14 (d) For children under state guardianship when there is a  
15 written communication or contact agreement between prospective  
16 adoptive parents and birth relatives other than birth parents it  
17 must be included in the final adoption decree. If, prior to  
18 entry of the adoption decree, the prospective adoptive parents  
19 do not honor the communication or contact agreement, the court  
20 shall determine the terms of the communication and contact  
21 agreement.

22 Sec. 8. Minnesota Statutes 2004, section 518.1705,  
23 subdivision 7, is amended to read:

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

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

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

34 Sec. 9. Minnesota Statutes 2004, section 518.175,  
35 subdivision 3, is amended to read:

36 Subd. 3. [MOVE TO ANOTHER STATE.] The parent with whom the

1 child resides shall not move the residence of the child to  
2 another state except upon order of the court or with the consent  
3 of the other parent, if the other parent has been given  
4 parenting time by the decree. If the purpose of the move is to  
5 interfere with parenting time given to the other parent by the  
6 decree, the court shall not permit the child's residence to be  
7 moved to another state.

8 The court shall apply a best interests standard when  
9 considering the request of the parent with whom the child  
10 resides to move the child's residence to another state. The  
11 factors the court must consider in determining the child's best  
12 interests include, but are not limited to, the following:

13 (1) the nature, quality, extent of involvement, and  
14 duration of the child's relationship with the person proposing  
15 to relocate and with the nonrelocating person, siblings, and  
16 other significant persons in the child's life;

17 (2) the age, developmental stage, needs of the child, and  
18 the likely impact the relocation will have on the child's  
19 physical, educational, and emotional development, taking into  
20 consideration any special needs of the child;

21 (3) the feasibility of preserving the relationship between  
22 the nonrelocating person and the child through suitable  
23 parenting time arrangements, considering the logistics and  
24 financial circumstances of the parties;

25 (4) the child's preference, taking into consideration the  
26 age and maturity of the child;

27 (5) whether there is an established pattern of conduct of  
28 the person seeking the relocation either to promote or thwart  
29 the relationship of the child and the nonrelocating person;

30 (6) whether the relocation of the child will enhance the  
31 general quality of the life for both the custodial parent  
32 seeking the relocation and the child including, but not limited  
33 to, financial or emotional benefit or educational opportunity;

34 (7) the reasons of each person for seeking or opposing the  
35 relocation; and

36 (8) the effect on the safety and welfare of the child, or



1 of the parent requesting to move the child's residence, of  
2 domestic abuse, as defined in section 518B.01.

3 The burden of proof is upon the parent requesting to move  
4 the residence of the child to another state, except that if the  
5 court finds that the person requesting permission to move has  
6 been a victim of domestic abuse by the other parent, the burden  
7 of proof is upon the parent opposing the move. The court must  
8 consider all of the factors in this subdivision in determining  
9 the best interests of the child.

10 Sec. 10. Minnesota Statutes 2004, section 518.179, is  
11 amended by adding a subdivision to read:

12 Subd. 1a. [CUSTODY OF NONBIOLOGICAL CHILD.] A person  
13 convicted of a crime described in subdivision 2 may not be  
14 considered for custody of a child unless the child is the  
15 person's child by birth or adoption.

16 Sec. 11. Minnesota Statutes 2004, section 518.18, is  
17 amended to read:

18 518.18 [MODIFICATION OF ORDER.]

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

24 (b) If a motion for modification has been heard, whether or  
25 not it was granted, unless agreed to in writing by the parties  
26 no subsequent motion may be filed within two years after  
27 disposition of the prior motion on its merits, except in  
28 accordance with paragraph (c).

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

36 (d) If the court has jurisdiction to determine child

1 custody matters, the court shall not modify a prior custody  
2 order or a parenting plan provision which specifies the child's  
3 primary residence unless it finds, upon the basis of facts,  
4 including unwarranted denial of, or interference with, a duly  
5 established parenting time schedule, that have arisen since the  
6 prior order or that were unknown to the court at the time of the  
7 prior order, that a change has occurred in the circumstances of  
8 the child or the parties and that the modification is necessary  
9 to serve the best interests of the child. In applying these  
10 standards the court shall retain the custody arrangement or the  
11 parenting plan provision specifying the child's primary  
12 residence that was established by the prior order unless:

13 (i) the court finds that a change in the custody  
14 arrangement or primary residence is in the best interests of the  
15 child and the parties previously agreed, in a writing approved  
16 by a court, to apply the best interests standard in section  
17 518.17 or 257.025, as applicable; and, with respect to  
18 agreements approved by a court on or after April 28, 2000, both  
19 parties were represented by counsel when the agreement was  
20 approved or the court found the parties were fully informed, the  
21 agreement was voluntary, and the parties were aware of its  
22 implications;

23 (ii) both parties agree to the modification;

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

26 (iv) the child's present environment endangers the child's  
27 physical or emotional health or impairs the child's emotional  
28 development and the harm likely to be caused by a change of  
29 environment is outweighed by the advantage of a change to the  
30 child; or

31 (v) the court has denied a request of the primary custodial  
32 parent to move the residence of the child to another state, and  
33 the primary custodial parent has relocated to another state  
34 despite the court's order.

35 In addition, a court may modify a custody order or  
36 parenting plan under section 631.52.

1 (e) In deciding whether to modify a prior joint custody  
2 order, the court shall apply the standards set forth in  
3 paragraph (d) unless: (1) the parties agree in writing to the  
4 application of a different standard, or (2) the party seeking  
5 the modification is asking the court for permission to move the  
6 residence of the child to another state.

7 (f) If a parent has been granted sole physical custody of a  
8 minor and the child subsequently lives with the other parent,  
9 and temporary sole physical custody has been approved by the  
10 court or by a court-appointed referee, the court may suspend the  
11 obligor's child support obligation pending the final custody  
12 determination. The court's order denying the suspension of  
13 child support must include a written explanation of the reasons  
14 why continuation of the child support obligation would be in the  
15 best interests of the child.

16 Sec. 12. Minnesota Statutes 2004, section 518.191,  
17 subdivision 2, is amended to read:

18 Subd. 2. [REQUIRED INFORMATION.] A summary real estate  
19 disposition judgment must contain the following information:  
20 (1) the full caption and file number of the case and the title  
21 "Summary Real Estate Disposition Judgment"; (2) the dates of the  
22 parties' marriage and of the entry of the judgment and decree of  
23 dissolution; (3) the names of the parties' attorneys or if  
24 either or both appeared pro se; (4) the name of the judge and  
25 referee, if any, who signed the order for judgment and decree;  
26 (5) whether the judgment and decree resulted from a stipulation,  
27 a default, or a trial and the appearances at the default or  
28 trial; (6) if the judgment and decree resulted from a  
29 stipulation, whether disposition of the property was stipulated  
30 to by legal description; (7) if the judgment and decree resulted  
31 from a default, whether the petition contained the legal  
32 description of the property and disposition was made in  
33 accordance with the request for relief, and service of the  
34 summons and petition was made personally pursuant to the Rules  
35 of Civil Procedure, Rule 4.03(a), or Minnesota Statutes, section  
36 543.19; (8) whether either party changed the party's name

1 through the judgment and decree; ~~(7)~~ (9) the legal description  
2 of each parcel of real estate; ~~(8)~~ (10) the name or names of the  
3 persons awarded an interest in each parcel of real estate and a  
4 description of the interest awarded; ~~(9)~~ (11) liens, mortgages,  
5 encumbrances, or other interests in the real estate described in  
6 the judgment and decree; and ~~(10)~~ (12) triggering or contingent  
7 events set forth in the judgment and decree affecting the  
8 disposition of each parcel of real estate.

9       Sec. 13. Minnesota Statutes 2004, section 518.58,  
10 subdivision 4, is amended to read:

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

14       (1) is payable only to the extent of the amount of the  
15 pension plan benefit payable under the terms of the plan;

16       (2) is not payable for a period that exceeds the time that  
17 pension plan benefits are payable to the pension plan benefit  
18 recipient;

19       (3) is not payable in a lump sum amount from defined  
20 benefit pension plan assets attributable in any fashion to a  
21 spouse with the status of an active member, deferred retiree, or  
22 benefit recipient of a pension plan;

23       (4) if the former spouse to whom the payments are to be  
24 made dies prior to the end of the specified payment period with  
25 the right to any remaining payments accruing to an estate or to  
26 more than one survivor, is payable only to a trustee on behalf  
27 of the estate or the group of survivors for subsequent  
28 apportionment by the trustee; and

29       (5) in the case of defined benefit public pension plan  
30 benefits or rights, may not commence until the public plan  
31 member submits a valid application for a public pension plan  
32 benefit and the benefit becomes payable.

33       (b) The individual retirement account plans established  
34 under chapter 354B may provide in its plan document, if  
35 published and made generally available, for an alternative  
36 marital property division or distribution of individual

1 retirement account plan assets. If an alternative division or  
2 distribution procedure is provided, it applies in place of  
3 paragraph (a), clause (5)."

4 Delete the title and insert:

5 "A bill for an act relating to family law; requiring  
6 notification of noncustodial parents, corrections agents, local  
7 welfare agencies, and the court, of residence of a custodial  
8 parent with certain convicted persons; changing certain  
9 presumptions relating to paternity; disallowing certain  
10 convicted persons from becoming custodians of unrelated  
11 children; changing certain procedures for removal of a child's  
12 residence from Minnesota; requiring certain information in  
13 summary real estate disposition judgments; identifying pension  
14 plans subject to marital property division; authorizing the  
15 Department of Human Services to collect spousal maintenance;  
16 changing certain provisions concerning adoption communication or  
17 contact agreements; amending Minnesota Statutes 2004, sections  
18 257.55, subdivision 1; 257.57, subdivision 2; 257.62,  
19 subdivision 5; 257C.03, subdivision 7; 259.58; 518.1705,  
20 subdivision 7; 518.175, subdivision 3; 518.179, by adding a  
21 subdivision; 518.18; 518.191, subdivision 2; 518.58, subdivision  
22 4; proposing coding for new law in Minnesota Statutes, chapters  
23 244; 257."

24 And when so amended the bill do pass. Amendments adopted.  
25 Report adopted.

26 .....  
27 (Committee Chair)

28  
29 March 31, 2005.....  
30 (Date of Committee recommendation)

1 Senator ..... moves to amend S.F. No. 1479 as follows:

2 Page 1, after line 25, insert:

3 "Sec. 2. Minnesota Statutes 2004, section 518.54,

4 subdivision 14, is amended to read:

5 Subd. 14. [IV-D CASE.] "IV-D case" means a case where a  
6 party has assigned to the state rights to child support because  
7 of the receipt of public assistance as defined in section  
8 256.741 or has applied for child support services under title  
9 IV-D of the Social Security Act, United States Code, title 42,  
10 section 654(4). An obligation for spousal maintenance under  
11 section 551.54, subdivision 4a, clause (3), is not an IV-D case.

12 Sec. 3. Minnesota Statutes 2004, section 518.54, is  
13 amended by adding a subdivision to read:

14 Subd. 15. [INCOME WITHHOLDING ONLY SERVICES.] "Income  
15 withholding only services" means the services provided by the  
16 public authority to collect payments pursuant to a support order  
17 but does not include other enforcement services provided by the  
18 public authority for IV-D cases. Notices required for income  
19 withholding under this section shall be initiated by the  
20 applicant for services. An obligation for spousal maintenance  
21 under section 551.54, subdivision 4a, clause (3), is only  
22 eligible for income withholding only services."

23 Renumber the sections in sequence and correct the internal  
24 references

25 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 1900 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 256.9791, is  
4 amended to read:

5 256.9791 [MEDICAL SUPPORT BONUS INCENTIVES.]

6 Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive  
7 program is created to increase the identification and  
8 enforcement by county agencies of dependent health insurance  
9 coverage for ~~persons-who-are-receiving-medical-assistance-under~~  
10 ~~section-256B-055-and~~ children and family units for whom the  
11 county agency is providing child support enforcement services.

12 (b) The bonus shall be awarded to a county child support  
13 agency for each ~~person~~ child for whom coverage is identified and  
14 enforced by the child support enforcement program when the  
15 ~~obligor-is-under~~ a court order to provide dependent health  
16 ~~insurance coverage~~ is in effect.

17 (c) Bonus incentive funds under this section must be  
18 reinvested in the county child support enforcement program and a  
19 county may not reduce funding of the child support enforcement  
20 program by the amount of the bonus earned.

21 Subd. 2. [DEFINITIONS.] For the purpose of this section,  
22 the following definitions apply.

23 (a) "Case" means a family unit ~~that-is-receiving-medical~~  
24 ~~assistance-under-section-256B-055-and~~ for whom the county agency  
25 is providing child support enforcement services.

26 (b) "Commissioner" means the commissioner of the Department  
27 of Human Services.

28 (c) "County agency" means the county child support  
29 enforcement agency.

30 (d) "Coverage" means initial dependent health insurance  
31 benefits for a case or ~~individual-member~~ child of a case, or  
32 medical assistance under section 256B.055 and MinnesotaCare  
33 under section 256L.07.

34 (e) "Enforce" or "enforcement" means obtaining proof of  
35 current or future dependent health ~~insurance~~ coverage through an  
36 overt act by the county agency.

1 (f) "Enforceable order" means a child support court order  
2 containing the statutory language in section ~~518.171~~ 518.1711 or  
3 other language ordering ~~an obligor~~ a parent to provide dependent  
4 health insurance coverage.

5 ~~(g) "Identify" or "identification" means obtaining proof of~~  
6 ~~dependent health insurance coverage through an overt act by the~~  
7 ~~county agency.~~

8 Subd. 3. [ELIGIBILITY; REPORTING REQUIREMENTS.] (a) In  
9 order for a county to be eligible to claim a bonus incentive  
10 payment, the county agency must provide the required information  
11 for each ~~public assistance~~ case no later than June 30 of each  
12 year to determine eligibility. The public authority shall use  
13 the information to establish for each county the number of cases  
14 in which (1) the court has established an obligation for  
15 coverage ~~by the obligor~~, and (2) coverage was in effect as of  
16 June 30.

17 (b) A county that fails to provide the required information  
18 by June 30 of each fiscal year is not eligible for any bonus  
19 payments under this section for that fiscal year.

20 Subd. 4. [RATE OF BONUS INCENTIVE.] The rate of the bonus  
21 incentive shall be determined according to paragraph (a).

22 (a) When a county agency has ~~identified or~~ enforced  
23 coverage, the county shall receive \$50 for each ~~additional~~  
24 ~~person~~ child for whom coverage is ~~identified or~~ enforced.

25 (b) Bonus payments according to paragraph (a) are limited  
26 to one bonus for each ~~covered person~~ child each time the county  
27 agency ~~identifies or~~ enforces previously unidentified  
28 health insurance coverage and apply only to coverage ~~identified~~  
29 ~~or~~ enforced after July 1, 1990.

30 Subd. 5. [CLAIMS FOR BONUS INCENTIVE.] (a) Beginning July  
31 1, 1990, county agencies shall file a claim for a medical  
32 support bonus payment by reporting to the commissioner the  
33 following information for each case where dependent health  
34 insurance coverage is ~~identified or~~ enforced as a result of an  
35 overt act of the county agency:

36 (1) child support enforcement system case number or county



1 specific case number;

2 (2) names and dates of birth for each person child covered;

3 and

4 (3) the effective date of coverage.

5 (b) The report must be made upon enrollment in coverage but

6 no later than September 30 for coverage identified or

7 established during the preceding fiscal year.

8 (c) The county agency making the initial contact resulting

9 in the establishment of coverage is the county agency entitled

10 to claim the bonus incentive even if the case is transferred to

11 another county agency prior to the time coverage is established.

12 (d) Disputed claims must be submitted to the commissioner

13 and the commissioner's decision is final.

14 Subd. 6. [DISTRIBUTION.] (a) Bonus incentives must be

15 issued to the county agency quarterly, within 45 days after the

16 last day of each quarter for which a bonus incentive is being

17 claimed, and must be paid up to the limit of the appropriation

18 in the order in which claims are received.

19 (b) Total bonus incentives must be computed by multiplying

20 the number of persons children included in claims submitted ~~in~~

21 ~~accordance-with~~ under this section by the applicable bonus

22 payment as determined in subdivision 4.

23 (c) The county agency must repay any bonus erroneously

24 issued.

25 (d) A county agency must maintain a record of bonus

26 incentives claimed and received for each quarter.

27 Sec. 2. Minnesota Statutes 2004, section 256L.04, is

28 amended by adding a subdivision to read:

29 Subd. 14. [COURT-ORDERED APPLICATIONS.] Notwithstanding

30 subdivision 7a, a child or parent ordered to apply for public

31 health care coverage under section 518.1711, subdivision 4,

32 paragraph (e), must be enrolled regardless of the income limit

33 eligibility.

34 Sec. 3. Minnesota Statutes 2004, section 256L.15,

35 subdivision 2, is amended to read:

36 Subd. 2. [SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF

1 GROSS INDIVIDUAL OR FAMILY INCOME.] (a) The commissioner shall  
2 establish a sliding fee scale to determine the percentage of  
3 gross individual or family income that households at different  
4 income levels must pay to obtain coverage through the  
5 MinnesotaCare program. The sliding fee scale must be based on  
6 the enrollee's gross individual or family income. The sliding  
7 fee scale must contain separate tables based on enrollment of  
8 one, two, or three or more persons. The sliding fee scale  
9 begins with a premium of 1.5 percent of gross individual or  
10 family income for individuals or families with incomes below the  
11 limits for the medical assistance program for families and  
12 children in effect on January 1, 1999, and proceeds through the  
13 following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9,  
14 7.4, and 8.8 percent. These percentages are matched to evenly  
15 spaced income steps ranging from the medical assistance income  
16 limit for families and children in effect on January 1, 1999, to  
17 275 percent of the federal poverty guidelines for the applicable  
18 family size, up to a family size of five. The sliding fee scale  
19 for a family of five must be used for families of more than  
20 five. Effective October 1, 2003, the commissioner shall  
21 increase each percentage by 0.5 percentage points for enrollees  
22 with income greater than 100 percent but not exceeding 200  
23 percent of the federal poverty guidelines and shall increase  
24 each percentage by 1.0 percentage points for families and  
25 children with incomes greater than 200 percent of the federal  
26 poverty guidelines. The sliding fee scale and percentages are  
27 not subject to the provisions of chapter 14. If a family or  
28 individual reports increased income after enrollment, premiums  
29 shall not be adjusted until eligibility renewal.

30 (b) (1) Enrolled families whose gross annual income  
31 increases above 275 percent of the federal poverty guideline  
32 shall pay the maximum premium. This clause expires effective  
33 February 1, 2004.

34 (2) Effective February 1, 2004, children in families whose  
35 gross income is above 275 percent of the federal poverty  
36 guidelines shall pay the maximum premium.

1 (3) The maximum premium is defined as a base charge for  
2 one, two, or three or more enrollees so that if all  
3 MinnesotaCare cases paid the maximum premium, the total revenue  
4 would equal the total cost of MinnesotaCare medical coverage and  
5 administration. In this calculation, administrative costs shall  
6 be assumed to equal ten percent of the total. The costs of  
7 medical coverage for pregnant women and children under age two  
8 and the enrollees in these groups shall be excluded from the  
9 total. The maximum premium for two enrollees shall be twice the  
10 maximum premium for one, and the maximum premium for three or  
11 more enrollees shall be three times the maximum premium for one.

12 (c) The parent who enrolls a child under section 256L.04,  
13 subdivision 14, who has income in excess of the income  
14 eligibility shall pay the maximum premium.

15 Sec. 4. [518.1711] [MEDICAL SUPPORT.]

16 Subdivision 1. [DEFINITIONS.] (a) The definitions in this  
17 subdivision apply to this section and sections 518.54 to 518.66.

18 (b) "Health care coverage" means health care benefits that  
19 are provided by a health plan. Health care coverage does not  
20 include any form of medical assistance under chapter 256B or  
21 MinnesotaCare under chapter 256L.

22 (c) "Health carrier" means a carrier as defined in sections  
23 62A.011, subdivision 2, and 62L.02, subdivision 16.

24 (d) "Health plan" means a plan meeting the definition in  
25 section 62A.011, subdivision 3, or a policy, contract, or  
26 certificate issued by a community integrated service network  
27 licensed under chapter 62N and includes plans: (1) provided on  
28 an individual and group basis; (2) provided by an employer or  
29 union; (3) purchased in the private market; (4) available to a  
30 person eligible to carry insurance for the child; and (5)  
31 provided through a health plan governed under the federal  
32 Employee Retirement Income Security Act of 1974 (ERISA), United  
33 States Code, title 29, section 1169(a).

34 "Health plan" includes a plan providing for dependent-only,  
35 dental, or vision coverage and a plan provided through a party's  
36 spouse or parent.

1       (e) "Medical support" means providing health care coverage  
2 for a child by carrying health care coverage for the child or by  
3 contributing to the cost of health care coverage, public  
4 coverage, unreimbursed medical expenses, and uninsured medical  
5 expenses of the child and includes an amount ordered under  
6 subdivision 4, paragraph (e).

7       (f) "National medical support notice" is an administrative  
8 notice issued by the public authority to enforce medical support  
9 provisions of a support order under the Code of Federal  
10 Regulations.

11       (g) "Public coverage" means health care benefits provided  
12 by any form of medical assistance under chapter 256B or  
13 MinnesotaCare under chapter 256L.

14       (h) "Uninsured medical expenses" means a child's reasonable  
15 and necessary health-related expenses if the child is not  
16 covered by a health plan or public coverage when the expenses  
17 are incurred.

18       (i) "Unreimbursed medical expenses" means a child's  
19 reasonable and necessary health-related expenses if a child is  
20 covered by a health plan or public coverage and the plan or  
21 coverage does not pay for the total cost of the expenses when  
22 the expenses are incurred. Unreimbursed medical expenses do not  
23 include the cost of premiums. Unreimbursed medical expenses  
24 include, but are not limited to, deductibles, copayments, and  
25 expenses for orthodontia, prescription eye glasses and contact  
26 lenses, and over-the-counter medicine.

27       Subd. 2. [ORDER.] (a) A completed national medical support  
28 notice issued by the public authority or a court order that  
29 complies with this section is a qualified medical child support  
30 order under the federal Employee Retirement Income Security Act  
31 of 1974 (ERISA), United States Code, title 29, section 1169(a).

32       (b) Every order addressing child support must state:

33       (1) the names, last known addresses, and Social Security  
34 numbers of the parents and the child that is a subject of the  
35 order unless the court prohibits the inclusion of an address or  
36 Social Security number and orders the parent to provide the

1 address and Social Security number to the administrator of the  
2 health plan; and

3 (2) whether appropriate health care coverage for the child  
4 is available and, if so state:

5 (i) which party must carry health care coverage;

6 (ii) the cost of premiums and how the cost is allocated  
7 between the parties;

8 (iii) how unreimbursed expenses will be allocated to and  
9 collected by the parties; and

10 (iv) the circumstances, if any, under which the obligation  
11 to provide health care coverage for the child will shift from  
12 one party to the other; or

13 (3) if appropriate health care coverage is not available  
14 for the child, whether a contribution for medical support is  
15 required; and

16 (4) whether the amount ordered for medical support is  
17 subject to a cost-of-living adjustment under section 518.641.

18 Subd. 3. [DETERMINATION OF APPROPRIATE COVERAGE.] (a) In  
19 determining whether a party has appropriate health care coverage  
20 for the child, the court must evaluate the health plan using the  
21 following factors:

22 (1) accessible coverage. Dependent health care coverage is  
23 accessible if the covered child can obtain services from a  
24 health plan provider with reasonable effort by the custodial  
25 parent. Health care coverage is presumed accessible if:

26 (i) primary care coverage is available within 30 minutes or  
27 30 miles of the child's residence and specialty care coverage is  
28 available within 60 minutes or 60 miles of the child's  
29 residence;

30 (ii) the coverage is available through an employer and the  
31 employee can be expected to remain employed for a reasonable  
32 amount of time; and

33 (iii) no preexisting conditions exist to delay coverage  
34 unduly;

35 (2) comprehensive coverage. Dependent health care coverage  
36 is comprehensive if it includes, at a minimum, medical and

1 hospital coverage and provides for preventive, emergency, acute,  
2 and chronic care. If both parties have health care coverage  
3 that meets the minimum requirements, the court must determine  
4 which health care coverage is more comprehensive by considering  
5 whether the coverage includes:

6 (i) basic dental coverage;

7 (ii) orthodontics;

8 (iii) eyeglasses;

9 (iv) contact lenses;

10 (v) mental health services; or

11 (vi) substance abuse treatment;

12 (3) affordable coverage. Dependent health care coverage is  
13 affordable if a party's gross income adjusted for child support  
14 is 150 percent of the federal poverty guidelines or more and the  
15 party's contribution to the health care coverage premium does  
16 not exceed five percent of the party's income available for  
17 child support. If a party's gross income adjusted for child  
18 support is less than 150 percent of the federal poverty  
19 guidelines, it is presumed that the party is unable to  
20 contribute to the cost of health care coverage unless health  
21 care is available at no or low cost to that party; and

22 (4) the child's special medical needs, if any.

23 Subd. 4. [COVERAGE.] (a) If a child is presently enrolled  
24 in health care coverage, the court must order that the parent  
25 who currently has the child enrolled continue that enrollment  
26 unless the parties agree otherwise or a party requests a change  
27 in coverage and the court determines that other health care  
28 coverage is more appropriate.

29 (b) If a child is not presently enrolled in health care  
30 coverage, upon motion of a party or the public authority, the  
31 court must determine whether one or both parties have  
32 appropriate health care coverage for the child and order the  
33 party with appropriate health care coverage available to carry  
34 the coverage for the child.

35 (c) If only one party has appropriate health care coverage  
36 available, the court must order that party to carry the coverage

1 for the child.

2 (d) If both parties have appropriate health care coverage  
3 available, the court must order the parent with whom the child  
4 resides to carry the coverage for the child, unless:

5 (1) either party expresses a preference for coverage  
6 available through the parent with whom the child does not  
7 reside;

8 (2) the parent with whom the child does not reside is  
9 already carrying dependent health care coverage for other  
10 children and the cost of contributing to the premiums of the  
11 coverage of the parent with whom the child resides would cause  
12 the other parent extreme hardship; or

13 (3) both parents agree to provide coverage and agree on the  
14 allocation of costs.

15 If the exception in clause (1) or (2) applies, the court must  
16 determine which party has the most appropriate coverage  
17 available based on the best interests of the child and order  
18 that party to carry coverage for the child.

19 (e) If neither party has appropriate health care coverage  
20 available, the court must order the parent with whom the child  
21 does not reside to contribute toward the cost of public coverage  
22 for the child or the child's uninsured medical expenses in an  
23 amount equal to the lesser of either:

24 (1) five percent of income available for child support; or

25 (2) the monthly amount the parent with whom the child does  
26 not reside would pay for the child's premiums based on the  
27 parent's income that is available for child support for a  
28 household size equal to the parent plus the child who is a  
29 subject of the order as indicated by the MinnesotaCare sliding  
30 fee scale under chapter 256L. The court may order the parent  
31 with whom the child resides to apply for public coverage for the  
32 child.

33 Subd. 5. [CALCULATING MEDICAL SUPPORT.] The court must  
34 calculate the cost of medical support under section 518.5416,  
35 subdivision 6.

36 Subd. 6. [ALLOCATING MEDICAL SUPPORT COSTS.] (a) If the

1 party ordered to carry health care coverage for the child  
2 already carries dependent health care coverage for other  
3 dependents and would incur no additional premium costs to add  
4 the child to the existing coverage, the court must not order the  
5 other party to contribute to the premium costs for coverage of  
6 the child.

7 (b) If a party ordered to carry health care coverage for  
8 the child does not already carry dependent health care coverage  
9 but has other dependents who may be added to the ordered  
10 coverage, the full premium costs of the dependent health care  
11 coverage must be allocated between the parties in proportion to  
12 the party's share of the parties' combined income available for  
13 child support, unless the parties agree otherwise.

14 (c) If a party ordered to carry health care coverage for  
15 the child is required to enroll in a health plan so that the  
16 child can be enrolled in dependent health care coverage under  
17 the plan, the court must allocate the costs of the dependent  
18 health care coverage between the parties. The costs of the  
19 health care coverage for the party ordered to carry the coverage  
20 for the child must not be allocated between the parties.

21 Subd. 7. [NOTICE TO EMPLOYER BY PUBLIC AUTHORITY OR  
22 COURT.] (a) A copy of the national medical support notice or  
23 notice of medical withholding must be forwarded by the public  
24 authority to the employer within two business days after the  
25 date an employee is entered into the work reporting system under  
26 section 256.998.

27 (b) If a party is ordered to carry health care coverage for  
28 the child and the public authority provides support enforcement  
29 services, the public authority must forward a copy of the  
30 national medical support notice or notice of medical withholding  
31 to the party's employer or union and to the health carrier when  
32 the conditions under paragraph (d) are met or when ordered by  
33 the court.

34 (c) If the public authority does not provide support  
35 enforcement services, the party seeking to enforce the order may  
36 forward a copy of the court order for health care coverage for



1 the child to the employer or union of the party ordered to carry  
2 coverage and to the health carrier when the conditions under  
3 paragraph (d) are met or when ordered by the court.

4 (d) A copy of the national medical support notice or court  
5 order for health care coverage must be forwarded to the employer  
6 under paragraphs (b) and (c) if:

7 (1) the party ordered to carry health care coverage for the  
8 child fails to provide written proof to the other party or the  
9 public authority, within 30 days of the effective date of the  
10 court order, that health care coverage has been obtained for the  
11 child;

12 (2) the other party or the public authority gives written  
13 notice to the party ordered to carry health care coverage for  
14 the child of intent to enforce medical support. The other party  
15 or public authority must mail the written notice to the last  
16 known address of the party ordered to carry health care coverage  
17 for the child; and

18 (3) the party ordered to carry health care coverage for the  
19 child fails, within 15 days after the date on which the written  
20 notice under clause (2) was mailed, to provide written proof to  
21 the other party or the public authority that health care  
22 coverage has been obtained for the child.

23 Subd. 8. [EFFECT OF ORDER.] (a) A new employer or union of  
24 a party who is ordered to provide health care coverage for the  
25 child must enroll the child in the party's health plan upon  
26 receipt of a national medical support notice or court order.

27 (b) If a health plan administrator receives a completed  
28 national medical support notice, the plan administrator must  
29 notify the public authority within 40 business days after the  
30 date of the notice of the following:

31 (1) whether coverage is available to the child under the  
32 terms of the health plan;

33 (2) whether the child is covered under the health plan;

34 (3) the effective date of the child's coverage under the  
35 health plan; and

36 (4) what steps, if any, are required to effectuate the

1 child's coverage under the health plan.

2 (c) The plan administrator must also provide the public  
3 authority and the parties with a notice of enrollment of the  
4 child, description of the coverage, and any documents necessary  
5 to effectuate coverage.

6 Subd. 9. [CONTESTING ENROLLMENT.] (a) A party may contest  
7 the enrollment of a child in a health plan on the limited  
8 grounds that the enrollment is improper due to mistake of fact  
9 or that the enrollment meets the requirements of section 518.64,  
10 subdivision 2. If the party chooses to contest the enrollment,  
11 the party must do so no later than 15 days after the employer  
12 notifies the party of the enrollment by doing the following:

13 (1) filing a request for hearing according to section  
14 484.702;

15 (2) serving a copy of the request for hearing upon the  
16 public authority and the other party; and

17 (3) securing a date for the matter to be heard no later  
18 than 45 days after the notice of enrollment.

19 (b) The enrollment must remain in place while the party  
20 contests the enrollment.

21 Subd. 10. [EMPLOYER AND UNION REQUIREMENTS.] (a) An  
22 employer must send the national medical support notice to its  
23 health plan within 20 business days after the date on the  
24 national medical support notice.

25 (b) An employer or union that is included under the federal  
26 Employee Retirement Income Security Act of 1974 (ERISA), United  
27 States Code, title 29, section 1169(a), may not deny enrollment  
28 based on exclusionary clauses described in section 62A.048.

29 (c) Upon application of the party, or if a court orders a  
30 party to carry health insurance coverage for a child, the  
31 employer or union and its health plan must enroll the child as a  
32 beneficiary in the health plan and withhold any required  
33 premiums from the income or wages of the party ordered to carry  
34 health care coverage for the child.

35 (d) If more than one plan is offered by the employer or  
36 union and the national medical support notice or court order

1 does not specify the plan to be carried, the plan administrator  
2 must notify the parents and the public authority.

3 (e) If the party ordered to carry health care coverage for  
4 the child is not enrolled in the health plan, the employer or  
5 union must also enroll the party in the chosen plan if  
6 enrollment of the party is necessary to obtain dependent health  
7 care coverage under the plan.

8 (f) Enrollment of dependents and, if necessary, the party  
9 ordered to carry health care coverage for the child must be  
10 immediate and not dependent upon open enrollment periods.  
11 Enrollment is not subject to the underwriting policies under  
12 section 62A.048.

13 (g) Failure of the party ordered to carry health care  
14 coverage for the child to execute any documents necessary to  
15 enroll the dependent in the health plan does not affect the  
16 obligation of the employer or union and health plan to enroll  
17 the dependent in a plan. Information and authorization provided  
18 by the public authority, or by a party or guardian, is valid for  
19 the purposes of meeting enrollment requirements of the health  
20 plan.

21 Subd. 11. [EMPLOYER LIABILITY.] An employer or union that  
22 willfully fails to comply with the order is liable for any  
23 uninsured medical expenses incurred by the dependents while the  
24 dependents were eligible to be enrolled in the health plan and  
25 for any other premium costs incurred because the employer or  
26 union willfully failed to comply with the order. An employer or  
27 union that fails to comply with the order is subject to a  
28 finding of contempt and a \$250 civil penalty under section  
29 518.615 and is also subject to a civil penalty of \$500 to be  
30 paid to the party entitled to reimbursement or the public  
31 authority. Penalties paid to the public authority are  
32 designated for child support enforcement services.

33 Subd. 12. [DISENROLLMENT; CONTINUATION OF COVERAGE;  
34 OPTIONS IN COVERAGE.] (a) A child for whom a party is required  
35 to provide health care coverage under this section must be  
36 covered as a dependent of the party until the child is

1 emancipated, until further order of the court, or as consistent  
2 with the terms of the coverage.

3 (b) The health carrier or employer or union may not  
4 disenroll or eliminate coverage for the child unless:

5 (1) the health carrier, employer, or union is provided  
6 satisfactory written evidence that the court order is no longer  
7 in effect;

8 (2) the child is or will be enrolled in comparable health  
9 care coverage through another health plan that will take effect  
10 no later than the effective date of the disenrollment;

11 (3) the employee is no longer eligible for dependent  
12 coverage; or

13 (4) the required premium has not been paid by or on behalf  
14 of the child.

15 (c) If disenrollment or elimination of coverage of a child  
16 under this subdivision is based upon nonpayment of premiums, the  
17 health plan must provide 30 days' written notice to the child's  
18 parents and the public authority, if the public authority is  
19 providing support enforcement services, prior to the  
20 disenrollment or elimination of coverage.

21 (d) A child enrolled in health care coverage under a  
22 qualified medical child support order, including a national  
23 medical support notice, under this section is a dependent and a  
24 qualified beneficiary under the Consolidated Omnibus Budget and  
25 Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon  
26 expiration of the order, the child is entitled to the  
27 opportunity to elect continued coverage that is available under  
28 the health plan. Notice must be provided by the employer or  
29 union to the parties and the public authority, if it provides  
30 child support services, within ten days of the termination date.

31 (e) If the public authority provides support enforcement  
32 services and a plan administrator reports to the public  
33 authority that there is more than one coverage option available  
34 under the health plan, the public authority, in consultation  
35 with the custodial parent, must promptly select coverage from  
36 the available options. If the custodial parent fails to

1 cooperate in a reasonable period of time, the public authority  
2 must select the coverage from the available health plan options.

3 Subd. 13. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court  
4 must require a noncustodial parent to provide dependent health  
5 care coverage for the benefit of a custodial parent if the  
6 noncustodial parent is ordered to provide dependent health care  
7 coverage for the parties' child and adding the custodial parent  
8 to the coverage results in no additional premium cost to the  
9 noncustodial parent.

10 Subd. 14. [PLAN REIMBURSEMENT.] The signature of a parent  
11 of the insured child is a valid authorization to a health plan  
12 for purposes of processing an insurance reimbursement payment to  
13 the provider of the medical services or to the parent if medical  
14 services have been prepaid by that parent.

15 Subd. 15. [CORRESPONDENCE AND NOTICE.] The health plan  
16 must send copies of all correspondence regarding the health care  
17 coverage to both parents.

18 Subd. 16. [DISCLOSURE OF INFORMATION.] (a) Parties must  
19 provide the public authority with the following information when  
20 support enforcement services are provided:

21 (1) information relating to dependent health care coverage  
22 or public coverage available for the benefit of the child for  
23 whom support is sought, including all information required to be  
24 included in a medical support order under this section;

25 (2) verification that application for court-ordered health  
26 care coverage was made within 30 days of the court's order; and

27 (3) the reason that a child is not enrolled in  
28 court-ordered health care coverage, if a child is not enrolled  
29 in coverage or subsequently loses coverage.

30 (b) Upon request from the public authority under section  
31 256.978, an employer, union, or plan administrator, including an  
32 employer subject to the federal Employee Retirement Income  
33 Security Act of 1974 (ERISA), United States Code, title 29,  
34 section 1169(a), must provide the public authority the following  
35 information:

36 (1) information relating to dependent health care coverage

1 available to a party for the benefit of the child for whom  
2 support is sought, including all information required to be  
3 included in a medical support order under this section; and

4 (2) information that will enable the public authority to  
5 determine whether a health plan is appropriate for a child,  
6 including, but not limited to, all available plan options, any  
7 geographic service restrictions, and the location of service  
8 providers.

9 (c) The employer, union, or plan administrator must not  
10 release information regarding one party to the other party. The  
11 employer, union, or health plan must provide both parties with  
12 insurance identification cards and all necessary written  
13 information to enable the parties to utilize the insurance  
14 benefits for the covered dependents.

15 (d) The public authority is authorized to release to a  
16 party's employer, union, or health plan information necessary to  
17 obtain or enforce medical support.

18 (e) An employee must disclose to an employer if medical  
19 support is required to be withheld under this section and the  
20 employer must begin withholding according to the terms of the  
21 order and under section 518.6111. If an employee discloses an  
22 obligation to obtain health care coverage and coverage is  
23 available through the employer, the employer must make all  
24 application processes known to the individual and enroll the  
25 employee and dependent in the plan under subdivision 10.

26 Subd. 17. [APPLICATION FOR IV-D SERVICES.] The public  
27 authority must take necessary steps to establish and enforce an  
28 order for medical support if the child receives public  
29 assistance or a party completes an application for services from  
30 the public authority.

31 Subd. 18. [ENFORCEMENT.] (a) Remedies available for the  
32 collection and enforcement of child support apply to medical  
33 support. For the purpose of enforcement, the costs of  
34 individual or group health or hospitalization coverage, dental  
35 coverage, all medical costs ordered by the court to be paid by  
36 either party, including health and dental insurance premiums

1 paid by the obligee because of the obligor's failure to obtain  
2 coverage as ordered, or liabilities established under this  
3 subdivision, are additional support.

4 (b) If a party owes a basic support obligation for a child  
5 and is ordered to carry health care coverage for the child, and  
6 the other party is ordered to contribute to the carrying party's  
7 cost for coverage, the carrying party's basic support payment  
8 must be reduced by the amount of the contributing party's  
9 contribution.

10 (c) If a party owes a basic support obligation for a child  
11 and is ordered to contribute to the other party's cost for  
12 carrying health care coverage for the child, the contributing  
13 party's basic support payment must be increased by the amount of  
14 the contribution.

15 (d) If a party owes no basic support obligation for a child  
16 and is ordered to contribute to the other party's cost for  
17 carrying health care coverage for the child, the contributing  
18 party is subject to income withholding under section 518.6111  
19 for the amount of the contribution to the carrying party's cost  
20 for health care coverage for the child.

21 (e) If a party's court-ordered health care coverage for the  
22 child terminates and the child is not enrolled in other health  
23 care coverage or public coverage, and a modification motion is  
24 not pending, the public authority may remove the offset to the  
25 basic support obligation or terminate income withholding  
26 instituted against a parent with whom the child resides under  
27 section 518.6111, and must provide notice to the parties.

28 (f) A party may contest the action of the public authority  
29 to remove the offset to the basic support obligation or  
30 terminate income withholding if the party makes a written  
31 request for a hearing within 30 days after receiving written  
32 notice. If a party makes a timely request for a hearing, the  
33 public authority must schedule a hearing and give written notice  
34 of the hearing to the parties at least 14 days before the  
35 hearing. The written notice of the hearing must be sent by mail  
36 to the parties' last known addresses. The hearing must be

1 conducted in district court or in the expedited child support  
2 process if section 484.702 applies. The district court or child  
3 support magistrate must determine whether removal of the offset  
4 or termination of income withholding is appropriate and, if  
5 appropriate, the effective date for the removal or termination.  
6 If the party does not request a hearing, the court must order  
7 the offset or termination effective the first day of the month  
8 following termination of the child's health care coverage.

9 (g) A party who fails to carry court-ordered dependent  
10 health care coverage is liable for the child's uninsured medical  
11 expenses unless a court order provides otherwise. A party's  
12 failure to carry court-ordered coverage, or to provide other  
13 medical support as ordered, is a basis for modification of a  
14 support order under section 518.64.

15 (h) Payments by the health carrier or employer for services  
16 rendered to the dependents that are directed to a party not owed  
17 reimbursement must be endorsed over to and forwarded to the  
18 vendor or appropriate party or the public authority. A party  
19 retaining insurance reimbursement not owed to the party is  
20 liable for the amount of the reimbursement.

21 Subd. 19. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL  
22 EXPENSES.] (a) A request for reimbursement of unreimbursed and  
23 uninsured medical expenses must be initiated within two years of  
24 the date that the unreimbursed or uninsured medical expenses  
25 were incurred. The time period in this paragraph does not apply  
26 if the location of the other parent is unknown.

27 (b) A party seeking reimbursement of unreimbursed and  
28 uninsured medical expenses must mail written notice of intent to  
29 collect the expenses and an affidavit of health care expenses to  
30 the other party at the party's last known address. The  
31 affidavit of health care expenses must itemize and document the  
32 child's unreimbursed or uninsured medical expenses. A copy of  
33 the bills, receipts, and the insurance company's explanation of  
34 the benefits must be attached to the affidavit. The written  
35 notice must include a statement that the party has 30 days from  
36 the date of mailing the notice to pay in full, enter a payment



1 agreement, or file a motion requesting a hearing contesting the  
2 matter. If the public authority provides support enforcement  
3 services, the written notice also must include a statement that  
4 the requesting party must submit the amount due to the public  
5 authority for collection.

6 (c) If, after 30 days, the other party has not paid in  
7 full, the parties are unable to enter a payment agreement, or  
8 the other party has not filed a motion contesting the matter,  
9 and:

10 (1) if the public authority provides support enforcement  
11 services, the requesting party must send the original affidavit,  
12 a copy of the written notice, and copies of the bills, receipts,  
13 and the insurance company's explanation of the benefits to the  
14 public authority. The public authority must serve the other  
15 party with a notice of intent to enforce unreimbursed and  
16 uninsured medical expenses and file an affidavit of service by  
17 mail with the district court administrator. The notice must  
18 provide that unless the other party pays in full, enters into a  
19 payment agreement, or files a motion contesting the matter  
20 within 14 days of service of the notice, the public authority  
21 will commence enforcement under subdivision 20; or

22 (2) if the public authority does not provide support  
23 enforcement services, the requesting party may move the court  
24 for enforcement.

25 (d) If the party who receives notice under paragraph (b) or  
26 (c), clause (1), files a timely motion for a hearing contesting  
27 the requested reimbursement, a hearing must be scheduled in  
28 district court or in the expedited child support process if  
29 section 484.702 applies. The contesting party must provide the  
30 party seeking reimbursement and the public authority, if the  
31 public authority provides support enforcement services, with  
32 written notice of the hearing at least 14 days before the  
33 hearing by mailing notice of the hearing to the public authority  
34 and the party at the party's last known address. The party  
35 seeking reimbursement must file the original affidavit of health  
36 care expenses with the court at least five days before the

1 hearing. Based upon the evidence presented, the court must  
2 determine liability for the expenses and order that the liable  
3 party is subject to enforcement of the expenses as medical  
4 support arrears under subdivision 20.

5 Subd. 20. [ENFORCING AN ORDER FOR MEDICAL SUPPORT  
6 ARREARS.] (a) If a party liable for unreimbursed and uninsured  
7 medical expenses under subdivision 19 owes a basic support  
8 obligation to the party seeking reimbursement of the expenses,  
9 the expenses must be collected as medical support arrears as  
10 follows:

11 (1) if income withholding under section 518.6111 is  
12 available, medical support arrears must be withheld from a  
13 liable party's income or wages under section 518.6111,  
14 subdivision 10; or

15 (2) if income withholding under section 518.6111 is not  
16 available, a liable party must pay medical support arrears under  
17 the terms of a payment agreement under section 518.553. If a  
18 liable party fails to enter into or comply with a payment  
19 agreement, the party seeking reimbursement or the public  
20 authority, if it provides support enforcement services, may  
21 schedule a hearing to have a court order payment. The party  
22 seeking reimbursement or the public authority must provide the  
23 liable party with written notice of the hearing at least 14 days  
24 before the hearing.

25 (b) If a party liable for unreimbursed and uninsured  
26 medical expenses does not owe a basic support obligation to the  
27 party seeking reimbursement, and the party seeking reimbursement  
28 owes the liable party child support arrears, the liable party's  
29 medical support arrears under subdivision 19 must be deducted  
30 from the amount of the child support arrears. If a liable party  
31 owes medical support arrears after deducting the amount owed  
32 from the amount of the child support arrears owed by the party  
33 seeking reimbursement, it must be collected as follows:

34 (1) if the party seeking reimbursement owes a basic support  
35 obligation to the liable party, the basic support obligation  
36 must be reduced by 20 percent until the medical support arrears

1 are satisfied;

2 (2) if the party seeking reimbursement does not owe a basic  
 3 support obligation to the liable party, the liable party's  
 4 income must be subject to income withholding under section  
 5 518.6111 for an amount required under section 518.553 until the  
 6 medical support arrears are satisfied; or

7 (3) if the party seeking reimbursement does not owe a basic  
 8 support obligation, and income withholding under section  
 9 518.6111 is not available, payment of the medical support  
 10 arrears must be required under a payment agreement under section  
 11 518.553.

12 Sec. 5. Minnesota Statutes 2004, section 518.54,  
 13 subdivision 1, is amended to read:

14 Subdivision 1. [TERMS.] For the purposes of sections  
 15 518.1711 and 518.54 to 518.66, the terms defined in this section  
 16 ~~shall~~ have the meanings ~~respectively-ascribed-to~~ given them.

17 Sec. 6. Minnesota Statutes 2004, section 518.54,  
 18 subdivision 4a, is amended to read:

19 Subd. 4a. [SUPPORT ORDER.] (a) "Support order" means a  
 20 judgment, decree, or order, whether temporary, final, or subject  
 21 to modification, issued by a court or administrative agency of  
 22 competent jurisdiction, for the support and maintenance of a  
 23 child, including a child who has attained the age of majority  
 24 under the law of the issuing state, or a child and the parent  
 25 with whom the child is living, that provides ~~for-monetary~~:

26 (1) basic support<sub>7i</sub>;

27 (2) child care<sub>7</sub> support<sub>i</sub>;

28 (3) medical support<sub>i</sub>, including expenses for confinement and  
 29 pregnancy, arrearages, or reimbursement<sub>7i</sub>; and that

30 (4) may include related costs and fees, interest and  
 31 penalties, income withholding, and other relief. This

32 (b) The definition in paragraph (a) applies to orders  
 33 issued under this chapter and chapters 256, 257, and 393, 518B,  
 34 518C, and 588.

35 Sec. 7. Minnesota Statutes 2004, section 518.54, is  
 36 amended by adding a subdivision to read:

1        Subd. 4b. [BASIC SUPPORT.] "Basic support" means the  
2 dollar amount ordered to be paid by the obligor for the cost of  
3 a child's housing, food, clothing, transportation, education,  
4 and other expenses, including, but not limited to, personal care  
5 items, entertainment, and reading materials. Basic support does  
6 not include monetary contributions for a child's private school  
7 tuition, child care expenses, and medical and dental expenses.

8        Sec. 8. Minnesota Statutes 2004, section 518.54, is  
9 amended by adding a subdivision to read:

10        Subd. 4c. [CHILD CARE SUPPORT.] "Child care support" means  
11 the dollar amount ordered to be paid by the obligor for  
12 work-related and education-related child care costs.

13        Sec. 9. Minnesota Statutes 2004, section 518.54,  
14 subdivision 6, is amended to read:

15        Subd. 6. [INCOME.] "Income" means any form of periodic  
16 payment to an individual including, but not limited to, wages,  
17 salaries, payments to an independent contractor, workers'  
18 compensation, unemployment benefits, annuity, military and naval  
19 retirement, pension and disability payments:--~~Benefits received~~  
20 ~~under Title IV-A of the Social Security Act and chapter 256J are~~  
21 ~~not income under this section,~~ in-kind payments received by the  
22 parties in the course of employment, self-employment, or  
23 operation of a business if the payments reduce the parties'  
24 living expenses, and all wages earned by a parent who receives  
25 an MFIP cash grant under chapter 256J. Income does not include  
26 maintenance ordered under chapters 518 and 518B.

27        Sec. 10. Minnesota Statutes 2004, section 518.54, is  
28 amended by adding a subdivision to read:

29        Subd. 6a. [GROSS INCOME ADJUSTED FOR CHILD  
30 SUPPORT.] "Gross income adjusted for child support" under  
31 section 518.5416, means income minus deductions, if applicable,  
32 for (1) ordinary and necessary business expenses from  
33 self-employment and (2) other child support or maintenance  
34 orders, not including orders for support or maintenance debt or  
35 arrears.

36        Sec. 11. Minnesota Statutes 2004, section 518.54, is

1 amended by adding a subdivision to read:

2 Subd. 6b. [INCOME AVAILABLE FOR CHILD SUPPORT.] "Income  
3 available for child support" means a parent's gross income  
4 adjusted for child support minus a deduction under subdivision  
5 6c for any other legally dependent child.

6 Sec. 12. Minnesota Statutes 2004, section 518.54, is  
7 amended by adding a subdivision to read:

8 Subd. 6c. [OTHER LEGALLY DEPENDENT CHILD.] (a) "Other  
9 legally dependent child" means a child:

- 10 (1) whom the parent has the legal duty to support;  
11 (2) who is not a subject of the action for child support;  
12 (3) for whom the parent is not ordered to pay child  
13 support; and  
14 (4) for whom no other person has court-ordered sole  
15 physical custody.

16 (b) The court must deduct an amount from a parent's income  
17 for a legally dependent child. The amount deducted from income  
18 for each legally dependent child must be computed using the  
19 following method:

20 (1) determine 120 percent of the federal poverty guidelines  
21 for a family size equal to two parents plus each legally  
22 dependent child;

23 (2) divide the amount determined under clause (1) by the  
24 family size determined under clause (1);

25 (3) multiply the amount calculated under clause (2) by the  
26 number of legally dependent children; and

27 (4) divide the amount calculated under clause (3) by two to  
28 determine the deduction amount for one parent. The amount  
29 determined for one parent must be divided by 12 to determine the  
30 amount of the deduction from a parent's monthly income.

31 (c) The commissioner of human services must publish a table  
32 listing the amount of the deduction for each legally dependent  
33 child by family size and must update the table for changes to  
34 the federal poverty guidelines by July 1 of each year.

35 Sec. 13. Minnesota Statutes 2004, section 518.54,  
36 subdivision 8, is amended to read:

1 Subd. 8. [OBLIGOR.] "Obligor" means a person ~~obligated~~  
2 ordered to pay maintenance or support. A person who is  
3 designated as the sole physical custodian of a child is presumed  
4 not to be an obligor for purposes of calculating current support  
5 under section ~~518.551~~ 518.5416 unless the court makes specific  
6 written findings to overcome this presumption. For purposes of  
7 ordering medical support under section 518.1711, an obligor may  
8 include a custodial parent.

9 Sec. 14. [518.5411] [CHILD SUPPORT ORDERS.]

10 Subdivision 1. [ORDER.] After receipt of the notice of  
11 proceedings for dissolution, legal separation, determination of  
12 parentage, or custody of a child, the court must enter a support  
13 order as provided in section 518.5416. The support order must  
14 contain the amounts ordered, if any, for basic support, child  
15 care support, and medical support. The court may order either  
16 or both parents owing a duty of support to pay an amount  
17 reasonable or necessary for the child's support. The court may  
18 not consider marital misconduct in setting support.

19 Subd. 2. [AGREEMENTS.] The court must review a child  
20 support stipulation of the parties to ensure it serves the best  
21 interests of the child. The court may refuse to accept or may  
22 alter an agreement that does not conform with the requirements  
23 of section 518.5416 or that is otherwise not in the best  
24 interests of the child.

25 Subd. 3. [SPECIFIC DOLLAR AMOUNT.] The court must order  
26 child support in a specific dollar amount. A support order may  
27 be in the form of a percentage share of the obligor's net  
28 bonuses, commissions, or other forms of compensation in addition  
29 to, or, if the obligor receives no base pay, in lieu of an order  
30 for a specific dollar amount.

31 Sec. 15. [518.5412] [EXCHANGE OF INFORMATION.]

32 Subdivision 1. [DOCUMENTATION.] The parties must timely  
33 serve and file documentation of earnings and income.  
34 Documentation of earnings and income includes, but is not  
35 limited to, pay stubs for the most recent three months, employer  
36 statements, or statement of receipts and expenses if

1 self-employed. Documentation of earnings and income also  
2 includes copies of each parent's most recent federal tax  
3 returns, including W-2 forms, 1099 forms, unemployment benefits  
4 statements, workers' compensation statements, and all other  
5 documents providing verification of income received over a  
6 longer period than the most recent three months.

7 Subd. 2. [TAX RETURNS.] At any time after an action  
8 seeking support has been commenced or when a support order is in  
9 effect, a party or the public authority may require the other  
10 party to provide a copy of the party's most recent federal tax  
11 returns that were filed with the Internal Revenue Service. The  
12 party must provide a copy of the tax returns within 30 days of  
13 receipt of the request unless the request is not made in good  
14 faith. In the absence of good cause, a request under this  
15 subdivision may not be made more than once every two years.

16 Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] The petitioner must  
17 notify the public authority of all proceedings for dissolution,  
18 legal separation, determination of parentage, or custody of a  
19 child if either party is receiving public assistance or applies  
20 for it after the commencement of the proceeding. The notice  
21 must contain the full names, Social Security numbers, and birth  
22 dates of the parties to the proceeding.

23 Subd. 4. [FAILURE OF NOTICE.] If the court in a  
24 dissolution, legal separation, or determination of parentage  
25 proceeding, finds before issuing the order for judgment and  
26 decree that notification has not been given to the public  
27 authority, the court must set support according to the  
28 guidelines in sections 518.5413 to 518.5416. In proceedings in  
29 which notification has not been made under this section and in  
30 which the public authority determines that the support ordered  
31 is lower than required by the guidelines in sections 518.5413 to  
32 518.5416, the public authority must move the court for a  
33 redetermination of the support payments ordered so that the  
34 support payments comply with the guidelines.

35 Sec. 16. [518.5413] [INCOME.]

36 Subdivision 1. [SOURCES.] Sources of income include

1 "income" as defined in section 518.54, subdivision 6.

2 Subd. 2. [EXCLUSIONS.] Benefits received from public  
3 assistance programs that are not income under this section  
4 include, but are not limited to:

5 (1) benefits under title IV-A of the Social Security Act;

6 (2) supplemental security income under Title XVI of the  
7 Social Security Act;

8 (3) MFIP under chapter 256J;

9 (4) any form of general assistance and aid under chapter  
10 256D;

11 (5) any form of medical assistance under chapter 256B;

12 (6) MinnesotaCare under chapter 256L;

13 (7) child care assistance provided through the child care  
14 fund under chapter 119B;

15 (8) food stamps;

16 (9) Section 8 certificates and vouchers programs; and

17 (10) earned income tax credits and working family credits.

18 Subd. 3. [INCOME OF OTHERS.] Income of a party's spouse or  
19 other household member is not income under this section.

20 Subd. 4. [OVERTIME.] (a) Income does not include  
21 compensation received by a party for employment in excess of a  
22 40-hour work week if:

23 (1) the excess employment began after the filing of the  
24 petition for dissolution but is an increase in the work schedule  
25 or hours worked over that of the two years immediately preceding  
26 the filing of the action to establish or modify support;

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

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

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

34 (b) The court may presume that a party with seasonal or  
35 intermittent income who works periods in excess of a 40-hour  
36 work week, but who works a substantially normal number of hours



1 over the course of a year, is working within the normal range of  
2 hours worked.

3 Subd. 5. [CHILD SUPPORT FOR OTHER LEGALLY DEPENDENT  
4 CHILD.] Child support received for any other legally dependent  
5 child is not income under this section.

6 Subd. 6. [SELF-EMPLOYMENT; INDEPENDENT  
7 CONTRACTORS.] Self-employed persons or independent contractors  
8 may deduct ordinary and necessary expenses when calculating  
9 gross income adjusted for child support under this section.  
10 Ordinary and necessary expenses include what would otherwise be  
11 the employer's share of the contributions under the Federal  
12 Insurance Contributions Act (FICA), United States Code, title  
13 26, subtitle C, chapter 21, subchapter A, sections 3101 to  
14 3126. Ordinary and necessary expenses do not include amounts  
15 allowed by the Internal Revenue Service for accelerated  
16 depreciation expenses or investment tax credits or any other  
17 business expenses determined by the court to be inappropriate  
18 for determining income for purposes of child support. The  
19 person seeking to deduct an expense, including depreciation, has  
20 the burden of proving, if challenged, that the expense is  
21 ordinary and necessary. Income available for child support  
22 under this section may be different from taxable income.

23 Sec. 17. [518.5414] [IMPUTED INCOME.]

24 Subdivision 1. [DEFINITION.] "Imputed income" means the  
25 estimated earning ability of a parent based on the parent's  
26 prior earnings history, education, and job skills and on the  
27 availability of jobs within the community for an individual with  
28 the parent's qualifications.

29 Subd. 2. [NONAPPEARANCE OF A PARTY.] If a parent under the  
30 jurisdiction of the court does not appear at a court hearing  
31 after proper notice of the time and place of the hearing, the  
32 court must set income for that parent based on credible evidence  
33 before the court or under subdivision 3. Credible evidence may  
34 include documentation of current or recent income, testimony of  
35 the other parent concerning recent earnings and income levels,  
36 and the parent's wage reports filed with the Department of

1 Employment and Economic Development under section 268.044.

2 Subd. 3. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a)

3 If the court finds that a parent is voluntarily unemployed or  
4 underemployed or was voluntarily unemployed or underemployed  
5 during the period for which past support is being sought,  
6 support must be calculated based on a determination of imputed  
7 income.

8 (b) A parent is not considered voluntarily unemployed or  
9 underemployed upon a showing by the parent that:

10 (1) the unemployment or underemployment is temporary and  
11 will ultimately lead to an increase in income;

12 (2) the unemployment or underemployment represents a bona  
13 fide career change that outweighs the adverse effect of that  
14 parent's diminished income on the child;

15 (3) the parent is a recipient of public assistance as  
16 defined under section 256.741, subdivision 1; or

17 (4) the parent is physically or mentally incapacitated.

18 Subd. 4. [INSUFFICIENT INFORMATION.] If there is  
19 insufficient information to determine actual income or to impute  
20 income under subdivision 2 or 3, the court may calculate support  
21 based on full-time employment of 40 hours per week at 150  
22 percent of the federal minimum wage or the Minnesota minimum  
23 wage, whichever is higher.

24 Subd. 5. [PARENT PROVIDING AT-HOME CARE TO CHILD.] The  
25 court must consider the following factors when determining  
26 whether a parent is voluntarily unemployed or underemployed when  
27 the parent stays at home to care for a child who is a subject of  
28 the order for child support:

29 (1) the parties' parenting and child care arrangement prior  
30 to the action for child support;

31 (2) the stay-at-home parent's employment history, including  
32 recency of employment and earnings, as well as the availability  
33 of jobs within the community for an individual with the parent's  
34 qualifications;

35 (3) the relationship between the employment-related  
36 expenses, including child care, cost for transportation,

1 suitable clothing, and other items required for the parent to be  
2 employed, and the income that the stay-at-home parent could  
3 receive from available jobs within the community for an  
4 individual with the parent's qualifications;

5 (4) the age and health of the child, including whether the  
6 child is physically or mentally disabled; and

7 (5) the availability of appropriate child care providers.

8 Sec. 18. [518.5415] [PRESUMPTIVE CHILD SUPPORT ORDERS;  
9 GENERAL.]

10 Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in  
11 sections 518.5413 to 518.5416 are a rebuttable presumption and  
12 must be used in all cases when establishing or modifying child  
13 support.

14 Subd. 2. [BASIC SUPPORT INCOME LIMIT.] The dollar amount  
15 of the income limit in the basic support schedule in subdivision  
16 4 must be adjusted on July 1 of every even-numbered year to  
17 reflect cost-of-living changes. The commissioner of human  
18 services must select the index for the adjustment from the  
19 indices listed in section 518.641. The commissioner of human  
20 services must make the changes in the dollar amount required by  
21 this subdivision available to courts and the public on or before  
22 April 30 of the year in which the amount is to change.

23 Subd. 3. [CHILD'S INSURANCE BENEFIT.] In establishing or  
24 modifying child support, if a child receives a child's insurance  
25 benefit under United States Code, title 42, section 402, because  
26 the obligor is entitled to old age or disability insurance  
27 benefits, the amount of support ordered must be offset by the  
28 amount of the child's benefit. The court must make findings  
29 regarding the obligor's income from all sources, the child  
30 support amount calculated under section 518.5416, the amount of  
31 the child's benefit, and the obligor's child support  
32 obligation. A benefit received by the child in a given month in  
33 excess of the child support obligation must not be treated as an  
34 arrearage payment or a future payment.

35 Sec. 19. [518.5416] [CALCULATING CHILD SUPPORT.]

36 Subdivision 1. [WORKSHEET.] The commissioner of human

1 services must create a worksheet for calculation of child  
2 support under this section. The worksheet must incorporate the  
3 methodology for calculating child support as provided in this  
4 section. The commissioner must produce and include with the  
5 worksheet all tables or charts necessary for determining basic  
6 support, child care support, and medical support, and the  
7 deduction for any other legally dependent child. The  
8 commissioner must update the worksheet and accompanying tables  
9 or charts on July 1 of each year.

10 Subd. 2. [CALCULATING GROSS INCOME ADJUSTED FOR CHILD  
11 SUPPORT.] Monthly gross income adjusted for child support must  
12 be calculated for both the obligor and obligee under section  
13 518.54, subdivision 6a.

14 Subd. 3. [CALCULATING SHARED RESPONSIBILITY.] (a) The  
15 court must calculate the amount of the obligor's and obligee's  
16 proportionate share of income available for child support by  
17 dividing each party's income available for child support under  
18 section 518.54, subdivision 6b, by the sum of the obligor's and  
19 obligee's income available for child support under section  
20 518.54, subdivision 6b.

21 (b) The obligor's and obligee's shared responsibility for  
22 basic support is based upon the sum of each party's income  
23 available for child support under section 518.54, subdivision  
24 6b, and the number of children who are parties to the action for  
25 child support. The amount of the obligor's and obligee's shared  
26 responsibility for basic support is determined using the  
27 schedule of basic support under subdivision 4. If the sum total  
28 of the obligor's and obligee's monthly income available for  
29 child support falls between two income levels in the schedule,  
30 the court must use the support amount for the lower income level.

31 (c) The court must calculate the obligor's and obligee's  
32 proportionate responsibility for basic support by multiplying  
33 each party's proportionate share of income available for child  
34 support under paragraph (a) by the amount of the obligor's and  
35 obligee's shared responsibility for basic support under  
36 paragraph (b).

1 (d) The court must order basic support in the amount of the  
 2 obligor's proportionate responsibility for basic support under  
 3 paragraph (c). It is presumed that the obligee spends the  
 4 amount of the obligee's proportionate responsibility for child  
 5 support under paragraph (c) directly on the child.

6 (e) If the sum total of the obligor's and obligee's income  
 7 available for child support exceeds the income limit in effect  
 8 under section 518.5415, subdivision 3, the court must order  
 9 basic support in an amount at least equal to the income limit in  
 10 effect.

11 Subd. 4. [BASIC SUPPORT; SCHEDULE.] (a) Unless otherwise  
 12 agreed to by the parents and approved by the court, the court  
 13 must order that basic support be divided between the parents  
 14 based on their proportionate share of the parents' combined  
 15 monthly income, as determined under subdivision 3.

16 (b) For parents with a combined monthly income less than or  
 17 equal to 100 percent of the federal poverty guidelines amount  
 18 for two people, the commissioner of human services must  
 19 determine the percentages in this paragraph by taking two times  
 20 the minimum basic support amount under subdivision 11 divided by  
 21 100 percent of the federal poverty guidelines amount for two  
 22 people. For all other parents, basic support must be computed  
 23 using the following schedule, prepared based on 2001 United  
 24 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>
25 <u>Below \$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>
26 <u>\$1,000 - \$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>
27 <u>\$1,500 - \$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>
28 <u>\$2,000 - \$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>
29 <u>\$2,500 - \$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>
30 <u>\$3,000 - \$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>
31 <u>\$3,500 - \$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>
32 <u>\$4,000 - \$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>

1	<u>\$4,500 - \$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>
2	<u>\$5,000 - \$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>
3	<u>\$5,500 - \$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>
4	<u>\$6,000 - \$6,499</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>
5	<u>\$6,500 - \$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>
6	<u>\$7,000 - \$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>
7	<u>\$7,500 - \$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>
8	<u>\$8,000 - \$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>
9	<u>\$8,500 - \$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>
10	<u>\$9,000 - \$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>
11	<u>\$9,500 - \$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>
12	<u>\$10,000 - \$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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<u>\$15,000 or</u>						
23	<u>higher</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>

24 (c) The commissioner of human services must compute and  
 25 publish a schedule of basic support amounts calculated using the  
 26 percentages in paragraph (b). The schedule must show basic  
 27 support amounts for combined monthly income increments of not  
 28 more than \$100. The commissioner must determine the percentages  
 29 for each income increment by interpolating between the  
 30 percentages in paragraph (b). The commissioner may disregard a  
 31 fractional part of a dollar unless it amounts to 50 cents or  
 32 more, in which case the commissioner may increase the amount by  
 33 \$1.

34 Subd. 5. [SEPARATE HOUSEHOLD ADJUSTMENT.] After  
 35 determining each parent's basic support under subdivision 1, the  
 36 court must reduce the basic support of each parent by ten

1 percent for one child, 15 percent for two children, and 20  
2 percent for three or more children for whom child support is  
3 ordered.

4 Subd. 6. [CHILD CARE SUPPORT; CHILD CARE COSTS.] Unless  
5 otherwise agreed to by the parties and approved by the court,  
6 the court must order that the child care costs be divided  
7 between the obligor and obligee based on their proportionate  
8 share of the parties' combined monthly income, as determined  
9 under subdivision 3.

10 Subd. 7. [CHILD CARE SUPPORT; LOW-INCOME OBLIGOR.] (a) If  
11 the obligor's income as determined under section 518.54,  
12 subdivision 6b, meets the income eligibility requirements for  
13 child care assistance under the basic sliding fee program under  
14 chapter 119B, the court must order the obligor to pay the lesser  
15 of the following amounts:

16 (1) the amount of the obligor's monthly co-payment for  
17 child care assistance under the basic sliding fee schedule  
18 established by the commissioner of education under chapter 119B,  
19 based on an obligor's monthly gross income as determined under  
20 section 518.54, subdivision 6b, and the size of the obligor's  
21 household. For purposes of this subdivision, the obligor's  
22 household includes the obligor and the number of children for  
23 whom child support is being ordered; or

24 (2) the amount of the obligor's child care obligation under  
25 subdivision 6.

26 (b) The commissioner of human services must publish a table  
27 with the child care assistance basic sliding fee amounts and  
28 update the table for changes to the basic sliding fee schedule  
29 by July 1 of each year.

30 (c) The court must require verification of employment or  
31 school attendance and documentation of child care expenses from  
32 the obligee and the public authority, if applicable.

33 (d) If child care expenses fluctuate during the year  
34 because of the obligee's seasonal employment or school  
35 attendance or extended periods of parenting time with the  
36 obligor, the court must determine child care expenses based on

1 an average monthly cost.

2 (e) The amount allocated for child care expenses is  
3 considered child support but is not subject to a cost-of-living  
4 adjustment under section 518.641.

5 (f) The court may allow the parent with whom the child does  
6 not reside to care for the child while the parent with whom the  
7 child resides is working or attending school, as provided in  
8 section 518.175, subdivision 8. Allowing the parent with whom  
9 the child does not reside to care for the child under section  
10 518.175, subdivision 8, is not a reason to deviate from the  
11 guidelines.

12 Subd. 8. [CHANGE IN CHILD CARE.] (a) When a court order  
13 provides for child care expenses and the public authority  
14 provides child support enforcement services, the public  
15 authority must suspend collecting the amount allocated for child  
16 care expenses when:

17 (1) either party informs the public authority that no child  
18 care costs are being incurred; and

19 (2) the public authority verifies the accuracy of the  
20 information. The public authority will resume collecting child  
21 care expenses when either party provides information that child  
22 care costs have resumed.

23 (b) If the parties provide conflicting information to the  
24 public authority regarding whether child care expenses are being  
25 incurred, the public authority will continue or resume  
26 collecting child care expenses. Either party, by motion to the  
27 court, may challenge the suspension or resumption of the  
28 collection of child care expenses. If the public authority  
29 suspends collection activities for the amount allocated for  
30 child care expenses, all other provisions of the court order  
31 remain in effect.

32 (c) In cases where there is a substantial increase or  
33 decrease in child care expenses, the parties may modify the  
34 order under section 518.64.

35 Subd. 9. [MEDICAL SUPPORT.] (a) In ordering medical  
36 support under this section, the court must comply with section



1 518.1711.

2 (b) If the obligor's gross income adjusted for child  
3 support is equal to or greater than 150 percent of the federal  
4 poverty guidelines per month, and if the obligor or obligee, or  
5 both, have appropriate health care coverage, the court must  
6 calculate medical support as follows:

7 (1) the court must determine the cost of the child's health  
8 care coverage;

9 (2) unless the child is receiving medical assistance under  
10 chapter 256B or MinnesotaCare under chapter 256L, the court must  
11 determine the obligor's and obligee's proportionate  
12 responsibility for medical support by multiplying the amount  
13 under clause (1) by the amount of the obligor's and obligee's  
14 proportionate responsibility for child support under subdivision  
15 4, paragraph (c); and

16 (3) the court must order the obligor and obligee to pay for  
17 the child's uninsured and unreimbursed medical expenses by  
18 multiplying the amount of the expenses by the amount of the  
19 obligor's and obligee's proportionate responsibility for child  
20 support under subdivision 4, paragraph (c).

21 (c) If a party's obligation for the health care coverage  
22 premiums is greater than five percent of the party's income  
23 available for child support under subdivision 4, paragraph (b),  
24 the court may order the other party to contribute more for the  
25 cost of the premiums, if doing so would not result in extreme  
26 hardship to that party. If an additional contribution causes a  
27 party extreme hardship, the court must order the obligor to  
28 contribute the lesser of the two amounts under paragraph (d).

29 (d) If the obligor's gross income adjusted for child  
30 support is equal to or greater than 150 percent of the federal  
31 poverty guidelines per month, and if the obligor or obligee does  
32 not have appropriate health care coverage under section  
33 518.1711, subdivision 3, the court must order the obligor to pay  
34 the lesser of the following amounts for medical support:

35 (1) the monthly amount the obligor would pay for the  
36 child's premiums for a household size equal to the obligor plus

1 the child who is a subject of the order for child support under  
2 the MinnesotaCare program's sliding fee scale that is  
3 established by the commissioner of human services under chapter  
4 256L, if the obligor's income available for child support under  
5 subdivision 4, paragraph (a), meets the income eligibility  
6 requirements for the MinnesotaCare program under chapter 256L.  
7 The obligor's monthly premium payment must not exceed five  
8 percent of the obligor's income available for child support  
9 under subdivision 4, paragraph (a); or

10 (2) five percent of the obligor's monthly income available  
11 for child support under subdivision 4, paragraph (a), if the  
12 obligor's income available for child support does not meet the  
13 eligibility requirements for the MinnesotaCare program under  
14 chapter 256L.

15 Subd. 10. [SELF-SUPPORT ADJUSTMENT.] (a) If the sum of the  
16 obligor's basic support, child care support, and medical support  
17 obligation leaves the obligor with remaining income in an amount  
18 less than 120 percent of the federal poverty guidelines for one  
19 person, the court must reduce the obligor's child support  
20 obligation by an amount equal to the lesser of:

21 (1) the difference between the obligor's remaining income  
22 and 120 percent of the federal poverty guidelines amount; or

23 (2) the obligor's total child support obligation. If the  
24 self-support adjustment results in an order amount less than \$50  
25 per month for one or two children or \$75 per month for three or  
26 more children, the court must order basic support under  
27 subdivision 2.

28 (b) The court must apply the reduction to the obligor's  
29 child support obligation in the following order:

30 (1) medical support obligation;

31 (2) child care support obligation; and

32 (3) basic support obligation.

33 Subd. 11. [MINIMUM BASIC SUPPORT AMOUNT.] (a) If the  
34 reduction under subdivision 10 equals the sum of the obligor's  
35 basic support, child care support, and medical support  
36 obligation, the court must order support as follows:

1 (1) for one or two children, the obligor's basic support  
2 obligation is \$50 per month; or

3 (2) for three or more children, the obligor's basic support  
4 obligation is \$75 per month.

5 (b) If the court orders the obligor to pay the minimum  
6 basic support amount under this subdivision, the obligor is  
7 presumed unable to pay child care support and medical support.

8 (c) If the court finds that an obligor receives no income  
9 and completely lacks the ability to earn income, the minimum  
10 basic support amount under this subdivision does not apply.

11 Subd. 12. [SUBSTANTIAL UNFAIRNESS TEST.] (a) If the  
12 obligee receives public assistance as defined under section  
13 256.741, subdivision 1, or if the obligee's monthly gross income  
14 adjusted for child support is equal to or greater than 120  
15 percent of the federal poverty guidelines for a family size  
16 equal to the obligee plus the number of children who are  
17 subjects of the order for child support, the court may reduce  
18 the obligor's child support obligation by the amount calculated  
19 as follows:

20 (1) calculate the sum of the obligor's proportionate  
21 responsibility for basic support, child care support, and  
22 medical support;

23 (2) subtract the amount calculated under clause (1) from  
24 the obligor's monthly gross income adjusted for child support  
25 under subdivision 2; and

26 (3) if the amount calculated under clause (2) is less than  
27 120 percent of the federal poverty guidelines for one person,  
28 subtract the amount from 120 percent of the federal poverty  
29 guidelines for one person and reduce the support order as  
30 provided in paragraph (b).

31 (b) In reducing the amount of the obligor's child support  
32 obligation, the court must subtract the amount calculated under  
33 paragraph (a), clause (3), from the obligor's medical support  
34 obligation. If the obligor's medical support obligation is less  
35 than the amount calculated under paragraph (a), clause (3), the  
36 court must then subtract the remaining amount from the obligor's

1 child care support obligation. The court must then subtract any  
2 remaining amount from the obligor's basic support obligation.

3 (c) The obligor's basic support obligation after reductions  
4 under this subdivision must be equal to or greater than the  
5 presumptive minimum for basic support under subdivision 11.

6 Subd. 13. [ORDER FOR COMMUNITY SERVICES.] If the court  
7 finds that the obligor earns 120 percent of the federal poverty  
8 guidelines or less per month and does not have the ability to  
9 provide support under this section, the court may order the  
10 obligor to perform community service in addition to paying the  
11 presumptive minimum for basic support under subdivision 3. In  
12 ordering community service under this subdivision, the court  
13 must consider whether the obligor has the physical capability of  
14 performing community service and must order community service  
15 that is appropriate for the obligor's abilities.

16 Sec. 20. [518.5417] [DEVIATIONS.]

17 Subdivision 1. [GENERAL FACTORS.] In addition to the  
18 provisions relating to the amount of child support ordered under  
19 sections 518.5413 to 518.5416, the court must consider all  
20 relevant factors, including the following, in setting or  
21 modifying child support or in determining whether to deviate  
22 from that amount:

23 (1) all earnings, income, and resources of the parents,  
24 including real and personal property, but excluding income from  
25 excess employment of the obligor or obligee that meets the  
26 criteria of section 518.5413, subdivision 4;

27 (2) the special needs of the child to be supported,  
28 including:

29 (i) the physical and emotional condition of the child;

30 (ii) any impairment, limitation, or disability of the  
31 child, and the need for special services or education; and

32 (iii) any special ability or talent of the child and the  
33 cost of educating or training that ability or talent;

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

1 (4) the age and health of the child and each parent;

2 (5) the debts and liabilities of the child and each parent  
3 as provided in subdivision 2;

4 (6) each parent's eligibility for or receipt of public  
5 assistance as defined under section 256.741, subdivision 1. A  
6 court may deviate upward from the amount of child support under  
7 the guidelines if a parent does not receive the public  
8 assistance that the parent is eligible to receive;

9 (7) the child's private school tuition costs if the child  
10 is enrolled in a private school before a parent brings the  
11 action for child support;

12 (8) the best interests of the child; and

13 (9) other factors that the court considers relevant.

14 Subd. 2. [DEBT.] (a) In establishing or modifying a  
15 support obligation, the court may consider debts owed to private  
16 creditors, but only if:

17 (1) the right to support has not been assigned under  
18 section 256.741;

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

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

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

35 (c) Any further departure below the guidelines that is  
36 based on a consideration of debts owed to private creditors must

1 not exceed 18 months in duration, after which the support must  
2 increase automatically to the level ordered by the court.  
3 Nothing in this section must be construed to prohibit one or  
4 more step increases in support to reflect debt retirement during  
5 the 18-month period.

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

8 Subd. 3. [EVIDENCE.] The court may receive evidence on the  
9 factors in this section to determine if the guidelines should be  
10 exceeded or modified in a particular case.

11 Subd. 4. [NO DEVIATION WHEN PAYMENTS ARE ASSIGNED TO THE  
12 PUBLIC AUTHORITY EXCEPT FOR EXTREME HARDSHIP.] If the child  
13 support payments are assigned to the public authority under  
14 section 256.741, the court may not deviate downward from the  
15 child support guidelines unless the court specifically finds  
16 that the failure to deviate downward would impose an extreme  
17 hardship on the obligor.

18 Sec. 21. [518.5418] [WRITTEN FINDINGS.]

19 Subdivision 1. [WORKSHEET.] The court must attach the  
20 completed child support worksheet under section 518.5416 to the  
21 child support order.

22 Subd. 2. [NO DEVIATION.] If the court does not deviate  
23 from the guidelines, the court must make written findings  
24 concerning the amount of the parties' income used as the basis  
25 for the guidelines calculation and any other significant  
26 evidentiary factors affecting the determination of child support.

27 Subd. 3. [DEVIATION.] (a) If the court deviates from the  
28 guidelines, the court must make written findings giving the  
29 amount of child support calculated under the guidelines and the  
30 reasons for the deviation, and must specifically address the  
31 criteria for deviation under section 518.5417, including how the  
32 deviation serves the best interests of the child.

33 (b) The court may deviate from the guidelines if both  
34 parties agree and the court makes written findings that it is in  
35 the best interests of the child, except that in cases where  
36 child support payments are assigned to the public authority.

1 under section 256.741, the court may deviate downward only as  
2 provided in section 518.5417, subdivision 4. Nothing in this  
3 section prohibits the court from deviating in other cases.

4       Sec. 22. [518.5421] [ASSIGNMENT.]

5       Subdivision 1. [GENERAL.] The court must direct that all  
6 payments ordered for maintenance and support be made to the  
7 public authority so long as the obligee is receiving or has  
8 applied for public assistance or has applied for child support  
9 and maintenance collection services. One public authority may  
10 act on behalf of another public authority. This includes the  
11 authority to represent the legal interests of or execute  
12 documents on behalf of the other public authority in connection  
13 with the establishment, enforcement, and collection of support,  
14 maintenance, and collection on judgments. Amounts received by  
15 the public authority greater than the amount granted to the  
16 obligee must be remitted to the obligee.

17       Subd. 2. [JUDGMENTS.] The public authority is joined as a  
18 party in each case in which rights are assigned under section  
19 256.741, subdivision 2. The court administrator must enter and  
20 docket a judgment obtained by operation of law under section  
21 548.091, subdivision 1, in the name of the public authority to  
22 the extent that the obligation has been assigned. When  
23 arrearages are reduced to judgment under circumstances in which  
24 section 548.091 is not applicable, the court must grant judgment  
25 in favor of, and in the name of, the public authority to the  
26 extent that the arrearages are assigned. After filing notice of  
27 an assignment with the court administrator, who must enter the  
28 notice in the docket, the public authority may enforce a  
29 judgment entered before the assignment of rights as if the  
30 judgment were granted to it and in its name, to the extent that  
31 the arrearages in that judgment are assigned.

32       Subd. 3. [IV-D CASES.] The public authority is a real  
33 party in interest in any IV-D case where there has been an  
34 assignment of support. In all other IV-D cases, the public  
35 authority has a pecuniary interest, as well as an interest in  
36 the welfare of the children involved in those cases. The public

1 authority may intervene as a matter of right in those cases to  
2 ensure that child support orders are obtained and enforced which  
3 provide for an appropriate and accurate level of basic support,  
4 medical support, and child care support. If the public  
5 authority participates in a IV-D case where the action taken by  
6 the public authority requires the use of an attorney's services,  
7 the public authority must be represented by an attorney  
8 consistent with the provisions in section 518.255.

9 Sec. 23. Minnesota Statutes 2004, section 518.551,  
10 subdivision 5c, is amended to read:

11 Subd. 5c. [~~CHILD-SUPPORT~~ GUIDELINES ~~TO-BE-REVIEWED-EVERY~~  
12 ~~FOUR-YEARS~~ REVIEW.] No later than ~~1994~~ 2008 and every four years  
13 after that, the Department of Human Services ~~shall~~ must conduct  
14 a review of the child support guidelines.

15 Sec. 24. Minnesota Statutes 2004, section 518.553, is  
16 amended to read:

17 518.553 [~~PAYMENT AGREEMENTS.~~]

18 In proposing or approving proposed written payment  
19 agreements for purposes of ~~section-518-551~~ sections 518.1711 and  
20 518.5416, the court, a child support magistrate, or the public  
21 authority shall take into consideration the amount of the  
22 arrearages, the amount of the current support order, any pending  
23 request for modification, and the earnings of the obligor. For  
24 the purpose of section 518.1711, an obligor may include a  
25 custodial parent. The court, child support magistrate, or  
26 public authority shall consider the individual financial  
27 circumstances of each obligor in evaluating the obligor's  
28 ability to pay any proposed payment agreement and shall propose  
29 a reasonable payment agreement tailored to the individual  
30 financial circumstances of each obligor. The court, child  
31 support magistrate, or public authority also shall consider a  
32 graduated payment plan tailored to the individual financial  
33 circumstances of each obligor.

34 Sec. 25. Minnesota Statutes 2004, section 518.6111,  
35 subdivision 1, is amended to read:

36 Subdivision 1. [DEFINITIONS.] (a) For the purpose of this



1 section, the following terms have the meanings provided in this  
2 subdivision unless otherwise stated.

3 (b) "Payor of funds" means any person or entity that  
4 provides funds to an obligor, including an employer as defined  
5 under chapter 24 of the Internal Revenue Code, section 3401(d),  
6 an independent contractor, payor of worker's compensation  
7 benefits or unemployment benefits, or a financial institution as  
8 defined in section 13B.06.

9 (c) "Business day" means a day on which state offices are  
10 open for regular business.

11 (d) "Arrears" means amounts owed under a support order that  
12 are past due.

13 (e) "Obligor" means a person obligated to pay maintenance  
14 or support, and for the purpose of section 518.1711, may include  
15 a custodial parent.

16 Sec. 26. Minnesota Statutes 2004, section 518.64,  
17 subdivision 2, is amended to read:

18 Subd. 2. [MODIFICATION.] (a) The terms of an order  
19 respecting maintenance or support may be modified upon a showing  
20 of one or more of the following: (1) substantially increased or  
21 decreased earnings of a party; (2) substantially increased or  
22 decreased need of a party or the child or children that are the  
23 subject of these proceedings; (3) receipt of assistance under  
24 the AFDC program formerly codified under sections 256.72 to  
25 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a  
26 change in the cost of living for either party as measured by the  
27 Federal Bureau of Statistics, any of which makes the terms  
28 unreasonable and unfair; (5) extraordinary medical expenses of  
29 the child not provided for under ~~section 518.171~~ section 518.1711; or (6)  
30 the addition of work-related or education-related child care  
31 expenses of the obligee or a substantial increase or decrease in  
32 existing work-related or education-related child care expenses.  
33 Implementation of section 518.5416 is not a basis for  
34 modification under this section. The fact that a parent has had  
35 additional children after the entry of a child support order is  
36 not a basis for modification under this section.

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

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

9       (1) the application of the child support guidelines in  
10 ~~section 518.551, subdivision 5~~ sections 518.5413 to 518.5416, to  
11 the current circumstances of the parties results in a calculated  
12 court order that is at least 20 percent and at least \$50 per  
13 month higher or lower than the current support order;

14       (2) the medical support provisions of the order established  
15 under section ~~518.171~~ 518.1711 are not enforceable by the public  
16 authority or ~~the obligee~~ a parent;

17       (3) health care coverage ordered ~~under section 518.171~~ is  
18 ~~not available to the child for whom the order is established by~~  
19 ~~the parent ordered to provide~~ is no longer appropriate under  
20 section 518.1711; or

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

23       (c) On a motion for modification of maintenance, including  
24 a motion for the extension of the duration of a maintenance  
25 award, the court shall apply, in addition to all other relevant  
26 factors, the factors for an award of maintenance under section  
27 518.552 that exist at the time of the motion. On a motion for  
28 modification of support, the court:

29       (1) shall apply section ~~518.551, subdivision 5~~ 518.5416,  
30 and shall not consider the financial circumstances of each  
31 party's spouse, if any; and

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

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

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

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

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

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

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

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

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

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

35 (3) the order for which the party seeks amendment was  
36 entered by default, the party shows good cause for not

1 appearing, and the record contains no factual evidence, or  
2 clearly erroneous evidence regarding the individual obligor's  
3 ability to pay; or

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

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

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

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

28 (g) Section 518.14 shall govern the award of attorney fees  
29 for motions brought under this subdivision.

30 Sec. 27. Minnesota Statutes 2004, section 518.641,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [REQUIREMENT.] (a) An order establishing,  
33 modifying, or enforcing maintenance or child support or medical  
34 support under section 518.1711 shall provide for a biennial  
35 adjustment in the amount to be paid based on a change in the  
36 cost of living. An order that provides for a cost-of-living

1 adjustment shall specify the cost-of-living index to be applied  
2 and the date on which the cost-of-living adjustment shall become  
3 effective. The court may use the Consumer Price Index for all  
4 urban consumers, Minneapolis-St. Paul (CPI-U), the Consumer  
5 Price Index for wage earners and clerical, Minneapolis-St. Paul  
6 (CPI-W), or another cost-of-living index published by the  
7 Department of Labor which it specifically finds is more  
8 appropriate. Cost-of-living increases under this section shall  
9 be compounded. The court may also increase the amount by more  
10 than the cost-of-living adjustment by agreement of the parties  
11 or by making further findings.

12 (b) The adjustment becomes effective on the first of May of  
13 the year in which it is made, for cases in which payment is made  
14 to the public authority. For cases in which payment is not made  
15 to the public authority, application for an adjustment may be  
16 made in any month but no application for an adjustment may be  
17 made sooner than two years after the date of the dissolution  
18 decree. A court may waive the requirement of the cost-of-living  
19 clause if it expressly finds that the obligor's occupation or  
20 income, or both, does not provide for cost-of-living adjustment  
21 or that the order for maintenance or child or medical support  
22 has a provision such as a step increase that has the effect of a  
23 cost-of-living clause. The court may waive a cost-of-living  
24 adjustment in a maintenance order if the parties so agree in  
25 writing. The commissioner of human services may promulgate  
26 rules for child support adjustments under this section ~~in~~  
27 ~~accordance-with~~ under the rulemaking provisions of chapter 14.  
28 Notice of this statute must comply with section 518.68,  
29 subdivision 2.

30 Sec. 28. Minnesota Statutes 2004, section 518.641,  
31 subdivision 3, is amended to read:

32 Subd. 3. [RESULT OF HEARING.] (a) If, at a hearing  
33 ~~pursuant-to~~ under this section regarding a maintenance or child  
34 support adjustment, the obligor establishes an insufficient cost  
35 of living or other increase in income that prevents fulfillment  
36 of the adjusted maintenance or child support obligation, the

1 court or child support magistrate may direct that all or part of  
 2 the adjustment not take effect. If, at the hearing, the obligor  
 3 does not establish this insufficient increase in income, the  
 4 adjustment shall take effect as of the date it would have become  
 5 effective had no hearing been requested.

6 (b) If, at a hearing under this section regarding a medical  
 7 support adjustment, the obligor establishes that the adjustment  
 8 exceeds the actual cost of the health care coverage, the court  
 9 may direct that all or part of the adjustment not take effect.  
 10 If, at the hearing, the obligor does not establish that the  
 11 adjusted medical support exceeds the actual cost of health care  
 12 coverage, the adjustment must take effect as of the date it  
 13 would have become effective had no hearing been requested.

14 Sec. 29. [REVISOR INSTRUCTION.]

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

19	<u>A</u>	<u>B</u>
20	<u>518.551, subd. 5c</u>	<u>518.5419</u>
21	<u>518.551, subd. 5d</u>	<u>518.5420</u>

22 The revisor of statutes must change the headnote for  
 23 Minnesota Statutes, section 518.551, to "ENFORCEMENT."

24 Sec. 30. [REPEALER.]

25 Minnesota Statutes 2004, sections 518.171; and 518.551,  
 26 subdivisions 1, 5, 5a, 5b, 5e, 5f, 6, 7, 9, and 11, are repealed.

27 Sec. 31. [EFFECTIVE DATE.]

28 This act is effective July 1, 2006."

SF 1900  
**Child Support Guideline Worksheet**  
 MARCH 2005 - FOR DISCUSSION ONLY

Draft

Number of children for whom support is being determined:   1  

Determining Parental Responsibility	Obligor	Obligee	Combined
<b>Income:</b>			
1. Gross monthly income	3000	2000	
<b>Deductions:</b>			
2. Self-employment business expenses:	--	--	
3. Other support and maintenance orders:	--	--	
4. Deduction for other legally dependent children (Table A):	--	--	
5. Total deductions (Line 2 + Line 3 + Line 4)	--	--	
<b>Gross Income for Determining Support:</b>			
6. Monthly income for determining support (Line 1 minus Line 5):	3000	2000	
<b>Parents' Proportionate Responsibility</b>			
7. Each parent's proportionate responsibility:			
<b>Obligor:</b> Obligor's Line 6 ÷ Combined Line 6:	.60		
<b>Obligee:</b> Obligee's Line 6 ÷ Combined Line 6:		.40	

Determining Support Amounts	Obligor	Obligee	Combined
<b>Order for Basic Support:</b>			
8. Parents' combined Basic Support obligation (Schedule of Basic Support):			875
9. Proportionate responsibility of each parent:			
<b>Obligor:</b> Obligor's Line 7 X Combined Line 8:	525		
<b>Obligee:</b> Obligee's Line 7 X Combined Line 8:		350	
10. Separate Household Adjustment			
<b>Obligor:</b> Obligor's Line 9 X .10 (one child), .15 (two children), or .20 (three or more children)	53		
11. Order for Basic Support			
<b>Obligor:</b> Obligor's Line 9 minus Obligor's Line 10:	472		
<b>Order for Child Care Support:</b>			
12. Child care costs (MN average):			350
13. Proportionate responsibility of each parent:			
<b>Obligor:</b> Obligor's Line 7 X Line 12 OR Child Care Sliding Fee (Table C), if applicable:	210		
<b>Obligee:</b> Obligee's Line 7 X Line 12:		140	
<b>Order for Medical Support:</b>			
<i>If at least one parent has appropriate insurance available:</i>			
14. Cost of children's health care coverage (MN average):			100
15. Proportionate responsibility of each parent:			
<b>Obligor:</b> Obligor's Line 7 X Line 14:	60		
<b>Obligee:</b> Obligee's Line 7 X Line 14:		40	
<i>If neither parent has appropriate insurance available:</i>			
16. <b>Obligor:</b> MinnesotaCare Premium (Table D):			

The order for medical support shall also apportion responsibility for uninsured and unreimbursed medical and dental expenses. Such expenses shall be allocated to each parent in proportion to each parent's share of gross income for determining support (Line 7).

Adjusting Orders for Low-Income Obligor	Obligor	Obligee	Combined
<b>Self-Support Adjustment:</b>			
17. Need for reduction in obligor's support obligation:			
A. Obligor's gross monthly income for determining support (Line 6):	3000		
B. Sum of basic support, child care support, and medical support (Obligor's Line 11 + Line 13 + Line 15 or 16):	742		
C. Remaining income (Lines 17A minus 17B):	2258		
D. Obligor's self-support reserve:	917		
E. Difference between obligor's remaining income and self-support reserve amount (Lines 17C minus 17D):	1341		

If Line 17E is greater than zero, no adjustment is necessary.

If Line 17E is less than zero, reduce the support amount until Line 17E is equal to zero. Begin by first reducing the medical support amount, then reducing the child care support amount, then reducing the basic support amount.

The basic support amount shall not be reduced beyond the appropriate presumptive minimum as indicated below:

<b>Presumptive Minimum Order for Basic Support:</b>			
<i>For 1 or 2 children:</i>			
18. \$50 per month	--		
<i>For 3 or more children:</i>			
19. \$75 per month			



**Child Support Outcomes under SF 630 and SF 1900:  
Impact of Increased Parenting Time and Other Dependents**

For discussion only – March 28, 2005

Both SF 630 and SF 1900 contain provisions which acknowledge that obligors incur direct expenses for their children during parenting time and which recognize that some parents have legally-dependent children (other than those for whom support is being ordered) living with them at the time a support order is being determined. However, support orders under SF 630 are considerably lower than those under SF 1900 when parents have increased parenting time or have other dependents in the home. Attached are some examples.

The provisions that affect support amounts in the attached tables are as follows:

1. **Lower estimates of child costs in the Schedule of Basic Support under SF 630 than under SF 1900**
2. **Larger deductions from income for other dependents for middle- and higher-income families under SF 630 than under SF 1900**
3. **Larger reductions in the obligor's share of the parents' combined basic support obligation for parenting time that is less than 32%** (a reduction of 18% under SF 630 vs. a reduction of 10% for one child or 15% for two children under SF 1900)
4. **An even larger reduction in basic support for parenting time that is greater than 32%** (a reduction of 27% under SF 630 vs. a reduction of 10% or 15% under SF 1900 – the reduction in support is not tied to time under SF 1900)

It should be noted that in many (perhaps most) families, a typical "reasonable and liberal parenting time" schedule is equal to 33% of overnights over the course of a calendar year (every other weekend, one night a week, two weeks in summer, and alternating holidays). This means that the lower amounts for SF 630 (reported in the second set of tables for each family) would be the more common scenario.

**LOW-INCOME FAMILY WITH ONE CHILD**Obligor's gross monthly income: **\$2000**Obligee's gross monthly income: **\$1000**

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law</i></b>			<b><i>SF 630</i></b>			<b><i>SF 1900</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$350</b>	18%	NA	<b>\$331</b>	10%	NA	<b>\$407</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$350</b>	18%	\$258	<b>\$304</b>	10%	\$257	<b>\$373</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$350</b>	18%	\$416	<b>\$280</b>	10%	\$464	<b>\$343</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$350</b>	27%	NA	<b>\$295</b>	10%	NA	<b>\$407</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$350</b>	27%	\$258	<b>\$271</b>	10%	\$257	<b>\$373</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$350</b>	27%	\$416	<b>\$249</b>	10%	\$464	<b>\$343</b>

**MIDDLE-INCOME FAMILY WITH ONE CHILD**

**Obligor's gross monthly income: \$3000**

**Obligee's gross monthly income: \$2000**

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$519</b>	18%	NA	<b>\$386</b>	10%	NA	<b>\$473</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$519</b>	18%	\$302	<b>\$348</b>	10%	\$257	<b>\$441</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$519</b>	18%	\$488	<b>\$337</b>	10%	\$464	<b>\$415</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$519</b>	27%	NA	<b>\$342</b>	10%	NA	<b>\$473</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$519</b>	27%	\$302	<b>\$310</b>	10%	\$257	<b>\$441</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$519</b>	27%	\$488	<b>\$300</b>	10%	\$464	<b>\$415</b>

**HIGH-INCOME FAMILY WITH ONE CHILD**

Obligor's gross monthly income: \$5000

Obligee's gross monthly income: \$3000

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$806</b>	18%	NA	<b>\$537</b>	10%	NA	<b>\$667</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$806</b>	18%	\$390	<b>\$503</b>	10%	\$257	<b>\$629</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$806</b>	18%	\$630	<b>\$474</b>	10%	\$464	<b>\$607</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$806</b>	27%	NA	<b>\$478</b>	10%	NA	<b>\$667</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$806</b>	27%	\$390	<b>\$448</b>	10%	\$257	<b>\$629</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$806</b>	27%	\$630	<b>\$422</b>	10%	\$464	<b>\$607</b>

**LOW-INCOME FAMILY WITH TWO CHILDREN**

**Obligor's gross monthly income: \$2000**

**Obligee's gross monthly income: \$1000**

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law</i></b>			<b><i>SF 630</i></b>			<b><i>SF 1900</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$420</b>	18%	NA	<b>\$535</b>	10%	NA	<b>\$620</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$420</b>	18%	\$258	<b>\$491</b>	10%	\$257	<b>\$568</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$420</b>	18%	\$416	<b>\$452</b>	10%	\$464	<b>\$523</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$420</b>	27%	NA	<b>\$477</b>	10%	NA	<b>\$620</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$420</b>	27%	\$258	<b>\$437</b>	10%	\$257	<b>\$568</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$420</b>	27%	\$416	<b>\$402</b>	10%	\$464	<b>\$523</b>

**MIDDLE-INCOME FAMILY WITH TWO CHILDREN**

Obligor's gross monthly income: \$3000

Obligee's gross monthly income: \$2000

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$623</b>	18%	NA	<b>\$620</b>	10%	NA	<b>\$719</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$623</b>	18%	\$302	<b>\$561</b>	10%	\$257	<b>\$673</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$623</b>	18%	\$488	<b>\$544</b>	10%	\$464	<b>\$634</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$623</b>	27%	NA	<b>\$552</b>	10%	NA	<b>\$719</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$623</b>	27%	\$302	<b>\$499</b>	10%	\$257	<b>\$673</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$623</b>	27%	\$488	<b>\$484</b>	10%	\$464	<b>\$634</b>

**HIGH-INCOME FAMILY WITH TWO CHILDREN**

Obligor's gross monthly income: \$5000

Obligee's gross monthly income: \$3000

<b><i>Obligor has parenting time of 25%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$967</b>	18%	NA	<b>\$872</b>	10%	NA	<b>\$1015</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$967</b>	18%	\$390	<b>\$814</b>	10%	\$257	<b>\$958</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$967</b>	18%	\$630	<b>\$768</b>	10%	\$464	<b>\$926</b>

<b><i>Obligor has parenting time of 33%</i></b>	<b><i>Current Law Basic Support</i></b>			<b><i>SF 630 Basic Support</i></b>			<b><i>SF 1900 Basic Support</i></b>		
<i>Number of other legally-dependent children</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Parenting Time Credit</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>	<i>Separate Household Adjustment</i>	<i>Income Deduction for Other Dependents</i>	<i>Order for Basic Support</i>
<b>No other legally-dependent children</b>	NA	NA	<b>\$967</b>	27%	NA	<b>\$776</b>	10%	NA	<b>\$1015</b>
<b>One other legally-dependent child</b>	NA	NA	<b>\$967</b>	27%	\$390	<b>\$725</b>	10%	\$257	<b>\$958</b>
<b>Two other legally-dependent children</b>	NA	NA	<b>\$967</b>	27%	\$630	<b>\$683</b>	10%	\$464	<b>\$926</b>

**SF 630 A-6 Basic Support Outcomes:  
Comparison to Current Law Outcomes**

This proposal is Senator Neuville's most recent child support guidelines proposal based on the income-shares model presently in effect in the state of Oregon. The schedule of basic support uses an alternative version of USDA estimates of parental expenditures on children that uses marginal-expenditure estimates for children's housing and includes a parenting time credit of 18% (for parenting time of 20-32.5%) or 27% (for parenting time of 32.6% - 45%).

Cases where support orders are reduced in comparison to current law by more than \$15 are shaded.

**One child**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$135	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$350	\$332	\$285	\$257	\$238	\$224
\$3000	\$519	\$428	\$386	\$356	\$337	\$322
\$4000	\$664	\$515	\$475	\$449	\$429	\$419
\$5000	\$806	\$594	\$561	\$536	\$524	\$524

**Two children**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$164	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$420	\$536	\$460	\$416	\$386	\$365
\$3000	\$623	\$691	\$624	\$579	\$547	\$522
\$4000	\$797	\$832	\$772	\$729	\$696	\$683
\$5000	\$967	\$965	\$912	\$870	\$854	\$854

\*Obligor's proportionate share of parents' combined support obligation reduced through the application of the self-support reserve provision



**HF 1321/SF 1900 Basic Support Outcomes:  
Comparison to Current Law Outcomes**

HF 1321 is Representative Smith's current guidelines bill, which is a modified version of the bill he authored that passed the House in 2003. It includes some new provisions that were not in the 2003 bill, but the determination of basic support is unchanged. The schedule of basic support in HF 1321 uses the USDA's recommended estimates of parental expenditures on children, including a per-capita estimate for children's housing expenses. It also incorporates a "Separate Household Adjustment" provision that reduces the obligor's proportionate share of the parents' combined basic support obligation by 20%, irrespective of the income of the obligor or the number of children for whom support is being ordered.

Cases where support orders are reduced in comparison to current law by more than \$15 are shaded.

**One child**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$135	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$350	\$362	\$310	\$280	\$257	\$250
\$3000	\$519	\$467	\$420	\$389	\$371	\$358
\$4000	\$664	\$560	\$521	\$492	\$470	\$456
\$5000	\$806	\$645	\$612	\$593	\$581	\$576

**Two children**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$164	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$420	\$584	\$511	\$451	\$415	\$403
\$3000	\$623	\$767	\$679	\$629	\$597	\$576
\$4000	\$797	\$902	\$843	\$792	\$758	\$738
\$5000	\$967	\$1044	\$986	\$956	\$939	\$932

\*Obligor's proportionate share of parents' combined support obligation reduced through the application of the self-support reserve provision



**Alexandra  
House, Inc.**

*Domestic Violence Services for Women, Families and Communities*

P.O. Box 49039  
Blaine, MN 55449  
Phone: 763-780-2332  
Crisis/TTY: 763-780-2330  
Fax: 763-780-9696

March 31, 2005

Senate Judiciary Committee Members:

Board of Directors  
Vicki Reece,  
Chair

Laurie Wolfe,  
Vice Chair

David Rymanowski,  
Treasurer

Mary Steege,  
Secretary

Chuck Seykora

Tamara Gregory

Gayle Anderson, Ph D

Rae Williams

Connie Moore  
Executive Director

I strongly urge you to support SF 1900 and to oppose SF 630. I am writing this letter on behalf of Alexandra House, Inc., an organization dedicated to restoring the dignity and self-sufficiency of battered women and their families by providing shelter, safety, prevention, advocacy, intervention, education and support services.

We are strongly opposed to SF 630 which proposes a major change in the way child support orders are calculated. If passed, this bill will have a profound impact on the lives of thousands of children for years to come. Of particular concern is the fact that a careful and thorough analysis involving key stakeholders has not been a part of the formation of this bill. The "Child Support Guidelines Review Advisory Task Force", convened by the Department of Human Services in 1999, and representative of these key stakeholders, did just that. After much hard work this task force produced a report with recommendations for adoption of an income shares approach when determining child support obligations that all could agree upon. It is in the best interest of our children that we incorporate these recommendations in public policy that addresses child support orders.

Although there will be many possible negative consequences to children if this bill is passed, we are particularly concerned about the linking of child support orders to the actual amount of parenting time ordered which also creates the presumption that each parent is entitled to a minimum of 91 overnights without making any exceptions for instances when overnight parenting is suspended, restricted or in some way supervised.

In many instances where domestic violence exists the abusive parent has also been abusive to the children and visitation has been restricted in some fashion. Passage of SF 630 will surely clog the court system with these cases because of this presumption. The safety and well being of these children will be jeopardized.

Finally, this is not the time to reduce child support orders when we have already lost so many safety nets for poor and low-income families. It is the children who will suffer now. And, in the years to come, we will all be paying a huge price, and not only in dollars, for our failure to protect and nurture all of our children.

It is for these reasons that Alexandra House respectfully urges the Judiciary Committee to support SF 1900 and to oppose SF 630. Thank you.

Sincerely,

Connie Moore  
Executive Director

**HF 1321/SF 1900 Basic Support Outcomes:  
Comparison to Current Law Outcomes**

HF 1321 is Representative Smith's current guidelines bill, which is a modified version of the bill he authored that passed the House in 2003. It includes some new provisions that were not in the 2003 bill, but the determination of basic support is unchanged. The schedule of basic support in HF 1321 uses the USDA's recommended estimates of parental expenditures on children, including a per-capita estimate for children's housing expenses. It also incorporates a "Separate Household Adjustment" provision that reduces the obligor's proportionate share of the parents' combined basic support obligation by 20%, irrespective of the income of the obligor or the number of children for whom support is being ordered.

Cases where support orders are reduced in comparison to current law by more than \$15 are shaded.

**One child**

←----- Obligee Gross Income -----→

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$135	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$350	\$362	\$310	\$280	\$257	\$250
\$3000	\$519	\$467	\$420	\$389	\$371	\$358
\$4000	\$664	\$560	\$521	\$492	\$470	\$456
\$5000	\$806	\$645	\$612	\$593	\$581	\$576

**Two children**

←----- Obligee Gross Income -----→

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$164	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$420	\$584	\$511	\$451	\$415	\$403
\$3000	\$623	\$767	\$679	\$629	\$597	\$576
\$4000	\$797	\$902	\$843	\$792	\$758	\$738
\$5000	\$967	\$1044	\$986	\$956	\$939	\$932

\*Obligor's proportionate share of parents' combined support obligation reduced through the application of the self-support reserve provision

**SF 630 A-6 Basic Support Outcomes:  
Comparison to Current Law Outcomes**

This proposal is Senator Neuville's most recent child support guidelines proposal based on the income-shares model presently in effect in the state of Oregon. The schedule of basic support uses an alternative version of USDA estimates of parental expenditures on children that uses marginal-expenditure estimates for children's housing and includes a parenting time credit of 18% (for parenting time of 20-32.5%) or 27% (for parenting time of 32.6% - 45%).

Cases where support orders are reduced in comparison to current law by more than \$15 are shaded.

**One child**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$135	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$350	\$332	\$285	\$257	\$238	\$224
\$3000	\$519	\$428	\$386	\$356	\$337	\$322
\$4000	\$664	\$515	\$475	\$449	\$429	\$419
\$5000	\$806	\$594	\$561	\$536	\$524	\$524

**Two children**

----- Obligee Gross Income ----->

Obligor gross income	Current law order	\$1000	\$2000	\$3000	\$4000	\$5000
\$1000	\$164	\$83*	\$83*	\$83*	\$83*	\$83*
\$2000	\$420	\$536	\$460	\$416	\$386	\$365
\$3000	\$623	\$691	\$624	\$579	\$547	\$522
\$4000	\$797	\$832	\$772	\$729	\$696	\$683
\$5000	\$967	\$965	\$912	\$870	\$854	\$854

\*Obligor's proportionate share of parents' combined support obligation reduced through the application of the self-support reserve provision

March 31, 2005

Judiciary Committee Members  
Minnesota State Capitol  
75 Rev. Martin Luther King Drive  
St. Paul, MN 55155

**Subject: Against SF1900**

Dear Senator:

Thank you for the opportunity to provide written testimony against SF1900.


I am requesting you vote against SF1900 or lay it on the table due to the following issues:

1. The presumption of Joint Physical Custody has not been put in the bill. This presumption is needed to ensure that the child has the opportunity to be raised by **both** biological parents.
2. There is no restriction on a "move **within** state". Although a "move out of state" may be challenged in court by the non-custodial parent, the current statute offers no legal avenues for the non-custodial parent regardless of the distance of that move.

This bill continues to put children at risk of having the non-custodial parent completely removed from the children's lives even though it is well known that two parents cooperating in raising their children yields much greater success than when one parent is removed from the child's life.

**Do not vote in favor of SF1900! It doesn't help the children!**

Best regards,

  
Jon Hammond  
2015 Park Row  
St. Paul, MN 55109

March 31, 2005

Judiciary Committee Members  
Minnesota State Capitol  
75 Rev. Martin Luther King Drive  
St. Paul, MN 55155

**Subject: Against SF1900**

Dear Senator:

Thank you for the opportunity to provide written testimony against SF1900.

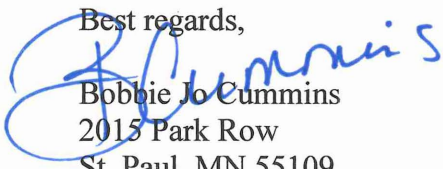
I am requesting you vote against SF1900 or lay it on the table until:

1. a child support worksheet becomes available;
2. all bias is removed from the bill;
3. the presumption of joint physical custody is added;
4. accurate data is used to calculate what two parents spend on their children and child support obligations are based on realistic child raising costs.

We cannot trust that our children's best interest are in mind when inaccurate data is used to draft potential laws.

Please keep this in mind when SF1900 is up for vote!

Best regards,

  
Bobbie Jo Cummins  
2015 Park Row  
St. Paul, MN 55109

## What other studies say about using The USDA per capita guidelines:

### #1 2005 Child Support Guidelines Counsel, State of Ohio

**Recommendation III: adopt the per capita cost approach for housing recommended by economist Mark Lino of the USDA.**

A straight per capita calculation would be applied to housing and miscellaneous expenses.

#### **Justification:**

It is sometimes argued that the USDA method overestimates child rearing expenses since the per capita method is used to allocate housing, transportation, and miscellaneous expenses among household members. These three budgetary components account for about 60 percent of the USDA child rearing costs. One study argues that child related housing expenses should be measured as the difference in rent between one and two bedroom apartments. This argument assumes all children will reside in rental property. Housing expenses on an only child in a lower income and middle income family for the over all United States are estimated by the USDA to be about \$205 and \$285 per month, respectively, in 1996.... The alternative, using a marginal cost procedure could lead to severe underestimates of housing expenses on a child, or as previously explained, many couples without children purchase a home in anticipation of having children. Hence, these couples without children would have housing expenses similar to couples with children.

#### **AMENDMENT: [March 2005]**

At the counsel's final meeting, this recommendation was amended. After receiving the numbers for housing costs using the USDA approach, the counsel decided that this may not be the best method due to a substantial increase. They felt this change was too much to justify, and at the final meeting decided to use the National Research Council's equivalence scale instead. Other miscellaneous costs will still be determined under the USDA methodology.

#### **Appendix C: Economic Study (page 41, step 6) Adjust USDA Estimates of Housing Expenses**

The USDA acknowledges that its estimates of housing expenses may be overstated. The USDA estimates the child's share of housing expenses using a per capita approach. Specifically, one child's share of housing expenses consists of 25 percent and two children's share of total housing expenses consists of 50 percent in a two parent family with two children. This implies that the family realizes that no economy a scale from sharing the kitchen, utilities and other housing expenses and the children costs the same as adults. Concerned by this assumption, most scheduled developers relying on the USDA estimates of child rearing expenses, substitute another estimate of the children's housing expenses for the USDA estimates. We use the equivalence scale developed by a blue ribbon panel, scholars appointed by the national research council, to examine poverty. The panel also conducted an exhaustive analysis of equivalent scales which are formulas to convert the relative living costs of one family to another family size. The application of their recommended formula implies that the child's share of housing expenses in a two parent family with two children is 31 percent, instead of the USDA's estimate of 50 percent.

**#2 Economic Basis for Updated Child Support Schedule, State of Arizona (Feb 6, 2003, at page 9).**

**US Department of Agriculture Estimates**

The US Department of Agriculture's Center for Nutrition, Policy, and Promotion (CNPP) develops economic estimates for the major categories for child rearing expenses (i.e., housing, food, transportation, clothing, health care, child care, education, and miscellaneous child rearing expenses). Although many states examine the CNPP estimates as part of their quadrennial guideline's review, we know of no state that uses the CNPP estimates as the basis of its child support schedule. In part, this is because the estimates are generally higher than the Epenshade-Engel estimates and the Betson-Rothbarth estimates.

...many of the largest expenditure categories considered by CNPP are estimates using an average cost approach.

(At page 11) The Epenshade-Engel and the 1990 Betson-Rothbarth estimators have withstood the test of time. The Epenshade-Engel estimator has been used for over 20 years in child support schedules. The Betson-Rothbarth estimator has been used for about eight years in child support schedules....Eighteen states base their schedules on the Betson-Rothbarth estimates. There are eleven states that base their schedules on the Epenshade-Engel estimator. The CNPP estimates are not deemed suitable on an average cost approach.

...Child support is commonly understood to provide for the additional costs of children. It seems very unlikely that the cost of children would proportionately equal the adults' initial costs in these categories for expenditures. For purposes of child support, a marginal cost approach to estimating costs of child rearing is a more appropriate method.

**#3 Economic Basis for Updated Child Support Schedule, State of Oregon, 12-31-01**

**Betson-Rothbarth Estimates**

Of the models used by Dr. Betson for child rearing expenditures, the "Betson-Rothbarth" estimator seems to have the most economic validity and plausibility. As a consequence, most income shares states that have updated their schedules in the past ten years now rely on the Betson-Rothbarth estimates.

**US Department of Agriculture Estimates**

We know of no state that uses the CNPP estimates as the basis for its child support schedule. In part, this is because the estimates are generally higher than the Epenshade-Engel estimates and the Betson-Rothbarth estimates. Further, since the CNPP only considers three income ranges, low income, middle income, and high income, it is difficult to extrapolate between income ranges, particularly from \$0 in income to the highest amount considered in the low income range. Some extrapolation is necessary at low incomes, so guideline determined amounts do not exceed incomes. Further, extrapolation is not useful for obtaining obligation amounts below permissible income withholding limits under federal law.

"The CNPP estimates are not deemed suitable because they rely on an average cost approach."



#### **#4 Child Support Guidelines: The Next Generation**

**US Department of Health and Human Services, Office of Child Support Enforcement, April 1994**

“...The family economic research group at the US Department of Agriculture routinely produces estimates of expenditures on children that are not based on either the Engel or Rothbarth techniques. The fundamental dilemma remains: the vast majority of a family’s expenditures cannot be attributed directly to any one of the family’s members.

Engel and Rothbarth estimators, which are both relatively straight forward to implement, remain the primary estimators used in empirical applications. The Engel estimator overestimates the true expenditures on children. The Rothbarth estimator is likely to underestimate expenditures on children.

Income shares guidelines are more complex, but are considered more equitable by some observers because the support payments take into account the custodial parent’s income. The Rothbarth estimator emerges as the closest to a consensus estimator, although as noted above, it may well underestimate expenditures on children. States should bear in mind the potential bias of the Rothbarth estimator and they may wish to increase the Rothbarth figures slightly to account for the bias.

#### **#5 Development of Guidelines for Child Support Orders for US Department of Health and Human Services, Office of Child Support Enforcement, (1998)**

##### **Recommendation #5, section of guidelines**

The advisory panel recommends that states use either the income shares model or Delaware’s Melson formula as the basis for their child support guidelines.

Despite their widespread recognition, the USDA estimates have several deficiencies as the basis for development of child support guidelines....A per capita allocation is likely to distort estimates of child rearing costs... A marginal cost approach is more suitable for determining child support amounts since it provides estimates of additional expenditures on children, relative to those made on behalf of adults.

#### **#6 The Estimates of Expenditures on Children and Child Support Guidelines**

##### **Lewin-ICF submitted to the office of the US Department of Health and Human Services, October 1990.**

The Lewin-ICF report, 1990, was developed to fulfill a requirement of the Family Support Act of 1988 to report on the results of a study on child rearing expenditures and develop recommendations from that study.

“Unfortunately, per capita (average costs) procedure has little merit. The most obvious problem is that it does not really correspond to expenditures on children. Rather, it assumes that the expenditures patterns are known....Per capita expenditure estimates are likely to over estimate the true level of expenditures on children.”

**#7 The Shared Responsibility – Child Support Guidelines: Rationale and Research Support, Prepared for the Minnesota Department of Human Services, Child Support Enforcement Division; Prepared by Dr. Jo Michelle Beld, March 2001**

“The current [child support] guidelines are not clearly tied to research on the costs to raising children.”

“The current guidelines do not take both parents income into account when setting basic support.”

The current guidelines do not fully comport with national recommendations for child support guidelines. Both parents share legal responsibility for supporting their children. The economic responsibility should be divided in proportion to their available income.

“The subsistence needs of each parent should be taken into account in setting child support, but in virtually no event should child support obligation be set at zero.”

“The guideline...should take into account the financial support provided directly by parents during parenting time.”

**#8 Federal Intent for State Child Support Guidelines: Income Shares, Cost Shares, and the Realities of Shared Parenting, Jo Michelle Beld and Len Biernat, Family Law Quarterly, 2003**

A second flaw in the estimates of parental expenditures on children and the cost shares guideline is that the USDA’s estimates of children’s housing expenses are discarded in favor of estimates which appear to be derived from rental prices rather than actual family expenditures on housing...The USDA’s annual report acknowledges that its per capita estimation method, while eminently defensible, is not without its critics.

Consequently, the report includes alternative estimates of children’s share of housing costs which are based on the same consumer expenditure data, but which are lower than the estimates yield by its preferred per capita estimation method. [Marginal Cost Housing]

For reasons [supporters of the costs shares approach] do not explain, they do not turn to the USDA’s alternative estimates of children’s housing costs, even though doing so would preserve consistency with the household expenditure data that underlie the estimates for all other categories of spending on children.”

The authors [of the cost shares method] did not indicate why these estimates should be considered a more accurate depiction of children’s housing costs than the USDA’s expenditure-based marginal cost estimates.

## Child Support Guidelines in Income Share States

### Combined Gross Income \$2000

State	1 Child	2	3	4	5
<b>S.F. 1900 (Berglin)</b>	574	926	1070	1242	1440
<b>S.F. 630 (Neuville)</b>	516	832	960	1114	1292
<b>Oregon</b>	389	547	634	707	752
<b>Tennessee</b>	421	592	685	764	840
<b>Virginia</b>	338	523	655	739	806
<b>North Carolina</b>	408	574	664	741	810
<b>Kansas</b>	324	508	678	772	845
<b>Arizona</b>	420	590	683	761	838
<b>Ohio</b>	373	542	639	707	766

### Combined Gross Income \$3000

State	1 Child	2	3	4	5
<b>S.F. 1900 (Berglin)</b>	675	1089	1257	1458	1692
<b>S.F. 630 (Neuville)</b>	603	975	1122	1302	1509
<b>Oregon</b>	542	754	867	967	1063
<b>Tennessee</b>	592	822	945	1053	1159
<b>Virginia</b>	445	691	866	975	1064
<b>North Carolina</b>	567	787	904	1008	1109
<b>Kansas</b>	459	708	951	1088	1210
<b>Arizona</b>	589	817	939	1047	1151
<b>Ohio</b>	514	745	877	969	1050

**Combined Gross Income \$4000**

<b>State</b>	<b>1 Child</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>S.F. 1900 (Berglin)</b>	776	1248	1444	1676	1944
<b>S.F. 630 (Neuville)</b>	692	1116	1288	1496	1736
<b>Oregon</b>	672	861	1069	1192	1311
<b>Tennessee</b>	742	1027	1175	1310	1441
<b>Virginia</b>	553	861	1071	1214	1325
<b>North Carolina</b>	698	967	1108	1235	1358
<b>Kansas</b>	588	894	1206	1380	1535
<b>Arizona</b>	722	1000	1144	1275	1403
<b>Ohio</b>	590	854	1004	1110	1203

**Combined Gross Income \$6000**

<b>State</b>	<b>1 Child</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>S.F. 1900 (Berglin)</b>	972	1572	1812	2100	2436
<b>S.F. 630 (Neuville)</b>	864	1404	1614	1872	2172
<b>Oregon</b>	820	1114	1254	1398	1538
<b>Tennessee</b>	900	1216	1366	1523	1675
<b>Virginia</b>	763	1186	1482	1672	1824
<b>North Carolina</b>	840	1138	1280	1427	1569
<b>Kansas</b>	723	1248	1686	1928	2145
<b>Arizona</b>	863	1168	1312	1463	1609
<b>Ohio</b>	759	1093	1281	1415	1534

**Combined Gross Income \$8000**

<b>State</b>	<b>1 Child</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>S.F. 1900 (Berglin)</b>	1176	1896	2184	2536	2936
<b>S.F. 630 (Neuville)</b>	1040	1688	1944	2256	2616
<b>Oregon</b>	917	1231	1376	1535	1688
<b>Tennessee</b>	984	1317	1469	1637	1801
<b>Virginia</b>	916	1418	1776	2001	2185
<b>North Carolina</b>	923	1236	1381	1540	1694
<b>Kansas</b>	927	1580	2139	2448	2725
<b>Arizona</b>	937	1254	1400	1561	1717
<b>Ohio</b>	932	1340	1568	1733	1878

**Combined Gross Income \$10,000**

<b>State</b>	<b>1 Child</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>S.F. 1900 (Berglin)</b>	1440	2330	2680	3110	3610
<b>S.F. 630 (Neuville)</b>	1270	2070	2380	2760	3200
<b>Oregon</b>	1043	1395	1553	1732	1905
<b>Tennessee</b>	1158	1544	1713	1910	2101
<b>Virginia</b>	1014	1577	1977	2222	2427
<b>North Carolina</b>	1064	1423	1583	1765	1941
<b>Kansas</b>	1124	1896	2574	2948	3275
<b>Arizona</b>	1094	1462	1624	1811	1992

**Comparison of Current Guidelines To:**

- a) SF 630 (A-6 amendment, assuming 18% parenting time adjustment)
- b) SF 1900 (Per capita USDA and 10% separate household adjustment)

**One Child – Obligor Gross Income**

<b>Obligor Gross Income</b>	<b>Current Support Guidelines</b>	<b>1000</b>	<b>2000</b>	<b>3000</b>	<b>4000</b>	<b>5000</b>
<b>1000</b>	<b>135*</b>	a) 114 b) 114	a) 114 b) 114	a) 114 b) 114	a) 114 b) 114	a) 114 b) 114
<b>2000</b>	<b>350</b>	a) 332 b) 405	a) 285 b) 349	a) 257 b) 315	a) 238 b) 291	a) 224 b) 277
<b>3000</b>	<b>519</b>	a) 428 b) 524	a) 386 b) 473	a) 356 b) 438	a) 337 b) 416	a) 322 b) 397
<b>4000</b>	<b>664</b>	a) 515 b) 630	a) 475 b) 583	a) 449 b) 555	a) 429 b) 529	a) 419 b) 519
<b>5000</b>	<b>806</b>	a) 594 b) 729	a) 561 b) 693	a) 536 b) 662	a) 524 b) 648	a) 524 b) 648

\*Assumptions: Based upon income tax deductions (S-1), FICA, \$100/mo. Medical expense and 5% pension reduction from gross income of obligor.

**Comparison of Current Guidelines To:**

- a) SF 630 (A-6 amendment, assuming 18% parenting time adjustment)
- b) SF 1900 (Per capita USDA and 15% separate household adjustment)

**Two Children – Obligor Gross Income**

<b>Obligor Gross Income</b>	<b>Current Support Guideline</b>	<b>1000</b>	<b>2000</b>	<b>3000</b>	<b>4000</b>	<b>5000</b>
1000	<b>164*</b>	a) 114 b) 114	a) 114 b) 114	a) 114 b) 114	a) 114 b) 114	a) 114 b) 121
2000	<b>420</b>	a) 536 b) 617	a) 460 b) 530	a) 416 b) 479	a) 386 b) 445	a) 365 b) 422
3000	<b>623</b>	a) 691 b) 796	a) 624 b) 719	a) 579 b) 668	a) 547 b) 632	a) 522 b) 605
4000	<b>797</b>	a) 832 b) 958	a) 772 b) 820	a) 729 b) 844	a) 696 b) 805	a) 683 b) 793
5000	<b>967</b>	a) 965 b) 1114	a) 912 b) 1054	a) 870 b) 1007	a) 854 b) 990	a) 854 b) 990

\*Assumptions: Based upon income tax withholding (S-1), FICA, \$100/mo. Medical expense and 5% pension reduction from gross income of obligor.

# Division of Child Support

*Supporting Parents to Support Children*

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## Child Support Guidelines Calculator: Effective 05/12/03

Download the Child Support Guidelines Instructions.

**NOTE:** Text that becomes underlined when you scroll your pointer over it will link you to definitions or another web page.

This calculator is based on the Oregon Child Support Guidelines. To calculate an estimate support amount, answer the question about parenting time and complete the color shaded boxes that apply to your case. This calculator is best viewed with internet Explorer 6.x or Netscape 7.x and Acrobat Reader 5.x. If you're having problems viewing the Print Ready Worksheets (PDF), click here. Note: You must not enter blank (null) values or commas in the input fields.

IS THERE A COURT ORDER OR WRITTEN AGREEMENT FOR PARENTING TIME?      Yes      No

If no court order or written agreement for parenting time exists, fill in the name of the primary physical custodian as Parent A.	Parent Names (optional):	Parent A Mom	Parent B Dad	Combined
Number of Joint Children:				2
<b>PARENTING TIME PERCENTAGE:</b>			<u>0.252</u>	Calculate Parenting Time Percentage
Parent on Temporary Assistance for Needy Families (TANF):	No	No		
<b>GROSS MONTHLY INCOME:</b>	\$ 2000 /mo	\$ 3000 /mo		
<b>ADJUSTMENTS TO GROSS INCOME</b> Spousal Support Received:	\$ 0 /mo	\$ 0 /mo		
Spousal Support and/or Mandatory Union Dues Paid:	\$ 0 /mo	\$ 0 /mo		
<b>Modified Gross Monthly Income:</b>	\$ <u>2000</u> /mo	\$ <u>3000</u> /mo		
Social Security or Veterans' Benefits Received for Joint Child(ren):	\$ 0 /mo	\$ 0 /mo		
Number of Nonjoint Children:	0	0		Modify Nonjoint Child Names for Parent A   B
Nonjoint Child Credit:	\$ 0 /mo	\$ 0 /mo		
<b>Adjusted Gross Monthly Income:</b>	\$ <u>2000</u> /mo	\$ <u>3000</u> /mo		\$ <u>5000</u> /mo
<b>Parent's Percentage Share of Income:</b>	<u>40</u> %	<u>60</u> %		



<b>BASIC CHILD SUPPORT OBLIGATION:</b>	\$ <u>420</u> /mo	\$ <u>629</u> /mo	\$ <u>1049</u> /mo
Basic Child Support Obligation After Parenting Time Credit:	\$ <u>0</u> /mo	\$ <u>460</u> /mo	
<b>LOW INCOME ADJUSTMENT</b>			
Basic Child Support Obligation for Each Parent's Modified Gross Income:	\$ <u>547</u> /mo	\$ <u>754</u> /mo	
Basic Child Support Obligation After Low Income Adjustment:	\$ <u>0</u> /mo	\$ <u>460</u> /mo	
<b>COSTS</b>			
Joint Children Under Age 13 Plus Children With Disabilities Who Require Child Care:	1	0	
Child Care Costs (Amount Paid by Each Parent):	\$ <u>250</u> /mo	\$ <u>0</u> /mo	
Net Child Care Costs (Costs Minus Child Care Credit):	\$ <u>160</u> /mo	\$ <u>0</u> /mo	
Medical Expenses (Cost Over \$250/yr per Child; <u>NOT</u> Insurance Costs):	\$ <u>20</u> /mo	\$ <u>0</u> /mo	
Health Care Coverage (Amount Paid by Each Parent):	\$ <u>0</u> /mo	\$ <u>100</u> /mo	
<b>Total Costs:</b>	\$ <u>180</u> /mo	\$ <u>100</u> /mo	
Percentage Share of Total Costs (Amount Owed to Other Parent):	\$ <u>40</u> /mo	\$ <u>108</u> /mo	
Child Support Obligation After Costs:	\$ <u>40</u> /mo	\$ <u>568</u> /mo	
Net Child Support Obligation:	\$ <u>0</u> /mo	\$ <u>528</u> /mo	
<b>BENEFITS ADJUSTMENT</b>			
Parent B's Social Security or Veterans' Benefits Received by Parent A for Joint Child(ren):		\$ <u>0</u> /mo	Modify Benefits Adjustment
<b>TOTAL CHILD SUPPORT OBLIGATION:</b>	\$ <u>0</u> /mo	\$ <u>528</u> /mo	
<b>ABILITY TO PAY CALCULATION</b>			
Modified Gross Monthly Income for Parent with Child Support Obligation:	\$ <u>2000</u> /mo	\$ <u>3000</u> /mo	
Parent's Income Available for Support (Income minus Self-Support Reserve = \$884):	\$ <u>1116</u> /mo	\$ <u>2116</u> /mo	
<b>MONTHLY CHILD SUPPORT OBLIGATION:</b>	\$ <u>0</u> /mo	\$ <u>528</u> /mo	
	Calculate	Reset	
Print Ready Worksheets (PDF)	If Monthly Child Support Obligation is Inappropriate or Unjust, Proceed to Rebuttal Evaluation Rebuttal Evaluation		

If you're having problems viewing the Print Ready Worksheets (PDF), click [here](#).

**Important Disclaimer:** This calculator is for informational and educational use only. The Administrator, Hearings Officer, or Court has the final authority to determine the amount of child support order. This calculator provides only an estimate and is not a guarantee of the amount of child support that will be ordered. Other factors may affect the amount of child support awarded. If you have any questions, you should talk with an attorney or contact your local Child Support Program (CSP) office. CSP employees can give you general information, but cannot give you legal advice.

## CHILD SUPPORT COMPUTATION WORKSHEET (CSCW)

To determine Parent A and Parent B, see instructions

Parent A Mom

Parent B Dad

	# of Joint Children <u>2</u>	Parent A	Parent B	Combined	
<b>Income</b>	<b>1. Gross Monthly Income</b>	\$2,000	\$3,000		
	1a. Rebuttal amount applied, if any (see worksheet S-4)	\$0	\$0		
	2. Spousal support received	\$0	\$0		
	3. Spousal support and/or mandatory union dues paid	\$0	\$0		
	4. Modified Gross Monthly Income (to line 1: add or subtract line 1a, add line 2, subtract line 3); enter result	\$2,000	\$3,000		
	Adjustments	5. Social Security benefits or Veterans' benefits received for joint child(ren) (enter in column of parent for whose disability or retirement benefits are received, regardless of who actually receives benefits)	\$0	\$0	
		6a. Number of nonjoint children for each Parent	0	0	
		6b. Credit for nonjoint children (reference scale for each Parent's income from line 4, using number of nonjoint children for each Parent, as appropriate)	\$0	\$0	
		<b>7. Adjusted Gross Monthly Income</b> (add lines 4 and 5 and subtract line 6b, for each parent); Combine amounts for Parent A and Parent B and enter result in 3 <sup>rd</sup> column	\$2,000	\$3,000	\$5,000
		8. Percentage share of income (each parent's income from line 7 divided by the combined income)	40.0%	60.0%	
<b>Basic Child Support</b>	9. <b>Basic Child Support Obligation</b> (reference scale for combined income from line 7 and number of joint children)			\$1,049	
	10. Each parent's pro rata basic child support obligation (line 8 times line 9 for each parent).	\$420	\$629		
	<i>Do parties have a current written agreement or court order for parenting time equal to 20% or greater for both parents, and/or have split custody? If yes, complete worksheet S-2 and enter result below; if no, continue to line 12a.</i>				
Low Income Adjustment	11. Each parent's pro rata basic child support obligation after parenting time credit from worksheet S-2, line 3 or 4c.	\$0	\$460		
	12a. Each parent's single income obligation (reference scale for each parent's modified gross monthly income from line 4 and number of joint children)	\$547	\$754		
	12b. <b>Monthly child support obligation before costs and adjustments</b> >If no parenting time credit is included, enter zero for Parent A, enter the lesser of line 10 and line 12a for Parent B; >If worksheet S-2 for parenting time is completed, enter the lesser of line 11 and line 12a for each parent	\$0	\$460		

<b>Costs &amp; Adjustments</b> Enter costs in column of parent who incurs cost	13a. Child care costs for joint children (see worksheet S-3)	\$160	\$0	
	13b. Medical expenses (not health care coverage costs - see 13c)	\$20	\$0	
	13c. Health care coverage	\$0	\$100	
	13d. Rebuttal amount applied, if any (amount by which cost of care should be increased or decreased for parent)(see worksheet S-4)	\$0	\$0	
	13e. Total Costs (add lines 13a, 13b and 13c for each parent; add or subtract line 13d)	\$180	\$100	
	14. Costs owed to Parent B (line 8, Parent A times line 13e, Parent B; if no Parent A, enter amount from line 13e)	\$40		
	15. Costs owed to Parent A (line 8, Parent B times line 13e, Parent A)		\$108	
	16. Monthly child support obligation after costs (line 12b, column 1 plus line 14 for Parent A and line 12b, column 2 plus line 15 for Parent B)	\$40	\$568	
17. Net child support obligation (subtract smaller amount on line 16 from greater amount and enter result on line for parent with greater obligation; <b>enter zero for other parent</b> )	\$0	\$528		
Benefits Adjustment	18. If SSB or VB is received by Parent A as representative payee for joint child(ren) as a result of Parent B's disability or retirement		\$0	
<b>Computing a Final Obligation</b>	19. <b>Total Child Support Obligation</b> Parent A - enter figure from line 17, Parent A Parent B - line 17 minus line 18; if negative value, enter zero	\$0	\$528	
	Ability to Pay Calculation	20a. Enter modified gross monthly income (from line 4) for each parent.	\$2,000	\$3,000
	20b. Self Support Reserve	884.00	884.00	
	20c. Each parent's income available for support (line 20a minus line 20b)	\$1,116	\$2,116	
	21. <b>Monthly Child Support Obligation</b> (enter the lesser of line 19 or line 20c)	\$0	\$528	
	21a. Rebuttal amount applied, if any (see worksheet S-4)	\$0	\$0	
	22. <b>Total Monthly Child Support Obligation After Rebuttal</b> (add or subtract line 21a from line 21)	\$0	\$528	

Comments: Calculated by the Oregon Child Support Guidelines Calculator (<http://www.dcs.state.or.us/calculator/>) on 3/12/2005 at 4:42:57 AM.

Nonjoint child(ren) of Parent A:

Nonjoint child(ren) of Parent B:

**CHILD SUPPORT COMPUTATION  
SUPPLEMENTAL WORKSHEETS**

**WORKSHEET S-1 (PARENTING TIME FOR JOINT MINOR CHILD(REN))**

	Column 1	Column 2	Column 3
	Name: a <u># of Overnights</u>	Name: b <u># of Overnights</u>	Combined
1. Child #1	273.00	92.00	
2. Child #2	273.00	92.00	
3. Child #3			
4. Child #4			
5. Child #5			
6. Child #6			
7. Child #7			
8. Child #8			
9. Child #9			
10. Child #10*			
11. Total parenting overnights (total the number of overnights each parent spends with the minor child(ren))	546.00	184.00	
12. Multiply 365 by the total number of joint minor children			730.00
13. Divide total parenting overnights from line 11, Column 1 by the total number of overnights in Column 3; enter result here	0.748		
14. Divide total parenting overnights from line 11, Column 2 by the total number of overnights in Column 3; enter result here		0.252	
15. Percentage of Parenting Time for Parenting Time Credit Enter the lesser of line 13 or line 14 in column of parent who has lesser percentage of overnights (if equal, enter line 13 in column 1 and line 14 in column 2)		0.252	

Parent A Mom (Parent with greater percentage of overnights)

Parent B Dad (Parent with lesser percentage of overnights)

(If parties have equal parenting time, either party may be entered as Parent A or Parent B.)

\*if there are more than 10 children, compute on a separate sheet of paper

**CHILD SUPPORT COMPUTATION  
SUPPLEMENTAL WORKSHEET**

Parent A Mom

Parent B Dad

**WORKSHEET S-2 (PARENTING TIME CREDIT)**

Use this worksheet if overall parenting time from supplemental worksheet S-1 is 20% or greater for both parents, and/or if the parents have split custody.

	Parent A	Parent B	Combined
1. Basic Child Support Obligation (from CSCW line 9, or CSCW-CAS line 9a, for minor child(ren) only)			\$1,049
2. Each parent's pro rata basic child support obligation (from CSCW, line 10)	\$420	\$629	
3. <i>If parenting time is equal for both parents (50/50)</i> , subtract the lesser pro rata obligation from the larger on line 2 and divide by two. Enter resulting figure in column for parent with larger pro rata obligation on line 2; enter zero in the column for the other parent. <b>STOP here and transfer figures to CSCW, line 11. If this line does not apply, skip line 3 and continue to line 4a.</b>			
4a. <i>If Parent B has parenting time equal to or greater than 20% but less than 50% and/or if the parents have split custody</i> , use the "Percentage of Parenting Time for Parenting Time Credit" as determined in worksheet S-1 to locate the "Percentage Range of Parenting Time" in the chart below; then find the corresponding "Adjustment Percentage". Enter that figure here.		0.161	
4b. Credit for parenting time for Parent B (line 1 times line 4a)		\$169	
4c. Obligation after parenting time credit: >If line 2 for Parent B is greater than line 4b, subtract line 4b from line 2, Parent B and enter result here; <b>otherwise enter zero.</b>		\$460	
>If line 4b is greater than line 2 for Parent B, subtract line 2, Parent B from 4b and enter result here, <b>otherwise enter zero.</b>	\$0		
<b>&gt;Transfer figures from line 4c to CSCW, line 11 for each of the parents.</b>			

Parenting Time Credit	
Percentage Range of Parenting Time	Adjustment Percentage
20% through 23.8%	10.5%
23.9% through 31.5%	16.1%
31.6% through 35.3%	19.5%
35.4% through 38.9%	25.3%
39% through 41.6%	30.7%
41.7% through 44.4%	36.2%
44.5% through 47.1%	42.2%
47.2% through 49.9%	48.6%

**CHILD SUPPORT COMPUTATION  
SUPPLEMENTAL WORKSHEETS**

Parent A  Mom

Parent B  Dad

**WORKSHEET S-3 (CHILD CARE CREDIT COMPUTATION)**

	Parent A	Parent B
1. Monthly cost of child care for joint children age 12 or under and older children with disabilities who are not able to care for themselves	\$250	\$0
2. If child care provided for one joint child, enter the lesser of line 1 or \$250; if child care provided for two or more joint children, enter the lesser of line 1 or \$500; enter amounts only for child(ren) in parent's custody greater than 50% of the time; if child(ren) in parent's care less than 50%, enter zero.	\$250	\$0
3. Estimated Federal Monthly Child Care Credit (multiply federal tax credit % for parent's modified gross monthly income (CSCW, line 4) by the amount of child care from line 2)	\$75	\$0
4. Estimated Oregon Monthly Child Care Credit (multiply state tax credit % for parent's modified gross monthly income (CSCW, line 4) by the amount of child care from line 2)	\$15	\$0
5. Total Estimated Tax Credits (add line 3 and line 4 for each parent)	\$90	\$0
6. Net Child Care Cost (subtract line 5 from line 1)	\$160	\$0

FEDERAL TAX CREDIT TABLE

<u>Gross Monthly Income</u>	<u>Tax Credit %</u>
\$ 0 to 1,250	35%
1,251 to 1,417	34%
1,418 to 1,583	33%
1,584 to 1,750	32%
1,751 to 1,917	31%
1,918 to 2,083	30%
2,084 to 2,250	29%
2,251 to 2,417	28%
2,418 to 2,583	27%
2,584 to 2,750	26%
2,751 to 2,917	25%
2,918 to 3,083	24%
3,084 to 3,250	23%
3,251 to 3,417	22%
3,418 to 3,583	21%
3,584 to no limit	20%

OREGON TAX CREDIT TABLE

<u>Gross Monthly Income</u>	<u>Credit %</u>
\$ 0 to 416	30%
417 to 833	15%
834 to 1,250	8%
1,251 to 2,083	6%
2,084 to 2,916	5%
2,917 to 3,750	4%

## Child Support Guidelines Worksheet (CSGW) (Draft B - revised)

This information is available in other forms to people with disabilities by contacting us at 651-215-1714, toll free at 1-800-657-3954, or through the Minnesota Relay Service at 1-800-627-3529 (TTY) or 1-800-627-3848 (speech-to-speech relay service).

Obligee: \_\_\_\_\_

Number of joint children: \_\_\_\_\_

Obligor: \_\_\_\_\_

		Obligee	Obligor	Combined
<b>Income</b>	<b>1. Gross Monthly Income</b>			
	2. Spousal support received			
	3. Spousal support paid			
	4. Modified Gross Monthly Income (to line 1: add line 2, subtract line 3); enter result			
<b>Adjustments</b>	5. Social Security benefits or Veterans' benefits received for joint child(ren) (enter in column of parent for whose disability or retirement benefits are received, regardless of who actually receives benefits)			
	6a. Number of nonjoint children for each Parent			
	6b. Credit for nonjoint child(ren) (reference scale for each Parent's income from line 4, using number of nonjoint children for each Parent as appropriate).			
	<b>7. Adjusted Gross Monthly Income</b> (add lines 4 and 5 and subtract line 6b, for each parent); Combine amounts for Obligor and Obligee and enter result in 3rd column			
	8. Percentage share of income (each parent's income from line 7 divided by the combined income)			
<b>Basic Child Support</b>	<b>9. Basic Child Support Obligation</b> (reference scale for combined income from line 7 and number of joint children)			
	10. Each parent's pro rata basic child support obligation (line 8 times line 9 for each parent).			
	11. Each parent's basic child support obligation after parenting time credit (see worksheet 1, line 15)			
	12a. Each parent's single income obligation (reference scale for each parent's modified gross monthly income from line 4 and number of joint children)			
<b>Low Income Adjustments</b>	12b. Enter the lower of lines 11 and 12a for each parent in the appropriate column			
<b>Child Care, Medical &amp; Health Care Costs</b>	13a. Child care costs for joint children (see worksheet 2)			
	13b. Medical expenses (not including health care coverage costs - see 13c.)			
	13c. Health care coverage (insurance) <b>OR</b> If medical assistance expended, \$50 for obligor and monthly medical assistance amount for obligee; or amount just and appropriate			
	13d. Total Costs (add lines 13a, 13b, and 13c for each parent)			
<small>Enter costs in column of parent who incurs cost</small>	14. Costs owed to Obligor (line 8 Obligee, times line 13d Obligor; if no Obligee, enter amount from line 13d)			

		Obligee	Obligor	Combined
	15. Costs owed to Obligee (line 8 Obligor, times line 13d, Obligee)			
	16. Monthly child support obligation after costs (line 11, column 1 plus line 14 for Obligee and line 11, column 2 plus line 15 for Obligor)			
	17. Net child support obligation (subtract smaller amount on line 16 from greater amount and enter result on line for parent with greater obligation; <b>enter zero for other parent</b> )			
Benefits Adjustment	18. If SSB or VB is received by Obligee as representative payee for joint child(ren) as a result of Obligor's disability or retirement			
<b>Computing a Final Obligation</b>	<b>19. Total Child Support Obligation</b> Obligee - enter figure from line 17, Obligee Obligor - line 17 minus line 18; if negative value, enter zero			
Ability to Pay Calculation	20a. Enter modified gross monthly income (from line 4) for each parent			
	20b. Self Support Reserve (120% of FPG)			
	20c. Each parent's income available for support (line 20a minus line 20b). If the number is negative, go to line 26 to adjust the support obligation. If the number is zero or greater, go to line 21.			
	21. <b>Monthly Child Support Obligation</b> (enter the lesser of line 19 or line 20c)			
	<b>If line 21 is less than \$50/month for one or two joint children, order the amount in line 23. If line 21 is less than \$75/month for 3 or 4 joint children, order the amount in line 24. If line 21 is less than \$100/month for 5 or more joint children, order the amount in line 25. If line 21 is greater than these amounts, order the presumptive amount in line 21.</b>			
<b>Presumptive Minimum Order</b>	<i>For 1 or 2 joint children:</i>			
	23. \$50 per month			
	<i>For 3 or 4 joint children:</i>			
	24. \$75 per month			
	<i>For 5 or more joint children:</i>			
	25. \$100 per month			

<b>Adjusted Support Obligation for Low Income Obligor</b>				
		Original Amount Owed	Amount of Reduction	New Amount Owed
	26. Income below self-support reserve from line 20c. Reduce the amount on line 13(c) first, then reduce the amount on line 13(b), then reduce the amount on line 13(a), then reduce the amount on line 11, until the total reductions equal the amount on line 26			
	27. Health care coverage from line 13c.			
	28. Medical expenses (if applicable) from line 13b.			
	29. Child care costs (if applicable) from line 13a.			
	30. Basic support (if applicable) from line 11.			
	31. Adjusted child support obligation (add lines 27, 28, 29 and 30, column #3).			
	If line 30 is less than \$50/mo for 1-2 children, then order \$50 in line 31. If line 30 is less than \$75 for 3-4 children, then order \$75 in line 31. If line 30 is less than \$100 for 5 or more children, order \$100 in line 31.			



**Child Support Guidelines - Supplemental Worksheet 1**  
**Parenting Time Credit Computation for Joint Minor Child(ren)**

Obligee: \_\_\_\_\_

Number of joint children: \_\_\_\_\_

Obligor: \_\_\_\_\_

	Number of overnights		
	Obligee	Obligor	Combined
1. Child #1			
2. Child #2			
3. Child #3			
4. Child #4			
5. Child #5			
6. Child #6			
7. <b>Total parenting overnights</b> (total the number of overnights each parent spends with the minor child(ren))			
8. Divide total parenting overnights from line 7, column 1 by the total number of overnights in column 3; enter result here			
9. Divide total parenting overnights from line 7, column 2 by the total number of overnights in column 3; enter result here			
10. <b>Percentage of Parenting Time for Parenting Time Credit</b> Enter the lesser of line 8 or line 9 in column of parent who has lesser percentage of overnights (if equal, enter line 8 in column 1 and line 9 in column 2)			
11. Basic Child Support Obligation (from CSGW line 9)			
12. Each parent's pro rata basic child support obligation (from CSGW line 10)			
<b>13. Parenting Time Credit Calculation</b>			
13a. <b>If Parenting Time is at least 45% for both parents</b> , subtract the lesser pro rata basic child support obligation from the larger on line 12 and divide by two. Enter resulting figure in column for parent with larger pro rata obligation on line 12; enter zero in the column for the other parent. <b>STOP here and transfer figures to CSGW, line 11. If this line does not apply, skip this line and go to 13b.</b>			
13b. If Obligor's Percentage of Parenting Time (line 9) is between 10% to 45%, enter 18% (.18). If Obligor's Percentage of Parenting Time (line 9) is less than 10%, enter 0%.			
14. Credit for parenting time for Obligor (line 13b times line 12).			
15. Obligation after Parenting Time Credit (line 12 minus line 14). <b>Transfer figures to CSGW, line 11 and enter zero in the column for the other parent.</b>			

**Child Support Guidelines - Supplemental Worksheet 2**  
**Child Care Credit Computation**

Obligee: \_\_\_\_\_

Obligor: \_\_\_\_\_

	<b>Obligee</b>	<b>Obligor</b>
1. Modified Gross Monthly Income (from CSGW, line 4)		
2. Monthly cost of child care for joint children age 12 or under and older children with disabilities who are not able to take care of themselves		
3. If child care provided for one joint child, enter the lesser of line 2 or \$250; if child care provided for two or more joint children, enter the lesser of line 2 or \$500; enter amounts only for child(ren) in parent's custody greater than 50% of the time		
4. Estimated Federal Monthly Child Care Credit (multiply federal tax credit % for parent's modified gross monthly income (line 1 above) by the amount of child care from line 3). Table located on the reverse side of this page.		
5. Estimated Minnesota Monthly Child Care Credit (multiply state tax credit % for parent's modified gross monthly income (line 1 above) by the amount of child care from line 3). Table located on reverse side of this page.		
6. Total Estimated Tax Credits (add line 4 and line 5 for each parent)		
7. Net Child Care Cost (subtract line 6 from line 2). <b>Transfer figures to CSGW, line 13a.</b>		

## Child and Dependent Care Credit

Federal Tax Credit Table

<u>Gross Monthly Income</u>		<u>Tax Credit %</u>
0	1,250	35%
1,251	1,417	34%
1,418	1,583	33%
1,584	1,750	32%
1,751	1,917	31%
1,918	2,083	30%
2,084	2,250	29%
2,251	2,417	28%
2,418	2,583	27%
2,584	2,750	26%
2,751	2,917	25%
2,918	3,083	24%
3,084	3,250	23%
3,251	3,417	22%
3,418	3,583	21%
3,584	No limit	20%

Minnesota Tax Credit Table

<u>Gross Monthly Income</u>		<u>Tax Credit %</u>
0	1,663	24.0%
1,664	1,693	23.4%
1,694	1,722	22.8%
1,723	1,751	22.2%
1,752	1,780	21.6%
1,781	1,809	21.0%
1,810	1,838	20.4%
1,839	1,868	19.8%
1,869	1,897	19.2%
1,898	1,926	18.6%
1,927	1,955	18.0%
1,956	1,984	17.4%
1,985	2,013	16.8%
2,014	2,043	16.2%
2,044	2,072	15.6%
2,073	2,101	15.0%
2,102	2,130	14.4%
2,131	2,159	13.8%
2,160	2,188	13.2%
2,189	2,218	12.6%
2,219	2,247	12.0%
2,248	2,276	11.4%
2,277	2,305	10.8%
2,306	2,334	10.2%
2,335	2,363	9.6%
2,364	2,393	9.0%
2,394	2,422	8.4%
2,423	2,451	7.8%
2,452	2,480	7.2%
2,481	2,509	6.6%
2,510	2,538	6.0%
2,539	2,568	5.4%
2,569	2,597	4.8%
2,598	2,626	4.2%
2,627	2,655	3.6%
2,656	2,684	3.0%
2,685	2,713	2.4%
2,714	2,743	1.8%
2,744	2,772	1.2%
2,773	2,801	0.6%
2,802	Or greater	0.0%

State	Type	Based On	Parenting Adjust	Deviations	Support for Prior Family	Support for Subsequent Family
Alabama	Income Shares	Gross Income	No	Shared Custody, Extended Visit	Yes	No-Deviation Factor
Alaska	% Net Income	Net Income	Yes (If 30%+ Parenting Time)	Split Custody Subsequent Child Relocation, Denial of Visit	Yes	Deviation allowed
Arizona	Income Shares	Gross Income and Alimony	Hortis/Valento Formula	Shared Custody Before Agreement + Catchall; visit. Expenses	Yes-substitute from income	Yes
Arkansas	% of Income	Net Income	No	Shared Custody Extra Time-medical insurance; child care	Yes-deduct from income	Yes-as Deviation Factor
California	Combination of % Income and Income Shares	Net Income	Yes-Figured into Guidelines	Extra ordinary visit-Catchall	Yes-deduct from income	Yes-Deduct from Income
Colorado	Income Shares	Gross Income	Yes-(If more than 92 nights)	Gross Disparity of income;catchall	Yes-deduct from income	Yes
Connecticut	Income Shares	Net Income	No-Deviation Factor	Shared custody;special needs;visitation expenses	Yes-deduct from income	Yes-if income of subsequent spouse considered
Delaware	Melson Formula	Net Income	No-Factored into Household Revenue	none	Yes-deduct from income	Yes
D.C.	% of Income	Gross Income	Yes (If 40% Parenting Time)	Exceptional needs, other dependent of non-custody	Yes-deduct from income	Yes-different formula applied

<b>Florida</b>	Income Shares	Net Income	Yes- If 28 Days	Shared Parental arrangement; if greater than 55% of Income; catchall	Yes-deduct from income	Yes-only as deviation factor on motion for increase
<b>Georgia</b>	% of Income	Gross Income	No-only as deviation	high/low income;child care;education expenses	Yes-as Deviation	Yes-as Deviation Factor
<b>Hawaii</b>	Melson Formula	Net Income	Yes-if more than 100 nights	If greater than 70% of income; other child support obligations	Yes-as Deviation	Yes-as Deviation
<b>Idaho</b>	Income Shares	Gross Income	Yes-if greater than 35% overnight	Tax benefits;child care; health care	Yes-deduct from income	Yes-Deduct from Income
<b>Illinois</b>	% of Income	Net Income	No	High/low income;catchall;standard of living if still intact	Yes-deduct from income	No
<b>Indiana</b>	Income Shares	Gross Income (Including Alimony)	Yes-as deviation factor or more than 7 days	Catchall only	Yes-deduct from income	Yes-weekly adjustment
<b>Iowa</b>	Income Shares	Net Income	Yes-as deviation	Catchall only	Yes-substitute from income	Yes-Per Formula
<b>Kansas</b>	Income Shares	Gross Income	Yes-as deviation	visitation costs;allocation of tax deduction;catchall	Yes-substitute from income	Yes-if income supplement sought
<b>Kentucky</b>	Income Shares	Gross Income	Yes-as deviation	high/low income;education expenses	Yes-substitute from income	No
<b>Louisiana</b>	Income Shares	Gross Income	Yes-Court Discretion	other dependent; catchall	Yes-substitute from income	Yes-as deviation
<b>Maine</b>	Income Share	Gross Income	Yes-If more than 30% Parenting Time	greater than 30% visitation; tax consequences; catchall	Yes-substitute from income	Yes-subtract from Gross Income

<b>Maryland</b>	Income Share	Gross Income with Alimony Adjustment	Yes-If greater than 35% Parenting Time	other dependent children	Yes-substitute from income	Yes-Deviation factor
<b>Massachusetts</b>	% of Income	Gross Income	No	extra visit; catchall	Yes-substitute from income	No-only as defense to increase motion
<b>Michigan</b>	Income Shares	Net Income	Yes-Label Doesn't Matter	catchall	Yes-substitute from income	Yes-Per Formula
<b>Minnesota</b>	% of Income	Net Income	No		Yes-substitute from income	No
<b>Mississippi</b>	% of Income	Net Income	Yes-as Deviation Factor	individual including child; shared parental arrangement	Yes-substitute from income	Yes-subtract from Gross Income
<b>Missouri</b>	Income Shares	Gross Income	Yes-if "substantial time"	Catchall	Yes-substitute from income	Yes-subtract from Gross Income
<b>Montana</b>	Melson Formula	Net Income	Yes-if more than 14% Parenting Time	Tax consequences; catchall	Yes-substitute from income	No-but self support reserve
<b>Nebraska</b>	Income Shares	Net Income	Yes-if 4 weeks	extra costs; catchall	Yes-substitute from income	No
<b>Nevada</b>	% of Income	Gross Income	Yes-as deviation	child care; catchall	Yes-by deviation	Yes-by deviation
<b>New Hampshire</b>	Income Shares	Net Income	Yes-by Deviation	economic consequence to stepchild; extra visit; taxes; catchall	Yes-substitute from Gross Income	Yes-by Deviation
<b>New Jersey</b>	Income Shares	Net Income	Yes-by deviation	non-traditional custody arrangement; taxes; catchall	Yes-substitute from Gross Income	Yes-per guideline
<b>New Mexico</b>	Income Shares	Gross Income	Yes-if more than 30% (Equal is 45%)	catchall	Yes-substitute from Gross Income	No-only as defense to increase motion
<b>New York</b>	Income Shares	Net Income	Yes-as Deviation Factor	Standard of living; tax consequence; disparity of income	Yes-substitute from Gross Income	Yes-as deviation factor

<b>North Carolina</b>	Income Shares	Gross Income	Yes-if greater than 123 nights	Tax consequences; catchall	Yes-substitute from Gross Income	Yes-Deduct from Gross Income
<b>North Dakota</b>	Income Shares	Net Income	No-Only if split custody	income needs	Yes-substitute from Gross Income	Yes-Per Formula
<b>Ohio</b>	Income Share	Net Income	Yes-By deviation	extened visitation; disparity of income	Yes-substitute from Gross Income	Yes-Subtract Federal Tax Deduction
<b>Oklahoma</b>	Income Share	Gross Income	Yes-If "extended visit"	catchall	Yes-substitute from Gross Income	No
<b>Oregon</b>	Income Shares	Gross Income	Yes-Per Schedule	special hardships; tax consequences	Yes-substitute from Gross Income	Yes-credit per guideline
<b>Pennsylvania</b>	Income Shares	Net Income	Yes-Per Formula	more than 4 children; standard of living catchall	Yes-as deviation	Yes-as deviation
<b>Rhode Island</b>	Income Shares	Gross Income	Yes-as Deviation	split custody; extensive sharing of custody; tax consequences	Yes-substitute from Gross Income	No
<b>South Carolina</b>	Income Shares	Gross Income	Yes-Special Formula	more than 6 kids; other dependent; substiution disparity of income	Yes-as deviation	Yes-credit not basis for downward modification
<b>South Dakota</b>	Income Shares	Net Income	Yes-as deviation Factor	income of new spouse; any inequity	Yes-substitute from Gross Income	Yes-as deviation factor
<b>Tennessee</b>	Income Shares (as of Jan 05)	Gross Income				
<b>Texas</b>	% of Income	Net Income	Yes-as deviation factor	everything	Yes-special formula	Yes-special Formula
<b>Utah</b>	Income Shares	Gross Income	Yes-if Greater than 25% of time	standard of living; catchall	Yes-Deduct from Gross Income	Yes-as deviation
<b>Vermont</b>	Income Shares	Net Income	Yes if greater than 30%(multiply by 150% and divide)	standard of living; catchall	Yes-Deduct from Gross Income	Yes

<b>Virginia</b>	Income Shares	Gross Income	Yes-Multiply by 1.25 and apportion	custody/visitation/ tax consequences; standard of living	Yes-deviation	Yes-deviation
<b>Washington</b>	Income Shares	Net Income	Yes-as deviation	many financial reasons	Yes-deviation	Yes-deviation
<b>West Virginia</b>	Melson Formula	Net Income	Yes-as deviation	catchall	Yes-Deduct from Gross Income	No-but included in SOLA
<b>Wisconsin</b>	% of Income	Gross Income	Yes-if greater than 30% based on overnights	needs; standard of living; tax consequences	Yes-Deduct from Gross Income	Yes
<b>Wyoming</b>	Income Shares	% of Combined Net Income	Yes-if greater than 40% parenting time			




**COMPARISON OF MAJOR CHILD SUPPORT GUIDELINE PROVISIONS**

***Task Force Recommendations, Current Law, SF 1900, SF 630***

Prepared by Jo Beld and Reggie Wagner – 03/25/05

**GENERAL PARAMETERS**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b><i>Three-part orders:</i></b> Keep basic support, child care support, and medical support separate</p>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation</p>	<p>Not consistent with TF recommendation; basic, child care, and medical support obligation are summed for each parent, and the parent with the larger total obligation pays the difference to the parent with the smaller total obligation [Sec. 13, Para. 11 (21.11-17<sup>1</sup>)]</p> <p><i>WRONG</i> <i>But Addressed in Amendment</i></p>
<p><b><i>Income-shares model:</i></b> Use the same income-shares calculation for all three components of a support order</p>	<p>Not consistent with TF recommendation; uses “hybrid” model:</p> <ul style="list-style-type: none"> <li>• <i>Basic support</i> = percentage of obligor income (based on income of obligor alone)</li> <li>• <i>Child care support</i> = Income shares AFTER basic support transferred from obligor to obligee</li> <li>• <i>Medical support</i> = Income shares BEFORE basic support transferred from obligor to obligee</li> </ul>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation [Sec. 13 (21.19 – 22.25)]</p> 

<sup>1</sup> “21.11” means “Page 21, Line 11” in the text of the amendment

**INCOME BASIS FOR CHILD SUPPORT**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b><i>Gross income:</i></b>  <b>Base child support on gross income</b></p>	<p><b>Not consistent</b> with TF recommendation; child support based on net income after deductions for income and payroll taxes, pension contributions, union dues, cost of dependent medical coverage</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Modifies</b> TF recommendation; child support based on "modified gross income," or gross income minus <del>mandatory payment of union dues and</del> plus or minus court-ordered spousal support [Sec. 10, Subd. 13 (16.36 – 17.2)]</p>
<p><b><i>Self-employed parents:</i></b>  <b>Deduct reasonable and necessary business expenses from gross income of self-employed parents</b></p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Consistent</b> with TF recommendation [Sec 12 (21.5 – 21.18)]</p>
<p><b><i>Income imputation:</i></b>  <b>Maintain present methods of imputing income, including imputing income at 150% of minimum wage when there is no income information</b></p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Not consistent</b> with TF recommendation; "potential income" determined by parent's work history and qualifications <i>or</i> only 100% full-time state minimum wage, even if parent is employed part-time [Sec. 10, Subd. 19 (17.29 – 18.12)]</p>
<p><b><i>Stay-at-home parents:</i></b>  <b>Add a list of factors the court should consider in determining whether to impute income to a parent who stays home to care for the child/ren of the action</b></p>	<p><b>Not consistent</b> with TF recommendation</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Not consistent</b> with TF recommendation</p>
<p><b><i>Parents on public assistance:</i></b>  <b>Retain current law excluding PA benefits from income and presuming that parents receiving public assistance are not voluntarily unemployed or underemployed.</b></p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Consistent</b> with TF recommendation; earned income of MFIP recipients is included in the determination of support, but not their public assistance benefits</p>	<p><b>Not consistent</b> with TF recommendation; MFIP recipients would have income imputed at 100% full-time state minimum wage [Sec. 11 (e) (20.32-36)]</p>

yes.

☺

*Amended*

*Amended.*

*Amended to remove from imputed income*

<p><b>Income cap:</b> Maintain an income "cap," but adjust it to reflect the two-parent, gross income basis of support calculation</p>	<p><b>Not consistent</b> with TF recommendation; income cap based on net income of obligor</p>	<p><b>Consistent</b> with TF recommendation; income cap for combined gross parental income equal to \$15,000</p>	<p><b>Consistent</b> with TF recommendation; income cap for combined gross parental income equal to \$15,000 [Sec. 26, Subd. 2 and 3 (53.15-24)]</p>
--	--	--	--



**MULTIPLE FAMILIES**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b>Other support orders:</b> Deduct other child support or maintenance orders that are currently being paid from a parent's gross income</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Modifies</b> TF recommendation; prior support or maintenance orders are deducted from income irrespective of whether or not they are being paid</p>	<p><b>Modifies</b> TF recommendation; spousal support a parent is entitled to receive is added to parent's gross income [Sec. 18 (b) (25.31-34)]; prior support orders are deducted from income irrespective of whether or not they are being paid (?) [Sec. 18 (a) (25.24-30)]</p>
<p><b>Other legally-dependent children in the home:</b> Include an income deduction equal to one-half of a child's share of the exit-level income for MFIP recipients for parents who are legally obligated to provide for another dependent child residing with them. Deductions may be taken for up to four children.</p>	<p><b>Not consistent</b> with TF recommendation; no deduction for other legally dependent children in establishment of child support, although court can consider needs of "subsequent children" in some modification proceedings</p>	<p><b>Approximates</b> TF recommendation; income deduction for other dependent child is equal to one-half of a child's share of income at 120 percent of federal poverty level (the exit level income for MFIP recipients at the time the TF made its recommendations, but now outdated). Deductions may be taken for up to four children.</p>	<p><b>Modifies</b> TF recommendation; income deduction for other dependent child is equal to one-half of a simulated order for basic support for that child, using the parent's modified gross income as the income basis for the simulated order; no limit on number of other dependents for whom deduction may be taken. [Sec. 18 (c) and (d) (25.35 - 26.7)]</p> <p>Court may also deviate in light of "the number and needs of other dependents of a parent" [Sec. 15, Subd. 1 (7) (23.22)]</p>

yes

yes  
more fair.

yes  
But no modification presumption


**DETERMINING BASIC SUPPORT AND ACKNOWLEDGING PARENTING TIME EXPENSES**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b><i>USDA estimates:</i></b></p> <p>Use the USDA's recommended estimates of family expenditures on children, with a per capita method of estimating children's housing costs, as the economic basis of the Schedule of Basic Support.</p>	<p>Not consistent with TF recommendation</p>	<p>Consistent with TF recommendation</p>	<p>Not consistent with TF recommendation; uses USDA estimates of parental expenditures on food, transportation, clothing, education, and miscellaneous expenses, but substitutes USDA-prepared marginal-cost estimates for expenditures on children's housing [Sec. 26, Subd. 2 (49.8 – 53.18)]</p>
<p><b><i>Obligor parenting time expenses:</i></b></p> <p>Build into the Schedule of Basic Support a "separate household discount" that varies with parental income but is not linked to amount of parenting time, to (1) acknowledge obligor parenting time expenses and (2) reduce orders for low-income obligors</p>	<p>Not consistent with TF recommendation</p>	<p><b>Modifies TF recommendation:</b></p> <ul style="list-style-type: none"> <li>A "separate household adjustment" reduces obligor's share of combined basic support obligation by 10% for one child, 15% for 2 children and 20% for 3 children. The adjustment acknowledges obligor parenting time expenses without linking them to the amount of parenting time ordered.</li> </ul>	<p><b>Modifies TF recommendation:</b></p> <ul style="list-style-type: none"> <li>Each parent is presumptively entitled to at least 25% parenting time [Sec. 22 (a) [45.24-25]].</li> <li>A "parenting time credit" reduces the obligor's share of combined basic support by a percentage that varies with the amount of the obligor's parenting time: <ul style="list-style-type: none"> <li>✓ no adjustment for parenting time of less than 20%; 10%</li> <li>✓ 18% for parenting time of 20-32.5%; 10-45% <i>Amended</i></li> <li>✓ <del>27% for parenting time of 32.6-45%,</del></li> <li>✓ alternative equal parenting time calculation for parenting time greater than 45%.</li> </ul> </li> <li>If the parenting time credit is greater than the obligor's share of basic support, the obligee pays the obligor the difference [Sec. 23, Para (b), (c), (d) (46.22 – 47.8)]</li> </ul>



*Amend*

			<ul style="list-style-type: none"> <li>If court determines that actual parenting time differs from order, court may order support consistent with actual parenting time [Sec. 22 (c) (46.9-13)]</li> </ul>
<p><b><i>Tax benefits and credits:</i></b></p> <p>Include in the statutory language an explicit statement that the Schedule of Basic Support presumes that the obligee will receive applicable tax benefits and credits.</p>	Not consistent with TF recommendation	Not consistent with TF recommendation	Not consistent with TF recommendation


**CHILD CARE SUPPORT**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b><i>Income basis:</i></b></p> <p>Eliminate the transfer of basic support money from the obligor to the obligee prior to the calculation of each parent's share of income for child care support.</p>	Not consistent with TF recommendation	Consistent with TF recommendation	Consistent with TF recommendation [Sec. 21, Subd. 1 (43.19-24)] 
<p><b><i>Determination of cost to be apportioned between the parents:</i></b></p> <p>Eliminate the 25 percent reduction in work- and education-related child care costs, intended to reflect cost offsets from federal and state child care tax credits, prior to the calculation of child care support.</p>	Not consistent with TF recommendation	Consistent with TF recommendation	<p><b>Modifies TF recommendation:</b></p> <ul style="list-style-type: none"> <li>An estimated tax credit is subtracted from the cost of care prior to apportionment [Sec. 21, Subd. 1 (43.24-29)].</li> <li>Child care support limited to children 12 years or younger [Sec. 21, Subd. 1 (43.22)].</li> <li>Costs may be limited to market rate for obligee's city or county of residence [Sec. 21, Subd. 3(e) (44.31-34)]</li> </ul>


*yes*  
*yes*  
*yes*

<p><b>Child care support orders for low-income obligors:</b></p> <p>Use an adapted version of the Basic Sliding Fee co-payment schedule to determine child care support obligations for low-income obligors.</p>	<p>Not consistent with TF recommendations; instead, "substantial unfairness" test applied, and child care support reduced if necessary to leave obligor with at least a 100%-federal-poverty-guidelines income</p>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation [Sec. 21, Subd. 2 (43.30 – 44.7)]</p> 
<p><b>Low-income obliges not receiving assistance:</b></p> <p>Permit an upward deviation in orders for child care support when an obligee qualifies for child care assistance but is not receiving it.</p>	<p>Not consistent with TF recommendation</p>	<p>Not consistent with TF recommendation; no provision</p>	<p>Consistent with TF recommendation [Sec. 15, Subd. 1 (6) (23.17-21)]</p> 

### MEDICAL SUPPORT

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b>MN Medical Support Work Group:</b></p> <p>Affirm the recommendations of the Minnesota Medical Support Work Group.</p>	<p>Not consistent with TF recommendation</p>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation [Sec. 20 (26.31 – 43.17)] EXCEPT for provisions regarding order amounts when neither party has appropriate health care coverage (see below)</p>
<p><b>Medical insurance premiums:</b></p> <p>Allocate the children's medical insurance premiums between the parents in proportion to their incomes.</p>	<p>Consistent with TF recommendation, except that the income basis is net instead of gross</p>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation [Sec. 10, Subd. 5 (a) (31.32 – 32.1)]</p> 

OK w/  
Amend.

<p><b><i>Out-of-pocket expenses:</i></b>  <b>Allocate the children's uninsured and unreimbursed medical expenses between the parents in proportion to their incomes, with after-the-fact reimbursement as presently practiced.</b></p>	<p><b>Consistent with TF recommendation</b></p>	<p><b>Consistent with TF recommendation</b></p>	<p><b>Consistent with TF recommendation</b>          [Sec. 10, Subd. 5 (a) (31.32 – 32.1)]</p> 
<p><b><i>Medical support orders when neither parent has access to appropriate insurance:</i></b>  <b>Use an adapted version of the MinnesotaCare premium schedule to determine the obligor's contribution to medical support when neither parent has access to appropriate insurance.</b></p>	<p><b>Not consistent with TF recommendation</b></p>	<p><b>Consistent with TF recommendation</b></p>	<p><b>Not consistent with TF recommendation;</b> provisions similar to current law ("just and appropriate" order for medical support, but "no less than \$50 per month") [Sec. 20, subd. 4 (f) and (g) (31.5-27)]</p>

NOT  
 intent  
 to  
 change.

**ADJUSTMENTS FOR LOW-INCOME OBLIGORS**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b><i>Low-income adjustment/ Self-support reserve:</i></b></p> <p><b>Reduce support order as needed to leave the obligor with a "self-support reserve" equal to the income needed to exit the MFIP program</b></p>	<p><b>Not consistent</b> with TF recommendation; "substantial unfairness test" leaves obligor with 100%-federal-poverty-guideline income</p>	<p><b>Approximates</b> TF recommendation; child support amounts reduced to leave obligor with income equal to 120 percent of federal poverty level (the exit level income for MFIP recipients at the time the TF made its recommendations, but now outdated)</p>	<p><b>Approximates</b> TF recommendation:</p> <ul style="list-style-type: none"> <li>• Obligor's pro-rated share of combined parental obligation for basic support (after application of parenting time credit) is compared to the amount that would be ordered if the obligor's income constituted the parents' combined income, and the lower amount is ordered [Sec. 24 (47.28 – 48.5)]</li> <li>• Child support amounts reduced to leave obligor with income equal to 120 percent of federal poverty level (the exit level income for MFIP recipients at the time the TF made its recommendations, but now outdated) [Sec. 25 (48.6-22)]</li> <li>• Additional downward deviation permissible if obligor can establish insufficient income for self-support reserve after payment of income and payroll taxes [Sec.15, Subd. 6 (24.30-33)]</li> </ul>
<p><b><i>Sequence of reductions:</i></b></p> <p><b>Sequence reductions in support so that medical support is reduced first, child care support is reduced second (if necessary), and basic support is reduced last (if necessary)</b></p>	<p><b>Not consistent</b> with TF recommendation; reduction applied only to child care support</p>	<p><b>Consistent</b> with TF recommendation</p>	<p><b>Not consistent</b> with TF recommendation (and cannot be added, because basic support, child support, and medical support are not separated in the order)</p>

*yes -  
Low  
Income  
Adjust.*

*yes  
p. 24*

*wrong!  
fixed  
by  
amendment*



<p><b>Consideration of obligee income:</b> Take the obligee's resources into account before reducing support through the application of the low-income adjustment.</p>	<p>Not consistent with TF recommendation</p>	<p>Not consistent with TF recommendation</p>	<p>Not consistent with TF recommendation</p> <p style="text-align: center;">← → Same.</p>
<p><b>Presumptive minimum order:</b> Include a rebuttably-presumptive minimum obligation for obligors with incomes below 150% of the federal poverty guideline.</p>	<p>Not consistent with TF recommendation</p>	<p>Modifies TF recommendation; presumptive minimum ordered in dollar amounts only, and 150% FPG threshold eliminated</p>	<p>Not consistent with TF recommendation; no provision</p> <p style="text-align: right;"><i>Amend fines.</i></p>

**DEVIATION FACTORS**

Task Force Recommendations	Current Law	SF 1900 DE (Berglin)	SF 630 A-6 (Neuville)
<p><b>Adjustments in language:</b> Enhance the clarity and consistency of deviation factors</p>	<p>Not consistent with TF recommendation</p>	<p>Consistent with TF recommendation</p>	<p>Not consistent with TF recommendations; most current statutory language retained, but without "best interests of the child." [Sec. 15, Subd. 1 (22.29 – 23.26)]</p>
<p><b>Substantially equal parenting time:</b> Maintain the present practice of determining child support under "substantially equal parenting time" arrangements on a case-by-case basis, rather than establishing an alternative formula.</p>	<p>Consistent with TF recommendation</p>	<p>Consistent with TF recommendation</p>	<p>Not consistent with TF recommendation; each parent's basic support obligation is calculated, and the parent who owes the higher amount pays half the difference to the other parent (no multipliers applied to account for duplicated spending) [Sec. 23 (f) (47.12-22)]</p>

*Yes - intend to elim. Valento formula.*

**OTHER PROVISIONS IN SF 630 A-6 NOT REFERENCED IN TASK FORCE RECOMMENDATIONS**

*SF 630 A-6 (Neuville):*

- **Articulates purposes of deviation as, among other reasons, “to encourage prompt and regular payments of child support” and “to prevent when possible the impoverishment of either the child or the obligor” [Sec. 15, Subd. 1 (22.31-35)]** | yes
- **(??) Orders may be modified under new guidelines if their application yields an order that is 20% and \$50 different from current order (it is presumed that a difference of this magnitude constitutes a substantial change in circumstances) [Sec. 8, Subd. 2 (b) (11.17-25). However, see also Sec. 8, Subd. 2 (h): “An enactment, amendment, or repeal of law does not constitute a substantial change in circumstance for purposes of modifying a child support order” (14.5-7)]** } same in both
- **An economic analysis of the new guidelines is to be conducted by January 30, 2006. The study is to be conducted by a private provider that “must have experience in evaluating or establishing child support guidelines, using the income shares approach, in other states.” [Sec. 28 (54.19-35)] *Note: Insofar as I am aware, the only provider that meets these criteria is Policy Studies Inc., which recommends the lowest of the available marginal-cost estimates of expenditures on children as the basis of child support obligations.*** | wrong
- **Effective date of January 2007 (not yet in bill, but to be added per Sen. Neuville’s presentation to MSBA Family Law Section on 3/11/05)** | yes

**Child Support Outcomes under SF 630 and SF 1900:  
Impact of Increased Parenting Time and Other Dependents**

For discussion only – March 28, 2005

Both SF 630 and SF 1900 contain provisions which acknowledge that obligors incur direct expenses for their children during parenting time and which recognize that some parents have legally-dependent children (other than those for whom support is being ordered) living with them at the time a support order is being determined. However, support orders under SF 630 are considerably lower than those under SF 1900 when parents have increased parenting time or have other dependents in the home. Attached are some examples.

The provisions that affect support amounts in the attached tables are as follows:

1. **Lower estimates of child costs in the Schedule of Basic Support under SF 630 than under SF 1900** *yes'*
2. **Larger deductions from income for other dependents for middle- and higher-income families under SF 630 than under SF 1900** *} not always*
3. **Larger reductions in the obligor's share of the parents' combined basic support obligation for parenting time that is less than 32%** (a reduction of 18% under SF 630 vs. a reduction of 10% under SF 1900) *} yes'*
4. **An even larger reduction in basic support for parenting time that is greater than 32%** (a reduction of 27% under SF 630 vs. a reduction of 10% under SF 1900 – the reduction in support is not tied to time under SF 1900) *} No  
eliminates*

It should be noted that in many (perhaps most) families, a typical "reasonable and liberal parenting time" schedule is equal to 33% of overnights over the course of a calendar year (every other weekend, one night a week, two weeks in summer, and alternating holidays). This means that the lower amounts for SF 630 (reported in the second set of tables for each family) would be the more common scenario. *N/A.*

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 12, line 34, strike everything after the period

4 Page 12, strike lines 35 and 36

5 Page 13, strike lines 1 to 22

6 Page 14, after line 7, insert:

7 "Sec. 9. [518.6197] [CHILD SUPPORT DEBT/ARREARAGE  
8 MANAGEMENT.]

9 In order to reduce and otherwise manage support debts and  
10 arrearsages, the parties, including the public authority where  
11 arrearsages have been assigned to the public authority, may  
12 compromise unpaid support debts or arrearsages owed by one party  
13 to another, whether or not docketed as a judgment. A party may  
14 agree or disagree to compromise only those debts or arrearsages  
15 owed to that party.

16 Sec. 10. Minnesota Statutes 2004, section 518.64,  
17 subdivision 2, is amended to read:

18 Subd. 2. [MODIFICATION.] (a) The terms of an order  
19 respecting maintenance or support may be modified upon a showing  
20 of one or more of the following: (1) substantially increased or  
21 decreased earnings of a party; (2) substantially increased or  
22 decreased need of a party or the child or children that are the  
23 subject of these proceedings; (3) receipt of assistance under  
24 the AFDC program formerly codified under sections 256.72 to  
25 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a  
26 change in the cost of living for either party as measured by the  
27 Federal Bureau of Statistics, any of which makes the terms  
28 unreasonable and unfair; (5) extraordinary medical expenses of  
29 the child not provided for under section 518.171; or (6) the  
30 addition of work-related or education-related child care  
31 expenses of the obligee or a substantial increase or decrease in  
32 existing work-related or education-related child care expenses.

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

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

5 (1) the application of the child support guidelines in  
6 section 518.551, subdivision 5, to the current circumstances of  
7 the parties results in a calculated court order that is at least  
8 20 percent and at least \$50 per month higher or lower than the  
9 current support order;

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

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

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

18 (c) On a motion for modification of maintenance, including  
19 a motion for the extension of the duration of a maintenance  
20 award, the court shall apply, in addition to all other relevant  
21 factors, the factors for an award of maintenance under section  
22 518.552 that exist at the time of the motion. On a motion for  
23 modification of support, the court:

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~(4) the party seeking modification was institutionalized or  
36 incarcerated for an offense other than nonsupport of a child~~

~~1 during-the-period-for-which-retroactive-modification-is-sought  
2 and-lacked-the-financial-ability-to-pay-the-support-ordered  
3 during-that-time-period.--In-determining-whether-to-allow-the  
4 retroactive-modification, the-court-shall-consider-whether-and  
5 when-a-request-was-made-to-the-public-authority-for-support  
6 modification.~~

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

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

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

23 (g) Section 518.14 shall govern the award of attorney fees  
24 for motions brought under this subdivision.

25 Sec. 11. Minnesota Statutes 2004, section 518.68,  
26 subdivision 2, is amended to read:

27 Subd. 2. [CONTENTS.] The required notices must be  
28 substantially as follows:

29 **IMPORTANT NOTICE**

30 **1. PAYMENTS TO PUBLIC AGENCY**

31 According to Minnesota Statutes, section 518.551,  
32 subdivision 1, payments ordered for maintenance and support  
33 must be paid to the public agency responsible for child  
34 support enforcement as long as the person entitled to  
35 receive the payments is receiving or has applied for public  
36 assistance or has applied for support and maintenance

1 collection services. MAIL PAYMENTS TO:

2 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A  
3 FELONY

4 A person may be charged with a felony who conceals a minor  
5 child or takes, obtains, retains, or fails to return a  
6 minor child from or to the child's parent (or person with  
7 custodial or visitation rights), according to Minnesota  
8 Statutes, section 609.26. A copy of that section is  
9 available from any district court clerk.

10 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

11 A person who fails to pay court-ordered child support or  
12 maintenance may be charged with a crime, which may include  
13 misdemeanor, gross misdemeanor, or felony charges,  
14 according to Minnesota Statutes, section 609.375. A copy  
15 of that section is available from any district court clerk.

16 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

17 (a) Payment of support or spousal maintenance is to be as  
18 ordered, and the giving of gifts or making purchases of  
19 food, clothing, and the like will not fulfill the  
20 obligation.

21 (b) Payment of support must be made as it becomes due, and  
22 failure to secure or denial of parenting time is NOT an  
23 excuse for nonpayment, but the aggrieved party must seek  
24 relief through a proper motion filed with the court.

25 (c) Nonpayment of support is not grounds to deny parenting  
26 time. The party entitled to receive support may apply for  
27 support and collection services, file a contempt motion, or  
28 obtain a judgment as provided in Minnesota Statutes,  
29 section 548.091.

30 (d) The payment of support or spousal maintenance takes  
31 priority over payment of debts and other obligations.

32 (e) A party who accepts additional obligations of support  
33 does so with the full knowledge of the party's prior  
34 obligation under this proceeding.

35 (f) Child support or maintenance is based on annual income,  
36 and it is the responsibility of a person with seasonal



1 employment to budget income so that payments are made  
2 throughout the year as ordered.

3 (g) If the obligor is laid off from employment or receives  
4 a pay reduction, support may be reduced, but only if a  
5 motion to reduce the support is served and filed with the  
6 court. Any reduction will take effect only if ordered by  
7 the court and may only relate back to the time that the  
8 motion is filed. If a motion is not filed, the support  
9 obligation will continue at the current level. The court  
10 is not permitted to reduce support retroactively, except as  
11 provided in Minnesota Statutes, section 518.64, subdivision  
12 2, paragraph (c).

13 (h) Reasonable parenting time guidelines are contained in  
14 Appendix B, which is available from the court administrator.

15 (i) The nonpayment of support may be enforced through the  
16 denial of student grants; interception of state and federal  
17 tax refunds; suspension of driver's, recreational, and  
18 occupational licenses; referral to the department of  
19 revenue or private collection agencies; seizure of assets,  
20 including bank accounts and other assets held by financial  
21 institutions; reporting to credit bureaus; interest  
22 charging, income withholding, and contempt proceedings; and  
23 other enforcement methods allowed by law.

24 (j) The public authority may suspend or resume collection  
25 of the amount allocated for child care expenses if the  
26 conditions of section 518.551, subdivision 5, paragraph  
27 (b), are met.

28 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,  
29 SUBDIVISION 3

30 Unless otherwise provided by the Court:

31 (a) Each party has the right of access to, and to receive  
32 copies of, school, medical, dental, religious training, and  
33 other important records and information about the minor  
34 children. Each party has the right of access to  
35 information regarding health or dental insurance available  
36 to the minor children. Presentation of a copy of this

1 order to the custodian of a record or other information  
2 about the minor children constitutes sufficient  
3 authorization for the release of the record or information  
4 to the requesting party.

5 (b) Each party shall keep the other informed as to the name  
6 and address of the school of attendance of the minor  
7 children. Each party has the right to be informed by  
8 school officials about the children's welfare, educational  
9 progress and status, and to attend school and parent  
10 teacher conferences. The school is not required to hold a  
11 separate conference for each party.

12 (c) In case of an accident or serious illness of a minor  
13 child, each party shall notify the other party of the  
14 accident or illness, and the name of the health care  
15 provider and the place of treatment.

16 (d) Each party has the right of reasonable access and  
17 telephone contact with the minor children.

18 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

19 Child support and/or spousal maintenance may be withheld  
20 from income, with or without notice to the person obligated  
21 to pay, when the conditions of Minnesota Statutes, section  
22 518.6111 have been met. A copy of those sections is  
23 available from any district court clerk.

24 7. CHANGE OF ADDRESS OR RESIDENCE

25 Unless otherwise ordered, each party shall notify the other  
26 party, the court, and the public authority responsible for  
27 collection, if applicable, of the following information  
28 within ten days of any change: the residential and mailing  
29 address, telephone number, driver's license number, Social  
30 Security number, and name, address, and telephone number of  
31 the employer.

32 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

33 Child support and/or spousal maintenance may be adjusted  
34 every two years based upon a change in the cost of living  
35 (using Department of Labor Consumer Price Index .....,  
36 unless otherwise specified in this order) when the

1 conditions of Minnesota Statutes, section 518.641, are met.  
2 Cost of living increases are compounded. A copy of  
3 Minnesota Statutes, section 518.641, and forms necessary to  
4 request or contest a cost of living increase are available  
5 from any district court clerk.

6 9. JUDGMENTS FOR UNPAID SUPPORT

7 If a person fails to make a child support payment, the  
8 payment owed becomes a judgment against the person  
9 responsible to make the payment by operation of law on or  
10 after the date the payment is due, and the person entitled  
11 to receive the payment or the public agency may obtain  
12 entry and docketing of the judgment WITHOUT NOTICE to the  
13 person responsible to make the payment under Minnesota  
14 Statutes, section 548.091. Interest begins to accrue on a  
15 payment or installment of child support whenever the unpaid  
16 amount due is greater than the current support due,  
17 according to Minnesota Statutes, section 548.091,  
18 subdivision 1a.

19 10. JUDGMENTS FOR UNPAID MAINTENANCE

20 A judgment for unpaid spousal maintenance may be entered  
21 when the conditions of Minnesota Statutes, section 548.091,  
22 are met. A copy of that section is available from any  
23 district court clerk.

24 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD  
25 SUPPORT

26 A judgment for attorney fees and other collection costs  
27 incurred in enforcing a child support order will be entered  
28 against the person responsible to pay support when the  
29 conditions of section 518.14, subdivision 2, are met. A  
30 copy of section 518.14 and forms necessary to request or  
31 contest these attorney fees and collection costs are  
32 available from any district court clerk.

33 12. PARENTING TIME EXPEDITOR PROCESS

34 On request of either party or on its own motion, the court  
35 may appoint a parenting time expeditor to resolve parenting  
36 time disputes under Minnesota Statutes, section 518.1751.

1 A copy of that section and a description of the expeditor  
2 process is available from any district court clerk.

3 13. PARENTING TIME REMEDIES AND PENALTIES

4 Remedies and penalties for the wrongful denial of parenting  
5 time are available under Minnesota Statutes, section  
6 518.175, subdivision 6. These include compensatory  
7 parenting time; civil penalties; bond requirements;  
8 contempt; and reversal of custody. A copy of that  
9 subdivision and forms for requesting relief are available  
10 from any district court clerk."

11 Page 45, line 7, after "information" insert "with the other  
12 party"

13 Renumber the sections in sequence and correct the internal  
14 references

15 Amend the title accordingly

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 8, line 26, strike everything after "(a)"

4 Page 8, strike lines 27 to 36

5 Page 9, strike lines 1 and 2

6 Page 9, line 3, strike "period" and insert "In any case  
7 where the parties have joint children for which a child support  
8 order must be determined, the parties shall serve and file with  
9 their initial pleadings or motion documents, a financial  
10 affidavit, disclosing all sources of gross income and other  
11 information sufficient to calculate modified gross income and  
12 adjusted gross income. The financial affidavit shall include  
13 supporting documentation for all adjusted gross income,  
14 including, but not limited to, pay stubs for the most recent  
15 three months, employer statements, or statements of receipts and  
16 expenses if self-employed. Documentation of earnings and income  
17 also include copies of each parent's most recent federal tax  
18 returns, including W-2 forms, 1099 forms, unemployment benefit  
19 statements, workers' compensation statements, and all other  
20 documents evidencing earnings or income as received that provide  
21 verification for the financial affidavit"

22 Page 9, lines 15 and 16, strike "appear at a court hearing  
23 after proper notice of the time and place of the hearing" and  
24 insert "serve and file the financial affidavit with the parent's  
25 initial pleading"

26 Page 9, line 18, strike "paragraph (d)" and insert "section  
27 518.712, subdivision 19"

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 1, after line 2, insert:

4 "Section 1. Minnesota Statutes 2004, section 518.005, is  
5 amended by adding a subdivision to read:

6 Subd. 6. [FILING FEE.] The initial pleading filed in all  
7 proceedings for dissolution of marriage, legal separation, or  
8 annulment or proceedings to establish child support obligations  
9 shall be accompanied by a filing fee of \$..... The fee is in  
10 addition to any other prescribed by law or rule."

11 Page 55, after line 25, insert:

12 "Sec. 30. [APPROPRIATIONS.]

13 \$..... is appropriated in fiscal year 2006 and \$.....  
14 is appropriated in fiscal year 2007 from the general fund to the  
15 commissioner of human services to fund implementation of this  
16 act and to reimburse counties for their implementation costs.  
17 The commissioner of human services shall distribute funds to the  
18 counties for their costs of implementation based upon their  
19 total county IV-D caseload. The appropriation base in fiscal  
20 year 2008 for grants to counties shall be \$.....

21 \$..... is appropriated in fiscal year 2007 from the  
22 general fund to the supreme court administrator to fund  
23 implementation of this act. This is a onetime appropriation."

24 Page 55, after line 29, insert:

25 "Sec. 33. [EFFECTIVE DATE.]

26 This act is effective January 1, 2007, and applies to  
27 orders adopted or modified after that date."

28 Page 55, line 33, after the second semicolon, insert

29 "appropriating money;"

30 Renumber the sections in sequence and correct the internal  
31 references

32 Amend the title accordingly

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 48, line 21, delete "and"

4 Page 48, line 22, before the period, insert ";

5 (4) if the obligor's child support is reduced under clause

6 (2), then the court must apply the reduction to the child

7 support obligation in the following order:

8 (i) medical support obligation;

9 (ii) child support obligation; and

10 (iii) basic support obligation; and

11 (5) [MINIMUM BASIC SUPPORT AMOUNT.] if the obligor's income

12 available for support is less than the self-support reserve,

13 then the court must order minimum support as follows:

14 (i) for one or two children, the obligor's basic support

15 obligation is \$50 per month;

16 (ii) for three or four children, the obligor's basic

17 support obligation is \$75 per month; and

18 (iii) for five or more children, the obligor's basic

19 support obligation is \$100 per month.

20 If the court orders the obligor to pay the minimum basic support

21 amount under this paragraph, the obligor is presumed unable to

22 pay child care support and medical support.

23 If the court finds the obligor receives no income and completely

24 lacks the ability to earn income, the minimum basic support

25 amount under this paragraph does not apply"

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 18, line 12, delete everything after "at" and insert  
4 "150 percent of the current federal or state minimum wage,  
5 whichever is higher."

6 Page 18, after line 20, insert:

7 "(e) If the parent of a joint child is a recipient of a  
8 temporary assistance to a needy family (TANF) cash grant, no  
9 potential income shall be imputed to that parent.

10 (f) If the court determines that a parent is unemployed or  
11 underemployed because it is necessary to provide child care for  
12 a joint child, the court may reduce the amount of potential  
13 income by the reasonable value of child care expenses that are  
14 saved."



1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Pages 45 to 47, delete sections 22 and 23, and insert:

4 "Sec. 22. [518.721] [PARENTING TIME.]

5 (a) Each parent is presumptively entitled to receive 25  
6 percent of the parenting time for each joint child.

7 (b) The amount of parenting time may be increased or  
8 decreased by evidence:

9 (1) that the parties have agreed to a different amount of  
10 parenting time;

11 (2) that circumstances exist which warrant either more or  
12 less parenting time in the child's best interest;

13 (3) of the parent's past history of parenting time with the  
14 child;

15 (4) that one parent has intentionally interfered with or  
16 denied parenting time to the other parent;

17 (5) that a parent has not utilized parenting time that has  
18 been previously awarded;

19 (6) that the age or developmental needs of the child would  
20 warrant a lesser amount of parenting time; or

21 (7) that a child who is 14 years of age or older and has  
22 expressed an uncoerced preference to increase or decrease the  
23 amount of that child's parenting time with a parent.

24 (c) If there is a current court order providing for  
25 parenting time or split custody, the percentage of overall  
26 parenting time for each parent shall be calculated as follows:

27 (1) multiply the number of joint children by 365 to arrive  
28 at a total number of child overnights. Add together the total  
29 number of overnights the parent is allowed with each joint child  
30 and divide the parenting time overnights by the total number of  
31 child overnights;

32 (2) if the parents have court-ordered split custody  
33 providing for parenting time, each parent shall be attributed  
34 365 days for each joint child in the parent's physical custody;  
35 and

36 (3) notwithstanding the calculation provided in paragraph

1 (c), clauses (1) and (2), the percentage of parenting time may  
 2 be determined using a method other than overnights if a parent  
 3 has significant time periods where the child is in the parent's  
 4 physical custody but does not stay overnight.

5 (d) If there is no court order providing for parenting  
 6 time, the parent having primary physical custody shall be  
 7 treated as having 100 percent of the parenting time.

8 Sec. 23. [518.722] [PARENTING TIME CREDIT.]

9 (a) This section shall apply when the overall parenting  
 10 time calculated pursuant to section 518.721 is ten percent or  
 11 greater for each parent.

12 (b) The obligor shall be entitled to a parenting time  
 13 credit calculated as follows:

14 (1) find the adjustment percentage corresponding to the  
 15 percentage of parenting time allowed to the obligor below:

	<u>Percentage Range of</u>	<u>Adjustment</u>
	<u>Parenting Time</u>	<u>Percentage</u>
18	<u>(i) less than 10 percent</u>	<u>no adjustment</u>
19	<u>(ii) 10 percent to 45 percent</u>	<u>18 percent</u>
20	<u>(iii) 45.1 percent to 50 percent</u>	<u>presume parenting</u>
21		<u>time is equal</u>

22 (2) multiply the adjustment percentage by the obligor's  
 23 basic child support obligation to arrive at the parenting time  
 24 credit.

25 (c) Subtract the parenting time credit from the obligor's  
 26 basic child support obligation. The result is the obligor's  
 27 obligation after parenting time credit.

28 (d) If the parenting time is equal, the expenses for the  
 29 children are equally shared, and the adjusted gross incomes of  
 30 the parents also are equal, no support shall be paid.

31 (e) If the parenting time is equal but the parents'  
 32 adjusted gross incomes are not equal, the parent having the  
 33 greater adjusted gross income shall be obligated for the amount  
 34 of basic child support needed to equalize the basic child  
 35 support to each parent, calculated as follows:

36 (1) after the basic child support obligation has been

1 prorated between the parents, subtract the lower amount from the  
2 higher amount and divide the balance in half; and

3 (2) the resulting figure is the obligation after parenting  
4 time credit for the parent with the greater adjusted gross  
5 income.

6 (f) This parenting time credit reflects the presumption  
7 that while exercising parenting time, a parent is responsible  
8 for and incurs costs of caring for the child, including, but not  
9 limited to, food, transportation, recreation, and household  
10 expenses."

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 17, delete lines 19 to 21, and insert "amount of time  
4 a child is scheduled to spend with the parent according to a  
5 court order. Parenting time includes time with the child  
6 whether it is designated as visitation, physical custody, or  
7 parenting time."

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 1, after line 2, insert:

4 "Section 1. Minnesota Statutes 2004, section 518.54,  
5 subdivision 1, is amended to read:

6 Subdivision 1. [TERMS.] For the purposes of sections  
7 518.54 to ~~518.66~~ 518.773, the terms defined in this section  
8 shall have the meanings respectively ascribed to them."

9 Page 1, after line 14, insert:

10 "Sec. 3. Minnesota Statutes 2004, section 518.54,  
11 subdivision 8, is amended to read:

12 Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to  
13 pay ~~maintenance-or~~ child support. A person who is designated as  
14 the sole physical custodian of a child is presumed not to be an  
15 obligor for purposes of calculating current support ~~under~~  
16 ~~section-518-551~~ unless the court makes specific written findings  
17 to overcome this presumption. For purposes of ordering medical  
18 support under section 518.719, a custodial parent may be an  
19 obligor subject to a cost-of-living adjustment under section  
20 518.641 and a payment agreement under section 518.553."

21 Page 1, line 18, reinstate the stricken language and delete  
22 the new language

23 Page 1, line 19, reinstate the stricken language

24 Page 1, line 20, reinstate the stricken language and delete  
25 the new language

26 Page 1, lines 23 and 25, reinstate the stricken language

27 Page 1, line 32, delete everything after the period and  
28 insert "The court shall presume that the latest order that  
29 involves the same obligor and joint child is controlling,  
30 subject to contrary proof."

31 Page 1, delete lines 33 and 34

32 Page 2, lines 9 and 10, strike "this subdivision" and  
33 insert "section 518.725"

34 Page 2, line 16, strike "(i)" and insert "(b)"

35 Page 2, line 19, strike "paragraph (c)" and insert "section  
36 518.714"

1 Page 9, lines 15 and 16, strike "at a court hearing after  
2 proper notice of the time and place of the hearing"

3 Page 9, line 18, strike "paragraph (d)" and insert "section  
4 518.712, subdivision 19"

5 Page 14, delete section 9

6 Page 15, line 32, after "support" insert "or support money"

7 Page 16, line 11, delete "518.726" and insert "518.7123"

8 Page 17, line 1, delete everything after "income"

9 Page 17, line 12, after "ordering" insert "or enforcing"

10 Page 19, line 2, delete everything after the headnote

11 Page 19, delete line 3

12 Page 19, line 9, delete "support" and insert "maintenance"

13 Page 20, lines 27 and 28, delete "are significant and"

14 Page 21, after line 4, insert:

15 "(g) Excluded and not counted as income is the income of  
16 the obligor's spouse and the obligee's spouse."

17 Page 21, line 23, before the semicolon, insert "using the  
18 definition in section 518.726"

19 Page 21, line 24, before the semicolon, insert "using the  
20 definition in section 518.712, subdivision 13"

21 Page 21, line 26, before the semicolon, insert "by  
22 subtracting from the modified gross income, the credit, if any,  
23 for any nonjoint children under section 518.717"

24 Page 21, line 36, delete "adjust" and insert "determine"

25 Page 22, line 1, after "obligation" insert "of the parents"

26 Page 22, line 3, delete "appropriate" and insert  
27 "applicable"

28 Page 22, line 13, before "costs" insert "medical"

29 Page 22, after line 15, insert:

30 "(12) calculate the total child support obligation of each  
31 parent by adding for each parent, the basic child support  
32 obligation from clause (7) and the total costs from clause (11);"

33 Page 22, line 16, delete "(12)" and insert "(13)"

34 Page 22, line 18, delete "(13)" and insert "(14)"

35 Page 22, line 23, delete "(14)" and insert "(15)"

36 Page 22, line 34, delete "either"

- 1 Page 22, line 35, delete "obligor" and insert "either  
2 parent"
- 3 Page 23, line 2, after "the" insert "extraordinary or  
4 diminished"
- 5 Page 23, line 3, after "income" insert "circumstances"
- 6 Page 23, line 6, delete "518.64, subdivision 2, paragraph  
7 (c)" and insert "518.7123, paragraph (b)"
- 8 Page 23, line 8, before "needs" insert "extraordinary"
- 9 Page 23, line 16, after the semicolon, insert "and"
- 10 Page 23, delete lines 17 to 21
- 11 Page 23, line 22, delete "(7)" and insert "(6)" and delete  
12 the semicolon and insert a period
- 13 Page 23, delete lines 23 to 26
- 14 Page 24, line 29, delete "departure" and insert "deviation"
- 15 Page 25, lines 8 and 9, delete "the criteria in section  
16 518.714 and"
- 17 Page 25, line 18, delete "earnings" and insert "gross  
18 income"
- 19 Page 25, line 31, delete "Subtract" and insert "Determine  
20 the modified gross income for each parent by subtracting"
- 21 Page 25, line 32, delete "add" and insert "adding"
- 22 Page 25, line 35, delete "this" and insert "the"
- 23 Page 27, line 14, before "child" insert "joint"
- 24 Page 27, line 19, before "child" insert "joint" in both  
25 places
- 26 Page 27, line 22, before "child" insert "joint"
- 27 Page 27, line 32, before "child's" insert "joint"
- 28 Page 27, line 33, before "child" insert "joint"
- 29 Page 27, line 36, before "child's" insert "joint"
- 30 Page 28, lines 1, 16, 21, 29, and 32, before "child" insert  
31 "joint"
- 32 Page 28, line 8, before the period, insert "but not over  
33 the counter medications"
- 34 Page 29, lines 2, 5, and 7, before "child" insert "joint"
- 35 Page 29, lines 10, 11, and 33, before "child's" insert  
36 "joint"

- 1 Page 29, line 35, before "child" insert "joint"
- 2 Page 30, line 2, before "appropriate" insert "presumed"
- 3 Page 30, lines 3, 4, 6, 10, 13, 15, 18, 20, and 21, before "
- 4 child" insert "joint"
- 5 Page 30, lines 23, 25, 29, and 35, before "child" insert
- 6 "joint"
- 7 Page 31, line 1, before "child" insert "joint"
- 8 Page 31, line 3, delete "order" and insert "presume that"
- 9 Page 31, line 4, before "child" insert "joint"
- 10 Page 31, line 8, before "children" insert "joint"
- 11 Page 31, lines 9, 11, and 15, before "child" insert "joint"
- 12 Page 31, line 26, before "children" insert "joint"
- 13 Page 32, lines 2, 3, 8, 10, 14, 16, 18, 20, and 27, before "
- 14 child" insert "joint"
- 15 Page 32, lines 28 and 32, before "child" insert "joint"
- 16 Page 33, lines 9, 12, 15, 19, 21, 24, 28, and 36, before
- 17 "child" insert "joint"
- 18 Page 34, lines 2, 5, 7, 12, and 17, before "child" insert
- 19 "joint"
- 20 Page 34, lines 27 and 30, before "child" insert "joint" in
- 21 both places
- 22 Page 35, lines 4 and 7, before "child" insert "joint"
- 23 Page 35, lines 8 and 11, before "child's" insert "joint"
- 24 Page 35, line 18, before "child" insert "joint"
- 25 Page 35, lines 22 and 27, before "child's" insert "joint"
- 26 Page 36, line 10, before "child's" insert "joint"
- 27 Page 36, lines 12 and 13, delete "518.64, subdivision 2"
- 28 and insert "518.145"
- 29 Page 36, lines 29, 31, and 34, before "child" insert
- 30 "joint"
- 31 Page 37, lines 2 and 8, before "child" insert "joint"
- 32 Page 37, lines 10 and 12, before "child's" insert "joint"
- 33 Page 37, lines 13, 18, 27, 30, 32, and 33, before "child"
- 34 insert "joint"
- 35 Page 38, lines 4, 9, 10, 19, and 23, before "child" insert "
- 36 joint"



- 1 Page 39, line 11, before "child" insert "joint"
- 2 Page 39, line 13, delete "518.6111, subdivision 4" and
- 3 insert "518.551, subdivision 7"
- 4 Page 39, line 27, before "child's" insert "joint"
- 5 Page 40, lines 3 and 5, before "child" insert "joint"
- 6 Page 40, line 9, before "child" insert "joint" in both
- 7 places
- 8 Page 40, line 31, before "child's" insert "joint"
- 9 Page 41, line 16, before "child's" insert "joint"
- 10 Page 44, line 3, before the period, insert "provided that
- 11 the obligee is actually receiving child care assistance under
- 12 the basic sliding fee program"
- 13 Page 44, line 5, before "children" insert "joint"
- 14 Page 44, lines 24, 25, and 26, before "child" insert "joint"
- 15 Page 44, line 28, before "child" insert "joint" in both
- 16 places
- 17 Page 44, line 34, before the period, insert "provided that
- 18 child care space is actually available at the lesser rate"
- 19 Page 45, line 22, delete "518.641" and insert "518.64"
- 20 Page 54, line 21, delete "employ" and insert "contract with"
- 21 Page 54, line 23, delete the colon
- 22 Page 54, line 24, delete "(1)"
- 23 Page 54, line 26, delete the semicolon and insert a period
- 24 Page 54, delete lines 27 to 31

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 12, line 34, strike everything after the comma

4 Page 12, strike lines 35 and 36

5 Page 13, strike lines 1 to 22

6 Page 14, after line 7, insert:

7 "Sec. 9. Minnesota Statutes 2004, section 518.64, is  
8 amended by adding a subdivision to read:

9 Subd. 7. [CHILD CARE EXCEPTION.] The court may provide  
10 that a reduction in the amount allocated for child care expenses  
11 based on a substantial decrease in the expenses is effective as  
12 of the date the expense is decreased.

13 Sec. 10. Minnesota Statutes 2004, section 518.64, is  
14 amended by adding a subdivision to read:

15 Subd. 8. [CHILD SUPPORT DEBT AND ARREARAGE  
16 MANAGEMENT.] The parties, including the public authority, may  
17 compromise child support debt or arrearages owed by one party to  
18 another, whether or not reduced to judgment, upon agreement of  
19 the parties involved."

20 Renummer the sections in sequence and correct the internal  
21 references

22 Amend the title accordingly

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 22, line 22, delete "and"

4 Page 22, line 25, before the period, insert "; and

5 (15) the final child support order shall separately

6 designate the amount owed for basic support, child care support,

7 and medical support"

8 Page 48, line 20, delete "518.714" and insert "518.713"

9 Page 48, line 21, delete "and"

10 Page 48, line 22, before the period, insert ";

11 (4) if the obligor's child support is reduced under clause

12 (2), then the court must apply the reduction to the child

13 support obligation in the following order:

14 (i) medical support obligation;

15 (ii) child support obligation; and

16 (iii) basic support obligation; and

17 (5) [MINIMUM BASIC SUPPORT AMOUNT.] if the obligor's income

18 available for support is less than the self-support reserve,

19 then the court must order minimum support as follows:

20 (i) for one or two children, the obligor's basic support

21 obligation is \$50 per month;

22 (ii) for three or four children, the obligor's basic

23 support obligation is \$75 per month; and

24 (iii) for five or more children, the obligor's basic

25 support obligation is \$100 per month.

26 If the court orders the obligor to pay the minimum basic support

27 amount under this paragraph, the obligor is presumed unable to

28 pay child care support and medical support.

29 If the court finds the obligor receives no income and completely

30 lacks the ability to earn income, the minimum basic support

31 amount under this paragraph does not apply"

*Separate*

*Segment  
adjust*

*1st year -*

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 14, after line 7, insert:

4 "(i) There may be no modification of an existing child  
5 support order during the first year following the effective date  
6 of sections 518.711 to 518.729 except as follows:

7 (1) there is at least a 20 percent change in the gross  
8 income of the obligor;

9 (2) there is a change in the number of joint children for  
10 whom the obligor is legally responsible and actually supporting;

11 (3) the child supported by the existing child support order  
12 becomes disabled; or

13 (4) both parents consent to modification of the existing  
14 order in compliance with the new income shares guidelines.

15 (j) On the first modification under the income shares  
16 method of calculation, the modification of basic support may be  
17 limited if the amount of the full variance would create hardship  
18 for either the obligor or the obligee.

19 Paragraph (i) expires January 1, 2008."

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 12, line 34, strike everything after the period

4 Page 12, strike lines 35 and 36

5 Page 13, strike lines 1 to 22

6 Page 14, after line 7, insert:

7 "Sec. 9. [518.6197] [CHILD SUPPORT DEBT/ARREARAGE  
8 MANAGEMENT.]

DHS

9 In order to reduce and otherwise manage support debts and  
10 arrearages, the parties, including the public authority where  
11 arrearages have been assigned to the public authority, may  
12 compromise unpaid support debts or arrearages owed by one party  
13 to another, whether or not docketed as a judgment. A party may  
14 agree or disagree to compromise only those debts or arrearages  
15 owed to that party.

16 Sec. 10. Minnesota Statutes 2004, section 518.64,  
17 subdivision 2, is amended to read:

18 Subd. 2. [MODIFICATION.] (a) The terms of an order  
19 respecting maintenance or support may be modified upon a showing  
20 of one or more of the following: (1) substantially increased or  
21 decreased earnings of a party; (2) substantially increased or  
22 decreased need of a party or the child or children that are the  
23 subject of these proceedings; (3) receipt of assistance under  
24 the AFDC program formerly codified under sections 256.72 to  
25 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a  
26 change in the cost of living for either party as measured by the  
27 Federal Bureau of Statistics, any of which makes the terms  
28 unreasonable and unfair; (5) extraordinary medical expenses of  
29 the child not provided for under section 518.171; or (6) the  
30 addition of work-related or education-related child care  
31 expenses of the obligee or a substantial increase or decrease in  
32 existing work-related or education-related child care expenses.

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

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

5 (1) the application of the child support guidelines in  
6 section 518.551, subdivision 5, to the current circumstances of  
7 the parties results in a calculated court order that is at least  
8 20 percent and at least \$50 per month higher or lower than the  
9 current support order;

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

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

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

18 (c) A child support order is not presumptively modifiable  
19 solely because an obligor or obligee becomes responsible for the  
20 support of an additional nonjoint child, which is born after an  
21 existing order.

22 (d) On a motion for modification of maintenance, including  
23 a motion for the extension of the duration of a maintenance  
24 award, the court shall apply, in addition to all other relevant  
25 factors, the factors for an award of maintenance under section  
26 518.552 that exist at the time of the motion. On a motion for  
27 modification of support, the court:

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

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

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

36 (ii) the excess employment is voluntary and not a condition

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

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

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

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

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

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

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

34 ~~(3) the order for which the party seeks amendment was~~  
35 ~~entered by default, the party shows good cause for not~~  
36 ~~appearing, and the record contains no factual evidence, or~~

1 clearly-erroneous-evidence-regarding-the-individual-obligor's  
2 ability-to-pay, or  
3 ~~(4) the party seeking modification was institutionalized or~~  
4 ~~incarcerated for an offense other than nonsupport of a child~~  
5 ~~during the period for which retroactive modification is sought~~  
6 ~~and lacked the financial ability to pay the support ordered~~  
7 ~~during that time period. In determining whether to allow the~~  
8 ~~retroactive modification, the court shall consider whether and~~  
9 ~~when a request was made to the public authority for support~~  
10 ~~modification.~~

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

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

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

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

29 Sec. 11. Minnesota Statutes 2004, section 518.68,  
30 subdivision 2, is amended to read:

31 Subd. 2. [CONTENTS.] The required notices must be  
32 substantially as follows:

33 **IMPORTANT NOTICE**

34 **1. PAYMENTS TO PUBLIC AGENCY**

35 According to Minnesota Statutes, section 518.551,  
36 subdivision 1, payments ordered for maintenance and support



1 must be paid to the public agency responsible for child  
2 support enforcement as long as the person entitled to  
3 receive the payments is receiving or has applied for public  
4 assistance or has applied for support and maintenance  
5 collection services. MAIL PAYMENTS TO:

6 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A  
7 FELONY

8 A person may be charged with a felony who conceals a minor  
9 child or takes, obtains, retains, or fails to return a  
10 minor child from or to the child's parent (or person with  
11 custodial or visitation rights), according to Minnesota  
12 Statutes, section 609.26. A copy of that section is  
13 available from any district court clerk.

14 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

15 A person who fails to pay court-ordered child support or  
16 maintenance may be charged with a crime, which may include  
17 misdemeanor, gross misdemeanor, or felony charges,  
18 according to Minnesota Statutes, section 609.375. A copy  
19 of that section is available from any district court clerk.

20 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

21 (a) Payment of support or spousal maintenance is to be as  
22 ordered, and the giving of gifts or making purchases of  
23 food, clothing, and the like will not fulfill the  
24 obligation.

25 (b) Payment of support must be made as it becomes due, and  
26 failure to secure or denial of parenting time is NOT an  
27 excuse for nonpayment, but the aggrieved party must seek  
28 relief through a proper motion filed with the court.

29 (c) Nonpayment of support is not grounds to deny parenting  
30 time. The party entitled to receive support may apply for  
31 support and collection services, file a contempt motion, or  
32 obtain a judgment as provided in Minnesota Statutes,  
33 section 548.091.

34 (d) The payment of support or spousal maintenance takes  
35 priority over payment of debts and other obligations.

36 (e) A party who accepts additional obligations of support

1 does so with the full knowledge of the party's prior  
2 obligation under this proceeding.

3 (f) Child support or maintenance is based on annual income,  
4 and it is the responsibility of a person with seasonal  
5 employment to budget income so that payments are made  
6 throughout the year as ordered.

7 (g) If the obligor is laid off from employment or receives  
8 a pay reduction, support may be reduced, but only if a  
9 motion to reduce the support is served and filed with the  
10 court. Any reduction will take effect only if ordered by  
11 the court and may only relate back to the time that the  
12 motion is filed. If a motion is not filed, the support  
13 obligation will continue at the current level. The court  
14 is not permitted to reduce support retroactively, except as  
15 provided in Minnesota Statutes, section 518.64, subdivision  
16 2, paragraph (c).

17 (h) Reasonable parenting time guidelines are contained in  
18 Appendix B, which is available from the court administrator.

19 (i) The nonpayment of support may be enforced through the  
20 denial of student grants; interception of state and federal  
21 tax refunds; suspension of driver's, recreational, and  
22 occupational licenses; referral to the department of  
23 revenue or private collection agencies; seizure of assets,  
24 including bank accounts and other assets held by financial  
25 institutions; reporting to credit bureaus; interest  
26 charging, income withholding, and contempt proceedings; and  
27 other enforcement methods allowed by law.

28 (j) The public authority may suspend or resume collection  
29 of the amount allocated for child care expenses if the  
30 conditions of section 518.551, subdivision 5, paragraph  
31 (b), are met.

32 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,  
33 SUBDIVISION 3

34 Unless otherwise provided by the Court:

35 (a) Each party has the right of access to, and to receive  
36 copies of, school, medical, dental, religious training, and

1 other important records and information about the minor  
 2 children. Each party has the right of access to  
 3 information regarding health or dental insurance available  
 4 to the minor children. Presentation of a copy of this  
 5 order to the custodian of a record or other information  
 6 about the minor children constitutes sufficient  
 7 authorization for the release of the record or information  
 8 to the requesting party.

9 (b) Each party shall keep the other informed as to the name  
 10 and address of the school of attendance of the minor  
 11 children. Each party has the right to be informed by  
 12 school officials about the children's welfare, educational  
 13 progress and status, and to attend school and parent  
 14 teacher conferences. The school is not required to hold a  
 15 separate conference for each party.

16 (c) In case of an accident or serious illness of a minor  
 17 child, each party shall notify the other party of the  
 18 accident or illness, and the name of the health care  
 19 provider and the place of treatment.

20 (d) Each party has the right of reasonable access and  
 21 telephone contact with the minor children.

22 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

23 Child support and/or spousal maintenance may be withheld  
 24 from income, with or without notice to the person obligated  
 25 to pay, when the conditions of Minnesota Statutes, section  
 26 518.6111 have been met. A copy of those sections is  
 27 available from any district court clerk.

28 7. CHANGE OF ADDRESS OR RESIDENCE

29 Unless otherwise ordered, each party shall notify the other  
 30 party, the court, and the public authority responsible for  
 31 collection, if applicable, of the following information  
 32 within ten days of any change: the residential and mailing  
 33 address, telephone number, driver's license number, Social  
 34 Security number, and name, address, and telephone number of  
 35 the employer.

36 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

1 Child support and/or spousal maintenance may be adjusted  
 2 every two years based upon a change in the cost of living  
 3 (using Department of Labor Consumer Price Index .....,  
 4 unless otherwise specified in this order) when the  
 5 conditions of Minnesota Statutes, section 518.641, are met.  
 6 Cost of living increases are compounded. A copy of  
 7 Minnesota Statutes, section 518.641, and forms necessary to  
 8 request or contest a cost of living increase are available  
 9 from any district court clerk.

10 9. JUDGMENTS FOR UNPAID SUPPORT

11 If a person fails to make a child support payment, the  
 12 payment owed becomes a judgment against the person  
 13 responsible to make the payment by operation of law on or  
 14 after the date the payment is due, and the person entitled  
 15 to receive the payment or the public agency may obtain  
 16 entry and docketing of the judgment WITHOUT NOTICE to the  
 17 person responsible to make the payment under Minnesota  
 18 Statutes, section 548.091. Interest begins to accrue on a  
 19 payment or installment of child support whenever the unpaid  
 20 amount due is greater than the current support due,  
 21 according to Minnesota Statutes, section 548.091,  
 22 subdivision 1a.

23 10. JUDGMENTS FOR UNPAID MAINTENANCE

24 A judgment for unpaid spousal maintenance may be entered  
 25 when the conditions of Minnesota Statutes, section 548.091,  
 26 are met. A copy of that section is available from any  
 27 district court clerk.

28 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD  
 29 SUPPORT

30 A judgment for attorney fees and other collection costs  
 31 incurred in enforcing a child support order will be entered  
 32 against the person responsible to pay support when the  
 33 conditions of section 518.14, subdivision 2, are met. A  
 34 copy of section 518.14 and forms necessary to request or  
 35 contest these attorney fees and collection costs are  
 36 available from any district court clerk.

## 1 12. PARENTING TIME EXPEDITOR PROCESS

2 On request of either party or on its own motion, the court  
3 may appoint a parenting time expeditor to resolve parenting  
4 time disputes under Minnesota Statutes, section 518.1751.  
5 A copy of that section and a description of the expeditor  
6 process is available from any district court clerk.

## 7 13. PARENTING TIME REMEDIES AND PENALTIES

8 Remedies and penalties for the wrongful denial of parenting  
9 time are available under Minnesota Statutes, section  
10 518.175, subdivision 6. These include compensatory  
11 parenting time; civil penalties; bond requirements;  
12 contempt; and reversal of custody. A copy of that  
13 subdivision and forms for requesting relief are available  
14 from any district court clerk."

15 Page 45, line 7, after "information" insert "with the other  
16 party"

17 Renumber the sections in sequence and correct the internal  
18 references

19 Amend the title accordingly

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 7, line 11, strike "The guidelines in this subdivision  
4 are a rebuttable"

5 Page 7, strike lines 12 to 35

6 Page 7, line 36, delete the new language and strike the old  
7 language

8 Page 8, strike lines 1 to 4

9 Page 8, line 5, delete the new language and strike the old  
10 language

11 Page 8, strike lines 6 to 12

12 Page 8, line 13, delete the new language and strike the old  
13 language

14 Page 8, strike lines 14 to 23

15 Page 11, line 1, strike "earnings of a party" and insert  
16 "gross income of an obligor or obligee"

17 Page 11, line 2, strike "a party" and insert "an obligor or  
18 obligee"

19 Page 11, line 7, before "Statistics" insert "Labor and"

20 Page 11, line 9, strike "or"

21 Page 11, line 12, before the period, insert "; (7) upon the  
22 emancipation of the child if there is still a child under the  
23 order. A child support obligation for two or more children that  
24 is not a support obligation in a specific amount per child  
25 continues in the full amount until modified or until the  
26 emancipation of the last child that the order was made"

27 Page 11, strike lines 13 to 16

28 Page 11, line 24, strike "\$50" and insert "\$75"

29 Page 11, lines 27 and 29, strike "518.171" and insert  
30 "518.719"

31 Page 12, line 4, strike "518.551, subdivision 5" and insert  
32 "518.725"

33 Page 22, lines 34 and 35, delete "when possible the  
34 impoverishment of either the child or obligor" and insert  
35 "either parent or the joint children from living in poverty"

36 Page 23, line 3, after "income" insert "circumstances"

*poverty*

1 Page 23, delete lines 17 to 21

2 Page 23, line 22, delete "(7)" and insert "(6)" and before "  
3 needs" insert "extraordinary" and after the semicolon, insert  
4 "and"

5 Page 23, line 23, delete "(8)" and insert "(7)" and delete  
6 "; and" and insert a period

7 Page 23, delete lines 24 to 26

8 Page 49, line 9, after the comma, insert "when establishing  
9 basic support,"

10 Page 54, after line 9, insert:

11 "Subd. 6. [FINDINGS; DEVIATION.] The guidelines in section  
12 518.725 are a rebuttable presumption and shall be used in all  
13 cases when establishing or modifying child support. If the  
14 court does not deviate from the guidelines, the court shall make  
15 written findings concerning the amount of the obligor's income  
16 used as the basis for the guidelines calculation and any other  
17 significant evidentiary factors affecting the determination of  
18 child support. If the court deviates from the guidelines, the  
19 court shall make written findings giving the amount of support  
20 calculated under the guidelines, the reasons for the deviation,  
21 and shall specifically address the criteria in section 518.714  
22 and how the deviation serves the best interest of the child.  
23 The court may deviate from the guidelines if both parties agree  
24 and the court makes written findings that it is in the best  
25 interests of the child, except that in cases where child support  
26 payments are assigned to the public agency under section  
27 256.741, the court may deviate downward only as provided in  
28 subdivision 7. Nothing in this paragraph prohibits the court  
29 from deviating in other cases. The provisions of this paragraph  
30 apply whether or not the parties are each represented by  
31 independent counsel and have entered into a written agreement.  
32 The court shall review stipulations presented to it for  
33 conformity to the guidelines and the court is not required to  
34 conduct a hearing, but the parties shall provide the  
35 documentation of earnings required under subdivision 5b."

36 Page 55, line 28, after "subdivisions" insert "1,"

1 Senator ..... moves to amend the delete-everything  
2 amendment (SCS0630A-6) to S.F. No. 630 as follows:

3 Page 1, after line 2, insert:

4 "Section 1. Minnesota Statutes 2004, section 518.54,  
5 subdivision 1, is amended to read:

6 Subdivision 1. [TERMS.] For the purposes of sections  
7 518.54 to ~~518.66~~ 518.773, the terms defined in this section  
8 shall have the meanings respectively ascribed to them."

9 Page 1, after line 14, insert:

10 "Sec. 3. Minnesota Statutes 2004, section 518.54,  
11 subdivision 8, is amended to read:

12 Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to  
13 pay ~~maintenance-or~~ child support. A person who is designated as  
14 the sole physical custodian of a child is presumed not to be an  
15 obligor for purposes of calculating current support ~~under~~  
16 ~~section-518.551~~ unless the court makes specific written findings  
17 to overcome this presumption. For purposes of ordering medical  
18 support under section 518.719, a custodial parent may be an  
19 obligor subject to a cost-of-living adjustment under section  
20 518.641 and a payment agreement under section 518.553."

21 Page 1, line 18, reinstate the stricken language and delete  
22 the new language

23 Page 1, line 19, reinstate the stricken language

24 Page 1, line 20, reinstate the stricken language and delete  
25 the new language

26 Page 1, lines 23 and 25, reinstate the stricken language

27 Page 1, line 32, delete everything after the period and  
28 insert "The court shall presume that the latest order that  
29 involves the same obligor and joint child is controlling,  
30 subject to contrary proof."

31 Page 1, delete lines 33 and 34

32 Page 2, lines 9 and 10, strike "this subdivision" and  
33 insert "section 518.725"

34 Page 2, line 16, strike "(i)" and insert "(b)"

35 Page 2, line 19, strike "paragraph (c)" and insert "section  
36 518.714"



1 Page 9, lines 15 and 16, strike "at a court hearing after  
2 proper notice of the time and place of the hearing"

3 Page 9, line 18, strike "paragraph (d)" and insert "section  
4 518.712, subdivision 19"

5 Page 14, delete section 9

6 Page 15, line 32, after "support" insert "or support money"

7 Page 16, line 11, delete "518.726" and insert "518.7123"

8 Page 17, line 1, delete everything after "income"

9 Page 17, line 12, after "ordering" insert "or enforcing"

10 Page 19, line 2, delete everything after the headnote

11 Page 19, delete line 3

12 Page 19, line 9, delete "support" and insert "maintenance"

13 Page 20, lines 27 and 28, delete "are significant and"

14 Page 21, after line 4, insert:

15 "(g) Excluded and not counted as income is the income of  
16 the obligor's spouse and the obligee's spouse."

17 Page 21, line 23, before the semicolon, insert "using the  
18 definition in section 518.726"

19 Page 21, line 24, before the semicolon, insert "using the  
20 definition in section 518.712, subdivision 13"

21 Page 21, line 26, before the semicolon, insert "by  
22 subtracting from the modified gross income, the credit, if any,  
23 for any nonjoint children under section 518.717"

24 Page 21, line 36, delete "adjust" and insert "determine"

25 Page 22, line 1, after "obligation" insert "of the parents"

26 Page 22, line 3, delete "appropriate" and insert  
27 "applicable"

28 Page 22, line 13, before "costs" insert "medical"

29 Page 22, after line 15, insert:

30 "(12) calculate the total child support obligation of each  
31 parent by adding for each parent, the basic child support  
32 obligation from clause (7) and the total costs from clause (11);"

33 Page 22, line 16, delete "(12)" and insert "(13)"

34 Page 22, line 18, delete "(13)" and insert "(14)"

35 Page 22, line 23, delete "(14)" and insert "(15)"

36 Page 22, line 34, delete "either"

- 1 Page 22, line 35, delete "obligor" and insert "either  
2 parent"
- 3 Page 23, line 2, after "the" insert "extraordinary or  
4 diminished"
- 5 Page 23, line 3, after "income" insert "circumstances"
- 6 Page 23, line 6, delete "518.64, subdivision 2, paragraph  
7 (c)" and insert "518.7123, paragraph (b)"
- 8 Page 23, line 8, before "needs" insert "extraordinary"
- 9 Page 23, line 16, after the semicolon, insert "and"
- 10 Page 23, delete lines 17 to 21
- 11 Page 23, line 22, delete "(7)" and insert "(6)" and delete  
12 the semicolon and insert a period
- 13 Page 23, delete lines 23 to 26
- 14 Page 24, line 29, delete "departure" and insert "deviation"
- 15 Page 25, lines 8 and 9, delete "the criteria in section  
16 518.714 and"
- 17 Page 25, line 18, delete "earnings" and insert "gross  
18 income"
- 19 Page 25, line 31, delete "Subtract" and insert "Determine  
20 the modified gross income for each parent by subtracting"
- 21 Page 25, line 32, delete "add" and insert "adding"
- 22 Page 25, line 35, delete "this" and insert "the"
- 23 Page 27, line 14, before "child" insert "joint"
- 24 Page 27, line 19, before "child" insert "joint" in both  
25 places
- 26 Page 27, line 22, before "child" insert "joint"
- 27 Page 27, line 32, before "child's" insert "joint"
- 28 Page 27, line 33, before "child" insert "joint"
- 29 Page 27, line 36, before "child's" insert "joint"
- 30 Page 28, lines 1, 16, 21, 29, and 32, before "child" insert  
31 "joint"
- 32 Page 28, line 8, before the period, insert "but not over  
33 the counter medications"
- 34 Page 29, lines 2, 5, and 7, before "child" insert "joint"
- 35 Page 29, lines 10, 11, and 33, before "child's" insert  
36 "joint"

- 1 Page 29, line 35, before "child" insert "joint"
- 2 Page 30, line 2, before "appropriate" insert "presumed"
- 3 Page 30, lines 3, 4, 6, 10, 13, 15, 18, 20, and 21, before "
- 4 child" insert "joint"
- 5 Page 30, lines 23, 25, 29, and 35, before "child" insert
- 6 "joint"
- 7 Page 31, line 1, before "child" insert "joint"
- 8 Page 31, line 3, delete "order" and insert "presume that"
- 9 Page 31, line 4, before "child" insert "joint"
- 10 Page 31, line 8, before "children" insert "joint"
- 11 Page 31, lines 9, 11, and 15, before "child" insert "joint"
- 12 Page 31, line 26, before "children" insert "joint"
- 13 Page 32, lines 2, 3, 8, 10, 14, 16, 18, 20, and 27, before "
- 14 child" insert "joint"
- 15 Page 32, lines 28 and 32, before "child" insert "joint"
- 16 Page 33, lines 9, 12, 15, 19, 21, 24, 28, and 36, before
- 17 "child" insert "joint"
- 18 Page 34, lines 2, 5, 7, 12, and 17, before "child" insert
- 19 "joint"
- 20 Page 34, lines 27 and 30, before "child" insert "joint" in
- 21 both places
- 22 Page 35, lines 4 and 7, before "child" insert "joint"
- 23 Page 35, lines 8 and 11, before "child's" insert "joint"
- 24 Page 35, line 18, before "child" insert "joint"
- 25 Page 35, lines 22 and 27, before "child's" insert "joint"
- 26 Page 36, line 10, before "child's" insert "joint"
- 27 Page 36, lines 12 and 13, delete "518.64, subdivision 2"
- 28 and insert "518.145"
- 29 Page 36, lines 29, 31, and 34, before "child" insert
- 30 "joint"
- 31 Page 37, lines 2 and 8, before "child" insert "joint"
- 32 Page 37, lines 10 and 12, before "child's" insert "joint"
- 33 Page 37, lines 13, 18, 27, 30, 32, and 33, before "child"
- 34 insert "joint"
- 35 Page 38, lines 4, 9, 10, 19, and 23, before "child" insert "
- 36 joint"

- 1 Page 39, line 11, before "child" insert "joint"
- 2 Page 39, line 13, delete "518.6111, subdivision 4" and
- 3 insert "518.551, subdivision 7"
- 4 Page 39, line 27, before "child's" insert "joint"
- 5 Page 40, lines 3 and 5, before "child" insert "joint"
- 6 Page 40, line 9, before "child" insert "joint" in both
- 7 places
- 8 Page 40, line 31, before "child's" insert "joint"
- 9 Page 41, line 16, before "child's" insert "joint"
- 10 Page 44, line 3, before the period, insert "provided that
- 11 the obligee is actually receiving child care assistance under
- 12 the basic sliding fee program"
- 13 Page 44, line 5, before "children" insert "joint"
- 14 Page 44, lines 24, 25, and 26, before "child" insert "joint"
- 15 Page 44, line 28, before "child" insert "joint" in both
- 16 places
- 17 Page 44, line 34, before the period, insert "provided that
- 18 child care space is actually available at the lesser rate"
- 19 Page 45, line 22, delete "518.641" and insert "518.64"
- 20 Page 54, line 21, delete "employ" and insert "contract with"
- 21 Page 54, line 23, delete the colon
- 22 Page 54, line 24, delete "(1)"
- 23 Page 54, line 26, delete the semicolon and insert a period
- 24 Page 54, delete lines 27 to 31

1 Senator ..... moves to amend S.F. No. 630 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 518.54,  
4 subdivision 7, is amended to read:

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

7 Sec. 2. Minnesota Statutes 2004, section 518.54,  
8 subdivision 8, is amended to read:

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

15 Sec. 3. Minnesota Statutes 2004, section 518.54,  
16 subdivision 13, is amended to read:

17 Subd. 13. [ARREARS.] Arrears are amounts that accrue  
18 pursuant to an obligor's failure to comply with a support an  
19 order. ~~Past support and~~ Pregnancy and confinement expenses  
20 contained in a support an order are arrears if the court order  
21 does not contain repayment terms. Arrears also arise by the  
22 obligor's failure to comply with the terms of a court order for  
23 repayment of ~~past support or~~ pregnancy and confinement  
24 expenses. An obligor's failure to comply with the terms for  
25 repayment of amounts owed for ~~past support or~~ pregnancy and  
26 confinement turns the entire amount owed into arrears.

27 Sec. 4. Minnesota Statutes 2004, section 518.55,  
28 subdivision 4, is amended to read:

29 Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public  
30 authority or a party may request the district court to determine  
31 a controlling order in situations in which more than one order  
32 involving the same obligor and child exists. The court shall  
33 presume that the latest order is controlling, subject to  
34 contrary proof.

35 Sec. 5. Minnesota Statutes 2004, section 518.551,  
36 subdivision 5, is amended to read:

1 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The  
 2 petitioner shall notify the public authority of all proceedings  
 3 for dissolution, legal separation, determination of parentage or  
 4 for the custody of a child, if either party is receiving public  
 5 assistance or applies for it subsequent to the commencement of  
 6 the proceeding. The notice must contain the full names of the  
 7 parties to the proceeding, their Social Security account  
 8 numbers, and their birth dates. After receipt of the notice,  
 9 the court shall set child support as provided in this  
 10 subdivision. The court may order either or both parents owing a  
 11 duty of support to a child of the marriage to pay an amount  
 12 reasonable or necessary for the child's support, without regard  
 13 to marital misconduct. The court shall approve a child support  
 14 stipulation of the parties if each party is represented by  
 15 independent counsel, unless the stipulation does not meet the  
 16 conditions of paragraph (i). In other cases the court shall  
 17 determine and order child support in a specific dollar amount in  
 18 accordance with the guidelines and the other factors set forth  
 19 in paragraph (c) and any departure therefrom. The court may  
 20 also order the obligor to pay child support in the form of a  
 21 percentage share of the obligor's net bonuses, commissions, or  
 22 other forms of compensation, in addition to, or if the obligor  
 23 receives no base pay, in lieu of, an order for a specific dollar  
 24 amount.

25 (b) ~~The court shall derive a specific dollar amount for~~  
 26 ~~child support by multiplying the obligor's net income by the~~  
 27 ~~percentage indicated by the following guidelines:~~

28 ~~Net Income Per-----Number of Children-~~  
 29 ~~Month of Obligor-~~  
 30 ~~-----1-----2-----3-----4-----5-----6-----7-or-~~  
 31 ~~-----more-~~  
 32 ~~\$550 and Below-----Order based on the ability of the-~~  
 33 ~~-----obligor to provide support--~~  
 34 ~~-----at these income levels, or at higher--~~  
 35 ~~-----levels, if the obligor has-~~  
 36 ~~-----the earning ability--~~

1	\$551	---	600	---	16%	---	19%	---	22%	---	25%	---	28%	---	30%	---	32%
2	\$601	---	650	---	17%	---	21%	---	24%	---	27%	---	29%	---	32%	---	34%
3	\$651	---	700	---	18%	---	22%	---	25%	---	28%	---	31%	---	34%	---	36%
4	\$701	---	750	---	19%	---	23%	---	27%	---	30%	---	33%	---	36%	---	38%
5	\$751	---	800	---	20%	---	24%	---	28%	---	31%	---	35%	---	38%	---	40%
6	\$801	---	850	---	21%	---	25%	---	29%	---	33%	---	36%	---	40%	---	42%
7	\$851	---	900	---	22%	---	27%	---	31%	---	34%	---	38%	---	41%	---	44%
8	\$901	---	950	---	23%	---	28%	---	32%	---	36%	---	40%	---	43%	---	46%
9	\$951	---	1000	---	24%	---	29%	---	34%	---	38%	---	41%	---	45%	---	48%
10	\$1001	---	5000	---	25%	---	30%	---	35%	---	39%	---	43%	---	47%	---	50%

11 or-the-amount-

12 in-effect-under

13 paragraph-(k)

14 Guidelines-for-support-for-an-obligor-with-a-monthly-income

15 in-excess-of-the-income-limit-currently-in-effect-under

16 paragraph-(k)-shall-be-the-same-dollar-amounts-as-provided-for

17 in-the-guidelines-for-an-obligor-with-a-monthly-income-equal-to

18 the-limit-in-effect.

19 Net-income-defined-as:-

20 -----

21 -----Total-monthly-

22 -----income-less-----\*(i)-Federal-Income-Tax-

23 -----\*(ii)-State-Income-Tax-

24 -----(iii)-Social-Security

25 -----Deductions-

26 -----(iv)-Reasonable

27 -----Pension-Deductions

28 -----\*Standard-

29 -----Deductions-apply------(v)-Union-Dues-

30 -----use-of-tax-tables------(vi)-Cost-of-Dependent-Health

31 -----recommended-----Insurance-Coverage--

32 -----(vii)-Cost-of-Individual-or-Group

33 -----Health/Hospitalization

34 -----Coverage-or-an-----

35 -----Amount-for-Actual-

36 -----Medical-Expenses---

1 -----(viii)-A-Child-Support-or--  
 2 -----Maintenance-Order-that-is  
 3 -----Currently-Being-Paid--

4 "Net-income"-does-not-include:

5 (1)-the-income-of-the-obligor's-spouse,-but-does-include  
 6 in-kind-payments-received-by-the-obligor-in-the-course-of  
 7 employment,-self-employment,-or-operation-of-a-business-if-the  
 8 payments-reduce-the-obligor's-living-expenses,-or

9 (2)-compensation-received-by-a-party-for-employment-in  
 10 excess-of-a-40-hour-work-week,-provided-that:

11 (i)-support-is-nonetheless-ordered-in-an-amount-at-least  
 12 equal-to-the-guidelines-amount-based-on-income-not-excluded  
 13 under-this-clause,-and

14 (ii)-the-party-demonstrates,-and-the-court-finds,-that:

15 (A)-the-excess-employment-began-after-the-filing-of-the  
 16 petition-for-dissolution,-

17 (B)-the-excess-employment-reflects-an-increase-in-the-work  
 18 schedule-or-hours-worked-over-that-of-the-two-years-immediately  
 19 preceding-the-filing-of-the-petition,-

20 (C)-the-excess-employment-is-voluntary-and-not-a-condition  
 21 of-employment,-

22 (D)-the-excess-employment-is-in-the-nature-of-additional,-  
 23 part-time-or-overtime-employment-compensable-by-the-hour-or  
 24 fraction-of-an-hour,-and

25 (E)-the-party's-compensation-structure-has-not-been-changed  
 26 for-the-purpose-of-affecting-a-support-or-maintenance-obligation.-

27 The-court-shall-review-the-work-related-and  
 28 education-related-child-care-costs-paid-and-shall-allocate-the  
 29 costs-to-each-parent-in-proportion-to-each-parent's-net-income,-  
 30 as-determined-under-this-subdivision,-after-the-transfer-of  
 31 child-support-and-spousal-maintenance,-unless-the-allocation  
 32 would-be-substantially-unfair-to-either-parent.--There-is-a  
 33 presumption-of-substantial-unfairness-if-after-the-sum-total-of  
 34 child-support,-spousal-maintenance,-and-child-care-costs-is  
 35 subtracted-from-the-obligor's-income,-the-income-is-at-or-below  
 36 100-percent-of-the-federal-poverty-guidelines.--The-cost-of



1 child-care-for-purposes-of-this-paragraph-is-75-percent-of-the  
2 actual-cost-paid-for-child-care,-to-reflect-the-approximate  
3 value-of-state-and-federal-tax-credits-available-to-the  
4 obligee.--The-actual-cost-paid-for-child-care-is-the-total  
5 amount-received-by-the-child-care-provider-for-the-child-or  
6 children-of-the-obligor-from-the-obligee-or-any-public-agency.  
7 The-court-shall-require-verification-of-employment-or-school  
8 attendance-and-documentation-of-child-care-expenses-from-the  
9 obligee-and-the-public-agency,-if-applicable.--If-child-care  
10 expenses-fluctuate-during-the-year-because-of-seasonal  
11 employment-or-school-attendance-of-the-obligee-or-extended  
12 periods-of-parenting-time-with-the-obligor,-the-court-shall  
13 determine-child-care-expenses-based-on-an-average-monthly-cost.  
14 The-amount-allocated-for-child-care-expenses-is-considered-child  
15 support-but-is-not-subject-to-a-cost-of-living-adjustment-under  
16 section-518-641.--The-amount-allocated-for-child-care-expenses  
17 terminates-when-either-party-notifies-the-public-authority-that  
18 the-child-care-costs-have-ended-and-without-any-legal-action-on  
19 the-part-of-either-party.--The-public-authority-shall-verify-the  
20 information-received-under-this-provision-before-authorizing  
21 termination.--The-termination-is-effective-as-of-the-date-of-the  
22 notification.--In-other-cases-where-there-is-a-substantial  
23 increase-or-decrease-in-child-care-expenses,-the-parties-may  
24 modify-the-order-under-section-518-64.

25 The-court-may-allow-the-obligor-parent-to-care-for-the  
26 child-while-the-obligee-parent-is-working,-as-provided-in  
27 section-518-175,-subdivision-8,-but-this-is-not-a-reason-to  
28 deviate-from-the-guidelines.

29 (c)-In-addition-to-the-child-support-guidelines,-the-court  
30 shall-take-into-consideration-the-following-factors-in-setting  
31 or-modifying-child-support-or-in-determining-whether-to-deviate  
32 from-the-guidelines:

33 (i)-all-earnings,-income,-and-resources-of-the-parents,  
34 including-real-and-personal-property,-but-excluding-income-from  
35 excess-employment-of-the-obligor-or-obligee-that-meets-the  
36 criteria-of-paragraph-(b)-,-clause-(2)-(ii);

1       ~~(2)-the-financial-needs-and-resources,-physical-and~~  
2       ~~emotional-condition,-and-educational-needs-of-the-child-or~~  
3       ~~children-to-be-supported;~~

4       ~~(3)-the-standard-of-living-the-child-would-have-enjoyed-had~~  
5       ~~the-marriage-not-been-dissolved,-but-recognizing-that-the~~  
6       ~~parents-now-have-separate-households;~~

7       ~~(4)-which-parent-receives-the-income-taxation-dependency~~  
8       ~~exemption-and-what-financial-benefit-the-parent-receives-from~~  
9       ~~it;~~

10       ~~(5)-the-parents'-debts-as-provided-in-paragraph-(d);-and~~

11       ~~(6)-the-obligor's-receipt-of-public-assistance-under-the~~  
12       ~~AFDC-program-formerly-codified-under-sections-256-72-to-256-82~~  
13       ~~or-256B-01-to-256B-40-and-chapter-256J-or-256K;~~

14       ~~(d)-In-establishing-or-modifying-a-support-obligation,-the~~  
15       ~~court-may-consider-debts-owed-to-private-creditors,-but-only-if:~~

16       ~~(1)-the-right-to-support-has-not-been-assigned-under~~  
17       ~~section-256-741;~~

18       ~~(2)-the-court-determines-that-the-debt-was-reasonably~~  
19       ~~incurred-for-necessary-support-of-the-child-or-parent-or-for-the~~  
20       ~~necessary-generation-of-income;--If-the-debt-was-incurred-for~~  
21       ~~the-necessary-generation-of-income,-the-court-shall-consider~~  
22       ~~only-the-amount-of-debt-that-is-essential-to-the-continuing~~  
23       ~~generation-of-income;-and~~

24       ~~(3)-the-party-requesting-a-departure-produces-a-sworn~~  
25       ~~schedule-of-the-debts,-with-supporting-documentation,-showing~~  
26       ~~goods-or-services-purchased,-the-recipient-of-them,-the-amount~~  
27       ~~of-the-original-debt,-the-outstanding-balance,-the-monthly~~  
28       ~~payment,-and-the-number-of-months-until-the-debt-will-be-fully~~  
29       ~~paid;~~

30       ~~(e)-Any-schedule-prepared-under-paragraph-(d);-clause-(3);~~  
31       ~~shall-contain-a-statement-that-the-debt-will-be-fully-paid-after~~  
32       ~~the-number-of-months-shown-in-the-schedule,-barring-emergencies~~  
33       ~~beyond-the-party's-control;~~

34       ~~(f)-Any-further-departure-below-the-guidelines-that-is~~  
35       ~~based-on-a-consideration-of-debts-owed-to-private-creditors~~  
36       ~~shall-not-exceed-18-months-in-duration,-after-which-the-support~~

1 ~~shall increase automatically to the level ordered by the court.~~  
2 ~~Nothing in this section shall be construed to prohibit one or~~  
3 ~~more step increases in support to reflect debt retirement during~~  
4 ~~the 18-month period.~~

5 ~~(g) If payment of debt is ordered pursuant to this section,~~  
6 ~~the payment shall be ordered to be in the nature of child~~  
7 ~~support.~~

8 ~~(h) Nothing shall preclude the court from receiving~~  
9 ~~evidence on the above factors to determine if the guidelines~~  
10 ~~should be exceeded or modified in a particular case.~~

11 (i) The guidelines in this subdivision are a rebuttable  
12 presumption and shall be used in all cases when establishing or  
13 modifying child support. If the court does not deviate from the  
14 guidelines, the court shall make written findings concerning the  
15 amount of the obligor's income used as the basis for the  
16 guidelines calculation and any other significant evidentiary  
17 factors affecting the determination of child support. If the  
18 court deviates from the guidelines, the court shall make written  
19 findings giving the amount of support calculated under the  
20 guidelines, the reasons for the deviation, and shall  
21 specifically address the criteria in paragraph (c) and how the  
22 deviation serves the best interest of the child. The court may  
23 deviate from the guidelines if both parties agree and the court  
24 makes written findings that it is in the best interests of the  
25 child, except that in cases where child support payments are  
26 assigned to the public agency under section 256.741, the court  
27 may deviate downward only as provided in paragraph (j). Nothing  
28 in this paragraph prohibits the court from deviating in other  
29 cases. The provisions of this paragraph apply whether or not  
30 the parties are each represented by independent counsel and have  
31 entered into a written agreement. The court shall review  
32 stipulations presented to it for conformity to the guidelines  
33 and the court is not required to conduct a hearing, but the  
34 parties shall provide the documentation of earnings required  
35 under subdivision 5b.

36 (j) (c) If the child support payments are assigned to the

1 public agency under section 256.741, the court may not deviate  
2 downward from the child support guidelines unless the court  
3 specifically finds that the failure to deviate downward would  
4 impose an extreme hardship on the obligor.

5 ~~(k)~~ (d) The dollar amount of the income limit for  
6 application of the guidelines must be adjusted on July 1 of  
7 every even-numbered year to reflect cost-of-living changes. The  
8 Supreme Court shall select the index for the adjustment from the  
9 indices listed in section 518.641. The state court  
10 administrator shall make the changes in the dollar amount  
11 required by this paragraph available to courts and the public on  
12 or before April 30 of the year in which the amount is to change.

13 ~~(l)~~ (e) In establishing or modifying child support, if a  
14 child receives a child's insurance benefit under United States  
15 Code, title 42, section 402, because the obligor is entitled to  
16 old age or disability insurance benefits, the amount of support  
17 ordered shall be offset by the amount of the child's benefit.  
18 The court shall make findings regarding the obligor's income  
19 from all sources, the child support amount calculated under this  
20 section, the amount of the child's benefit, and the obligor's  
21 child support obligation. Any benefit received by the child in  
22 a given month in excess of the child support obligation shall  
23 not be treated as an arrearage payment or a future payment.

24 Sec. 6. Minnesota Statutes 2004, section 518.551,  
25 subdivision 5b, is amended to read:

26 Subd. 5b. [DETERMINATION OF INCOME.] (a) The parties shall  
27 timely serve and file documentation of earnings and income. When  
28 there is a prehearing conference, the court must receive the  
29 documentation of income at least ten days prior to the  
30 prehearing conference. Documentation of earnings and income  
31 also includes, but is not limited to, pay stubs for the most  
32 recent three months, employer statements, or statement of  
33 receipts and expenses if self-employed. Documentation of  
34 earnings and income also includes copies of each parent's most  
35 recent federal tax returns, including W-2 forms, 1099 forms,  
36 unemployment benefits statements, workers' compensation

1 statements, and all other documents evidencing income as  
2 received that provide verification of income over a longer  
3 period.

4 (b) In addition to the requirements of paragraph (a), at  
5 any time after an action seeking child support has been  
6 commenced or when a child support order is in effect, a party or  
7 the public authority may require the other party to give them a  
8 copy of the party's most recent federal tax returns that were  
9 filed with the Internal Revenue Service. The party shall  
10 provide a copy of the tax returns within 30 days of receipt of  
11 the request unless the request is not made in good faith. A  
12 request under this paragraph may not be made more than once  
13 every two years, in the absence of good cause.

14 (c) If a parent under the jurisdiction of the court does  
15 not appear at a court hearing after proper notice of the time  
16 and place of the hearing, the court shall set income for that  
17 parent based on credible evidence before the court or in  
18 accordance with paragraph (d). Credible evidence may include  
19 documentation of current or recent income, testimony of the  
20 other parent concerning recent earnings and income levels, and  
21 the parent's wage reports filed with the Minnesota Department of  
22 Employment and Economic Development under section 268.044.

23 ~~(d) If the court finds that a parent is voluntarily~~  
24 ~~unemployed or underemployed or was voluntarily unemployed or~~  
25 ~~underemployed during the period for which past support is being~~  
26 ~~sought, support shall be calculated based on a determination of~~  
27 ~~imputed income. A parent is not considered voluntarily~~  
28 ~~unemployed or underemployed upon a showing by the parent that~~  
29 ~~the unemployment or underemployment: (1) is temporary and will~~  
30 ~~ultimately lead to an increase in income; or (2) represents a~~  
31 ~~bona-fide career change that outweighs the adverse effect of~~  
32 ~~that parent's diminished income on the child. Imputed income~~  
33 ~~means the estimated earning ability of a parent based on the~~  
34 ~~parent's prior earnings history, education, and job skills, and~~  
35 ~~on availability of jobs within the community for an individual~~  
36 ~~with the parent's qualifications.~~

1 ~~(e)-If there is insufficient information to determine~~  
 2 ~~actual income or to impute income pursuant to paragraph (d), the~~  
 3 ~~court may calculate support based on full-time employment of 40~~  
 4 ~~hours per week at 150 percent of the federal minimum wage or the~~  
 5 ~~Minnesota minimum wage, whichever is higher. If a parent is a~~  
 6 ~~recipient of public assistance under section 256.741, or is~~  
 7 ~~physically or mentally incapacitated, it shall be presumed that~~  
 8 ~~the parent is not voluntarily unemployed or underemployed.~~

9 ~~(f)-Income from self-employment is equal to gross receipts~~  
 10 ~~minus ordinary and necessary expenses. Ordinary and necessary~~  
 11 ~~expenses do not include amounts allowed by the Internal Revenue~~  
 12 ~~Service for accelerated depreciation expenses or investment tax~~  
 13 ~~credits or any other business expenses determined by the court~~  
 14 ~~to be inappropriate for determining income for purposes of child~~  
 15 ~~support. The person seeking to deduct an expense, including~~  
 16 ~~depreciation, has the burden of proving, if challenged, that the~~  
 17 ~~expense is ordinary and necessary. Net income under this~~  
 18 ~~section may be different from taxable income.~~

19 Sec. 7. Minnesota Statutes 2004, section 518.62, is  
 20 amended to read:

21 518.62 [TEMPORARY MAINTENANCE.]

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

32 Sec. 8. Minnesota Statutes 2004, section 518.64,  
 33 subdivision 2, is amended to read:

34 Subd. 2. [MODIFICATION.] (a) The terms of an order  
 35 respecting maintenance or support may be modified upon a showing  
 36 of one or more of the following: (1) substantially increased or

1 decreased earnings of a party; (2) substantially increased or  
2 decreased need of a party or the child or children that are the  
3 subject of these proceedings; (3) receipt of assistance under  
4 the AFDC program formerly codified under sections 256.72 to  
5 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a  
6 change in the cost of living for either party as measured by the  
7 Federal Bureau of Statistics, any of which makes the terms  
8 unreasonable and unfair; (5) extraordinary medical expenses of  
9 the child not provided for under section 518.171; or (6) the  
10 addition of work-related or education-related child care  
11 expenses of the obligee or a substantial increase or decrease in  
12 existing work-related or education-related child care expenses.

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

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

21 (1) the application of the child support guidelines in  
22 section 518.551, subdivision 5, to the current circumstances of  
23 the parties results in a calculated court order that is at least  
24 20 percent and at least \$50 per month higher or lower than the  
25 current support order;

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

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

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

34 (c) On a motion for modification of maintenance, including  
35 a motion for the extension of the duration of a maintenance  
36 award, the court shall apply, in addition to all other relevant

1 factors, the factors for an award of maintenance under section  
2 518.552 that exist at the time of the motion. On a motion for  
3 modification of support, the court:

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

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

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

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

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

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

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

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

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

36 (1) the party seeking modification was precluded from



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

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

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

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

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

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

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

3 (g) Section 518.14 shall govern the award of attorney fees  
4 for motions brought under this subdivision.

5 (h) An enactment, amendment, or repeal of law does not  
6 constitute a substantial change in the circumstances for  
7 purposes of modifying a child support order.

8 Sec. 9. [518.711] [LEGISLATIVE FINDINGS.]

9 The legislature finds that:

10 (1) the federal Family Support Act of 1988 mandates that  
11 the state must establish a formula for child support award  
12 amounts that is applicable in any proceeding for the award of  
13 child support;

14 (2) it is further mandated that the amount of child support  
15 determined by the formula must be presumed to be the correct  
16 amount unless rebutted by a specific finding on the record that  
17 the application of the formula would be unjust or inappropriate  
18 in the particular case as determined under criteria established  
19 by the state;

20 (3) it is also mandated that the formula is to be reviewed  
21 at least once every four years to insure that the application of  
22 the formula results in appropriate child support awards;

23 (4) there is a need for uniformity in child support awards,  
24 and child support awards often are based upon noneconomic  
25 factors and are inadequate in terms of the needs of the child;  
26 and

27 (5) the Department of Human Services is the appropriate  
28 agency to establish the required formula.

29 Sec. 10. [518.712] [DEFINITIONS.]

30 Subdivision 1. [SCOPE.] The definitions in this section  
31 apply to sections 518.712 to 518.753.

32 Subd. 2. [ADJUSTED GROSS INCOME.] "Adjusted gross income"  
33 means modified gross income minus deductions for the nonjoint  
34 child as allowed by section 518.717 and plus Social Security or  
35 veterans' benefits as allowed by section 518.718.

36 Subd. 3. [APPORTIONED VETERANS' BENEFITS.] "Apportioned

1 veterans' benefits" means the amount the Veterans Administration  
2 deducts from the veteran's award and disburses to the child or  
3 the child's representative payee. The apportionment of  
4 veterans' benefits shall be that determined by the Veterans  
5 Administration and governed by 38 Code of Federal Regulations,  
6 sections 3.450 to 3.458.

7 Subd. 4. [ARREARS.] "Arrears" are amounts that accrue  
8 pursuant to an obligor's failure to comply with a support  
9 order. Past support and pregnancy and confinement expenses  
10 contained in a support order are arrears if the court order does  
11 not contain repayment terms. Arrears also arise by the  
12 obligor's failure to comply with the terms of a court order for  
13 repayment of past support or pregnancy and confinement  
14 expenses. An obligor's failure to comply with the terms for  
15 repayment of amounts owed for past support or pregnancy and  
16 confinement turns the entire amount owed into arrears.

17 Subd. 5. [BASIC SUPPORT.] "Basic support" means the  
18 support obligation determined by applying the parent's adjusted  
19 gross income, or if there are two parents, their combined  
20 adjusted gross income, to the guideline in the manner set out in  
21 section 518.725.

22 Basic support includes the dollar amount ordered for a  
23 child's housing, food, clothing, transportation, and education  
24 costs, and other expenses relating to the child's care. Basic  
25 support does not include monetary contributions for a child's  
26 private school tuition, child care expenses, and medical and  
27 dental expenses.

28 Subd. 6. [CHILD.] "Child" means an individual under 18  
29 years of age, an individual under age 20 who is still attending  
30 secondary school, or an individual who, by reason of physical or  
31 mental condition, is incapable of self-support.

32 Subd. 7. [CHILD SUPPORT.] "Child support" means an amount  
33 for basic support, child care support, and medical support  
34 pursuant to:

35 (1) an award in a dissolution, legal separation, annulment,  
36 or parentage proceeding for the care, support, and education of

1 a child of the marriage or of the parties to the proceeding;  
2 (2) a contribution by parents ordered under section 256.87;

3 or

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

5 Subd. 8. [DEPOSIT ACCOUNT.] "Deposit account" means funds  
6 deposited with a financial institution in the form of a savings  
7 account, checking account, NOW account, or demand deposit  
8 account.

9 Subd. 9. [GROSS INCOME.] "Gross income" means:

10 (1) the gross income of the parent calculated pursuant to  
11 section 518.726;

12 (2) the potential income of the parent as determined in  
13 subdivision 19; or

14 (3) a combination of gross income and potential income as  
15 calculated under clauses (1) and (2).

16 Subd. 10. [IV-D CASE.] "IV-D case" means a case where a  
17 party assigns rights to child support to the state because the  
18 party receives public assistance, as defined in section 256.741,  
19 or applies for child support services under title IV-D of the  
20 Social Security Act, United States Code, title 42, section  
21 654(4).

22 Subd. 11. [JOINT CHILD.] "Joint child" means the dependent  
23 child who is the son or daughter of both parents in the support  
24 proceeding. In those cases where support is sought from only  
25 one parent of a child, a joint child is the child for whom  
26 support is sought.

27 Subd. 12. [LOW-INCOME ADJUSTMENT.] "Low-income adjustment"  
28 means the child support guideline amount appropriate for a  
29 low-income obligor under section 518.723, determined by applying  
30 the lesser of:

31 (1) the parents' pro rata share of the basic support  
32 obligation; or

33 (2) the support obligation determined by applying the  
34 parents' single modified gross income to the guideline in the  
35 manner set out in sections 518.725.

36 Subd. 13. [MODIFIED GROSS INCOME.] "Modified gross income"

1 means gross income minus any mandatory payment of union dues and  
2 plus or minus court-ordered spousal support.

3 Subd. 14. [NONJOINT CHILD.] "Nonjoint child" means the  
4 legal child of one, but not both of the parents subject to this  
5 determination. Specifically excluded from this definition are  
6 stepchildren.

7 Subd. 15. [OBLIGOR.] "Obligor" means a person obligated to  
8 pay child support. A person who is designated as the sole  
9 physical custodian of a child is presumed not to be an obligor  
10 for purposes of calculating current support unless the court  
11 makes specific written findings to overcome this presumption.  
12 For purposes of ordering medical support under section 518.719,  
13 a custodial parent may be an obligor subject to a cost-of-living  
14 adjustment under section 518.641 and a payment agreement under  
15 section 518.553.

16 Subd. 16. [OBLIGEE.] "Obligee" means a person to whom  
17 payments for child support are owed.

18 Subd. 17. [PARENTING TIME.] "Parenting time" means the  
19 amount of time a child is scheduled to spend with a parent  
20 according to a current written agreement between the parents or  
21 a court order.

22 Subd. 18. [PAYOR OF FUNDS.] "Payor of funds" means a  
23 person or entity that provides funds to an obligor, including an  
24 employer as defined under chapter 24, section 3401(d), of the  
25 Internal Revenue Code, an independent contractor, payor of  
26 workers' compensation benefits or unemployment insurance  
27 benefits, or a financial institution as defined in section  
28 13B.06.

29 Subd. 19. [POTENTIAL INCOME.] "Potential income" is income  
30 determined under this subdivision.

31 (a) If a parent is unemployed, employed on a less than a  
32 full-time basis, or there is no direct evidence of any income,  
33 child support shall be calculated based on a determination of  
34 potential income. For purposes of this determination, it is  
35 rebuttably presumed that a parent can be gainfully employed on a  
36 full-time basis.

1 (b) Determination of potential income shall be made  
2 according to one of three methods, as appropriate:

3 (1) the parent's probable earnings level based on  
4 employment potential, recent work history, and occupational  
5 qualifications in light of prevailing job opportunities and  
6 earnings levels in the community; or

7 (2) if a parent is receiving unemployment compensation or  
8 workers' compensation, that parent's income may be calculated  
9 using the actual amount of the unemployment compensation or  
10 workers' compensation benefit received; or

11 (3) the amount of income a parent could earn working  
12 full-time at the current state minimum wage.

13 (c) This presumption does not apply to a parent who is  
14 unable to work full-time due to a verified disability or to an  
15 incarcerated obligor.

16 (d) As used in this section, "full-time" means 40 hours of  
17 work in a week except in those industries, trades, or  
18 professions in which most employers due to custom, practice, or  
19 agreement utilize a normal work week of more or less than 40  
20 hours in a week.

21 Subd. 20. [PRIMARY PHYSICAL CUSTODY.] The parent having  
22 "primary physical custody" means the parent who provides the  
23 primary residence for a child and is responsible for the  
24 majority of the day-to-day decisions concerning a child.

25 Subd. 21. [PUBLIC AUTHORITY.] "Public authority" means the  
26 local unit of government, acting on behalf of the state, that is  
27 responsible for child support enforcement or the Department of  
28 Human Services, Child Support Enforcement Division.

29 Subd. 22. [SOCIAL SECURITY BENEFITS.] "Social Security  
30 benefits" means the monthly amount the Social Security  
31 Administration pays to a joint child or the child's  
32 representative payee due solely to the disability or retirement  
33 of either parent. Benefits paid to a parent due to the  
34 disability of a child are excluded from this definition.

35 Subd. 23. [SPLIT CUSTODY.] "Split custody" means that each  
36 parent in a two-parent calculation has primary physical custody

1 of at least one of the joint children.

2 Subd. 24. [SPOUSAL MAINTENANCE.] "Spousal maintenance" is  
3 the classes of spousal support referred to by this subdivision.  
4 The amount of any preexisting or concurrently entered  
5 court-ordered spousal maintenance shall be deducted from the  
6 gross income of the parent obligated to pay the spousal support  
7 whether the spousal support is to be paid to the other parent or  
8 any other person. The amount of any preexisting or concurrently  
9 entered court-ordered spousal support to be received by a parent  
10 from the other parent or any other person shall be added to the  
11 gross income of the parent entitled to receive the spousal  
12 support.

13 Subd. 25. [SUPPORT ORDER.] (a) "Support order" means a  
14 judgment, decree, or order, whether temporary, final, or subject  
15 to modification, issued by a court or administrative agency of  
16 competent jurisdiction that:

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

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

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

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

28 Subd. 26. [SURVIVORS' AND DEPENDENTS' EDUCATIONAL  
29 ASSISTANCE.] "Survivors' and dependents' educational assistance"  
30 are funds disbursed by the Veterans Administration under 38  
31 United States Code, chapter 35, to the child or the child's  
32 representative payee.

33 Sec. 11. [518.7123] [GROSS INCOME.]

34 (a) Except as excluded below, gross income includes income  
35 from any source, including, but not limited to, salaries, wages,  
36 commissions, advances, bonuses, dividends, severance pay,

1 pensions, interest, honoraria, trust income, annuities, return  
2 on capital, Social Security benefits, workers' compensation  
3 benefits, unemployment insurance benefits, disability insurance  
4 benefits, gifts, prizes, including lottery winnings, and alimony  
5 or separate maintenance received.

6 (b) Excluded and not counted in gross income is  
7 compensation received by a party for employment in excess of a  
8 40-hour work week, provided that:

9 (1) child support is nonetheless ordered in an amount at  
10 least equal to the guideline amount based on gross income not  
11 excluded under this clause; and

12 (2) the party demonstrates, and the court finds, that:

13 (i) the excess employment began after the filing of the  
14 petition for dissolution;

15 (ii) the excess employment reflects an increase in the work  
16 schedule or hours worked over that of the two years immediately  
17 preceding the filing of the petition;

18 (iii) the excess employment is voluntary and not a  
19 condition of employment;

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

23 (v) the party's compensation structure has not been changed  
24 for the purpose of affecting a support or maintenance obligation.

25 (c) Expense reimbursements or in-kind payments received by  
26 a parent in the course of employment, self-employment, or  
27 operation of a business shall be counted as income if they are  
28 significant and reduce personal living expenses.

29 (d) Gross income may be calculated on either an annual or  
30 monthly basis. Weekly income shall be translated to monthly  
31 income by multiplying the weekly income by 4.33.

32 (e) If the parent of a joint child is a recipient of  
33 Temporary Assistance for Needy Families (TANF), the gross income  
34 attributed to that parent shall be the amount which could be  
35 earned by full-time work (40 hours a week) at the state minimum  
36 wage.



1 (f) Excluded and not counted as income is any child support  
2 payment. It is a rebuttable presumption that adoption  
3 assistance payments, guardianship assistance payments, and  
4 foster care subsidies are excluded and not counted as income.

5 Sec. 12. [518.7125] [INCOME FROM SELF-EMPLOYMENT OR  
6 OPERATION OF A BUSINESS.]

7 For income from self-employment, rent, royalties,  
8 proprietorship of a business, or joint ownership of a  
9 partnership or closely held corporation, gross income is defined  
10 as gross receipts minus costs of goods sold minus ordinary and  
11 necessary expenses required for self-employment or business  
12 operation. Specifically excluded from ordinary and necessary  
13 expenses are amounts allowable by the Internal Revenue Service  
14 for the accelerated component of depreciation expenses,  
15 investment tax credits, or any other business expenses  
16 determined by the court to be inappropriate or excessive for  
17 determining gross income for purposes of calculating child  
18 support.

19 Sec. 13. [518.713] [COMPUTATION OF INDIVIDUAL CHILD  
20 SUPPORT OBLIGATIONS.]

21 To determine the presumptive amount of support owed by a  
22 parent, follow the procedure set forth in this section:

- 23 (1) determine the gross income of each parent;  
24 (2) determine the modified gross income of each parent;  
25 (3) determine the adjusted gross income of each parent, and  
26 if there are two parents, the combined adjusted gross income;  
27 (4) if there are two parents, determine the percentage  
28 contribution of each parent to the combined adjusted gross  
29 income by dividing the combined adjusted gross income into each  
30 parent's adjusted gross income;  
31 (5) determine the basic child support obligation by  
32 application of the guideline in section 518.725;  
33 (6) determine each parent's share of the basic child  
34 support obligation by multiplying the percentage figure from  
35 clause (4) by the basic child support obligation in clause (5);  
36 (7) determine the parenting time credit if any and adjust

1 the basic child support obligation as provided in section  
2 518.722;

3 (8) apply the low-income adjustment, if appropriate, as  
4 provided in section 518.723;

5 (9) determine the cost for each parent for child care costs  
6 as allowed by section 518.72;

7 (10) determining the cost for each parent for medical  
8 expenses and health care coverage as allowed by section  
9 518.719. If costs are not equal each month, annual costs shall  
10 be averaged to determine a monthly cost;

11 (11) calculate the total costs owed by each parent to the  
12 other by applying the parent's percentage of income as  
13 determined in clause (4) to the actual out-of-pocket costs  
14 incurred by the other parent. Add these amounts to each  
15 parent's child support obligation;

16 (12) determine the net child support obligation by  
17 subtracting the smaller of the obligations from the larger;

18 (13) if Social Security benefits or veterans' benefits are  
19 received by the obligee as a representative payee for a joint  
20 child due to the obligor's disability or retirement, subtract  
21 the amount of benefits from the obligor's net child support  
22 obligation, if any; and

23 (14) determine the portion of the calculated child support  
24 obligation the obligor has the ability to pay as provided in  
25 section 518.724.

26 Sec. 14. [518.7131] [TEMPORARY SUPPORT.]

27 Temporary support may be awarded as provided in section  
28 518.131.

29 Sec. 15. [518.714] [DEVIATIONS FROM CHILD SUPPORT  
30 GUIDELINES.]

31 Subdivision 1. [GENERAL FACTORS.] Among other reasons,  
32 deviation from the presumptive guideline amount is intended to  
33 encourage prompt and regular payments of child support and to  
34 prevent when possible the impoverishment of either the child or  
35 obligor. In addition to the child support guidelines, the court  
36 must take into consideration the following factors in setting or

1 modifying child support or in determining whether to deviate  
2 upward or downward from the guidelines:

3 (1) all earnings, income, and resources of each parent,  
4 including real and personal property, but excluding income from  
5 excess employment of the obligor or obligee that meets the  
6 criteria of section 518.64, subdivision 2, paragraph (c), clause  
7 (2);

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

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

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

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

17 (6) each parent's eligibility for or receipt of public  
18 assistance as defined under section 256.741, subdivision 1. A  
19 court may deviate upward from the amount of child support under  
20 the guidelines if a parent does not receive the public  
21 assistance that the parent is eligible to receive;

22 (7) the number and needs of other dependents of a parent;

23 (8) the extraordinary or diminished needs of the child; and

24 (9) prior findings in a judgment, order, decree, or  
25 settlement agreement that an existing support award was made in  
26 consideration of other property, debt, or financial awards.

27 Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In  
28 establishing or modifying a support obligation, the court may  
29 consider debts owed to private creditors, but only if:

30 (1) the right to support has not been assigned under  
31 section 256.741;

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

1 generation of income; and

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

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

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

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

19 Subd. 3. [EVIDENCE.] The court may receive evidence on the  
20 factors in this section to determine if the guidelines should be  
21 exceeded or modified in a particular case.

22 Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the  
23 child support payments are assigned to the public authority  
24 under section 256.741, the court may not deviate downward from  
25 the child support guidelines unless the court specifically finds  
26 that the failure to deviate downward would impose an extreme  
27 hardship on the obligor.

28 Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal  
29 custody is not a reason for departure from the guidelines.

30 Subd. 6. [SELF-SUPPORT LIMITATION.] If, after payment of  
31 income and payroll taxes, the obligor can establish that they do  
32 not have enough for the self-support reserve, a downward  
33 deviation may be allowed.

34 Sec. 16. [518.715] [WRITTEN FINDINGS.]

35 Subdivision 1. [NO DEVIATION.] If the court does not  
36 deviate from the guidelines, the court must make written

1 findings concerning the amount of the parties' income used as  
2 the basis for the guidelines calculation and any other  
3 significant evidentiary factors affecting the child support  
4 determination.

5 Subd. 2. [DEVIATION.] (a) If the court deviates from the  
6 guidelines, the court must make written findings giving the  
7 amount of support calculated under the guidelines, the reasons  
8 for the deviation, and must specifically address the criteria in  
9 section 518.714 and how the deviation serves the best interests  
10 of the child.

11 (b) Determine each parent's gross modified income.

12 Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The  
13 provisions of this section apply whether or not the parties are  
14 each represented by independent counsel and have entered into a  
15 written agreement. The court must review stipulations presented  
16 to it for conformity to the guidelines. The court is not  
17 required to conduct a hearing, but the parties must provide  
18 sufficient documentation of earnings.

19 Sec. 17. [518.716] [GUIDELINES REVIEW.]

20 No later than 2006 and every four years after that, the  
21 Department of Human Services must conduct a review of the child  
22 support guidelines.

23 Sec. 18. [518.717] [NONJOINT CHILDREN.]

24 (a) When either or both parents of the joint child subject  
25 to this determination are legally responsible for a nonjoint  
26 child who resides in that parent's household, or a nonjoint  
27 child to whom or on whose behalf a parent owes an ongoing child  
28 support obligation under a court or administrative order, a  
29 credit for this obligation shall be calculated under this  
30 section.

31 (b) Subtract from a parent's gross income the amount of any  
32 spousal support a court orders that parent to pay, and add to a  
33 parent's gross income any spousal support the parent is entitled  
34 to receive.

35 (c) Using this guideline as established in section 518.725,  
36 determine the basic child support obligation or the nonjoint

1 child or children who actually reside in the parent's household,  
2 by using the modified gross income of the parent for whom the  
3 credit is being calculated, and using the number of nonjoint  
4 children actually in the parent's immediate household.

5 (d) The credit for nonjoint children shall be 50 percent of  
6 the guideline amount from paragraph (c), plus the amount of any  
7 existing support order for other nonjoint children.

8 Sec. 19. [518.718] [SOCIAL SECURITY OR VETERANS' BENEFIT  
9 PAYMENTS RECEIVED ON BEHALF OF THE CHILD.]

10 (a) The amount of the monthly Social Security benefits or  
11 apportioned veterans' benefits received by the child or on  
12 behalf of the child shall be added to the gross income of the  
13 parent for whom the disability or retirement benefit was paid.

14 (b) The amount of the monthly survivors' and dependents'  
15 educational assistance received by the child or on behalf of the  
16 child shall be added to the gross income of the parent for whom  
17 the disability or retirement benefit was paid.

18 (c) If the Social Security or apportioned veterans'  
19 benefits are paid on behalf of the obligor, and are received by  
20 the obligee as a representative payee for the child or by the  
21 child attending school, then the amount of the benefits may also  
22 be subtracted from the obligor's net child support obligation as  
23 calculated pursuant to section 518.713.

24 (d) If the survivors' and dependents' educational  
25 assistance is paid on behalf of the obligor, and is received by  
26 the obligee as a representative payee for the child or by the  
27 child attending school, then the amount of the assistance shall  
28 also be subtracted from the obligor's net child support  
29 obligation as calculated pursuant to section 518.713.

30 Sec. 20. [518.719] [MEDICAL SUPPORT.]

31 Subdivision 1. [DEFINITIONS.] The definitions in this  
32 subdivision apply to sections 518.711 to 518.733.

33 (a) "Health care coverage" means health care benefits that  
34 are provided by a health plan. Health care coverage does not  
35 include any form of medical assistance under chapter 256B or  
36 MinnesotaCare under chapter 256L.

1 (b) "Health carrier" means a carrier as defined in sections  
2 62A.011, subdivision 2, and 62L.02, subdivision 16.

3 (c) "Health plan" means a plan meeting the definition under  
4 section 62A.011, subdivision 3, a group health plan governed  
5 under the federal Employee Retirement Income Security Act of  
6 1974 (ERISA), a self-insured plan under sections 43A.23 to  
7 43A.317 and 471.617, or a policy, contract, or certificate  
8 issued by a community-integrated service network licensed under  
9 chapter 62N. Health plan includes plans:

10 (1) provided on an individual and group basis;

11 (2) provided by an employer or union;

12 (3) purchased in the private market; and

13 (4) available to a person eligible to carry insurance for  
14 the child.

15 Health plan includes a plan providing for dependent-only dental  
16 or vision coverage and a plan provided through a party's spouse  
17 or parent.

18 (d) "Medical support" means providing health care coverage  
19 for a child by carrying health care coverage for the child or by  
20 contributing to the cost of health care coverage, public  
21 coverage, unreimbursed medical expenses, and uninsured medical  
22 expenses of the child.

23 (e) "National medical support notice" means an  
24 administrative notice issued by the public authority to enforce  
25 health insurance provisions of a support order in accordance  
26 with Code of Federal Regulations, title 45, section 303.32, in  
27 cases where the public authority provides support enforcement  
28 services.

29 (f) "Public coverage" means health care benefits provided  
30 by any form of medical assistance under chapter 256B or  
31 MinnesotaCare under chapter 256L.

32 (g) "Uninsured medical expenses" means a child's reasonable  
33 and necessary health-related expenses if the child is not  
34 covered by a health plan or public coverage when the expenses  
35 are incurred.

36 (h) "Unreimbursed medical expenses" means a child's

1 reasonable and necessary health-related expenses if a child is  
2 covered by a health plan or public coverage and the plan or  
3 coverage does not pay for the total cost of the expenses when  
4 the expenses are incurred. Unreimbursed medical expenses do not  
5 include the cost of premiums. Unreimbursed medical expenses  
6 include, but are not limited to, deductibles, co-payments, and  
7 expenses for orthodontia, and prescription eyeglasses and  
8 contact lenses.

9 Subd. 2. [ORDER.] (a) A completed national medical support  
10 notice issued by the public authority or a court order that  
11 complies with this section is a qualified medical child support  
12 order under the federal Employee Retirement Income Security Act  
13 of 1974 (ERISA), United States Code, title 29, section 1169(a).

14 (b) Every order addressing child support must state:

15 (1) the names, last known addresses, and Social Security  
16 numbers of the parents and the child that is a subject of the  
17 order unless the court prohibits the inclusion of an address or  
18 Social Security number and orders the parents to provide the  
19 address and Social Security number to the administrator of the  
20 health plan;

21 (2) whether appropriate health care coverage for the child  
22 is available and, if so, state:

23 (i) which party must carry health care coverage;

24 (ii) the cost of premiums and how the cost is allocated  
25 between the parties;

26 (iii) how unreimbursed expenses will be allocated and  
27 collected by the parties; and

28 (iv) the circumstances, if any, under which the obligation  
29 to provide health care coverage for the child will shift from  
30 one party to the other;

31 (3) if appropriate health care coverage is not available  
32 for the child, whether a contribution for medical support is  
33 required; and

34 (4) whether the amount ordered for medical support is  
35 subject to a cost-of-living adjustment under section 518.641.

36 Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE



1 COVERAGE.] (a) In determining whether a party has appropriate  
2 health care coverage for the child, the court must evaluate the  
3 health plan using the following factors:

4 (1) accessible coverage. Dependent health care coverage is  
5 accessible if the covered child can obtain services from a  
6 health plan provider with reasonable effort by the parent with  
7 whom the child resides. Health care coverage is presumed  
8 accessible if:

9 (i) primary care coverage is available within 30 minutes or  
10 30 miles of the child's residence and specialty care coverage is  
11 available within 60 minutes or 60 miles of the child's  
12 residence;

13 (ii) the coverage is available through an employer and the  
14 employee can be expected to remain employed for a reasonable  
15 amount of time; and

16 (iii) no preexisting conditions exist to delay coverage  
17 unduly;

18 (2) comprehensive coverage. Dependent health care coverage  
19 is comprehensive if it includes, at a minimum, medical and  
20 hospital coverage and provides for preventive, emergency, acute,  
21 and chronic care. If both parties have health care coverage  
22 that meets the minimum requirements, the court must determine  
23 which health care coverage is more comprehensive by considering  
24 whether the coverage includes:

25 (i) basic dental coverage;

26 (ii) orthodontia;

27 (iii) eyeglasses;

28 (iv) contact lenses;

29 (v) mental health services; or

30 (vi) substance abuse treatment;

31 (3) affordable coverage. Dependent health care coverage is  
32 affordable if it is reasonable in cost; and

33 (4) the child's special medical needs, if any.

34 (b) If both parties have health care coverage available for  
35 a child, and the court determines under paragraph (a), clauses

36 (1) and (2), that the available coverage is comparable with

1 regard to accessibility and comprehensiveness, the least costly  
2 health care coverage is the appropriate health care coverage for  
3 the child.

4 Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child  
5 is presently enrolled in health care coverage, the court must  
6 order that the parent who currently has the child enrolled  
7 continue that enrollment unless the parties agree otherwise or a  
8 party requests a change in coverage and the court determines  
9 that other health care coverage is more appropriate.

10 (b) If a child is not presently enrolled in health care  
11 coverage, upon motion of a party or the public authority, the  
12 court must determine whether one or both parties have  
13 appropriate health care coverage for the child and order the  
14 party with appropriate health care coverage available to carry  
15 the coverage for the child.

16 (c) If only one party has appropriate health care coverage  
17 available, the court must order that party to carry the coverage  
18 for the child.

19 (d) If both parties have appropriate health care coverage  
20 available, the court must order the parent with whom the child  
21 resides to carry the coverage for the child, unless:

22 (1) either party expresses a preference for coverage  
23 available through the parent with whom the child does not  
24 reside;

25 (2) the parent with whom the child does not reside is  
26 already carrying dependent health care coverage for other  
27 children and the cost of contributing to the premiums of the  
28 other parent's coverage would cause the parent with whom the  
29 child does not reside extreme hardship; or

30 (3) the parents agree to provide coverage and agree on the  
31 allocation of costs.

32 (e) If the exception in paragraph (d), clause (1) or (2),  
33 applies, the court must determine which party has the most  
34 appropriate coverage available and order that party to carry  
35 coverage for the child. If the court determines under  
36 subdivision 3, paragraph (a), clauses (1) and (2), that the

1 parties' health care coverage for the child is comparable with  
2 regard to accessibility and comprehensiveness, the court must  
3 order the party with the least costly health care coverage to  
4 carry coverage for the child.

5 (f) If neither party has appropriate health care coverage  
6 available, the court must order the parents to:

7 (1) contribute toward the actual health care costs of the  
8 children based on a pro rata share; or

9 (2) if the child is receiving any form of medical  
10 assistance under chapter 256B or MinnesotaCare under chapter  
11 256L, the parent with whom the child does not reside shall  
12 contribute a monthly amount toward the actual cost of medical  
13 assistance under chapter 256B or MinnesotaCare under chapter  
14 256L determined by the court to be just and appropriate; the  
15 contribution of the parent with whom the child resides is the  
16 monthly contribution as determined by the eligibility  
17 requirements for public coverage.

18 (g) If the court finds a pro rata apportionment unjust or  
19 inappropriate under paragraph (f), the court shall:

20 (1) order the parties to contribute an amount of the cost  
21 of health care as the court finds just and appropriate; and

22 (2) make findings regarding the factors considered, the  
23 amount of each parent's share of the cost, and the reasons the  
24 court did not order a pro rata apportionment.

25 A presumption of no less than \$50 per month must be applied  
26 to the actual health care costs of the children or to the cost  
27 of health care coverage.

28 (h) The commissioner of human services must publish a table  
29 with the premium schedule for public coverage and update the  
30 chart for changes to the schedule by July 1 of each year.

31 Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND  
32 UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by  
33 the parties and approved by the court, the court must order that  
34 the cost of health care coverage and all unreimbursed and  
35 uninsured medical expenses be divided between the obligor and  
36 obligee based on their proportionate share of the parties'

1 combined monthly adjusted gross income.

2 (b) If a party owes a child support obligation for a child  
3 and is ordered to carry health care coverage for the child, and  
4 the other party is ordered to contribute to the carrying party's  
5 cost for coverage, the carrying party's child support payment  
6 must be reduced by the amount of the contributing party's  
7 contribution.

8 (c) If a party owes a child support obligation for a child  
9 and is ordered to contribute to the other party's cost for  
10 carrying health care coverage for the child, the contributing  
11 party's child support payment must be increased by the amount of  
12 the contribution.

13 (d) If the party ordered to carry health care coverage for  
14 the child already carries dependent health care coverage for  
15 other dependents and would incur no additional premium costs to  
16 add the child to the existing coverage, the court must not order  
17 the other party to contribute to the premium costs for coverage  
18 of the child.

19 (e) If a party ordered to carry health care coverage for  
20 the child does not already carry dependent health care coverage  
21 but has other dependents who may be added to the ordered  
22 coverage, the full premium costs of the dependent health care  
23 coverage must be allocated between the parties in proportion to  
24 the party's share of the parties' combined income, unless the  
25 parties agree otherwise.

26 (f) If a party ordered to carry health care coverage for  
27 the child is required to enroll in a health plan so that the  
28 child can be enrolled in dependent health care coverage under  
29 the plan, the court must allocate the costs of the dependent  
30 health care coverage between the parties. The costs of the  
31 health care coverage for the party ordered to carry the coverage  
32 for the child must not be allocated between the parties.

33 Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER,  
34 UNION, OR HEALTH CARRIER.] (a) The public authority must forward  
35 a copy of the national medical support notice or court order for  
36 health care coverage to the party's employer within two business

1 days after the date the party is entered into the work reporting  
2 system under section 256.998.

3 (b) The public authority or a party seeking to enforce an  
4 order for health care coverage must forward a copy of the  
5 national medical support notice or court order to the obligor's  
6 employer or union, or to the health carrier under the following  
7 circumstances:

8 (1) the party ordered to carry health care coverage for the  
9 child fails to provide written proof to the other party or the  
10 public authority, within 30 days of the effective date of the  
11 court order, that the party has applied for health care coverage  
12 for the child;

13 (2) the party seeking to enforce the order or the public  
14 authority gives written notice to the party ordered to carry  
15 health care coverage for the child of its intent to enforce  
16 medical support. The party seeking to enforce the order or  
17 public authority must mail the written notice to the last known  
18 address of the party ordered to carry health care coverage for  
19 the child; and

20 (3) the party ordered to carry health care coverage for the  
21 child fails, within 15 days after the date on which the written  
22 notice under clause (2) was mailed, to provide written proof to  
23 the other party or the public authority that the party has  
24 applied for health care coverage for the child.

25 (c) The public authority is not required to forward a copy  
26 of the national medical support notice or court order to the  
27 obligor's employer or union, or to the health carrier, if the  
28 court orders health care coverage for the child that is not  
29 employer-based or union-based coverage.

30 Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer  
31 or union must forward the national medical support notice or  
32 court order to its health plan within 20 business days after the  
33 date on the national medical support notice or after receipt of  
34 the court order.

35 (b) Upon determination by an employer's or union's health  
36 plan administrator that a child is eligible to be covered under

1 the health plan, the employer or union and health plan must  
2 enroll the child as a beneficiary in the health plan, and the  
3 employer must withhold any required premiums from the income or  
4 wages of the party ordered to carry health care coverage for the  
5 child.

6 (c) If enrollment of the party ordered to carry health care  
7 coverage for a child is necessary to obtain dependent health  
8 care coverage under the plan, and the party is not enrolled in  
9 the health plan, the employer or union must enroll the party in  
10 the plan.

11 (d) Enrollment of dependents and, if necessary, the party  
12 ordered to carry health care coverage for the child must be  
13 immediate and not dependent upon open enrollment periods.  
14 Enrollment is not subject to the underwriting policies under  
15 section 62A.048.

16 (e) Failure of the party ordered to carry health care  
17 coverage for the child to execute any documents necessary to  
18 enroll the dependent in the health plan does not affect the  
19 obligation of the employer or union and health plan to enroll  
20 the dependent in a plan. Information and authorization provided  
21 by the public authority, or by a party or guardian, is valid for  
22 the purposes of meeting enrollment requirements of the health  
23 plan.

24 (f) An employer or union that is included under the federal  
25 Employee Retirement Income Security Act of 1974 (ERISA), United  
26 States Code, title 29, section 1169(a), may not deny enrollment  
27 to the child or to the parent if necessary to enroll the child  
28 based on exclusionary clauses described in section 62A.048.

29 (g) A new employer or union of a party who is ordered to  
30 provide health care coverage for a child must enroll the child  
31 in the party's health plan as required by a national medical  
32 support notice or court order.

33 Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan  
34 administrator receives a completed national medical support  
35 notice or court order, the plan administrator must notify the  
36 parties, and the public authority if the public authority

1 provides support enforcement services, within 40 business days  
2 after the date of the notice or after receipt of the court  
3 order, of the following:

4 (1) whether coverage is available to the child under the  
5 terms of the health plan and, if not, the reason why coverage is  
6 not available;

7 (2) whether the child is covered under the health plan;

8 (3) the effective date of the child's coverage under the  
9 health plan; and

10 (4) what steps, if any, are required to effectuate the  
11 child's coverage under the health plan.

12 (b) If the employer or union offers more than one plan and  
13 the national medical support notice or court order does not  
14 specify the plan to be carried, the plan administrator must  
15 notify the parents and the public authority if the public  
16 authority provides support enforcement services. When there is  
17 more than one option available under the plan, the public  
18 authority, in consultation with the parent with whom the child  
19 resides, must promptly select from available plan options.

20 (c) The plan administrator must provide the parents and  
21 public authority, if the public authority provides support  
22 enforcement services, with a notice of the child's enrollment,  
23 description of the coverage, and any documents necessary to  
24 effectuate coverage.

25 (d) The health plan must send copies of all correspondence  
26 regarding the health care coverage to the parents.

27 (e) An insured child's parent's signature is a valid  
28 authorization to a health plan for purposes of processing an  
29 insurance reimbursement payment to the medical services provider  
30 or to the parent, if medical services have been prepaid by that  
31 parent.

32 Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or  
33 union that willfully fails to comply with the order or notice is  
34 liable for any uninsured medical expenses incurred by the  
35 dependents while the dependents were eligible to be enrolled in  
36 the health plan and for any other premium costs incurred because

1 the employer or union willfully failed to comply with the order  
2 or notice.

3 (b) An employer or union that fails to comply with the  
4 order or notice is subject to a contempt finding, a \$250 civil  
5 penalty under section 518.615, and is subject to a civil penalty  
6 of \$500 to be paid to the party entitled to reimbursement or the  
7 public authority. Penalties paid to the public authority are  
8 designated for child support enforcement services.

9 Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest  
10 a child's enrollment in a health plan on the limited grounds  
11 that the enrollment is improper due to mistake of fact or that  
12 the enrollment meets the requirements of section 518.64,  
13 subdivision 2.

14 (b) If the party chooses to contest the enrollment, the  
15 party must do so no later than 15 days after the employer  
16 notifies the party of the enrollment by doing the following:

17 (1) filing a motion in district court or according to  
18 section 484.702 and the expedited child support process rules if  
19 the public authority provides support enforcement services;

20 (2) serving the motion on the other party and public  
21 authority if the public authority provides support enforcement  
22 services; and

23 (3) securing a date for the matter to be heard no later  
24 than 45 days after the notice of enrollment.

25 (c) The enrollment must remain in place while the party  
26 contests the enrollment.

27 Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE;  
28 COVERAGE OPTIONS.] (a) Unless a court order provides otherwise,  
29 a child for whom a party is required to provide health care  
30 coverage under this section must be covered as a dependent of  
31 the party until the child is emancipated, until further order of  
32 the court, or as consistent with the terms of the coverage.

33 (b) The health carrier, employer, or union may not  
34 disenroll or eliminate coverage for the child unless:

35 (1) the health carrier, employer, or union is provided  
36 satisfactory written evidence that the court order is no longer



1 in effect;

2 (2) the child is or will be enrolled in comparable health  
3 care coverage through another health plan that will take effect  
4 no later than the effective date of the disenrollment;

5 (3) the employee is no longer eligible for dependent  
6 coverage; or

7 (4) the required premium has not been paid by or on behalf  
8 of the child.

9 (c) The health plan must provide 30 days' written notice to  
10 the child's parents, and the public authority if the public  
11 authority provides support enforcement services, before the  
12 health plan disenrolls or eliminates the child's coverage.

13 (d) A child enrolled in health care coverage under a  
14 qualified medical child support order, including a national  
15 medical support notice, under this section is a dependent and a  
16 qualified beneficiary under the Consolidated Omnibus Budget and  
17 Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon  
18 expiration of the order, the child is entitled to the  
19 opportunity to elect continued coverage that is available under  
20 the health plan. The employer or union must provide notice to  
21 the parties and the public authority, if it provides support  
22 services, within ten days of the termination date.

23 (e) If the public authority provides support enforcement  
24 services and a plan administrator reports to the public  
25 authority that there is more than one coverage option available  
26 under the health plan, the public authority, in consultation  
27 with the parent with whom the child resides, must promptly  
28 select coverage from the available options.

29 Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court  
30 must require the parent with whom the child does not reside to  
31 provide dependent health care coverage for the benefit of the  
32 parent with whom the child resides if the parent is ordered to  
33 provide dependent health care coverage for the parties' child  
34 and adding the other parent to the coverage results in no  
35 additional premium cost.

36 Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public

1 authority provides support enforcement services, the parties  
2 must provide the public authority with the following information:

3 (1) information relating to dependent health care coverage  
4 or public coverage available for the benefit of the child for  
5 whom support is sought, including all information required to be  
6 included in a medical support order under this section;

7 (2) verification that application for court-ordered health  
8 care coverage was made within 30 days of the court's order; and

9 (3) the reason that a child is not enrolled in  
10 court-ordered health care coverage, if a child is not enrolled  
11 in coverage or subsequently loses coverage.

12 (b) Upon request from the public authority under section  
13 256.978, an employer, union, or plan administrator, including an  
14 employer subject to the federal Employee Retirement Income  
15 Security Act of 1974 (ERISA), United States Code, title 29,  
16 section 1169(a), must provide the public authority the following  
17 information:

18 (1) information relating to dependent health care coverage  
19 available to a party for the benefit of the child for whom  
20 support is sought, including all information required to be  
21 included in a medical support order under this section; and

22 (2) information that will enable the public authority to  
23 determine whether a health plan is appropriate for a child,  
24 including, but not limited to, all available plan options, any  
25 geographic service restrictions, and the location of service  
26 providers.

27 (c) The employer, union, or plan administrator must not  
28 release information regarding one party to the other party. The  
29 employer, union, or plan administrator must provide both parties  
30 with insurance identification cards and all necessary written  
31 information to enable the parties to utilize the insurance  
32 benefits for the covered dependent.

33 (d) The public authority is authorized to release to a  
34 party's employer, union, or health plan information necessary to  
35 verify availability of dependent health care coverage, or to  
36 establish, modify, or enforce medical support.

1 (e) An employee must disclose to an employer if medical  
2 support is required to be withheld under this section and the  
3 employer must begin withholding according to the terms of the  
4 order and under section 518.6111. If an employee discloses an  
5 obligation to obtain health care coverage and coverage is  
6 available through the employer, the employer must make all  
7 application processes known to the individual and enroll the  
8 employee and dependent in the plan.

9 Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public  
10 authority must take necessary steps to establish and enforce an  
11 order for medical support if the child receives public  
12 assistance or a party completes an application for services from  
13 the public authority under section 518.6111, subdivision 4.

14 Subd. 15. [ENFORCEMENT.] (a) Remedies available for  
15 collecting and enforcing child support apply to medical support.

16 (b) For the purpose of enforcement, the following are  
17 additional support:

18 (1) the costs of individual or group health or  
19 hospitalization coverage;

20 (2) dental coverage;

21 (3) medical costs ordered by the court to be paid by either  
22 party, including health and dental insurance premiums paid by  
23 the obligee because of the obligor's failure to obtain coverage  
24 as ordered; and

25 (4) liabilities established under this subdivision.

26 (c) A party who fails to carry court-ordered dependent  
27 health care coverage is liable for the child's uninsured medical  
28 expenses unless a court order provides otherwise. A party's  
29 failure to carry court-ordered coverage, or to provide other  
30 medical support as ordered, is a basis for modification of a  
31 support order under section 518.64, subdivision 2.

32 (d) Payments by the health carrier or employer for services  
33 rendered to the dependents that are directed to a party not owed  
34 reimbursement must be endorsed over to and forwarded to the  
35 vendor or appropriate party or the public authority. A party  
36 retaining insurance reimbursement not owed to the party is

1 liable for the amount of the reimbursement.

2 Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party  
3 owes no child support obligation for a child and is an obligor  
4 ordered to contribute to the other party's cost for carrying  
5 health care coverage for the child, the obligor is subject to an  
6 offset under subdivision 5 or income withholding under section  
7 518.6111.

8 (b) If a party's court-ordered health care coverage for the  
9 child terminates and the child is not enrolled in other health  
10 care coverage or public coverage, and a modification motion is  
11 not pending, the public authority may remove the offset to a  
12 party's child support obligation or terminate income withholding  
13 instituted against a party under section 518.6111. The public  
14 authority must provide notice to the parties of the action.

15 (c) A party may contest the public authority's action to  
16 remove the offset to the child support obligation or terminate  
17 income withholding if the party makes a written request for a  
18 hearing within 30 days after receiving written notice. If a  
19 party makes a timely request for a hearing, the public authority  
20 must schedule a hearing and send written notice of the hearing  
21 to the parties by mail to the parties' last known addresses at  
22 least 14 days before the hearing. The hearing must be conducted  
23 in district court or in the expedited child support process if  
24 section 484.702 applies. The district court or child support  
25 magistrate must determine whether removing the offset or  
26 terminating income withholding is appropriate and, if  
27 appropriate, the effective date for the removal or termination.

28 (d) If the party does not request a hearing, the district  
29 court or child support magistrate must order the offset or  
30 income withholding termination effective the first day of the  
31 month following termination of the child's health care coverage.

32 Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL  
33 EXPENSES.] (a) A party must initiate a request for reimbursement  
34 of unreimbursed and uninsured medical expenses within two years  
35 of the date that the party incurred the unreimbursed or  
36 uninsured medical expenses. The time period in this paragraph

1 does not apply if the location of the other party is unknown.

2 (b) A party seeking reimbursement of unreimbursed and  
3 uninsured medical expenses must mail a written notice of intent  
4 to collect the expenses and a copy of an affidavit of health  
5 care expenses to the other party at the other party's last known  
6 address.

7 (c) The written notice must include a statement that the  
8 party has 30 days from the date the notice was mailed to (1) pay  
9 in full; (2) enter a payment agreement; or (3) file a motion  
10 requesting a hearing contesting the matter. If the public  
11 authority provides support enforcement services, the written  
12 notice also must include a statement that the requesting party  
13 must submit the amount due to the public authority for  
14 collection.

15 (d) The affidavit of health care expenses must itemize and  
16 document the child's unreimbursed or uninsured medical expenses  
17 and include copies of all bills, receipts, and insurance company  
18 explanations of benefits.

19 (e) If the public authority provides support enforcement  
20 services, the party seeking reimbursement must send to the  
21 public authority a copy of the written notice, the original  
22 affidavit, and copies of all bills, receipts, and insurance  
23 company explanations of benefits.

24 (f) If the party does not respond to the request for  
25 reimbursement within 30 days, the party seeking reimbursement or  
26 public authority, if the public authority provides support  
27 enforcement services, must commence an enforcement action  
28 against the party under subdivision 18.

29 (g) The public authority must serve the other party with a  
30 notice of intent to enforce unreimbursed and uninsured medical  
31 expenses and file an affidavit of service by mail with the  
32 district court administrator. The notice must state that,  
33 unless the party (1) pays in full; (2) enters into a payment  
34 agreement; or (3) files a motion contesting the matter within 14  
35 days of service of the notice, the public authority will  
36 commence enforcement of the expenses as medical support arrears

1 under subdivision 18.

2 (h) If the party files a timely motion for a hearing  
3 contesting the requested reimbursement, the contesting party  
4 must schedule a hearing in district court or in the expedited  
5 child support process if section 484.702 applies. The  
6 contesting party must provide the party seeking reimbursement  
7 and the public authority, if the public authority provides  
8 support enforcement services, with written notice of the hearing  
9 at least 14 days before the hearing by mailing notice of the  
10 hearing to the public authority and the party at the party's  
11 last known address. The party seeking reimbursement must file  
12 the original affidavit of health care expenses with the court at  
13 least five days before the hearing. Based upon the evidence  
14 presented, the district court or child support magistrate must  
15 determine liability for the expenses and order that the liable  
16 party is subject to enforcement of the expenses as medical  
17 support arrears under subdivision 18.

18 Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT  
19 ARREARS.] (a) If a party liable for unreimbursed and uninsured  
20 medical expenses owes a child support obligation to the party  
21 seeking reimbursement of the expenses, the expenses must be  
22 collected as medical support arrears.

23 (b) If a party liable for unreimbursed and uninsured  
24 medical expenses does not owe a child support obligation to the  
25 party seeking reimbursement, and the party seeking reimbursement  
26 owes the liable party basic support arrears, the liable party's  
27 medical support arrears must be deducted from the amount of the  
28 basic support arrears.

29 (c) If a liable party owes medical support arrears after  
30 deducting the amount owed from the amount of the child support  
31 arrears owed by the party seeking reimbursement, it must be  
32 collected as follows:

33 (1) if the party seeking reimbursement owes a child support  
34 obligation to the liable party, the child support obligation  
35 must be reduced by 20 percent until the medical support arrears  
36 are satisfied;

1 (2) if the party seeking reimbursement does not owe a child  
2 support obligation to the liable party, the liable party's  
3 income must be subject to income withholding under section  
4 518.6111 for an amount required under section 518.553 until the  
5 medical support arrears are satisfied; or

6 (3) if the party seeking reimbursement does not owe a child  
7 support obligation, and income withholding under section  
8 518.6111 is not available, payment of the medical support  
9 arrears must be required under a payment agreement under section  
10 518.553.

11 (d) If a liable party fails to enter into or comply with a  
12 payment agreement, the party seeking reimbursement or the public  
13 authority, if it provides support enforcement services, may  
14 schedule a hearing to have a court order payment. The party  
15 seeking reimbursement or the public authority must provide the  
16 liable party with written notice of the hearing at least 14 days  
17 before the hearing.

18 Sec. 21. [518.72] [CHILD CARE SUPPORT.]

19 Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed  
20 to by the parties and approved by the court, the court must  
21 order that work-related or education-related child care costs of  
22 joint children 12 years old or younger be divided between the  
23 obligor and obligee based on their proportionate share of the  
24 parties' combined monthly adjusted gross income. Child care  
25 costs shall be adjusted by the amount of the estimated federal  
26 and state child care credit payable on behalf of a joint child.  
27 The Department of Human Services shall develop tables to  
28 calculate the applicable credit based upon the custodial  
29 parent's adjusted gross income.

30 Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's  
31 adjusted gross income meets the income eligibility requirements  
32 for child care assistance under the basic sliding fee program  
33 under chapter 119B, the court must order the obligor to pay the  
34 lesser of the following amounts:

35 (1) the amount of the obligor's monthly co-payment for  
36 child care assistance under the basic sliding fee schedule

1 established by the commissioner of education under chapter 119B,  
2 based on an obligor's monthly adjusted gross income and the size  
3 of the obligor's household. For purposes of this subdivision,  
4 the obligor's household includes the obligor and the number of  
5 children for whom child support is being ordered; or

6 (2) the amount of the obligor's child care obligation under  
7 subdivision 1.

8 (b) The commissioner of human services must publish a table  
9 with the child care assistance basic sliding fee amounts and  
10 update the table for changes to the basic sliding fee schedule  
11 by July 1 of each year.

12 Subd. 3. [DETERMINING COSTS.] (a) The court must require  
13 verification of employment or school attendance and  
14 documentation of child care expenses from the obligee and the  
15 public authority, if applicable.

16 (b) If child care expenses fluctuate during the year  
17 because of the obligee's seasonal employment or school  
18 attendance or extended periods of parenting time with the  
19 obligor, the court must determine child care expenses based on  
20 an average monthly cost.

21 (c) The amount allocated for child care expenses is  
22 considered child support but is not subject to a cost-of-living  
23 adjustment under section 518.641.

24 (d) The court may allow the parent with whom the child does  
25 not reside to care for the child while the parent with whom the  
26 child resides is working or attending school, as provided in  
27 section 518.175, subdivision 8. Allowing the parent with whom  
28 the child does not reside to care for the child under section  
29 518.175, subdivision 8, is not a reason to deviate from the  
30 guidelines.

31 (e) The court may limit child care expenses to the market  
32 rates found for the city or county of residence of the obligee  
33 as surveyed by the commissioner of human services for purposes  
34 of chapter 119B.

35 Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order  
36 provides for child care expenses and the public authority



1 provides child support enforcement services, the public  
2 authority must suspend collecting the amount allocated for child  
3 care expenses when:

4 (1) either party informs the public authority that no child  
5 care costs are being incurred; and

6 (2) the public authority verifies the accuracy of the  
7 information.

8 The public authority will resume collecting child care expenses  
9 when either party provides information that child care costs  
10 have resumed.

11 (b) If the parties provide conflicting information to the  
12 public authority regarding whether child care expenses are being  
13 incurred, the public authority will continue or resume  
14 collecting child care expenses. Either party, by motion to the  
15 court, may challenge the suspension or resumption of the  
16 collection of child care expenses. If the public authority  
17 suspends collection activities for the amount allocated for  
18 child care expenses, all other provisions of the court order  
19 remain in effect.

20 (c) In cases where there is a substantial increase or  
21 decrease in child care expenses, the parties may modify the  
22 order under section 518.641.

23 Sec. 22. [518.721] [PARENTING TIME.]

24 (a) Each parent shall be presumptively entitled to no less  
25 than 91 child overnights for each child.

26 (b) If there is a current written parenting time agreement  
27 or court order providing for parenting time or the parents have  
28 split custody, the percentage of overall parenting time for each  
29 parent shall be calculated as follows:

30 (1) multiply the number of joint children by 365 to arrive  
31 at a total number of child overnights. Add together the total  
32 number of overnights the parent is allowed with each joint child  
33 and divide the parenting time overnights by the total number of  
34 child overnights;

35 (2) if the parents have split custody but no current  
36 written parenting time agreement or court order providing for

1 parenting time, each parent shall be attributed 365 days for  
 2 each joint child in the parent's physical custody; and

3 (3) notwithstanding the calculation provided in paragraph  
 4 (b), clauses (1) and (2), the percentage of parenting time may  
 5 be determined using a method other than overnights if the  
 6 parents have an alternative parenting time schedule in which a  
 7 parent has significant time periods where the child is in the  
 8 parent's physical custody but does not stay overnight.

9 (c) If the court determines that actual parenting time  
 10 exercised by a parent is different from what is provided in a  
 11 written parenting plan or court order, the percentage of  
 12 parenting time may be calculated using the actual parenting time  
 13 exercised by the parent.

14 (d) If there is no written parenting time agreement or  
 15 court order providing for parenting time, the parent having  
 16 primary physical custody shall be treated as having 100 percent  
 17 of the parenting time.

18 Sec. 23. [518.722] [PARENTING TIME CREDIT.]

19 (a) This section shall apply when the overall parenting  
 20 time calculated pursuant to section 518.721 is 20 percent or  
 21 greater for each parent.

22 (b) The obligor shall be entitled to a parenting time  
 23 credit calculated as follows:

24 (1) find the adjustment percentage corresponding to the  
 25 percentage of parenting time allowed to the obligor below:

	<u>Percentage Range of</u>	<u>Adjustment</u>
	<u>Parenting Time</u>	<u>Percentage</u>
28 (i)	<u>less than 20 percent</u>	<u>no adjustment</u>
29 (ii)	<u>20 percent to 32.5 percent</u>	<u>18 percent</u>
30 (iii)	<u>32.6 percent to 45 percent</u>	<u>27 percent</u>
31 (iv)	<u>45.0 percent to 50 percent</u>	<u>presume parenting</u>
32		<u>time is equal</u>

33 (2) multiply the adjustment percentage by the basic child  
 34 support obligation to arrive at the parenting time credit.

35 (c) If the parenting time credit is greater than the  
 36 obligor's prorated share of the basic child support obligation,

1 subtract the obligor's basic child support obligation from the  
2 parenting time credit. The result is the obligee's obligation  
3 after parenting time credit.

4 (d) If the parenting time credit is less than the obligor's  
5 prorated share of the basic child support obligation, subtract  
6 the parenting time credit from the obligor's basic child support  
7 obligation. The result is the obligor's obligation after  
8 parenting time credit.

9 (e) If the parenting time is equal, the expenses for the  
10 children are equally shared, and the adjusted gross incomes of  
11 the parents also are equal, no support shall be paid.

12 (f) If the parenting time is equal but the parents'  
13 adjusted gross incomes are not equal, the parent having the  
14 greater adjusted gross income shall be obligated for the amount  
15 of basic child support needed to equalize the basic child  
16 support to each parent, calculated as follows:

17 (1) after the basic child support obligation has been  
18 prorated between the parents, subtract the lower amount from the  
19 higher amount and divide the balance in half; and

20 (2) the resulting figure is the obligation after parenting  
21 time credit for the parent with the greater adjusted gross  
22 income.

23 (g) This parenting time credit reflects the presumption  
24 that while exercising parenting time, a parent is responsible  
25 for and incurs the costs of caring for the child, including, but  
26 not limited to, food, transportation, recreation, and household  
27 expenses.

28 Sec. 24. [518.723] [LOW-INCOME ADJUSTMENT.]

29 (a) The low-income adjustment is a calculation to ensure  
30 that parents who are at or near the federal poverty level have  
31 sufficient income to support themselves after the payment of  
32 child support.

33 (b) To determine if the low-income adjustment applies, find  
34 each parent's single income obligation by referencing the  
35 guideline in section 518.725 at the appropriate number of joint  
36 children and each parent's individual modified gross income as

1 defined in section 518.712, subdivision 8.

2 (c) Compare the amounts obtained in paragraph (b) of this  
3 section to the prorated basic child support obligation after  
4 parenting time credit and apply the lower of the two figures to  
5 the remaining calculation for each parent.

6 Sec. 25. [518.724] [ABILITY TO PAY; SELF-SUPPORT  
7 ADJUSTMENT.]

8 It is a rebuttable presumption that a child support order  
9 should not exceed the obligor's ability to pay. To determine  
10 the amount of child support the obligor has the ability to pay,  
11 follow the procedure set out in this section:

12 (1) calculate the obligor's income available for support by  
13 subtracting a monthly self-support reserve of 120 percent of the  
14 federal poverty guidelines for one person from the obligor's  
15 modified gross income as defined in section 518.712, subdivision  
16 13;

17 (2) compare the obligor's income available for support to  
18 the amount of support calculated as per section 518.713, clauses  
19 (1) to (13). The amount of child support that is presumed to be  
20 correct as defined in section 518.714 is the lesser of these two  
21 amounts; and

22 (3) this section does not apply to an incarcerated obligor.

23 Sec. 26. [518.725] [GUIDELINE USED IN CHILD SUPPORT  
24 DETERMINATIONS.]

25 Subdivision 1. [DETERMINATION OF SUPPORT OBLIGATION.] (a)  
26 The guideline in this section is a rebuttable presumption and  
27 shall be used in any judicial or administrative proceeding to  
28 establish or modify a support obligation under chapter 518.

29 (b) The basic child support obligation shall be determined  
30 by referencing the guideline for the appropriate number of joint  
31 children and the combined adjusted gross income of the parents.

32 (c) If a child is not in the custody of either parent and a  
33 support order is sought against one or both parents, the basic  
34 child support obligation shall be determined by referencing the  
35 guideline for the appropriate number of joint children, and the  
36 parent's individual adjusted gross income, not the combined

1 adjusted gross income of the parents.

2 (d) For combined adjusted gross incomes exceeding \$15,000  
 3 per month, the presumed basic child support obligations shall be  
 4 as for parents with combined adjusted gross income of \$15,000  
 5 per month. A basic child support obligation in excess of this  
 6 level may be demonstrated for those reasons set forth in section  
 7 518.714.

8 Subd. 2. [BASIC SUPPORT; GUIDELINE.] Unless otherwise  
 9 agreed to by the parents and approved by the court, the court  
 10 must order that basic support be divided between the parents  
 11 based on their proportionate share of the parents' combined  
 12 monthly income, as determined under section 518.713. Basic  
 13 support must be computed using the following guideline:

14 Parents' 15 Combined Adjusted 16 Gross Income	17 Number of Children						
	18 One	19 Two	20 Three	21 Four	22 Five	23 Six	
17 \$0- \$799	18 \$50	19 \$50	20 \$75	21 \$75	22 \$100	23 \$100	
18 800- 899	19 80	20 129	21 149	22 173	23 201	24 233	
19 900- 999	20 90	21 145	22 167	23 194	24 226	25 262	
20 1,000- 1,099	21 116	22 161	23 186	24 216	25 251	26 291	
21 1,100- 1,199	22 145	23 205	24 237	25 275	26 320	27 370	
22 1,200- 1,299	23 177	24 254	25 294	26 341	27 396	28 459	
23 1,300- 1,399	24 212	25 309	26 356	27 414	28 480	29 557	
24 1,400- 1,499	25 251	26 368	27 425	28 493	29 573	30 664	
25 1,500- 1,599	26 292	27 433	28 500	29 580	30 673	31 780	
26 1,600- 1,699	27 337	28 502	29 580	30 673	31 781	32 905	
27 1,700- 1,799	28 385	29 577	30 666	31 773	32 897	33 1,040	
28 1,800- 1,899	29 436	30 657	31 758	32 880	33 1,021	34 1,183	
29 1,900- 1,999	30 490	31 742	32 856	33 994	34 1,152	35 1,336	
30 2,000- 2,099	31 516	32 832	33 960	34 1,114	35 1,292	36 1,498	
31 2,100- 2,199	32 528	33 851	34 981	35 1,139	36 1,320	37 1,531	
32 2,200- 2,299	33 538	34 867	35 1,000	36 1,160	37 1,346	1,561	
33 2,300- 2,399	34 546	35 881	36 1,016	37 1,179	1,367	1,586	
34 2,400- 2,499	35 554	36 893	37 1,029	1,195	1,385	1,608	
35 2,500- 2,599	36 560	37 903	1,040	1,208	1,400	1,625	
36 2,600- 2,699	37 570	920	1,060	1,230	1,426	1,655	
37 2,700- 2,799	580	936	1,078	1,251	1,450	1,683	

1	<u>2,800- 2,899</u>	<u>589</u>	<u>950</u>	<u>1,094</u>	<u>1,270</u>	<u>1,472</u>	<u>1,707</u>
2	<u>2,900- 2,999</u>	<u>596</u>	<u>963</u>	<u>1,109</u>	<u>1,287</u>	<u>1,492</u>	<u>1,730</u>
3	<u>3,000- 3,099</u>	<u>603</u>	<u>975</u>	<u>1,122</u>	<u>1,302</u>	<u>1,509</u>	<u>1,749</u>
4	<u>3,100- 3,199</u>	<u>613</u>	<u>991</u>	<u>1,141</u>	<u>1,324</u>	<u>1,535</u>	<u>1,779</u>
5	<u>3,200- 3,299</u>	<u>623</u>	<u>1,007</u>	<u>1,158</u>	<u>1,344</u>	<u>1,558</u>	<u>1,807</u>
6	<u>3,300- 3,399</u>	<u>632</u>	<u>1,021</u>	<u>1,175</u>	<u>1,363</u>	<u>1,581</u>	<u>1,833</u>
7	<u>3,400- 3,499</u>	<u>640</u>	<u>1,034</u>	<u>1,190</u>	<u>1,380</u>	<u>1,601</u>	<u>1,857</u>
8	<u>3,500- 3,599</u>	<u>648</u>	<u>1,047</u>	<u>1,204</u>	<u>1,397</u>	<u>1,621</u>	<u>1,880</u>
9	<u>3,600- 3,699</u>	<u>657</u>	<u>1,062</u>	<u>1,223</u>	<u>1,418</u>	<u>1,646</u>	<u>1,909</u>
10	<u>3,700- 3,799</u>	<u>667</u>	<u>1,077</u>	<u>1,240</u>	<u>1,439</u>	<u>1,670</u>	<u>1,937</u>
11	<u>3,800- 3,899</u>	<u>676</u>	<u>1,018</u>	<u>1,257</u>	<u>1,459</u>	<u>1,693</u>	<u>1,963</u>
12	<u>3,900- 3,999</u>	<u>684</u>	<u>1,104</u>	<u>1,273</u>	<u>1,478</u>	<u>1,715</u>	<u>1,988</u>
13	<u>4,000- 4,099</u>	<u>692</u>	<u>1,116</u>	<u>1,288</u>	<u>1,496</u>	<u>1,736</u>	<u>2,012</u>
14	<u>4,100- 4,199</u>	<u>701</u>	<u>1,132</u>	<u>1,305</u>	<u>1,516</u>	<u>1,759</u>	<u>2,039</u>
15	<u>4,200- 4,299</u>	<u>710</u>	<u>1,147</u>	<u>1,322</u>	<u>1,536</u>	<u>1,781</u>	<u>2,064</u>
16	<u>4,300- 4,399</u>	<u>718</u>	<u>1,161</u>	<u>1,338</u>	<u>1,554</u>	<u>1,802</u>	<u>2,088</u>
17	<u>4,400- 4,499</u>	<u>726</u>	<u>1,175</u>	<u>1,353</u>	<u>1,572</u>	<u>1,822</u>	<u>2,111</u>
18	<u>4,500- 4,599</u>	<u>734</u>	<u>1,184</u>	<u>1,368</u>	<u>1,589</u>	<u>1,841</u>	<u>2,133</u>
19	<u>4,600- 4,699</u>	<u>743</u>	<u>1,200</u>	<u>1,386</u>	<u>1,608</u>	<u>1,864</u>	<u>2,160</u>
20	<u>4,700- 4,799</u>	<u>753</u>	<u>1,215</u>	<u>1,402</u>	<u>1,627</u>	<u>1,887</u>	<u>2,186</u>
21	<u>4,800- 4,899</u>	<u>762</u>	<u>1,231</u>	<u>1,419</u>	<u>1,645</u>	<u>1,908</u>	<u>2,212</u>
22	<u>4,900- 4,999</u>	<u>771</u>	<u>1,246</u>	<u>1,435</u>	<u>1,663</u>	<u>1,930</u>	<u>2,236</u>
23	<u>5,000- 5,099</u>	<u>780</u>	<u>1,260</u>	<u>1,450</u>	<u>1,680</u>	<u>1,950</u>	<u>2,260</u>
24	<u>5,100- 5,199</u>	<u>788</u>	<u>1,275</u>	<u>1,468</u>	<u>1,701</u>	<u>1,975</u>	<u>2,289</u>
25	<u>5,200- 5,299</u>	<u>797</u>	<u>1,290</u>	<u>1,485</u>	<u>1,722</u>	<u>1,999</u>	<u>2,317</u>
26	<u>5,300- 5,399</u>	<u>805</u>	<u>1,304</u>	<u>1,502</u>	<u>1,743</u>	<u>2,022</u>	<u>2,345</u>
27	<u>5,400- 5,499</u>	<u>812</u>	<u>1,318</u>	<u>1,518</u>	<u>1,763</u>	<u>2,046</u>	<u>2,372</u>
28	<u>5,500- 5,599</u>	<u>820</u>	<u>1,331</u>	<u>1,535</u>	<u>1,782</u>	<u>2,068</u>	<u>2,398</u>
29	<u>5,600- 5,699</u>	<u>829</u>	<u>1,346</u>	<u>1,551</u>	<u>1,801</u>	<u>2,090</u>	<u>2,424</u>
30	<u>5,700- 5,799</u>	<u>838</u>	<u>1,357</u>	<u>1,568</u>	<u>1,819</u>	<u>2,111</u>	<u>2,449</u>
31	<u>5,800- 5,899</u>	<u>847</u>	<u>1,376</u>	<u>1,583</u>	<u>1,837</u>	<u>2,132</u>	<u>2,473</u>
32	<u>5,900- 5,999</u>	<u>856</u>	<u>1,390</u>	<u>1,599</u>	<u>1,855</u>	<u>2,152</u>	<u>2,497</u>
33	<u>6,000- 6,099</u>	<u>864</u>	<u>1,404</u>	<u>1,614</u>	<u>1,872</u>	<u>2,172</u>	<u>2,520</u>
34	<u>6,100- 6,199</u>	<u>874</u>	<u>1,419</u>	<u>1,631</u>	<u>1,892</u>	<u>2,195</u>	<u>2,546</u>
35	<u>6,200- 6,299</u>	<u>883</u>	<u>1,433</u>	<u>1,645</u>	<u>1,912</u>	<u>2,217</u>	<u>2,572</u>
36	<u>6,300- 6,399</u>	<u>892</u>	<u>1,448</u>	<u>1,664</u>	<u>1,932</u>	<u>2,239</u>	<u>2,597</u>

1	<u>6,400- 6,499</u>	<u>901</u>	<u>1,462</u>	<u>1,682</u>	<u>1,951</u>	<u>2,260</u>	<u>2,621</u>
2	<u>6,500- 6,599</u>	<u>910</u>	<u>1,476</u>	<u>1,697</u>	<u>1,970</u>	<u>2,282</u>	<u>2,646</u>
3	<u>6,600- 6,699</u>	<u>919</u>	<u>1,490</u>	<u>1,713</u>	<u>1,989</u>	<u>2,305</u>	<u>2,673</u>
4	<u>6,700- 6,799</u>	<u>927</u>	<u>1,505</u>	<u>1,730</u>	<u>2,009</u>	<u>2,328</u>	<u>2,700</u>
5	<u>6,800- 6,899</u>	<u>936</u>	<u>1,519</u>	<u>1,746</u>	<u>2,028</u>	<u>2,350</u>	<u>2,727</u>
6	<u>6,900- 6,999</u>	<u>944</u>	<u>1,533</u>	<u>1,762</u>	<u>2,047</u>	<u>2,379</u>	<u>2,753</u>
7	<u>7,000- 7,099</u>	<u>952</u>	<u>1,547</u>	<u>1,778</u>	<u>2,065</u>	<u>2,394</u>	<u>2,779</u>
8	<u>7,100- 7,199</u>	<u>961</u>	<u>1,561</u>	<u>1,795</u>	<u>2,085</u>	<u>2,417</u>	<u>2,805</u>
9	<u>7,200- 7,299</u>	<u>971</u>	<u>1,574</u>	<u>1,812</u>	<u>2,104</u>	<u>2,439</u>	<u>2,830</u>
10	<u>7,300- 7,399</u>	<u>980</u>	<u>1,587</u>	<u>1,828</u>	<u>2,123</u>	<u>2,462</u>	<u>2,854</u>
11	<u>7,400- 7,499</u>	<u>989</u>	<u>1,600</u>	<u>1,844</u>	<u>2,142</u>	<u>2,483</u>	<u>2,879</u>
12	<u>7,500- 7,599</u>	<u>998</u>	<u>1,613</u>	<u>1,860</u>	<u>2,160</u>	<u>2,505</u>	<u>2,903</u>
13	<u>7,600- 7,699</u>	<u>1,006</u>	<u>1,628</u>	<u>1,877</u>	<u>2,180</u>	<u>2,528</u>	<u>2,929</u>
14	<u>7,700- 7,799</u>	<u>1,015</u>	<u>1,643</u>	<u>1,894</u>	<u>2,199</u>	<u>2,550</u>	<u>2,955</u>
15	<u>7,800- 7,899</u>	<u>1,023</u>	<u>1,658</u>	<u>1,911</u>	<u>2,218</u>	<u>2,572</u>	<u>2,981</u>
16	<u>7,900- 7,999</u>	<u>1,032</u>	<u>1,673</u>	<u>1,928</u>	<u>2,237</u>	<u>2,594</u>	<u>3,007</u>
17	<u>8,000- 8,099</u>	<u>1,040</u>	<u>1,688</u>	<u>1,944</u>	<u>2,256</u>	<u>2,616</u>	<u>3,032</u>
18	<u>8,100- 8,199</u>	<u>1,048</u>	<u>1,703</u>	<u>1,960</u>	<u>2,274</u>	<u>2,637</u>	<u>3,057</u>
19	<u>8,200- 8,299</u>	<u>1,056</u>	<u>1,717</u>	<u>1,976</u>	<u>2,293</u>	<u>2,658</u>	<u>3,082</u>
20	<u>8,300- 8,399</u>	<u>1,064</u>	<u>1,731</u>	<u>1,992</u>	<u>2,311</u>	<u>2,679</u>	<u>3,106</u>
21	<u>8,400- 8,499</u>	<u>1,072</u>	<u>1,746</u>	<u>2,008</u>	<u>2,328</u>	<u>2,700</u>	<u>3,130</u>
22	<u>8,500- 8,599</u>	<u>1,080</u>	<u>1,760</u>	<u>2,023</u>	<u>2,346</u>	<u>2,720</u>	<u>3,154</u>
23	<u>8,600- 8,699</u>	<u>1,092</u>	<u>1,780</u>	<u>2,047</u>	<u>2,374</u>	<u>2,752</u>	<u>3,191</u>
24	<u>8,700- 8,799</u>	<u>1,105</u>	<u>1,801</u>	<u>2,071</u>	<u>2,401</u>	<u>2,784</u>	<u>3,228</u>
25	<u>8,800- 8,899</u>	<u>1,118</u>	<u>1,822</u>	<u>2,094</u>	<u>2,429</u>	<u>2,816</u>	<u>3,265</u>
26	<u>8,900- 8,999</u>	<u>1,130</u>	<u>1,842</u>	<u>2,118</u>	<u>2,456</u>	<u>2,848</u>	<u>3,302</u>
27	<u>9,000- 9,099</u>	<u>1,143</u>	<u>1,863</u>	<u>2,142</u>	<u>2,484</u>	<u>2,880</u>	<u>3,339</u>
28	<u>9,100- 9,199</u>	<u>1,156</u>	<u>1,884</u>	<u>2,166</u>	<u>2,512</u>	<u>2,912</u>	<u>3,376</u>
29	<u>9,200- 9,299</u>	<u>1,168</u>	<u>1,904</u>	<u>2,190</u>	<u>2,539</u>	<u>2,944</u>	<u>3,413</u>
30	<u>9,300- 9,399</u>	<u>1,181</u>	<u>1,925</u>	<u>2,213</u>	<u>2,567</u>	<u>2,976</u>	<u>3,450</u>
31	<u>9,400- 9,499</u>	<u>1,194</u>	<u>1,946</u>	<u>2,237</u>	<u>2,594</u>	<u>3,008</u>	<u>3,487</u>
32	<u>9,500- 9,599</u>	<u>1,207</u>	<u>1,967</u>	<u>2,261</u>	<u>2,622</u>	<u>3,040</u>	<u>3,525</u>
33	<u>9,600- 9,699</u>	<u>1,219</u>	<u>1,987</u>	<u>2,285</u>	<u>2,650</u>	<u>3,072</u>	<u>3,562</u>
34	<u>9,700- 9,799</u>	<u>1,232</u>	<u>2,008</u>	<u>2,309</u>	<u>2,677</u>	<u>3,104</u>	<u>3,599</u>
35	<u>9,800- 9,899</u>	<u>1,245</u>	<u>2,029</u>	<u>2,332</u>	<u>2,705</u>	<u>3,136</u>	<u>3,636</u>
36	<u>9,900- 9,999</u>	<u>1,257</u>	<u>2,049</u>	<u>2,356</u>	<u>2,732</u>	<u>3,168</u>	<u>3,673</u>

1	<u>10,000-10,099</u>	<u>1,270</u>	<u>2,070</u>	<u>2,380</u>	<u>2,760</u>	<u>3,200</u>	<u>3,710</u>
2	<u>10,100-10,199</u>	<u>1,283</u>	<u>2,091</u>	<u>2,404</u>	<u>2,788</u>	<u>3,232</u>	<u>3,747</u>
3	<u>10,200-10,299</u>	<u>1,295</u>	<u>2,111</u>	<u>2,428</u>	<u>2,815</u>	<u>3,264</u>	<u>3,784</u>
4	<u>10,300-10,399</u>	<u>1,308</u>	<u>2,132</u>	<u>2,451</u>	<u>2,843</u>	<u>3,296</u>	<u>3,821</u>
5	<u>10,400-10,499</u>	<u>1,321</u>	<u>2,153</u>	<u>2,475</u>	<u>2,870</u>	<u>3,328</u>	<u>3,858</u>
6	<u>10,500-10,599</u>	<u>1,334</u>	<u>2,174</u>	<u>2,499</u>	<u>2,898</u>	<u>3,360</u>	<u>3,896</u>
7	<u>10,600-10,699</u>	<u>1,346</u>	<u>2,194</u>	<u>2,523</u>	<u>2,926</u>	<u>3,392</u>	<u>3,933</u>
8	<u>10,700-10,799</u>	<u>1,359</u>	<u>2,215</u>	<u>2,547</u>	<u>2,953</u>	<u>3,424</u>	<u>3,970</u>
9	<u>10,800-10,899</u>	<u>1,372</u>	<u>2,236</u>	<u>2,570</u>	<u>2,981</u>	<u>3,456</u>	<u>4,007</u>
10	<u>10,900-10,999</u>	<u>1,384</u>	<u>2,256</u>	<u>2,594</u>	<u>3,008</u>	<u>3,488</u>	<u>4,044</u>
11	<u>11,000-11,099</u>	<u>1,397</u>	<u>2,277</u>	<u>2,618</u>	<u>3,036</u>	<u>3,520</u>	<u>4,081</u>
12	<u>11,100-11,199</u>	<u>1,410</u>	<u>2,298</u>	<u>2,642</u>	<u>3,064</u>	<u>3,552</u>	<u>4,118</u>
13	<u>11,200-11,299</u>	<u>1,422</u>	<u>2,318</u>	<u>2,666</u>	<u>3,091</u>	<u>3,584</u>	<u>4,155</u>
14	<u>11,300-11,399</u>	<u>1,435</u>	<u>2,339</u>	<u>2,689</u>	<u>3,119</u>	<u>3,616</u>	<u>4,192</u>
15	<u>11,400-11,499</u>	<u>1,448</u>	<u>2,360</u>	<u>2,713</u>	<u>3,146</u>	<u>3,648</u>	<u>4,229</u>
16	<u>11,500-11,599</u>	<u>1,461</u>	<u>2,381</u>	<u>2,737</u>	<u>3,174</u>	<u>3,680</u>	<u>4,267</u>
17	<u>11,600-11,699</u>	<u>1,473</u>	<u>2,401</u>	<u>2,761</u>	<u>3,202</u>	<u>3,712</u>	<u>4,304</u>
18	<u>11,700-11,799</u>	<u>1,486</u>	<u>2,422</u>	<u>2,785</u>	<u>3,229</u>	<u>3,744</u>	<u>4,341</u>
19	<u>11,800-11,899</u>	<u>1,499</u>	<u>2,443</u>	<u>2,808</u>	<u>3,257</u>	<u>3,776</u>	<u>4,378</u>
20	<u>11,900-11,999</u>	<u>1,511</u>	<u>2,463</u>	<u>2,832</u>	<u>3,284</u>	<u>3,808</u>	<u>4,415</u>
21	<u>12,000-12,099</u>	<u>1,524</u>	<u>2,484</u>	<u>2,856</u>	<u>3,312</u>	<u>3,840</u>	<u>4,452</u>
22	<u>12,100-12,199</u>	<u>1,537</u>	<u>2,505</u>	<u>2,880</u>	<u>3,340</u>	<u>3,872</u>	<u>4,489</u>
23	<u>12,200-12,299</u>	<u>1,549</u>	<u>2,525</u>	<u>2,904</u>	<u>3,367</u>	<u>3,904</u>	<u>4,526</u>
24	<u>12,300-12,399</u>	<u>1,562</u>	<u>2,546</u>	<u>2,927</u>	<u>3,395</u>	<u>3,936</u>	<u>4,563</u>
25	<u>12,400-12,499</u>	<u>1,575</u>	<u>2,567</u>	<u>2,951</u>	<u>3,422</u>	<u>3,968</u>	<u>4,600</u>
26	<u>12,500-12,599</u>	<u>1,588</u>	<u>2,588</u>	<u>2,975</u>	<u>3,450</u>	<u>4,000</u>	<u>4,638</u>
27	<u>12,600-12,699</u>	<u>1,600</u>	<u>2,608</u>	<u>2,999</u>	<u>3,478</u>	<u>4,032</u>	<u>4,675</u>
28	<u>12,700-12,799</u>	<u>1,613</u>	<u>2,629</u>	<u>3,023</u>	<u>3,505</u>	<u>4,064</u>	<u>4,712</u>
29	<u>12,800-12,899</u>	<u>1,626</u>	<u>2,650</u>	<u>3,046</u>	<u>3,533</u>	<u>4,096</u>	<u>4,749</u>
30	<u>12,900-12,999</u>	<u>1,638</u>	<u>2,670</u>	<u>3,070</u>	<u>3,560</u>	<u>4,128</u>	<u>4,786</u>
31	<u>13,000-13,099</u>	<u>1,651</u>	<u>2,691</u>	<u>3,094</u>	<u>3,588</u>	<u>4,160</u>	<u>4,823</u>
32	<u>13,100-13,199</u>	<u>1,664</u>	<u>2,712</u>	<u>3,118</u>	<u>3,616</u>	<u>4,192</u>	<u>4,860</u>
33	<u>13,200-13,299</u>	<u>1,676</u>	<u>2,732</u>	<u>3,142</u>	<u>3,643</u>	<u>4,224</u>	<u>4,897</u>
34	<u>13,300-13,399</u>	<u>1,689</u>	<u>2,753</u>	<u>3,165</u>	<u>3,671</u>	<u>4,256</u>	<u>4,934</u>
35	<u>13,400-13,499</u>	<u>1,702</u>	<u>2,774</u>	<u>3,189</u>	<u>3,698</u>	<u>4,288</u>	<u>4,971</u>
36	<u>13,500-13,599</u>	<u>1,715</u>	<u>2,795</u>	<u>3,213</u>	<u>3,726</u>	<u>4,320</u>	<u>5,009</u>



1	<u>13,600-13,699</u>	<u>1,727</u>	<u>2,815</u>	<u>3,237</u>	<u>3,754</u>	<u>4,352</u>	<u>5,046</u>
2	<u>13,700-13,799</u>	<u>1,740</u>	<u>2,836</u>	<u>3,261</u>	<u>3,781</u>	<u>4,384</u>	<u>5,083</u>
3	<u>13,800-13,899</u>	<u>1,753</u>	<u>2,857</u>	<u>3,284</u>	<u>3,809</u>	<u>4,416</u>	<u>5,120</u>
4	<u>13,900-13,999</u>	<u>1,765</u>	<u>2,877</u>	<u>3,308</u>	<u>3,836</u>	<u>4,448</u>	<u>5,157</u>
5	<u>14,000-14,009</u>	<u>1,778</u>	<u>2,898</u>	<u>3,332</u>	<u>3,864</u>	<u>4,480</u>	<u>5,194</u>
6	<u>14,100-14,199</u>	<u>1,791</u>	<u>2,919</u>	<u>3,356</u>	<u>3,892</u>	<u>4,512</u>	<u>5,231</u>
7	<u>14,200-14,299</u>	<u>1,803</u>	<u>2,939</u>	<u>3,380</u>	<u>3,919</u>	<u>4,544</u>	<u>5,268</u>
8	<u>14,300-14,399</u>	<u>1,816</u>	<u>2,960</u>	<u>3,403</u>	<u>3,947</u>	<u>4,576</u>	<u>5,305</u>
9	<u>14,400-14,499</u>	<u>1,829</u>	<u>2,981</u>	<u>3,427</u>	<u>3,974</u>	<u>4,608</u>	<u>5,342</u>
10	<u>14,500-14,599</u>	<u>1,842</u>	<u>3,002</u>	<u>3,451</u>	<u>4,002</u>	<u>4,640</u>	<u>5,380</u>
11	<u>14,600-14,699</u>	<u>1,854</u>	<u>3,022</u>	<u>3,475</u>	<u>4,030</u>	<u>4,672</u>	<u>5,417</u>
12	<u>14,700-14,799</u>	<u>1,867</u>	<u>3,043</u>	<u>3,499</u>	<u>4,057</u>	<u>4,704</u>	<u>5,454</u>
13	<u>14,800-14,899</u>	<u>1,880</u>	<u>3,064</u>	<u>3,522</u>	<u>4,085</u>	<u>4,736</u>	<u>5,491</u>
14	<u>14,900-14,999</u>	<u>1,892</u>	<u>3,084</u>	<u>3,546</u>	<u>4,112</u>	<u>4,768</u>	<u>5,528</u>
15	<u>15,000, or</u>	<u>1,905</u>	<u>3,105</u>	<u>3,570</u>	<u>4,140</u>	<u>4,800</u>	<u>5,565</u>
16	<u>the amount</u>						
17	<u>in effect</u>						
18	<u>under subd. 4</u>						

19       Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a)  
20 The basic support obligation for parents with a combined monthly  
21 income in excess of the income limit currently in effect under  
22 subdivision 1 must be the same dollar amount as provided for  
23 parties with a combined monthly income equal to the income limit  
24 in effect under subdivision 1.

25       (b) A court may order a basic support obligation in a child  
26 support order in an amount that exceeds the income limit in  
27 subdivision 1 if it finds that a child has a disability or other  
28 substantial, demonstrated need for the additional support and  
29 that the additional support will directly benefit the child.

30       (c) The dollar amount for the cap in subdivision 1 must be  
31 adjusted on July 1 of every even-numbered year to reflect  
32 cost-of-living changes. The Supreme Court must select the index  
33 for the adjustment from the indices listed in section 518.641,  
34 subdivision 1. The state court administrator must make the  
35 changes in the dollar amounts required by this paragraph  
36 available to courts and the public on or before April 30 of the  
37 year in which the amount is to change.

1        Subd. 4. [MORE THAN SIX CHILDREN.] If a child support  
2 proceeding involves more than six children, the court may derive  
3 a support order without specifically following the guidelines.  
4 However, the court must consider the basic principles  
5 encompassed by the guidelines and must consider both parents'  
6 needs, resources, and circumstances.

7        Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and  
8 every four years after that, the commissioner of human services  
9 shall conduct a review of the child support guidelines.

10       Sec. 27. [518.729] [WORKSHEET.]

11       The commissioner of human services must create and publish  
12 a worksheet to assist in calculating child support under  
13 sections 518.711 to 518.728. The worksheet must not impose  
14 substantive requirements other than requirements contained in  
15 sections 518.711 to 518.728. The commissioner must update the  
16 worksheet by July 1 of each year. The commissioner must make an  
17 interactive version of the worksheet available on the Department  
18 of Human Services Web site.

19       Sec. 28. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT  
20 GUIDELINES.]

21       The commissioner of human services shall employ a private  
22 provider of policy studies to conduct an economic analysis of  
23 the child support guidelines contained in this act to evaluate:

24       (1) whether the guidelines fairly represent the cost of  
25 raising children for the respective parental income levels,  
26 excluding medical support, child care, and education costs;

27       (2) whether the standards for medical support and child  
28 care costs fairly apportion those costs between the parents,  
29 after consideration of the respective tax benefits; and

30       (3) whether the guidelines fairly reflect each parent's  
31 ability to provide for basic housing needs.

32       The results of the study shall be completed by no later  
33 than January 30, 2006. The private provider must have  
34 experience in evaluating or establishing child support  
35 guidelines, using the income shares approach, in other states.

36       Sec. 29. [REVISOR'S INSTRUCTION.]

1 The revisor of statutes shall renumber the provisions of  
 2 Minnesota Statutes listed in column A to the references listed  
 3 in column B. The revisor shall also make necessary  
 4 cross-reference changes in Minnesota Statutes and Minnesota  
 5 Rules consistent with the renumbering.

	<u>Column A</u>	<u>Column B</u>
6		
7	<u>518.5513</u>	<u>518.741</u>
8	<u>518.553</u>	<u>518.743</u>
9	<u>518.57</u>	<u>518.745</u>
10	<u>518.575</u>	<u>518.747</u>
11	<u>518.585</u>	<u>518.749</u>
12	<u>518.5851</u>	<u>518.751</u>
13	<u>518.5852</u>	<u>518.752</u>
14	<u>518.5853</u>	<u>518.753</u>
15	<u>518.6111</u>	<u>518.755</u>
16	<u>518.612</u>	<u>518.757</u>
17	<u>518.614</u>	<u>518.759</u>
18	<u>518.615</u>	<u>518.761</u>
19	<u>518.616</u>	<u>518.763</u>
20	<u>518.617</u>	<u>518.765</u>
21	<u>518.618</u>	<u>518.767</u>
22	<u>518.6195</u>	<u>518.769</u>
23	<u>518.6196</u>	<u>518.770</u>
24	<u>518.641</u>	<u>518.771</u>
25	<u>518.642</u>	<u>518.773</u>

26 Sec. 30. [REPEALER.]

27 Minnesota Statutes 2004, sections 518.54, subdivisions 2,  
 28 4, and 4a; 518.551, subdivisions 5a, 5c, and 5f; and 518.171,  
 29 are repealed."

30 Delete the title and insert:

31 "A bill for an act relating to civil law; reforming law  
 32 relating to child support; establishing criteria for support  
 33 obligations; defining parents' rights and responsibilities;  
 34 amending Minnesota Statutes 2004, sections 518.54, subdivisions  
 35 7, 8, 13; 518.55, subdivision 4; 518.551, subdivisions 5, 5b;  
 36 518.62; 518.64, subdivision 2; proposing coding for new law in  
 37 Minnesota Statutes, chapter 518; repealing Minnesota Statutes  
 38 2004, sections 518.171; 518.54, subdivisions 2, 4, 4a; 518.551,  
 9 subdivisions 5a, 5c, 5f."

1 Senator ..... moves to amend S.F. No. .... as follows:

2 Page .., after line .., insert:

3 "Sec. ... Minnesota Statutes 2004, section 3.978,

4 subdivision 2, is amended to read:

5 Subd. 2. [INQUIRY AND INSPECTION POWER; DUTY TO AID  
6 LEGISLATIVE AUDITOR.] All public officials and their deputies  
7 and employees, and all corporations, firms, and individuals  
8 having business involving the receipt, disbursement, or custody  
9 of public funds shall at all times afford reasonable facilities  
10 for examinations by the legislative auditor, make returns and  
11 reports required by the legislative auditor, attend and answer  
12 under oath the legislative auditor's lawful inquiries, produce  
13 and exhibit all books, accounts, documents, data of any  
14 classification, and property that the legislative auditor  
15 may ~~desire~~ need to inspect, and in all things aid the  
16 legislative auditor in the performance of duties."

- 1 Senator ..... moves to amend S.F. No. 853 as follows:
- 2 Page 1, line 13, delete "Notwithstanding section 13D.01 and"
- 3 Page 1, line 22, after "hear" insert "clearly and
- 4 understand"
- 5 Page 2, lines 20 and 21, delete "Notwithstanding section
- 6 13D.01 and"
- 7 Page 2, line 30, after "hear" insert "clearly and
- 8 understand"
- 9 Page 3, lines 19 and 20, delete "Notwithstanding section
- 10 13D.01 and"
- 11 Page 3, line 28, after "hear" insert "clearly and
- 12 understand"
- 13 Page 4, lines 17 and 18, delete "Notwithstanding section
- 14 13D.01 and"
- 15 Page 4, line 26, after "hear" insert "clearly and
- 16 understand"
- 17 Page 5, lines 15 and 16, delete "Notwithstanding section
- 18 13D.01 and"
- 19 Page 5, line 24, after "hear" insert "clearly and
- 20 understand"
- 21 Page 7, line 15, delete "Notwithstanding section 13D.01 and"
- 22 Page 7, line 24, after "hear" insert "clearly and
- 23 understand"
- 24 Amend the title as follows:
- 25 Page 1, line 3, delete "political subdivisions and"