

Senator Skoglund introduced--
S.F. No. 2066: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to animals; providing criminal penalties for
3 activities related to cockfighting, dogfighting, and
4 fighting of other domestic animals; creating
5 procedures for disposition and care of the animals;
6 providing for hearings; clarifying admissibility of
7 certain evidence; amending Minnesota Statutes 2004,
8 section 343.31.

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

10 Section 1. Minnesota Statutes 2004, section 343.31, is
11 amended to read:

12 343.31 [ANIMAL FIGHTS PROHIBITED AND POSSESSION OF FIGHTING
13 ANIMALS.]

14 Subdivision 1. [PENALTY FOR ANIMAL FIGHTING; ATTENDING
15 ANIMAL FIGHT.] Any A person who:

16 (1) promotes or, engages in, or is employed at in the
17 activity of cockfighting, dogfighting, or violent pitting of one
18 domestic animal against another of the same or a different kind;
19 or

20 (2) receives money for the admission of any a person to any
21 a place used, or about to be used, for that activity; or

22 (3) willfully permits any a person to enter or use for that
23 activity premises of which the permitter is the owner, agent, or
24 occupant; or

25 (4) uses, trains, or possesses a dog or other animal for
26 the purpose of participating in, engaging in, or promoting that
27 activity

1 is guilty of a felony. Any A person who purchases a ticket of
2 admission or otherwise gains admission to that activity is
3 guilty of a misdemeanor.

4 Subd. 2. [PENALTY FOR POSSESSING A FIGHTING DOG.] It is a
5 gross misdemeanor for a person to own, possess, or have custody
6 of a dog that has been trained or is being trained for use in
7 dog fights. It is conclusive that a dog has been trained or is
8 being trained to fight if:

9 (1) the dog exhibits fresh wounds, scarring, or other
10 indications that the dog has been or will be used for fighting;
11 and

12 (2) the person possesses training apparatus, paraphernalia,
13 or drugs known to be used to prepare dogs to be fought.

14 Subd. 3. [AFFIRMATIVE DEFENSE.] It is an affirmative
15 defense to prosecution, if it is proven by a preponderance of
16 the evidence, that:

17 (1) the person does not use the dog in dog fighting or
18 train the dog to be used in dog fighting; and

19 (2) drugs, accompanying drug paraphernalia, or exercise
20 equipment found in the person's possession are used solely to
21 maintain the health of the dog.

22 Subd. 4. [PENALTY FOR POSSESSING FIGHTING BIRDS.] It is a
23 gross misdemeanor for a person to own, possess, or have custody
24 of a cock or other type of bird that has been trained or is
25 being trained for use in bird fights. It is conclusive that a
26 bird has been trained or is being trained to fight if:

27 (1) the bird exhibits fresh wounds, scarring, or other
28 indications that the bird has been or will be used for fighting;
29 and

30 (2) the person possesses training apparatus, paraphernalia,
31 or drugs known to be used to prepare birds to be fought.

32 Subd. 5. [AFFIRMATIVE DEFENSE.] It is an affirmative
33 defense to prosecution, if it is proven by a preponderance of
34 the evidence, that:

35 (1) the person does not use the bird in bird fighting or
36 train the bird to be used in bird fighting; and

1 (2) drugs, accompanying drug paraphernalia, or exercise
2 equipment found in the person's possession are used solely to
3 maintain the health of the bird.

4 Subd. 6. [PEACE OFFICER DUTIES.] Animals described in
5 subdivisions 2 and 4 are dangerous weapons and constitute an
6 immediate danger to the safety of humans. A peace officer or
7 animal control authority may remove, shelter, and care for an
8 animal found in the circumstances described in subdivision 2 or
9 4. If necessary, a peace officer or animal control authority
10 may deliver the animal to another person to be sheltered and
11 cared for. In all cases, the peace officer must immediately
12 notify the owner, if known, as provided in subdivision 7. The
13 peace officer, animal control authority, or other person
14 assuming care of the animal shall have a lien on it for the
15 actual cost of care and keeping of the animal. If the owner or
16 custodian is unknown and cannot by reasonable effort be
17 ascertained, or does not, within ten days after notice, redeem
18 the animal by paying the expenses authorized by this
19 subdivision, the animal may be disposed of as provided in
20 subdivision 7.

21 Subd. 7. [DISPOSITION.] (a) An animal taken into custody
22 under subdivision 6 may be humanely disposed of at the
23 discretion of the jurisdiction having custody of the animal ten
24 days after the animal is taken into custody, if the procedures
25 in paragraph (c) are followed.

26 (b) The owner of an animal taken into custody under
27 subdivision 6 may prevent disposition of the animal by posting
28 security in an amount sufficient to provide for the actual costs
29 of care and keeping of the animal. The security must be posted
30 within ten days of the seizure inclusive of the date of the
31 seizure.

32 (c)(1) The authority taking custody of an animal under
33 subdivision 6 must give notice of this section by delivering or
34 mailing it to the owner of the animal, posting a copy of it at
35 the place where the animal is taken into custody, or delivering
36 it to a person residing on the property and telephoning, if

1 possible. The notice must include:

2 (i) a description of the animal seized; the authority and
3 purpose for the seizure; the time, place, and circumstances
4 under which the animal was seized; and the location, address,
5 telephone number, and contact person where the animal is kept;

6 (ii) a statement that the owner of the animal may post
7 security to prevent disposition of the animal and may request a
8 hearing concerning the seizure and impoundment and that failure
9 to do so within ten days of the date of the notice will result
10 in disposition of the animal; and

11 (iii) a statement that all actual costs of the care,
12 keeping, and disposal of the animal are the responsibility of
13 the owner of the animal, except to the extent that a court or
14 hearing officer finds that the seizure or impoundment was not
15 substantially justified by law. The notice must also include a
16 form that can be used by a person claiming an interest in the
17 animal for requesting a hearing.

18 (2) The owner may request a hearing within ten days of the
19 date of the seizure. If requested, a hearing must be held
20 within five business days of the request to determine the
21 validity of the impoundment. The municipality taking custody of
22 the animal or the municipality from which the animal was seized
23 may either (i) authorize a licensed veterinarian with no
24 financial interest in the matter or professional association
25 with either party, or (ii) use the services of a hearing officer
26 to conduct the hearing. An owner may appeal the hearing
27 officer's decision to the district court within five days of the
28 notice of the decision.

29 (3) The judge or hearing officer may authorize the return
30 of the animal if the judge or hearing officer finds that (i) the
31 animal is physically fit; (ii) the person claiming an interest
32 in the animal can and will provide the care required by law for
33 the animal; and (iii) the animal has not been used for violent
34 pitting or fighting.

35 (4) The person claiming an interest in the animal is liable
36 for all actual costs of care, keeping, and disposal of the

1 animal, except to the extent that a court or hearing officer
2 finds that the seizure or impoundment was not substantially
3 justified by law. The costs must be paid in full or a mutually
4 satisfactory arrangement for payment must be made between the
5 municipality and the person claiming an interest in the animal
6 before the return of the animal to the person.

7 Subd. 8. [PHOTOGRAPHS.] (a) Photographs of animals seized
8 during an investigation are competent evidence if the
9 photographs are admissible into evidence under all the rules of
10 law governing the admissibility of photographs into evidence. A
11 satisfactorily identified photographic record is as admissible
12 in evidence as the animal itself.

13 (b) A photograph must be accompanied by a written
14 description of the animals seized, the name of the owner of the
15 animals seized, the date of the photograph, and the signature of
16 the photographer.

17 Subd. 9. [VETERINARY INVESTIGATIVE REPORT.] (a) A report
18 completed by a Minnesota licensed veterinarian following an
19 examination of an animal seized during an investigation is
20 competent evidence. A satisfactorily identified veterinary
21 investigative report is as admissible in evidence as the animal
22 itself.

23 (b) The veterinary investigative report may contain a
24 written description of the animal seized, the medical evaluation
25 of the physical findings, the prognosis for recovery, and the
26 date of the examination and must contain the signature of the
27 veterinarian performing the examination.

1 A bill for an act

2 relating to animals; providing criminal penalties for
3 activities related to cockfighting, dogfighting, and
4 fighting of other domestic animals; creating
5 procedures for disposition and care of the animals;
6 providing for hearings; clarifying admissibility of
7 certain evidence; amending Minnesota Statutes 2004,
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11 amended to read:

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15 ANIMAL FIGHT.] Any A person who:

16 (1) promotes ~~er~~, engages in, or is employed ~~at~~ in the
17 activity of cockfighting, dogfighting, or violent pitting of one
18 domestic animal against another of the same or a different kind;
19 ~~er~~

20 (2) receives money for the admission of ~~any~~ a person to ~~any~~
21 a place used, or about to be used, for that activity; ~~er~~

22 (3) willfully permits ~~any~~ a person to enter or use for that
23 activity premises of which the permitter is the owner, agent, or
24 occupant; or

25 (4) uses, trains, or possesses a dog or other animal for
26 the purpose of participating in, engaging in, or promoting that
27 activity

1 is guilty of a felony. Any A person who purchases a ticket of
2 admission or otherwise gains admission to that activity is
3 guilty of a misdemeanor.

4 Subd. 2. [PENALTY FOR POSSESSING A FIGHTING DOG.] It is a
5 gross misdemeanor for a person to own, possess, or have custody
6 of a dog that has been trained or is being trained for use in
7 dog fights. There is a rebuttable presumption that a dog has
8 been trained or is being trained to fight if:

9 (1) the dog exhibits fresh wounds, scarring, or other
10 indications that the dog has been or will be used for fighting;
11 and

12 (2) the person possesses training apparatus, paraphernalia,
13 or drugs known to be used to prepare dogs to be fought.

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15 gross misdemeanor for a person to own, possess, or have custody
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17 being trained for use in bird fights. There is a rebuttable
18 presumption that a bird has been trained or is being trained to
19 fight if:

20 (1) the bird exhibits fresh wounds, scarring, or other
21 indications that the bird has been or will be used for fighting;
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23 (2) the person possesses training apparatus, paraphernalia,
24 or drugs known to be used to prepare birds to be fought.

25 Subd. 4. [PEACE OFFICER DUTIES.] Animals described in
26 subdivisions 2 and 3 are dangerous weapons and constitute an
27 immediate danger to the safety of humans. A peace officer or
28 animal control authority may remove, shelter, and care for an
29 animal found in the circumstances described in subdivision 2 or
30 3. If necessary, a peace officer or animal control authority
31 may deliver the animal to another person to be sheltered and
32 cared for. In all cases, the peace officer or animal control
33 authority must immediately notify the owner, if known, as
34 provided in subdivision 5. The peace officer, animal control
35 authority, or other person assuming care of the animal shall
36 have a lien on it for the actual cost of care and keeping of the

1 animal. If the owner or custodian is unknown and cannot by
2 reasonable effort be ascertained, or does not, within ten days
3 after notice, redeem the animal by paying the expenses
4 authorized by this subdivision, the animal may be disposed of as
5 provided in subdivision 7.

6 Subd. 5. [DISPOSITION.] (a) An animal taken into custody
7 under subdivision 4 may be humanely disposed of at the
8 discretion of the jurisdiction having custody of the animal ten
9 days after the animal is taken into custody, if the procedures
10 in paragraph (c) are followed.

11 (b) The owner of an animal taken into custody under
12 subdivision 4 may prevent disposition of the animal by posting
13 security in an amount sufficient to provide for the actual costs
14 of care and keeping of the animal. The security must be posted
15 within ten days of the seizure inclusive of the date of the
16 seizure. If, however, a hearing is scheduled within ten days of
17 the seizure, the security amount must be posted prior to the
18 hearing.

19 (c) (1) The authority taking custody of an animal under
20 subdivision 4 must give notice of this section by delivering or
21 mailing it to the owner of the animal, posting a copy of it at
22 the place where the animal is taken into custody, or delivering
23 it to a person residing on the property and telephoning, if
24 possible. The notice must include:

25 (i) a description of the animal seized; the authority and
26 purpose for the seizure; the time, place, and circumstances
27 under which the animal was seized; and a contact person and
28 telephone number;

29 (ii) a statement that the owner of the animal may post
30 security to prevent disposition of the animal and may request a
31 hearing concerning the seizure and impoundment and that failure
32 to do so within ten days of the date of the notice will result
33 in disposition of the animal; and

34 (iii) a statement that all actual costs of the care,
35 keeping, and disposal of the animal are the responsibility of
36 the owner of the animal, except to the extent that a court or

1 hearing officer finds that the seizure or impoundment was not
2 substantially justified by law. The notice must also include a
3 form that can be used by a person claiming an interest in the
4 animal for requesting a hearing.

5 (2) The owner may request a hearing within ten days of the
6 date of the seizure. If requested, a hearing must be held
7 within five business days of the request to determine the
8 validity of the impoundment. The municipality taking custody of
9 the animal or the municipality from which the animal was seized
10 may either (i) authorize a licensed veterinarian with no
11 financial interest in the matter or professional association
12 with either party, or (ii) use the services of a hearing officer
13 to conduct the hearing. An owner may appeal the hearing
14 officer's decision to the district court within five days of the
15 notice of the decision.

16 (3) The judge or hearing officer may authorize the return
17 of the animal if the judge or hearing officer finds that (i) the
18 animal is physically fit; (ii) the person claiming an interest
19 in the animal can and will provide the care required by law for
20 the animal; and (iii) the animal has not been used for violent
21 pitting or fighting.

22 (4) The person claiming an interest in the animal is liable
23 for all actual costs of care, keeping, and disposal of the
24 animal, except to the extent that a court or hearing officer
25 finds that the seizure or impoundment was not substantially
26 justified by law. The costs must be paid in full or a mutually
27 satisfactory arrangement for payment must be made between the
28 municipality and the person claiming an interest in the animal
29 before the return of the animal to the person.

30 Subd. 6. [PHOTOGRAPHS.] (a) Photographs of animals seized
31 during an investigation are competent evidence if the
32 photographs are admissible into evidence under all the rules of
33 law governing the admissibility of photographs into evidence. A
34 satisfactorily identified photographic record is as admissible
35 in evidence as the animal itself.

36 (b) A photograph must be accompanied by a written

1 description of the animals seized, the name of the owner of the
2 animals seized, the date of the photograph, and the name,
3 address, organization, and signature of the photographer.

4 Subd. 7. [VETERINARY INVESTIGATIVE REPORT.] (a) A report
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6 examination of an animal seized during an investigation is
7 competent evidence. A satisfactorily identified veterinary
8 investigative report is as admissible in evidence as the animal
9 itself.

10 (b) The veterinary investigative report may contain a
11 written description of the animal seized, the medical evaluation
12 of the physical findings, the prognosis for recovery, and the
13 date of the examination and must contain the name, address,
14 veterinary clinic, and signature of the veterinarian performing
15 the examination.

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2 animals seized, the date of the photograph, and the name,
3 address, organization, and signature of the photographer.

4 Subd. 7. [VETERINARY INVESTIGATIVE REPORT.] (a) A report
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6 examination of an animal seized during an investigation is
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8 investigative report is as admissible in evidence as the animal
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10 (b) The veterinary investigative report may contain a
11 written description of the animal seized, the medical evaluation
12 of the physical findings, the prognosis for recovery, and the
13 date of the examination and must contain the name, address,
14 veterinary clinic, and signature of the veterinarian performing
15 the examination.

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

3 S.F. No. 2066: A bill for an act relating to animals;
4 providing criminal penalties for activities related to
5 cockfighting, dogfighting, and fighting of other domestic
6 animals; creating procedures for disposition and care of the
7 animals; providing for hearings; clarifying admissibility of
8 certain evidence; amending Minnesota Statutes 2004, section
9 343.31.

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

12 Pages 4 and 5, delete subdivisions 6 and 7

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

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.....
(Committee Chair)

April 7, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
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JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1416 - Class Actions Certification

Author: Senator Julieanne E. Ortman

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

Date: April 7, 2005

S.F. No. 1416 allows immediate appeals of orders by trial judges that certify or refuse to certify classes for class actions. All other proceedings in the action are stayed while an appeal is being decided.

HW:cs

Senators Ortman, Michel and Gerlach introduced--

S.F. No. 1416: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to civil actions; providing for interlocutory
3 appeal on the question of class certification in a
4 civil action; specifying required damages in order to
5 be a member of a class; proposing coding for new law
6 in Minnesota Statutes, chapter 540.

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

8 Section 1. [540.19] [CLASS ACTIONS.]

9 Subdivision 1. [INTERLOCUTORY APPEAL.] A court's order
10 certifying a class or refusing to certify a class action is
11 appealable in the same manner as a final order to the Court of
12 Appeals. An appeal must be filed within 30 days of the order
13 certifying or refusing to certify the class. Pending appeal
14 under this subdivision, all discovery and other proceedings in
15 the district court are stayed during the pendency of the appeal
16 unless the Court of Appeals finds upon the motion of a party
17 that specific discovery is necessary to preserve evidence or
18 prevent undue prejudice to the party.

19 Subd. 2. [DAMAGE REQUIREMENT TO BE CLASS MEMBER.] In order
20 to be a member of a class, an individual must have suffered an
21 ascertainable loss of money or property, real or personal.

22 Sec. 2. [EFFECTIVE DATE; APPLICATION.]

23 Section 1 is effective August 1, 2005, and applies to
24 actions commenced on or after that date.

Civil Justice Coalition

Working to reform Minnesota's legal system

Class Action Reform

H.F. 1325 (Rep. Chris DeLaForest)/S.F. 1416 (Sen. Julianne Ortman)

H.F. 1325/S.F. 1416 provides for an appeal of class certification to the Court of Appeals at the time of the District Court's decision. Importantly, all discovery and other proceedings in the district court would be stayed during the appeal unless the Court of Appeals finds that specific discovery is necessary to preserve evidence. H.F. 1325/S.F. 1416 also requires class members to demonstrate they have suffered an ascertainable loss of money or property.

Q: Why is this legislation needed?

A: The most important moment in a class action case is the certification decision. Currently, a defendant can not appeal class certification until all of the issues in front of the district court have been decided. This system allows plaintiffs to pursue all discovery increasing expenses and costs before the defendant has the opportunity to appeal the certification decision. If questions about proper class certification can be resolved by the Minnesota Court of Appeals before the costly discovery and trial phases proceed, only appropriate class action cases will move forward and defendants will be able to focus on better settlement decisions.

Q: Is this legislation needed since federal class action reform has become law?

A: The federal class action reform law will take most, but not all, class action cases out of the state court system. State class action cases are still possible if the claim for damages is less than \$5 million and the class consists of only Minnesota citizens. In addition, federal courts may decline jurisdiction of a class action case under certain circumstances and must decline jurisdiction under other circumstances (i.e. an action against a company in its home state in which two-thirds or more of the class member are also residents of the state). H.F. 1325/S.F. 1416 makes sure that when class action cases are in Minnesota courts, the proper procedures are used so that defendants aren't faced with the dilemma of needing to settle the case before an appellate court addresses issues regarding class certification.

Q: Why should class members have to demonstrate that they have suffered an ascertainable loss of money or property?

A: In certain class action cases, some class members have not suffered any damage. A requirement that all class members demonstrate that they have suffered an ascertainable loss of money or property guarantees that the courts time is being well used and that class action cases are reserved for parties that have truly suffered some loss.

McDonald's®

2004 Instant Prize Giveaway

You could be one of 15 lucky winners to receive \$1,000,000*.

There are no game pieces and no purchase is necessary.

All you have to do is be at the right participating McDonald's at the right time from March 5-7, 2004.

If you're randomly selected as a winner, our prize officials will award you with your prize.**

This Giveaway is being offered pursuant to the Stipulation of Settlement approved by Judge Stephen Schiller and entered in the consumer class action lawsuit Boland, et al. vs. Simon Marketing, Inc., and McDonald's Corp., Case No. 01 CH 13803, in the Circuit Court of Cook County, Illinois.

*There are 15 Prizes of \$1,000,000 each paid as \$50,000 a year for 20 years without interest.

**Winner selection subject to verification of eligibility and compliance with the Official Rules.

NO PURCHASE NECESSARY. The Instant Prize Giveaway begins on March 5, 2004 and ends March 7, 2004 at participating McDonald's restaurants in the United States, Canada, Aruba, Guam, Bahamas, Curacao, Jamaica, Puerto Rico, St. Croix, St. Maarten, St. Thomas, Saipan, Suriname, Trinidad, and U.S. Virgin Islands. Each day of the Giveaway begins at 7 a.m. local time or upon individual restaurant opening, whichever is later, and ends each day 30 minutes prior to business close or 11:30 p.m. local time, whichever is earlier. See Official Rules at participating McDonald's or mcdonalds.com for eligibility, redemption instructions/deadlines, odds, prize descriptions/restrictions, ARVs, and other details. Void where prohibited.

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

3 S.F. No. 1416: A bill for an act relating to civil
4 actions; providing for interlocutory appeal on the question of
5 class certification in a civil action; specifying required
6 damages in order to be a member of a class; proposing coding for
7 new law in Minnesota Statutes, chapter 540.

8 Reports the same back with the recommendation that the bill
9 do pass and be re-referred to the Committee on Finance. Report
10 adopted.

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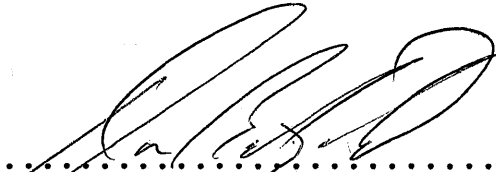
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.....
(Committee Chair)

April 7, 2005.....
(Date of Committee recommendation)

TO: Minnesota State Legislature
Senate Judiciary Committee
Don Betzold, Chairman; Wesley Skoglund, Vice Chair
Members: Satveer Chaudhary, Warren Limmer, Thomas Neuville, Ann Rest,
David Hann, John Marty, Julianne Ortman

FROM: Minnesota Ski Area Operators
Leigh Nelson, President, Welch Village Resort

DATE: April 6, 2005

SUBJ: S.F. #415 Ski Safety Bill

The subject legislation, a bill defining the responsibilities of skiers and ski areas relative to safety, was authored by Senator Dallas Sams, and by Rep. Heidgerken in House File 1931. As a representative of the ski area operators in Minnesota, we wish to lend our support to passage of this bill in this legislative year.

A ski safety bill is critical to survival of our industry in the State of Minnesota for the following reasons:

- 1) In attached Table 1, a listing of Minnesota Ski Areas shows 15 remaining in operation while 20 have closed their doors.
- 2) As shown on the attached map, states with ski safety laws number 26, including the midwestern states of Michigan, Wisconsin, Ohio and North Dakota. Both Michigan and Wisconsin have more than 30 ski areas, and a lively winter tourism business.
- 3) A survey of nine of the 15 remaining Minnesota ski areas has revealed alarming litigation statistics in recent years:
 - a. Threatened lawsuits - 225
 - b. Settlements out of Court - 67
 - c. Summary judgments - 15
 - d. Court Trials - 2

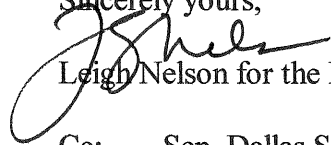
Liability insurance rates for the industry have gone up nearly five-fold in the last 5 years.

Continued

- 4) The Minnesota Ski Area Business is worth saving, with an estimated 1.5 million annual winter visits, taxable revenue of over 50 million dollars, and a winter employment base of 5000 jobs. Without a ski safety bill, more losses of ski areas are anticipated within 5 years.
- 5) Passage of the ski safety bill could stimulate some areas, especially those in small municipalities, to once again open for business, and stimulate growth for the industry.

The ski safety bill S.F. 415 as proposed includes provisions for the American National Standards Institute B77.1 Code for ski lift operations, essential to their proper operation and maintenance. It also includes definition of inherent risk aspects of the sport, encouraging responsible behavior by skiers and snowboarders. We sincerely urge the Senate Judiciary Committee to consider the positive merits of the ski safety bill.

Sincerely yours,



Leigh Nelson for the Minnesota Ski Areas

Cc: Sen. Dallas Sams
328 Capital Building
75 Dr. Martin Luther King Jr. Blvd
St. Paul, MN 55155

Rep. Bud Heidgerken
359 State Office Building
100 Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

MINNESOTA SKI INDUSTRY 2005

REMAINING

1. Afton Alps
2. Andes Tower Hills
3. Buck Hill
4. Buena Vista
5. Coffee Mill
6. Giants Ridge
7. Hyland Hills
8. Lutsen Mountains
9. Mont Du Lac
10. Mount Kato
11. Powder Ridge
12. Spirit Mountain
13. Steeplechase
14. Welch Village
15. Wild Mountain

15 Left!

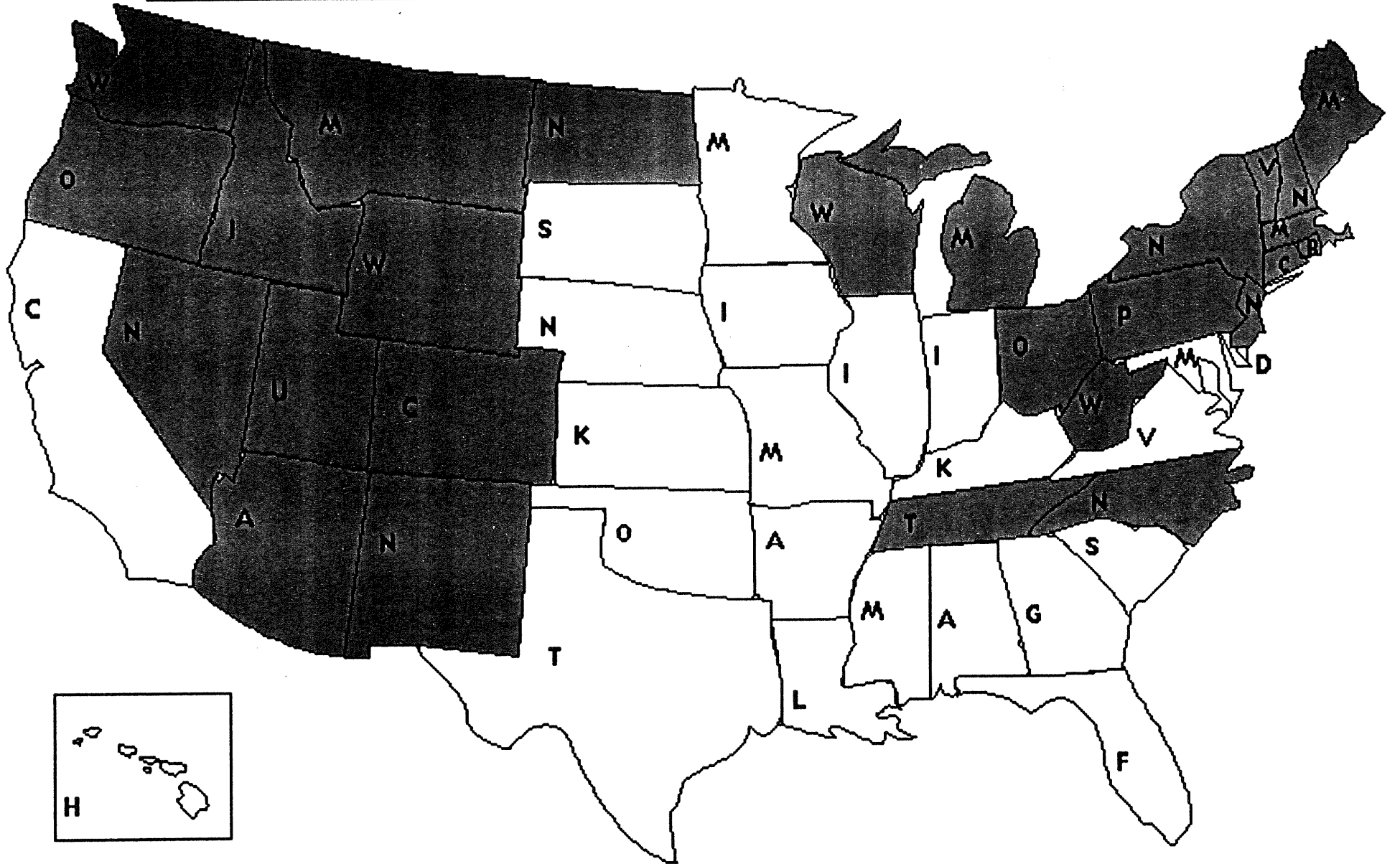
CLOSED

1. Battle Creek
2. Buffalo Valley
3. Cedar Hills
4. Como Park
5. Glenwood
6. Inver Hills
7. Lookout Mt.
8. Moon Valley
9. Mt. Rockwood
10. Mt. Frontenac
11. Nor Ski Hills
12. Phalen Park
13. Pine Bend
14. Quadna Mt.
15. Sawtooth Mt.
16. Silver Creek
17. Ski Tonka
18. Sugar Hills
19. Theodore Wirth
20. Val Chatel

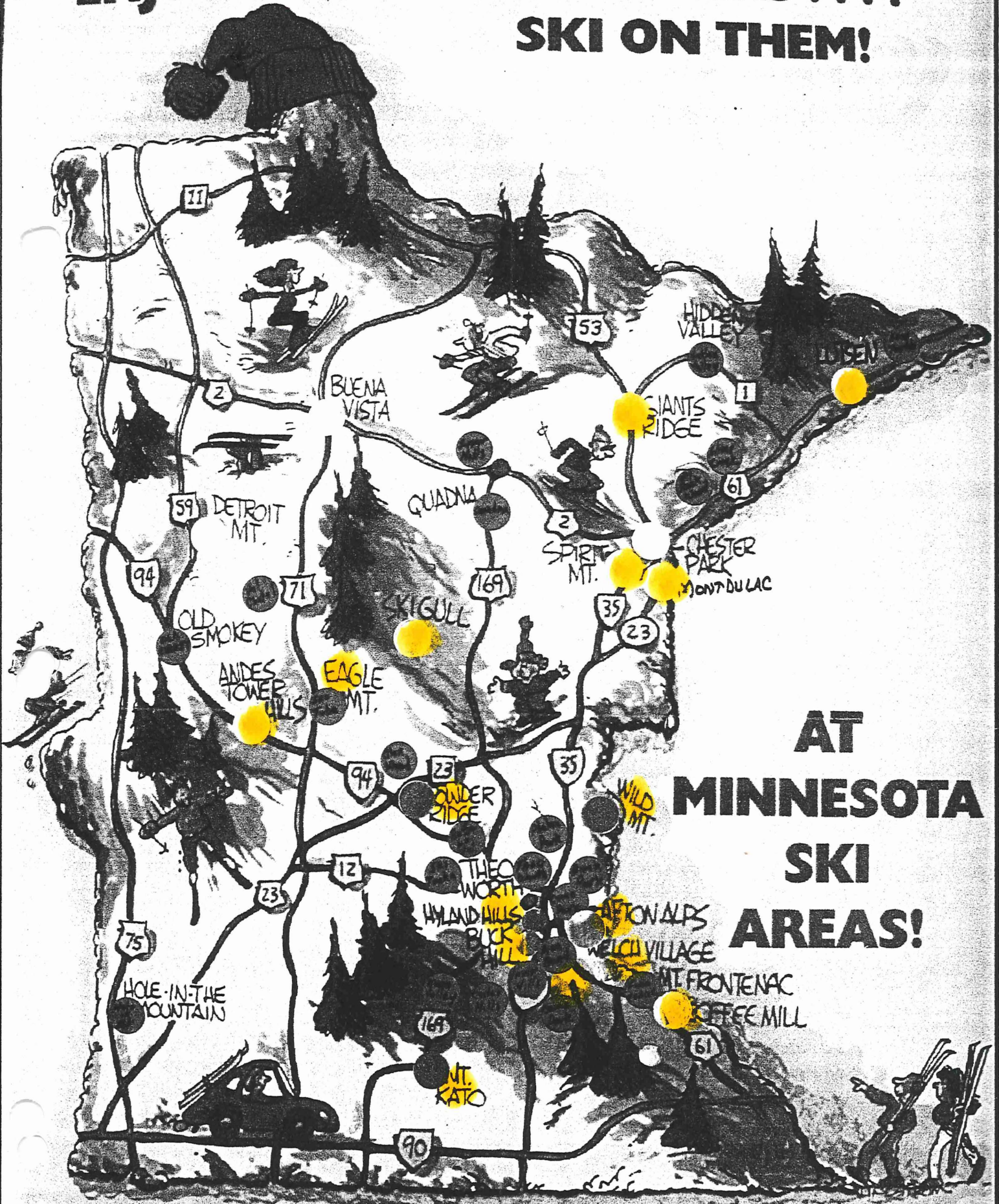
20 Gone!



■ - States with Skier Safety Laws



**ENJOY MINNESOTA WINTERS
SKI ON THEM!**



**AT
MINNESOTA
SKI
AREAS!**

11

2

59

94

71

169

35

23

94

23

35

75

23

12

169

90

53

1

61

2

35

23

61

61

DETROIT MT.

OLD SMOKEY

ANDES TOWER HILLS

HOLE-IN-THE MOUNTAIN

BUENA VISTA

QUADNA

XIGULE

EAGLE MT.

UNDER RIDGE

THEO WORTH
HYLAND HILLS
BUCK HILLS

MT. KATO

HIDDEN VALLEY

LOISEN

GIANTS RIDGE

SPIRIT MT.

CHESTER PARK
MONTE DULAC

WILD MT.

NATIONALS
WELCH VILLAGE

MT. FRONTENAC
CREEK MILL

Senators Sams, Langseth, Koering and Johnson, D.E. introduced--
S.F. No. 415: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to civil liability; defining the
3 responsibilities of ski area operators and skiers;
4 defining the rights and liabilities between skiers and
5 between a skier and a ski area operator; prohibiting
6 actions for injuries resulting from the inherent
7 dangers and risks of skiing; proposing coding for new
8 law in Minnesota Statutes, chapter 604A.

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

10 Section 1. [LEGISLATIVE DECLARATION.]

11 The legislature finds that it is in the interest of the
12 state of Minnesota to establish reasonable safety standards for
13 the operation of ski areas and for the skiers using them.
14 Realizing the dangers that inhere in the sport of skiing,
15 regardless of any and all reasonable safety measures that can be
16 employed, the purpose of this act is to further define the legal
17 responsibilities of ski area operators and their agents and
18 employees, to define the responsibilities of skiers using these
19 ski areas, and to define the rights and liabilities existing
20 between the skier and the ski area operator and between skiers.

21 Sec. 2. [604A.40] [DEFINITIONS.]

22 Subdivision 1. [TERMS.] For purposes of sections 604A.40
23 to 604A.48, the terms in this section have the meanings given
24 them unless the context otherwise requires.

25 Subd. 2. [BASE AREA LIFT.] "Base area lift" means a
26 passenger tramway that skiers ordinarily use without first using
27 some other passenger tramway.

1 Subd. 3. [COMPETITOR.] "Competitor" means a skier actually
2 engaged in competition or in practice for competition with or
3 without the permission or consent of the ski area operator on a
4 slope or trail or portion of a slope or trail designated by the
5 ski area operator for the purpose of competition.

6 Subd. 4. [INHERENT DANGERS AND RISKS OF SKIING.] "Inherent
7 dangers and risks of skiing" means those dangers or conditions
8 that can cause personal injury or death and for which no
9 recovery shall lie, which are an integral part of the sport of
10 skiing, including, but not limited to:

11 (1) changing weather conditions;

12 (2) snow and trail surface conditions as they exist or may,
13 from time-to-time, change as a result of weather changes, skier
14 use, grooming and snow-making operations, and surface
15 conditions, including ice, hard pack, powder, packed powder,
16 wind packed, corn, crust, slush, cut-snow, and machine-made or
17 groomed snow;

18 (3) surface or subsurface conditions such as bare ice
19 spots, forest growth, rocks, stumps, streambeds, and trees, or
20 other objects or conditions including injuries that are caused
21 by or result from any of these objects or conditions referred to
22 or reasonably included in this subdivision, and collisions with
23 them;

24 (4) lift towers, signs, posts, fences or enclosures,
25 hydrants, water pipes, and other manmade structures and their
26 components, as well as injuries caused by or resulting from
27 collisions with these objects or conditions; and

28 (5) variations in steepness or terrain, whether natural or
29 as a result of slope design, grooming and snow-making operations
30 including, but not limited to, roads and catwalks or other
31 terrain modifications.

32 Nothing in this section limits or expands the liability of
33 the ski area operator for injury to passengers by the use of ski
34 lifts.

35 Subd. 5. [PASSENGER.] "Passenger" means a person who is
36 lawfully using a passenger tramway.

1 Subd. 6. [PASSENGER TRAMWAY.] "Passenger tramway" means a
 2 device used to transport passengers uphill on skis by steel
 3 cables, chains, belts, or ropes, and usually supported by
 4 trestles or towers with one or more spans.

5 Subd. 7. [SKI AREA.] "Ski area" means all ski slopes or
 6 trails and other places under the control of a ski area operator
 7 and administered as a single enterprise within this state.

8 Subd. 8. [SKI AREA OPERATOR.] "Ski area operator" means an
 9 individual who owns, manages, or directs the operation of a
 10 passenger tramway and an individual, partnership, limited
 11 liability company, corporation, or other entity having
 12 operational responsibility for any ski areas.

13 Subd. 9. [SKIER.] "Skier" means a person using a ski area
 14 for the purpose of:

15 (1) skiing;

16 (2) sliding on snow or ice on skis, a toboggan, a sled, a
 17 tube, a ski-bob, a snowboard ski, or any other device; or

18 (3) using any of the facilities of the ski area including,
 19 but not limited to, ski slopes and trails.

20 Subd. 10. [SKI SLOPES OR TRAILS.] "Ski slopes or trails"
 21 means those areas formally designated by the ski area operator
 22 to be used by skiers for any of the purposes in subdivision 9.
 23 The designation must be set forth on trail maps, if provided,
 24 and designated by signs indicating to the skiing public the
 25 intent that the areas be used by skiers for the purpose of
 26 skiing. Nothing in this subdivision or subdivision 9 implies
 27 that ski slopes or trails may not be restricted for use by
 28 persons using skis only or for use by persons using any other
 29 device described in subdivision 9.

30 Sec. 3. [604A.41] [CIVIL ACTIONS.]

31 Subdivision 1. [GENERALLY.] A violation of a requirement
 32 of sections 604A.40 to 604A.48 constitutes negligence on the
 33 part of the person violating the requirement.

34 Subd. 2. [ACTION FOR INJURY RESULTING FROM INHERENT
 35 DANGERS AND RISKS OF SKIING.] A ski area operator is not liable
 36 for injury resulting from the inherent dangers and risks of

1 skiing.

2 Sec. 4. [604A.42] [DUTIES OF PASSENGERS.]

3 (a) No passenger shall board a passenger tramway if the
4 passenger does not have sufficient physical dexterity, ability,
5 and knowledge to use the facility safely or until the passenger
6 has asked for and received information sufficient to enable the
7 passenger to use the equipment safely. A passenger is required
8 to follow any posted written or verbal instructions that are
9 given regarding the use of the passenger tramway.

10 (b) No passenger shall:

11 (1) embark upon or disembark from a passenger tramway
12 except at a designated area, except in the event of a stoppage
13 of the passenger tramway and then only under the supervision of
14 the operator, or unless reasonably necessary in the event of an
15 emergency to prevent injury to the passenger or others;

16 (2) throw or expel any object from a passenger tramway
17 while riding on the device;

18 (3) act, while riding on a passenger tramway, in a manner
19 that may interfere with proper or safe operation of the
20 passenger tramway;

21 (4) engage in any type of conduct that may contribute to or
22 cause injury to a person;

23 (5) place in an uphill track of a J-bar, T-bar, platter
24 pull, rope tow, or any other surface lift any object that could
25 cause another skier to fall;

26 (6) embark upon a passenger tramway marked as closed; or

27 (7) disobey any instructions permitted to be posted in
28 accordance with sections 604A.40 to 604A.48 or any verbal
29 instruction by the ski area operator regarding the proper or
30 safe use of a passenger tramway, whether in an emergency or
31 evacuation situation or otherwise.

32 Sec. 5. [604A.43] [DUTIES OF OPERATORS; SIGNS.]

33 Subdivision 1. [MANDATORY SIGNS.] Each ski area operator
34 shall maintain a sign system with concise, simple, and pertinent
35 information for the instruction of passengers. Signs must be
36 prominently placed on each passenger tramway readable in

1 conditions of ordinary visibility and, where applicable,
2 adequately lighted for nighttime passengers. Signs must be
3 posted at or near the loading point of each passenger tramway,
4 regardless of the type. Instructions and warnings for use of
5 lifts shall be posted at the loading area and may include the
6 duties and obligations of the passenger, as well as of the
7 skier, including the skier's responsibility code, and other
8 instructional signs. Signs must include the following:
9 FIXED GRIP CHAIRLIFTS
10 "Remove Pole Straps from Wrists - Until Unloaded" (at the
11 loading area of lifts used primarily for skiers)
12 "Check for Loose Clothing and Equipment" (two signs required -
13 one at the loading area and one in the vicinity of the "Prepare
14 to Unload" sign)
15 "Load Here" (at loading point)
16 "Keep Ski Tips Up" (ahead of any point where skiers are carried
17 and skis may come in contact with a platform or snow surface)
18 "Prepare to Unload" (not less than 50 feet ahead of the
19 unloading area)
20 "Unload Here"
21 "Stop Gate" (if applicable)
22 Signs shall be visible at all points of downhill loading
23 area.
24 SURFACE LIFTS
25 "Remove Pole Straps from Wrists - Until Unloaded" (at the
26 loading area of lifts)
27 "Check for Loose Clothing and Equipment" (two signs required -
28 one at the loading area and one in the vicinity of the "Prepare
29 to Unload" sign)
30 "Load Here" (at loading point)
31 "Stay in Track"
32 "Prepare to Unload" (not less than 50 feet ahead of the
33 unloading area)
34 "Unload Here"
35 "Stop Gate" (if applicable)
36 TOWS

- 1 "No Loose Scarves" (at the loading area)
2 "No Loose Clothing" (at the loading area)
3 "No Long Hair Exposed" (at the loading area)
4 "Stay in Track"
5 "Unload Here"
6 "Stop Gate" (if applicable)
7 ALL LIFT TYPES
8 Entrances to all machinery, operators' rooms, and attendants'
9 rooms must be posted with a sign prohibiting the entry of
10 unauthorized persons.
11 Instructions and warnings for the use of lifts must be posted at
12 the loading area and may include the duties and obligations of
13 the passenger, as well as the skier's responsibility code.
14 DETACHABLE LIFTS
15 Additional signs for gondola lifts (to be posted on the interior
16 of each carrier).
17 The maximum capacity of each carrier in pounds and kilograms and
18 the number of passengers (this shall also be posted at each
19 loading area).
20 Instructions for procedure in emergencies.
21 ADDITIONAL SIGNS FOR DETACHABLE CHAIRLIFTS
22 "Remove Pole Straps From Wrists - Until Unloaded" (at the
23 loading area of lifts used primarily for skiers)
24 "Check for Loose Clothing and Equipment" (two signs required -
25 one at the loading area and one in the vicinity of the "Prepare
26 to Unload" sign)
27 "Load Here" (at loading point)
28 "Keep Ski Tips Up" (ahead of any point where skiers are carried
29 and skis may come in contact with a platform or snow surface)
30 "Prepare to Unload" (not less than 50 feet ahead of the
31 unloading area)
32 "Unload Here"
33 "Stop Gate" (if applicable)
34 Signs must be visible at all points of downhill loading
35 listing the downhill capacity of the lift.
36 Subd. 2. [OTHER SIGNS.] Other signs not specified by

1 subdivision 1 may be posted at the discretion of the ski area
2 operator.

3 Subd. 3. [DAILY INSPECTIONS.] The ski area operator,
4 before opening the passenger tramway to the public each day,
5 shall inspect the passenger tramway for the presence and
6 visibility of the signs required by subdivision 1.

7 Subd. 4. [EFFECT OF COMPLIANCE.] The extent of the
8 responsibility of the ski area operator under this section is to
9 post and maintain the signs required by subdivision 1.

10 Sec. 6. [604A.44] [DUTIES OF SKI AREA OPERATORS; SIGNS
11 REQUIRED FOR SKIERS' INFORMATION.]

12 Subdivision 1. [GENERALLY.] Each ski area operator shall
13 maintain a sign and marking system as set forth in this section
14 in addition to that required by section 604A.43. All signs
15 required by this section must be maintained so as to be readable
16 and recognizable under conditions of ordinary visibility and
17 where applicable, adequately lighted for nighttime visibility.
18 Other warning or informational signs may be posted at the
19 discretion of the ski area operator.

20 Subd. 2. [UPHILL LOADING POINT OF BASE AREA LIFT; REQUIRED
21 SIGNS.] A sign must be placed in such a position as to be
22 recognizable as a sign to skiers proceeding to the uphill
23 loading point of each base area lift depicting and explaining
24 signs and symbols that the skier may encounter at the ski area
25 as follows:

26 (1) the ski area's least difficult trails and slopes,
27 designated by a green circle and the word "easiest";

28 (2) the ski area's most difficult trails and slopes,
29 designated by a black diamond and the words "most difficult";

30 (3) all remaining trails and slopes must be designated by a
31 blue square and the words "more difficult";

32 (4) caution areas, designated by a red exclamation point
33 inside a yellow triangle with a red band around the triangle and
34 the word "Caution" printed beneath the emblem. Ski area
35 operators do not have an obligation to post caution signs at
36 locations presenting inherent dangers or risks of skiing; and

1 (5) closed trails or slopes, designated by an octagonal
2 sign with a red border around a white interior containing a
3 black figure in the shape of a skier with a black band running
4 diagonally across the sign from the upper right-hand side to the
5 lower left-hand side and with the word "Closed" printed beneath
6 the emblem.

7 Subd. 3. [CLOSED TRAILS OR SLOPES.] If a particular trail
8 or slope or portion of a trail or slope is closed to the public
9 by a ski area operator, the operator shall place a sign
10 notifying the public of that fact at each identified entrance of
11 each portion of the trail or slope involved. Alternatively, the
12 trail or slope or portion of it may be closed with ropes or
13 fences.

14 Subd. 4. [TRAIL OR SLOPE SIGNS; DEGREE OF DIFFICULTY.] The
15 ski area operator shall place a sign at or near the beginning of
16 each trail or slope, that contains the appropriate symbol of the
17 relative degree of difficulty of that particular trail or slope
18 as set forth by subdivision 2. This requirement does not apply
19 to a slope or trail designated "easiest" which to a skier is
20 substantially visible in its entirety under conditions of
21 ordinary visibility prior to the skier beginning to ski.

22 Subd. 5. [WARNING OF INHERENT DANGERS AND RISKS.] (a) Each
23 ski area operator shall post and maintain signs that contain the
24 warning notice specified in this subdivision. The signs must be
25 placed in a clearly visible location at the ski area where the
26 lift tickets and ski school lessons are sold and in such a
27 position to be recognizable as a sign to skiers proceeding to
28 the uphill loading point of each base area lift. Each sign must
29 be no smaller than three feet by three feet. Each sign must be
30 white with black and red letters as specified in this
31 subdivision. The words "WARNING" must appear on the sign in red
32 letters. The warning notice specified in this subdivision must
33 appear on the sign in black letters, with each letter to be a
34 minimum of one inch in height.

35 (b) Every ski lift ticket sold or made available for sale
36 to skiers by any ski area operator must contain in clearly

1 readable print the warning notice specified in this subdivision.

2 (c) The signs and the lift tickets described in this
3 subdivision must contain the following warning notice:

4 "WARNING

5 Under Minnesota law, a skier assumes the risk of any injury
6 to person or property resulting from any of the inherent
7 dangers and risks of skiing and may not recover from any
8 ski area operator for any injury resulting from any of the
9 inherent dangers and risks of skiing. A list of these
10 dangers and risks is available from the ski area operator."

11 Sec. 7. [604A.45] [SKI AREA OPERATORS; ADDITIONAL DUTIES.]

12 Subdivision 1. [LIGHTING ON SNOW-GROOMING VEHICLES.] Any
13 motorized snow-grooming vehicle must be equipped with a light
14 visible at any time the vehicle is moving on or in the vicinity
15 of a ski slope or trail.

16 Subd. 2. [SNOWMOBILE AND ALL-TERRAIN VEHICLE
17 REQUIREMENTS.] All snowmobiles and all-terrain vehicles operated
18 on the ski slopes or trails of a ski area must be equipped with
19 at least the following: one lighted headlamp, one lighted red
20 taillamp, a brake system maintained in operable condition, and a
21 fluorescent flag at least 40 square inches mounted at least four
22 feet above the bottom of the tracks or wheels.

23 Subd. 3. [LIMITATIONS ON DUTY.] The ski area operator has
24 no duty arising out of its status as a ski area operator to any
25 skier skiing beyond the area boundaries, off of designated
26 slopes or trails, or on closed trails.

27 Subd. 4. [REVOCAION OF SKIING PRIVILEGES.] The ski area
28 operator, upon finding a person skiing in a careless or reckless
29 manner, may revoke that person's skiing privileges. Nothing in
30 sections 604A.40 to 604A.48 must be construed to create an
31 affirmative duty on the part of the ski area operator to protect
32 skiers from their own or from another skier's carelessness or
33 recklessness. However, ski area operators may post the skier's
34 duties as set forth in the skier's responsibility code in
35 locations likely to be seen by skiers.

36 Sec. 8. [604A.46] [DUTIES OF SKIERS.]

1 (a) Each skier solely has the responsibility for knowing
2 the range of the skier's own ability to negotiate any ski slope
3 or trail and to ski within the limits of this ability. Each
4 skier expressly accepts and assumes the risk of and all legal
5 responsibility for any injury to person or property resulting
6 from any of the inherent dangers and risks of skiing, except
7 that a skier is not precluded under sections 604A.40 to 604A.48
8 from suing another skier for any injury to person or property
9 resulting from the other skier's acts or omissions.
10 Notwithstanding any provision of law or statute to the contrary,
11 the risk of a collision between skiers is neither an inherent
12 risk nor a risk assumed by a skier in an action by one skier
13 against another.

14 (b) Each skier has the duty to maintain control of the
15 skier's speed and course at all times when skiing and to
16 maintain a proper lookout so as to be able to avoid other skiers
17 and objects. However, the primary duty shall be on the person
18 skiing downhill to avoid collision with any person or objects
19 below the skier.

20 (c) No skier shall ski on a ski slope or trail that has
21 been posted as "Closed" under sections 604A.44 and 604A.45.

22 (d) Each skier shall stay clear of snow-grooming equipment,
23 all vehicles, lift towers, signs, and any other equipment or
24 objects on or in the vicinity of the ski slopes and trails.

25 (e) Each skier has the duty to heed all posted information
26 and other warnings including the requirements of the skier's
27 responsibility code and to refrain from acting in a manner that
28 may cause or contribute to the injury of the skier or others.
29 Each skier shall be presumed to have seen and understood all
30 information posted in accordance with sections 604A.40 to
31 604A.48 near base area lifts, on the passenger tramways, and on
32 the ski slopes or trails as the skier is skiing. Under
33 conditions of decreased visibility, the duty is on the skier to
34 locate and ascertain the meaning of all signs posted in
35 accordance with sections 604A.44 and 604A.45.

36 (f) Each ski device used by a skier while skiing must be

1 further equipped with a device designed and installed to help
2 reduce the risk of a runaway ski or device should the ski or
3 device become detached from the skier.

4 (g) No skier shall cross the uphill track of a J-bar,
5 T-bar, platter pull, or rope tow except at locations designated
6 by the operator, nor shall a skier place any object in the
7 uphill track.

8 (h) Before beginning to ski from a stationary position or
9 before entering a ski slope or trail from the side, the skier
10 shall have the duty of avoiding moving skiers already on the ski
11 slope or trail.

12 (i) No person shall move uphill on any passenger tramway or
13 use any ski slope or trail while the person's ability to do so
14 is impaired by the consumption of alcohol or by the use of any
15 controlled substance, or other drug or while the person is under
16 the influence of alcohol, any controlled substance, or other
17 drug.

18 (j) No skier involved in a collision with anyone shall
19 leave the vicinity of the collision or the ski area before
20 making a thorough inquiry for purposes of determining that no
21 injury has occurred, and before giving the skier's name and
22 current address to an employee of the ski area, operator, or a
23 member of the voluntary ski patrol. However, the skier involved
24 in a collision may leave the vicinity of the collision to secure
25 aid for any person injured in the collision, in which event, the
26 person so leaving the scene of the collision shall give the
27 person's name and current address as required by this paragraph
28 after securing such aid.

29 (k) No person shall knowingly enter upon public or private
30 lands an adjoining ski area when the land has been closed by its
31 owner and posted by the owner.

32 Sec. 9. [604A.47] [COMPETITION.]

33 The competitor shall be held to accept the risk of any and
34 all course conditions including, but not limited to, weather and
35 snow conditions, course construction or layout, and obstacles
36 that a visual inspection should have revealed on or in the area

1 and adjoining areas of the course. No liability attaches to a
2 ski area operator for injury to or death of any competitor
3 proximately caused by these accepted risks or the inherent risks
4 of the sport.

5 Sec. 10. [604A.48] [STATUTE OF LIMITATION.]

6 All actions against any ski area operator or its employees
7 brought to recover damages for injury to person or property
8 caused by the maintenance, supervision, or operation of a
9 passenger tramway or a ski area shall be brought within two
10 years after the claim for relief arises.

1 Senator moves to amend S.F. No. 415 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [LEGISLATIVE RECOGNITION AND DECLARATION.]

4 The legislature recognizes that skiing as a recreational
5 sport is hazardous to skiers regardless of all feasible safety
6 measures that can be taken. It further recognizes that a skier
7 expressly assumes the risk of and legal responsibility for any
8 losses or damages that result from the inherent risks of skiing,
9 which include, but are not limited to, losses or damages caused
10 by changing weather conditions; surface or subsurface snow or
11 ice conditions; hard pack, powder, packed powder, wind pack,
12 corn, crust, slush, cut-up snow, and machine-made snow; bare
13 spots, rocks, trees, stumps, and other forms of forest growth or
14 debris; lift towers or other forms of towers and their
15 components, either above or below the snow surface; variations
16 in steepness or terrain, whether natural or as the result of
17 snowmaking, slope design, freestyle terrain, jumps, catwalks, or
18 other terrain modifications; any other objects and structures,
19 including, but not limited to, passenger tramways and related
20 structures and equipment, competition equipment, utility poles,
21 fences, posts, ski equipment, slalom poles, ropes, out-of-bounds
22 barriers and their supports, signs, ski racks, walls, buildings,
23 and sheds; collisions between skiers; and plainly marked or
24 otherwise visible snowmaking and snow-grooming equipment,
25 snowmobiles, snow cats, and over-snow vehicles.

26 The legislature finds that it is in the interest of the
27 state of Minnesota to establish reasonable safety standards for
28 the operation of ski areas and for the skiers using them.

29 Realizing the dangers that are inherent in the sport of skiing,
30 regardless of any and all reasonable safety measures that can be
31 employed, the purpose of this act is to further define the legal
32 responsibilities of ski area operators and their agents and
33 employees, to define the responsibilities of skiers using these
34 ski areas, and to define the rights and liabilities existing
35 between the skier and the ski area operator and between skiers.

36 Sec. 2. [604A.40] [DEFINITIONS.]

1 Subdivision 1. [TERMS.] For purposes of sections 604A.40
2 to 604A.50, the terms in this section have the meanings given
3 them unless the context otherwise requires.

4 Subd. 2. [COMPETITOR.] "Competitor" means a skier actually
5 engaged in competition or in practice for competition with or
6 without the permission or consent of the ski area operator on a
7 slope or trail or portion of a slope or trail designated by the
8 ski area operator for the purpose of competition.

9 Subd. 3. [INHERENT DANGERS AND RISKS OF SKIING.] "Inherent
10 dangers and risks of skiing" means those dangers or conditions
11 that can cause personal injury or death and for which no
12 recovery shall lie, which are an inherent part of the sport of
13 skiing, including, but not limited to:

14 (1) changing weather conditions;

15 (2) snow and trail surface conditions as they exist or may,
16 from time-to-time, change as a result of weather changes, skier
17 use, grooming and snow-making operations, and surface
18 conditions, including ice, hard pack, powder, packed powder,
19 wind packed, corn, crust, slush, cut-snow, and machine-made or
20 groomed snow;

21 (3) surface or subsurface conditions such as bare ice
22 spots, forest growth, rocks, stumps, streambeds, and trees, or
23 other objects or conditions including injuries that are caused
24 by or result from any of these objects or conditions referred to
25 or reasonably included in this subdivision, and collisions with
26 them;

27 (4) lift towers, signs, posts, fences or enclosures,
28 hydrants, water pipes, freestyle terrain, and other manmade
29 structures and their components, as well as injuries caused by
30 or resulting from collisions with these objects or conditions;

31 (5) variations in steepness or terrain, whether natural or
32 as a result of slope design, grooming and snow-making operations
33 including, but not limited to, roads and catwalks or other
34 terrain modifications; and

35 (6) collisions between skiers.

36 Nothing in this section limits or expands the liability of

1 the ski area operator for injury to passengers by the use of ski
2 lifts.

3 Subd. 4. [PASSENGER.] "Passenger" means a person who is
4 lawfully using a passenger tramway.

5 Subd. 5. [PASSENGER TRAMWAY.] "Passenger tramway" means a
6 device used to transport passengers uphill, whether on skis or
7 other devices or without skis or other devices, or in cars on
8 tracks or suspended in the air, by the use of steel cables,
9 chains, or belts or by ropes, and that is usually supported by
10 trestles or towers with one or more spans. "Passenger tramway"
11 includes all of the following:

12 (1) aerial passenger tramway, a device used to transport
13 passengers in several open or enclosed cars attached to and
14 suspended from a moving wire rope or attached to a moving wire
15 rope and supported on a standing wire rope, or similar devices;

16 (2) skimobile, a device in which a passenger car running on
17 steel or wooden tracks is attached to and pulled by a steel
18 cable, or similar devices;

19 (3) chair lift, a device on which passengers are carried on
20 chairs suspended in the air and attached to a moving cable,
21 chain, or link belt supported by trestles or towers with one or
22 more spans, or similar devices. Chair lifts need not include
23 foot-rests or passenger restraint devices;

24 (4) J-bar, T-bar, or platter pull, devices that pull skiers
25 riding on skis or other devices by means of an attachment to a
26 main overhead cable supported by trestles or towers with one or
27 more spans, or similar devices;

28 (5) rope tow, a device with one span and no intermediate
29 towers that pulls skiers riding skis or other devices as they
30 grasp a rope manually, or similar devices;

31 (6) wire rope tow, a device with one span and no
32 intermediate towers by which skiers are pulled on skis or other
33 devices while manually grasping a bar attached to a wire hauling
34 cable; and

35 (7) conveyor, a flexible moving element, including a belt
36 that transports passengers on one path and returns underneath

1 the uphill portion.

2 The operation of a passenger tramway shall not constitute
3 the operation of a common carrier.

4 Subd. 6. [SKI AREA.] "Ski area" means all ski slopes or
5 trails and other places under the control of a ski area operator
6 and administered as a single enterprise within this state.

7 Subd. 7. [SKI AREA OPERATOR.] "Ski area operator" means an
8 individual who owns, manages, or directs the operation of a
9 passenger tramway and an individual, partnership, limited
10 liability company, corporation, or other entity having
11 operational responsibility for any ski areas, including an
12 agency of this state or of a political subdivision thereof.

13 Subd. 8. [SKIER.] "Skier" means a person using a ski area
14 for the purpose of:

15 (1) skiing;

16 (2) sliding or jumping on snow or ice on skis, a toboggan,
17 a sled, a tube, a ski-bob, a snowboard ski, or any other device;
18 or

19 (3) using any of the facilities of the ski area including,
20 but not limited to, ski slopes and trails.

21 Subd. 9. [SKI SLOPES OR TRAILS.] "Ski slopes or trails"
22 means those areas formally designated by the ski area operator
23 to be used by skiers for any of the purposes in subdivision 8.
24 The designation must be set forth on trail maps, if provided,
25 and designated by signs indicating to the skiing public the
26 intent that the areas be used by skiers for the purpose of
27 skiing. Nothing in this subdivision or subdivision 8 implies
28 that ski slopes or trails may not be restricted for use by
29 persons using skis only or for use by persons using any other
30 device described in subdivision 8.

31 Subd. 10. [FREESTYLER.] "Freestyler" means a skier
32 utilizing freestyle terrain marked with signage approved by the
33 National Ski Areas Association.

34 Subd. 11. [FREESTYLE TERRAIN.] "Freestyle terrain" means,
35 but is not limited to, terrain parks and terrain park features,
36 such as jumps, rails, fun boxes, other constructed or natural

1 features, half-pipes, quarter-pipes, and freestyle-bump terrain.

2 Subd. 12. [TUBING PARK.] "Tubing park" means a ski slope
3 designated and maintained for the exclusive use of skiers
4 utilizing tubes to slide to the bottom of the course and
5 serviced by a dedicated passenger tramway.

6 Sec. 3. [604A.41] [CIVIL ACTIONS.]

7 Subdivision 1. [GENERALLY.] A violation of a requirement
8 of sections 604A.40 to 604A.50 constitutes negligence on the
9 part of the person violating the requirement.

10 Subd. 2. [ACTION FOR INJURY RESULTING FROM INHERENT
11 DANGERS AND RISKS OF SKIING.] (a) If a ski area operator
12 complies with section 604A.42, clause (4), no liability attaches
13 to the ski area operator for injury or death to any competitor
14 or freestyler using a freestyle terrain, which injury or death
15 is caused by course, venue, or area conditions that visual
16 inspection should have revealed or by collision with a
17 spectator, competition official, ski area personnel, or another
18 competitor or freestyler.

19 (b) If a ski area operator complies with section 604A.42,
20 clause (5), no liability attaches to a ski area operator for
21 injury or death to any skier using a tubing park, which injury
22 or death is caused by course design or maintenance or conditions
23 that visual inspection should have revealed or by collision with
24 another skier.

25 A ski area operator, a tramway passenger, freestyler,
26 competitor, or skier is liable for losses or damages caused by
27 the operator's, passenger's, freestyler's, competitor's, or
28 skier's failure to fulfill any of the responsibilities required
29 by sections 604A.40 to 604A.50. A ski area operator, a tramway
30 passenger, freestyler, competitor, or skier is not liable for
31 any losses or damages caused by another's failure to fulfill any
32 of the responsibilities required of another by sections 604A.40
33 to 604A.50. A ski area operator, a tramway passenger,
34 freestyler, competitor, or skier is not entitled to recover for
35 any losses or damages caused by the operator's, passenger's,
36 freestyler's, competitor's, or skier's failure to fulfill any of

1 the responsibilities required by sections 604A.40 to 604A.50.

2 Sec. 4. [640A.42] [DUTIES OF SKI AREA OPERATORS.]

3 The duties of a ski area operator to a skier with respect
4 to any injury or death resulting in any way from an inherent
5 risk of the sport are not those of the common law duty of
6 premises owners to business invitees. A ski area operator has,
7 however, the following responsibilities:

8 (1) to mark all trail maintenance vehicles and to furnish
9 such vehicles with lights that must be in operation whenever the
10 vehicles are working or are moving at or near ski slopes or
11 trails, and must be furnished with an orange flag at least 40
12 square inches mounted at least four feet above the bottom of the
13 track or wheels;

14 (2) to mark with a visible sign or other warning implement
15 the location of any hydrant or similar equipment that is used in
16 snowmaking operations and located at or near ski slopes or
17 trails;

18 (3) to mark, at the base of a slope or hill where skiers
19 embark on a passenger tramway serving the slope or hill or at
20 the top of a trail or slope, such slopes, trails, and hills with
21 signs indicating their relative degree of difficulty. The signs
22 must be the type that are in current use by the industry;

23 (4) before the use of any portion of a freestyle terrain
24 area made available by the ski area operator, to allow each
25 freestyle skier or competitor an opportunity to reasonably
26 inspect the course, venue, or area of the freestyle terrain; and

27 (5) to allow skiers using a tubing park visible access to
28 the course.

29 Sec. 5. [604A.43] [DUTIES OF SKIERS.]

30 A skier has the following duties:

31 (1) to know the range of the skier's ability to negotiate
32 any slope or trail or to use any passenger tramway that is
33 associated with a slope or trail, to ski within the limits of
34 the skier's ability, to ski only on designated slopes and
35 trails, to maintain control of speed and course at all times
36 while skiing, to heed all posted warnings, and to not cross the

1 track of a passenger tramway except at a designated area;

2 (2) to refrain from acting in a manner that may cause or
3 contribute to the injury of another person, to refrain from
4 causing a collision with any person or object while skiing, and
5 to not place any object in a ski area that may cause another
6 skier or a passenger to fall;

7 (3) when involved in a skiing accident in which another
8 person is involved who needs medical or other assistance, to
9 obtain assistance for the person, to notify the proper
10 authorities, and to not depart from the scene of the accident
11 without leaving personal identification;

12 (4) if the skier is a competitor, freestyler, or user of
13 freestyle terrain, to assume the risk of all course, venue, or
14 area conditions, including, but not limited to, weather and snow
15 conditions; obstacles; course or feature location, construction,
16 or layout; freestyle terrain configuration and conditions; and
17 other courses, layouts, or configurations of the area to be
18 used; and

19 (5) if the skier is using a tubing park, to assume the risk
20 of collision with others on the course.

21 Sec. 6. [604A.44] [DUTIES OF PASSENGERS.]

22 (a) No passenger shall board a passenger tramway if the
23 passenger does not have sufficient physical dexterity, ability,
24 and knowledge to use the facility safely or until the passenger
25 has asked for and received information sufficient to enable the
26 passenger to use the equipment safely. A passenger is required
27 to follow any posted written or verbal instructions that are
28 given regarding the use of the passenger tramway.

29 (b) No passenger shall:

30 (1) embark upon or disembark from a passenger tramway
31 except at a designated area, except in the event of a stoppage
32 of the passenger tramway and then only under the supervision of
33 the operator, or unless reasonably necessary in the event of an
34 emergency to prevent injury to the passenger or others;

35 (2) throw or expel any object from a passenger tramway
36 while riding on the device;

1 (3) act, while riding on a passenger tramway, in a manner
2 that may interfere with proper or safe operation of the
3 passenger tramway;

4 (4) engage in any type of conduct that may contribute to or
5 cause injury to a person;

6 (5) place in an uphill track of a J-bar, T-bar, platter
7 pull, rope tow, or any other surface lift any object that could
8 cause another skier to fall;

9 (6) embark upon a passenger tramway marked as closed; or

10 (7) disobey any instructions permitted to be posted in
11 accordance with sections 604A.40 to 604A.50 or any verbal
12 instruction by the ski area operator regarding the proper or
13 safe use of a passenger tramway, whether in an emergency or
14 evacuation situation or otherwise.

15 Sec. 7. [604A.45] [DUTIES OF OPERATORS.]

16 Subdivision 1. [ANS B77.1 STANDARD.] Passenger tramways in
17 the state of Minnesota shall comply with the provisions of the
18 1999 edition of the American National Standard B77.1 for
19 Passenger Ropeways or the current edition, if updated by the
20 American National Standards Institute. Because of the diverse
21 nature of the industries and installations using the ANS B77.1,
22 compliance with future editions shall commence one year after
23 the approval date of the revised standard.

24 This standard describes in detail signage recommended for
25 all types of tramway systems. Each ski area operator shall
26 maintain a sign system with concise, simple, and pertinent
27 information for the instruction of passengers. Signs must be
28 prominently placed on each passenger tramway readable in
29 conditions of ordinary visibility and, where applicable,
30 adequately lighted for nighttime passengers. Signs must be
31 posted at or near the loading point of each passenger tramway,
32 regardless of the type. Instructions and warnings for use of
33 lifts shall be posted at the loading area and may include the
34 duties and obligations of the passenger, as well as the skier,
35 including the skier's responsibility code, and other
36 instructional signs.

1 Subd. 2. [OTHER SIGNS.] Other signs not specified by
2 subdivision 1 may be posted at the discretion of the ski area
3 operator.

4 Subd. 3. [EFFECT OF COMPLIANCE.] The extent of the
5 responsibility of the ski area operator under this section is to
6 post and maintain the signs required by subdivision 1.

7 Sec. 8. [604A.46] [SKIERS' INFORMATION SIGNAGE.]

8 Subdivision 1. [GENERALLY.] Each ski area operator shall
9 maintain a sign and marking system as set forth in this section
10 in addition to that required by section 604A.45. All signs
11 required by this section must be maintained so as to be readable
12 and recognizable under conditions of ordinary visibility and
13 where applicable, adequately lighted for nighttime visibility.
14 Other warning or information signs may be posted at the
15 discretion of the ski area operator.

16 Subd. 2. [UPHILL LOADING POINT OF BASE AREA LIFT; REQUIRED
17 SIGNS.] A sign must be placed in such a position as to be
18 recognizable as a sign to skiers proceeding to the uphill
19 loading point of each base area lift depicting and explaining
20 signs and symbols that the skier may encounter at the ski area
21 as follows:

22 (1) the ski area's least difficult trails and slopes,
23 designated by a green circle and the word "easiest";

24 (2) the ski area's most difficult trails and slopes,
25 designated by a black diamond and the words "most difficult";

26 (3) all remaining trails and slopes must be designated by a
27 blue square and the words "more difficult";

28 (4) caution areas, designated by a red exclamation point
29 inside a yellow triangle with a red band around the triangle and
30 the word "Caution" printed beneath the emblem. Ski area
31 operators do not have an obligation to post caution signs at
32 locations presenting inherent dangers or risks of skiing; and

33 (5) closed trails or slopes, designated by an octagonal
34 sign with a red border around a white interior containing a
35 black figure in the shape of a skier with a black band running
36 diagonally across the sign from the upper right-hand side to the

1 lower left-hand side and with the word "Closed" printed beneath
2 the emblem.

3 Subd. 3. [CLOSED TRAILS OR SLOPES.] If a particular trail
4 or slope or portion of a trail or slope is closed to the public
5 by a ski area operator, the operator shall place a sign
6 notifying the public of that fact at each identified entrance of
7 each portion of the trail or slope involved. Alternatively, the
8 trail or slope or portion of it may be closed with ropes or
9 fences.

10 Subd. 4. [TRAIL OR SLOPE SIGNS; DEGREE OF DIFFICULTY.] The
11 ski area operator shall place a sign at or near the beginning of
12 each trail or slope, that contains the appropriate symbol of the
13 relative degree of difficulty of that particular trail or slope
14 as set forth by subdivision 2. This requirement does not apply
15 to a slope or trail designated "easiest" which to a skier is
16 substantially visible in its entirety under conditions of
17 ordinary visibility prior to the skier beginning to ski.

18 Subd. 5. [WARNING OF INHERENT DANGERS AND RISKS.] (a) Each
19 ski area operator shall post and maintain signs that contain the
20 warning notice specified in this subdivision. The signs must be
21 placed in a clearly visible location at the ski area where the
22 lift tickets and ski school lessons are sold and in such a
23 position to be recognizable as a sign to skiers proceeding to
24 the uphill loading point of each base area lift.

25 (b) Every ski lift ticket sold or made available for sale
26 to skiers by any ski area operator must contain in clearly
27 readable print the warning notice specified in this subdivision.

28 (c) The signs and the lift tickets described in this
29 subdivision must contain the following warning notice:

30 "WARNING

31 Under Minnesota law, a skier assumes the risk of any injury
32 to person or property resulting from any of the inherent
33 dangers and risks of skiing and may not recover from any
34 ski area operator for any injury resulting from any of the
35 inherent dangers and risks of skiing. A list of these
36 dangers and risks is available from the ski area operator."

1 Sec. 9. [604A.47] [SKI AREA OPERATORS; DUTIES.]

2 Subdivision 1. [LIGHTING ON SNOW-GROOMING VEHICLES.] Any
3 motorized snow-grooming vehicle must be equipped with a light
4 visible at any time the vehicle is moving on or in the vicinity
5 of a ski slope or trail.

6 Subd. 2. [SNOWMOBILE AND ALL-TERRAIN VEHICLE
7 REQUIREMENTS.] All snowmobiles and all-terrain vehicles operated
8 on the ski slopes or trails of a ski area must be equipped with
9 at least the following: one lighted headlamp, one lighted red
10 taillamp, a brake system maintained in operable condition, and
11 an orange flag at least 40 square inches mounted at least four
12 feet above the bottom of the tracks or wheels.

13 Subd. 3. [LIMITATIONS ON DUTY.] The ski area operator has
14 no duty arising out of its status as a ski area operator to any
15 skier skiing beyond the area boundaries, off of designated
16 slopes or trails, or on closed trails.

17 Subd. 4. [REVOCAION OF SKIING PRIVILEGES.] The ski area
18 operator, upon finding a person skiing in a careless or reckless
19 manner, may revoke that person's skiing privileges. Nothing in
20 sections 604A.40 to 604A.50 creates an affirmative duty on the
21 part of the ski area operator to protect skiers from their own
22 or from another skier's carelessness or recklessness. However,
23 ski area operators may post the skier's duties as set forth in
24 the skier's responsibility code in locations likely to be seen
25 by skiers.

26 Sec. 10. [604A.48] [DUTIES OF SKIERS.]

27 (a) Each skier solely has the responsibility for knowing
28 the range of the skier's own ability to negotiate any ski slope
29 or trail and to ski within the limits of this ability. Each
30 skier expressly accepts and assumes the risk of and all legal
31 responsibility for any injury to person or property resulting
32 from any of the inherent dangers and risks of skiing, except
33 that a skier is not precluded under sections 604A.40 to 604A.50
34 from suing another skier for any injury to person or property
35 resulting from the other skier's acts or omissions.
36 Notwithstanding any provision of law or statute to the contrary,

1 the risk of a collision between skiers is neither an inherent
2 risk nor a risk assumed by a skier in an action by one skier
3 against another.

4 (b) Each skier has the duty to maintain control of the
5 skier's speed and course at all times when skiing and to
6 maintain a proper lookout so as to be able to avoid other skiers
7 and objects. However, the primary duty shall be on the person
8 skiing downhill to avoid collision with any person or objects
9 below the skier.

10 (c) No skier shall ski on a ski slope or trail that has
11 been posted as "Closed" under sections 604A.46 and 604A.47.

12 (d) Each skier shall stay clear of snow-grooming equipment,
13 all vehicles, lift towers, signs, and any other equipment or
14 objects on or in the vicinity of the ski slopes and trails.

15 (e) Each skier has the duty to heed all posted information
16 and other warnings including the requirements of the skier's
17 responsibility code and to refrain from acting in a manner that
18 may cause or contribute to the injury of the skier or others.
19 Each skier shall be presumed to have seen and understood all
20 information posted in accordance with sections 604A.40 to
21 604A.50 near base area lifts, on the passenger tramways, and on
22 the ski slopes or trails as the skier is skiing. Under
23 conditions of decreased visibility, the duty is on the skier to
24 locate and ascertain the meaning of all signs posted in
25 accordance with sections 604A.45 and 604A.46.

26 (f) Each ski device used by a skier while skiing must be
27 further equipped with a device designed and installed to help
28 reduce the risk of a runaway ski or device should the ski or
29 device become detached from the skier.

30 (g) No skier shall cross the uphill track of a J-bar,
31 T-bar, platter pull, or rope tow except at locations designated
32 by the operator, nor shall a skier place any object in the
33 uphill track.

34 (h) Before beginning to ski from a stationary position or
35 before entering a ski slope or trail from the side, the skier
36 shall have the duty of avoiding moving skiers already on the ski

1 slope or trail.

2 (i) No person shall move uphill on any passenger tramway or
3 use any ski slope or trail while the person's ability to do so
4 is impaired by the consumption of alcohol or by the use of any
5 controlled substance, or other drug or while the person is under
6 the influence of alcohol, any controlled substance, or other
7 drug.

8 (j) No skier involved in a collision with anyone shall
9 leave the vicinity of the collision or the ski area before
10 making a thorough inquiry for purposes of determining that no
11 injury has occurred, and before giving the skier's name and
12 current address to an employee of the ski area, operator, or a
13 member of the voluntary ski patrol. However, the skier involved
14 in a collision may leave the vicinity of the collision to secure
15 aid for any person injured in the collision, in which event, the
16 person so leaving the scene of the collision shall give the
17 person's name and current address as required by this paragraph
18 after securing such aid.

19 (k) No person shall knowingly enter upon public or private
20 lands an adjoining ski area when the land has been closed by its
21 owner and posted by the owner.

22 Sec. 11. [604A.49] [COMPETITION.]

23 The competitor shall be held to accept the risk of any and
24 all course conditions including, but not limited to, weather and
25 snow conditions, course construction or layout, and obstacles
26 that a visual inspection should have revealed on or in the area
27 and adjoining areas of the course. No liability attaches to a
28 ski area operator for injury to or death of any competitor
29 proximately caused by these accepted risks or the inherent risks
30 of the sport.

31 Sec. 12. [604A.50] [STATUTE OF LIMITATION.]

32 All actions against any ski area operator or its employees
33 brought to recover damages for injury to person or property
34 caused by the maintenance, supervision, or operation of a
35 passenger tramway or a ski area shall be brought within two
36 years after the claim for relief arises."

1 Delete the title and insert:

2 "A bill for an act relating to civil liability; defining
3 the responsibilities of ski area operators and skiers; defining
4 the rights and liabilities between skiers and between a skier
5 and a ski area operator; prohibiting actions for injuries
6 resulting from the inherent dangers and risks of skiing;
7 proposing coding for new law in Minnesota Statutes, chapter
8 604A."

1 A bill for an act
2 relating to public safety; expanding the protection
3 against employer retaliation for crime victims;
4 amending Minnesota Statutes 2004, sections 518B.01, by
5 adding a subdivision; 609.748, by adding a
6 subdivision; 611A.036.

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

8 Section 1. Minnesota Statutes 2004, section 518B.01, is
9 amended by adding a subdivision to read:

10 Subd. 23. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)
11 An employer shall not discharge, discipline, threaten, otherwise
12 discriminate against, or penalize an employee regarding the
13 employee's compensation, terms, conditions, location, or
14 privileges of employment, because the employee took reasonable
15 time off from work to obtain or attempt to obtain relief under
16 this chapter. Except in cases of imminent danger to the health
17 or safety of the employee or the employee's child, an employee
18 who is absent from the workplace shall give reasonable advance
19 notice to the employer. Upon request of the employer, the
20 employee shall provide verification that supports the employee's
21 reason for being absent from the workplace. All information
22 related to the employee's leave pursuant to this section shall
23 be kept confidential by the employer.

24 (b) An employer who violates paragraph (a) is guilty of a
25 misdemeanor and may be punished for contempt of court. In
26 addition, the court shall order the employer to pay back wages

1 and offer job reinstatement to any employee discharged from
2 employment in violation of paragraph (a).

3 (c) In addition to any remedies otherwise provided by law,
4 an employee injured by a violation of paragraph (a) may bring a
5 civil action for recovery of damages, together with costs and
6 disbursements, including reasonable attorney's fees, and may
7 receive such injunctive and other equitable relief, including
8 reinstatement, as determined by the court. Total damages
9 recoverable under this subdivision shall not exceed lost wages
10 for six weeks.

11 [EFFECTIVE DATE.] This section is effective August 1, 2005,
12 and applies to crimes committed on or after that date.

13 Sec. 2. Minnesota Statutes 2004, section 609.748, is
14 amended by adding a subdivision to read:

15 Subd. 10. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)
16 An employer shall not discharge, discipline, threaten, otherwise
17 discriminate against, or penalize an employee regarding the
18 employee's compensation, terms, conditions, location, or
19 privileges of employment, because the employee took reasonable
20 time off from work to obtain or attempt to obtain relief under
21 this section. Except in cases of imminent danger to the health
22 or safety of the employee or the employee's child, an employee
23 who is absent from the workplace shall give reasonable advance
24 notice to the employer. Upon request of the employer, the
25 employee shall provide verification that supports the employee's
26 reason for being absent from the workplace. All information
27 related to the employee's leave pursuant to this section shall
28 be kept confidential by the employer.

29 (b) An employer who violates paragraph (a) is guilty of a
30 misdemeanor and may be punished for contempt of court. In
31 addition, the court shall order the employer to pay back wages
32 and offer job reinstatement to any employee discharged from
33 employment in violation of paragraph (a).

34 (c) In addition to any remedies otherwise provided by law,
35 an employee injured by a violation of paragraph (a) may bring a
36 civil action for recovery of damages, together with costs and

1 disbursements, including reasonable attorney's fees, and may
2 receive such injunctive and other equitable relief, including
3 reinstatement, as determined by the court. Total damages
4 recoverable under this subdivision shall not exceed lost wages
5 for six weeks.

6 [EFFECTIVE DATE.] This section is effective August 1, 2005,
7 and applies to crimes committed on or after that date.

8 Sec. 3. Minnesota Statutes 2004, section 611A.036, is
9 amended to read:

10 611A.036 [PROHIBITION AGAINST EMPLOYER RETALIATION.]

11 Subdivision 1. [VICTIM OR WITNESS.] An employer or
12 employer's agent who threatens to discharge or discipline must
13 allow a victim or witness, or who discharges, disciplines, or
14 causes a victim or witness to be discharged from employment or
15 disciplined because the victim or the witness who is subpoenaed
16 or requested by the prosecutor to attend court for the purpose
17 of giving testimony, is guilty of a misdemeanor and may be
18 punished for contempt of court. In addition, the court shall
19 order the employer to offer job reinstatement to any victim or
20 witness discharged from employment in violation of this section,
21 and to pay the victim or witness back wages as
22 appropriate reasonable time off from work to attend criminal
23 proceedings related to the victim's case.

24 Subd. 2. [VICTIM'S SPOUSE OR NEXT OF KIN.] An employer
25 must allow a victim of a heinous crime, as well as the victim's
26 spouse or next of kin, reasonable time off from work to attend
27 criminal proceedings related to the victim's case.

28 Subd. 3. [PROHIBITED ACTS.] An employer shall not
29 discharge, discipline, threaten, otherwise discriminate against,
30 or penalize an employee regarding the employee's compensation,
31 terms, conditions, location, or privileges of employment,
32 because the employee took reasonable time off from work to
33 attend a criminal proceeding pursuant to this section.

34 Subd. 4. [VERIFICATION; CONFIDENTIALITY.] An employee who
35 is absent from the workplace shall give reasonable advance
36 notice to the employer, unless an emergency prevents the

1 employee from doing so. Upon request of the employer, the
2 employee shall provide verification that supports the employee's
3 reason for being absent from the workplace. All information
4 related to the employee's leave pursuant to this section shall
5 be kept confidential by the employer.

6 Subd. 5. [PENALTY.] An employer who violates this section
7 is guilty of a misdemeanor and may be punished for contempt of
8 court. In addition, the court shall order the employer to offer
9 job reinstatement to any employee discharged from employment in
10 violation of this section, and to pay the employee back wages as
11 appropriate.

12 Subd. 6. [CIVIL ACTION.] In addition to any remedies
13 otherwise provided by law, an employee injured by a violation of
14 this section may bring a civil action for recovery for damages,
15 together with costs and disbursements, including reasonable
16 attorney's fees, and may receive such injunctive and other
17 equitable relief, including reinstatement, as determined by the
18 court. Total damages recoverable under this section shall not
19 exceed lost wages for six weeks.

20 Subd. 7. [DEFINITION.] As used in this section, "heinous
21 crime" means:

22 (1) a violation or attempted violation of section 609.185
23 or 609.19;

24 (2) a violation of section 609.195 or 609.221; or

25 (3) a violation of section 609.342, 609.343, or 609.344, if
26 the offense was committed with force or violence or if the
27 complainant was a minor at the time of the offense.

28 [EFFECTIVE DATE.] This section is effective August 1, 2005,
29 and applies to crimes committed on or after that date.



State Laws Can Help Survivors At Work

TIME OFF FROM WORK FOR VICTIMS OF DOMESTIC OR SEXUAL VIOLENCE

395 Hudson Street New York, NY 10014-3684 t: 212.925.6635 f: 212.226.1066 www.legalmomentum.org

In recent years, several states have enacted laws that provide domestic violence victims (and in some states, victims of sexual assault and stalking) time off from work to address the violence in their lives. *The details of each state's laws vary significantly.* In most cases leave is unpaid. Some laws provide leave only for court appearances; others provide leave to obtain support services, medical or legal assistance, or safe housing as well. Some states that have not passed domestic violence leave laws have victim protection laws that prohibit an employer from firing crime victims who take time off from work to appear in criminal court. Additionally, in certain circumstances, victims of domestic violence, stalking, or sexual assault may be able to take leave under the federal Family and Medical Leave Act (FMLA) or under comparable state or local laws. For more on FMLA protections, see Legal Momentum's Employment Rights for Survivors of Abuse fact sheets: "Taking Leave from Work for Your Own Serious Medical Condition" and "Taking Leave from Work for a Family Member's Serious Health Condition."

This fact sheet is divided into two main sections. The first section outlines existing state and county laws. The second section outlines proposed state legislation on this topic. Each of these sections is further divided into those laws or bills specific to domestic (and, where applicable, sexual) violence and those laws or bills that relate to crime victims more generally.

STATE AND COUNTY LAWS

Domestic and Sexual Violence Employment Leave Laws

CALIFORNIA: Cal. Lab. Code §§ 230 & 230.1.

An employer may not discharge or discriminate or retaliate against an employee who is a victim of domestic violence or sexual assault for taking time off to obtain or attempt to obtain a restraining order or any other judicial relief to help ensure his or her health, safety, or welfare or that of his or her child. The employee must give the employer reasonable notice unless advance notice is not feasible. The employer may require that the employee provide documents or other certification verifying that the employee was a victim of domestic violence or sexual assault. The employer is also required, to the extent allowed by law, to maintain the confidentiality of an employee requesting such leave. In addition, employers with 25 or more employees may not discharge or discriminate or retaliate against an employee who is a victim of domestic violence or sexual assault for taking time off to seek medical attention, obtain services from a domestic violence shelter or program or rape crisis center, obtain psychological counseling, participate in safety planning, or relocate. An employee who is discriminated against or discharged for exercising his or her rights under this law may be entitled to reinstatement and reimbursement for lost wages and benefits. The provisions applying to larger employers do not create a right for employees to take unpaid leave that exceeds the amount of leave allowed under, or is in addition to leave permitted by, the federal FMLA (which permits up to 12 weeks of leave).

COLORADO: Colo. Rev. Stat. § 24-34-402.7.

Employers who employ 50 or more employees must permit an employee of twelve months or more who is a victim of domestic abuse, sexual assault, stalking, or other domestic violence-related crimes to take up to three days of leave to seek a restraining order, obtain medical care or counseling, locate safe housing or make her home secure, or seek legal assistance and prepare for or attend court-related proceedings. Prior to taking this leave, the employee must exhaust annual, vacation, personal leave, and sick leave, unless the employer waives this requirement. The employee shall provide appropriate advance notice “except in cases of imminent danger to the health or safety of the employee” and may be required to provide documentation.

FLORIDA, Miami-Dade County: Miami-Dade Cty., Fla. Code. § 11A-61.

This county law entitles domestic violence victims to up to 30 days of unpaid leave for medical or dental care, legal assistance, court appearances, counseling or supportive services, or any other arrangements needed because of domestic violence. This law includes leave to obtain orders of protection and for divorce, child custody and child support proceedings. The employee is required to exhaust all paid vacation and personal leave prior to taking leave under this provision. The employer may request certification from a health care provider, attorney of record, counselor, law enforcement agency, clergy, or domestic violence service provider that “the employee is being subjected to domestic or repeat violence and needs time off” for one of the permitted reasons.

HAWAII: Haw. Rev. Stat. § 378-72.

An employee may take unpaid leave for a “reasonable period of time”—up to 30 days per calendar year if the employer has 50 or more employees, and up to 5 days for smaller employers—if the employee or the employee’s minor child is a victim of domestic abuse, sexual assault, or stalking, provided the leave is to seek medical attention, obtain victim services, obtain counseling, temporarily or permanently relocate, or take legal action. When the leave is sought for medical attention, the employer may request a doctor’s certificate (including an estimate of the number of days of leave needed). When the leave is for non-medical reasons and is not more than five days, the employer may require a signed statement from the employee regarding the violence and establishing that the leave is for one of the enumerated purposes. If non-medical leave exceeds five days, the employer may require (1) a signed written statement from “a victim services organization, from the employee’s attorney or advocate, from a minor child’s attorney or advocate, or a medical or other professional from whom the employee or the employee’s minor child has sought assistance related to the domestic or sexual violence; or (2) a police or court record related to the domestic or sexual violence.” The employee shall provide reasonable notice of intention to take leave unless “not practicable due to imminent danger.” The employee must exhaust all other paid and unpaid leave before these provisions apply. All information provided to the employer is confidential unless the employee consents or disclosure is required by law.

ILLINOIS: 820 Ill. Comp. Stat. 180/1-180/45.

An employee who is a victim of domestic or sexual violence or has a family or household member who is a victim of such violence and is employed by a private employer with over 50 employees—or by a state or local government or school district—may take up to 12 weeks unpaid leave during any 12 month period to address the violence. This leave may be used to seek medical attention or counseling, obtain services from a victim services organization, participate in safety planning or relocation, or seek legal assistance. An employee may use paid leave that is otherwise available for time taken off pursuant to this provision. Unless impracticable, the employee shall provide 48-hour notice of the leave. The employer may require the employee to provide certification of the violence and that the leave is for an enumerated purpose. The

certification requirement may be satisfied by the employee's sworn statement and by documentation from a service provider who has assisted the employee or his or her family member in addressing the violence, by police or court records, or by other corroborating evidence. Upon return from leave, the employee shall be entitled to restoration to the original job or to an equivalent position. Employers cannot discriminate or retaliate against persons who exercise their rights under this law or against persons simply because they are victims. Additionally, a covered employer must make "reasonable accommodation to the known limitations" resulting from the violence. (These provisions are described in greater detail on the "Discrimination Against Victims of Domestic or Sexual Violence" fact sheet.) Absent written consent by the employee or statutory requirements, all information provided to the employer pursuant to this Section shall be held in the strictest confidence by the employer. An employee whose rights have been violated may bring an administrative complaint in the state Department of Labor.

MAINE: 26 Me. Rev. Stat. § 850.

Employers must grant "reasonable and necessary" leave when an employee, or a child, parent or spouse of the employee, is a victim of domestic violence, stalking, sexual assault, violence, or assault. The leave may be used to: prepare for and attend court proceedings, receive medical treatment, or obtain other necessary services to remedy a crisis caused by the violence. Employers are prohibited from sanctioning employees for exercising their rights under this section. There is a \$200 civil penalty for violation. The employer is not required to grant leave if the employer would sustain "undue hardship," if the leave request was not made "within a reasonable time under the circumstances," or if the "requested leave is impractical, unreasonable or unnecessary based on the facts then made known to the employer."

NEW YORK: N.Y. Penal Law § 215.14.

Employers may not discharge or penalize a victim of a crime who takes time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection. The employee must give prior-day notice and the employer may withhold wages and require verification.

NEW YORK CITY: Local Law 75 of 2003. (Codified at N.Y.C. Admin. Code § 8-107.1)

This New York City law requires employers to provide "reasonable accommodations" to victims of domestic violence, sex offenses, and stalking to permit them to perform the "essential requisites" of their job, unless providing such an accommodation would be an "undue hardship" on the employer. The legislative history of the law makes clear that the Council intended that reasonable accommodations under this provision could include providing victims with time off or a modified schedule.

NORTH CAROLINA: 2004 N.C. Sess. Law 186 § 18.1 (to be codified at N.C. Gen. Stat. chap. 50-B-5.5); 2004 N.C. Sess. Law 165 § 1 (to be codified at N.C. Gen. Stat. 95-270a).

An employer is prohibited from discharging, demoting, disciplining, or denying a promotion to an employee who takes "reasonable time off" from work to obtain or attempt to obtain a protective order or other relief under the state's domestic violence law. An employee who is absent to such seek relief must follow the employer's usual time off policy or practices; if the employer generally requires advance notice of absences, an employee must provide advance notice "unless an emergency prevents the employee from doing so." An employer may require the employee to provide documentation showing the reason for the employee's absence. Signed by the governor Aug. 12, 2004; effective Oct. 1, 2004.

Crime Victim Employment Leave Laws

Many state laws require employers to permit an employee who is a victim of a crime leave to attend court, at least under certain circumstances, such as responding to a subpoena, responding to a request from the prosecutor; or serving as a witness. Several states have exceptions if granting leave would create a hardship for the employer. In many states, the leave is either unpaid or the employer can require the employee to use accrued sick time, vacation time, or personal time. Some specifically provide that the victim may ask for assistance in explaining to her employer that she needs to attend court (“employer intercession services”). Below is a list of the states that have such laws and some important features of the laws.

ALABAMA: Ala. Code § 15-23-81 (allows victim to respond to subpoena to testify in criminal proceeding or participate in reasonable preparation for a criminal proceeding)

ALASKA: Alaska Stat. § 12.61-017 (allows victim to respond to subpoena and to attend court proceedings to give testimony; leave is unpaid)

ARIZONA: Ariz. Rev. Stat. § 13-4439 (for criminal offenses) & Ariz. Rev. Stat. § 8-420 (2004) (specifically for juvenile offenses) (leave may be unpaid or employer may require victim to use accrued paid leave; exception for undue hardship to employer)

ARKANSAS: Ark. Code Ann. § 16-90-1105 [If browser says unable to display page, press refresh button.]

COLORADO: Colo. Rev. Stat. § 24-4.1-303(8) (allows victim to respond to a subpoena or participate in trial preparation)

CONNECTICUT: Conn. Gen. Stat. § 54-85b (allows employee to attend court or participate in police investigation for crime against employee or employee’s minor child) (§54-85d gives a similar protection to a family member or designee of a homicide victim.)

DELAWARE: Del. Code Ann. Tit. 11 § 9409 (allows victim to respond to a subpoena, participate in trial preparation, or attend trial proceedings as reasonably necessary to protect the victim’s interests)

FLORIDA: Fla. Stat. § 92.57 (allows victim to respond to a subpoena only)

GEORGIA: Ga. Code Ann. § 34-1-3 (allows victim to respond to court order such as a subpoena or jury duty; employer may require “reasonable notification” by the employee)

HAWAII: Haw. Rev. Stat. § 621.10.5 (allows victim to respond to subpoena, testify, attend court as a prospective witness; allows reasonable attorneys fees if an employee sues for violation of this law and prevails)

INDIANA: Ind. Code 35-44-3-11.1 (allows victim to respond to a subpoena only)

IOWA: Iowa Code § 915.23 (allows victim to serve as witness in criminal case; allows reasonable attorneys fees and court costs if an employee sues for violation of this law and prevails)

MARYLAND: Md. Code Ann. Crim. Proc. § 11-102 [Under Article, click on “Criminal Procedure”; under selection, enter “11-102”] or Md. Code Ann. Cts. & Jud. Proc. § 9-205 [Under Article, click on “Courts and Judicial Procedure”; under selection, enter “9-205”] (allows victim to respond to a subpoena or attend proceedings the employee has a right to attend, as defined by Maryland law)

MASSACHUSETTS: Mass Gen. Laws Ch. 258B, § 3(l) and Mass Gen. Laws § 268-14(b) (allows leave to respond to subpoena)

MICHIGAN: Mich. Comp. Laws § 780.762 and Mich Comp. Laws § 780.790 (allows victim leave to give testimony in court)

MINNESOTA: Minn. Stat. Ann. § 611A.036 (allows employee to give testimony in court as victim or witness)

MISSISSIPPI: Miss. Code Ann. § 99-43-45 (allows victim to respond to subpoena or participate in reasonable preparation for court proceedings)

MISSOURI: Rev. Stat. Mo. § 595.209(1)(14) (allows a witness, victim, or victim’s immediate family to respond to a subpoena or to participate in preparation for a criminal proceeding)

MONTANA: Mont. Code Ann., § 46-24-205(3) (2003) (allows victim or a member of the victim’s family to participate in preparation for or attendance at a criminal justice proceeding; also provides for employer intercession services)

NEVADA: Nev. Rev. Stat. § 50.070 (2003) (allows witness or person summoned to appear as a witness to testify; allows reasonable attorneys fees if an employee sues for violation of this law and prevails)

NORTH DAKOTA: N.D. Cent. Code § 27-09.1-17 (allows employee to serve as witness or juror without adverse job outcome)

OHIO: Ohio Rev. Code Ann. § 2930.18 [On left of screen, click on Title XXIX Crimes-Procedure] (general crime) & Ohio Rev. Code Ann. § 2151.121.1 [On left of screen, click on XXI Juvenile Court] (extends protection to juvenile court and delinquency hearings) (allows victim, victim’s family members, and/or victim’s representative to participate in trial preparation and attend trial proceedings; such protected leave is generally unpaid)

PENNSYLVANIA: 18 Pa. Code § 4957 (allows employee to testify as witness or victim of a crime; such leave is unpaid)

RHODE ISLAND: R.I. Gen. Laws § 12-28-10 (specific to employment protection for victims who seek protective orders) & R.I. Gen. Laws § 12-28-13 (employment protection for victims of crimes to attend court proceedings)

SOUTH CAROLINA: S.C. Code Ann. § 16-3-1550 (allows victim and witness to respond to subpoena)

TENNESSEE: Tenn. Code Ann. §4-4-122 (only applies to state agencies as employers; employers are not allowed to undertake an adverse employment decision because the employee/victim of a criminal offense takes any lawful action to cause or assist in causing the arrest, prosecution and conviction of the perpetrator of such offense)

UTAH: Utah Code § 78-11-26 (allows employee to respond to a subpoena; if employee prevails in civil suit for violation, reasonable attorneys fees are allowed)

VERMONT: 13 Vt. Stat. Ann. § 5313 (allows victim, victim's family member, and victim's representative to respond to a subpoena)

VIRGIN ISLANDS: 34 V.I.C. § 203(e) (allows victim or witness to respond to subpoena without fear of retaliation or loss of wages from employer)

VIRGINIA: Va. Code Ann. § 18.2-465.1 (allows employee to respond to summons or subpoena and attend future proceedings as required by court in writing; allows employee to serve on a jury)

WYOMING: Wyo. Stat. Ann. § 1-40-209(a) (allows victim or witness to respond to a subpoena; allows employee to request employer intercession services)

WISCONSIN: Wis. Stat. § 103.87 (only prevents an employee from being discharged for missing work to respond to a subpoena; employee must notify employer of need to miss work to testify on or before the first business day after receipt of the subpoena)

Additional states have laws that encourage employers not to take adverse actions against victims for missing work to testify or provide that the victim may ask for assistance in explaining to her employer that she needs to attend court ("employer intercession services"). These laws are suggestive, rather than mandatory.

COLORADO: Colo. Rev. Stat. 24-4.1-302.5(n)

FLORIDA: Fla. Stat. Ann. § 960.001(i)

ILLINOIS: 725 Ill. Comp. Stat. 120/5(a)(2)

KENTUCKY: Ky. Rev. Stat. Ann. § 421.500(8)

LOUISIANA: La. Rev. Stat. Ann. § 46:1844(E)

NEBRASKA: Neb. Rev. Stat. § 81-1848(2)(h)

NEVADA: Nev. Rev. Stat. § 178.5694(1)(2004)

NEW JERSEY: N.J. Stat. Ann. § 52:4B-44(b)(13)

NEW MEXICO: N.M. Stat. Ann. § 31-26-4(J) [If browser says unable to display page, press refresh button.] & N.M. Const. Art. II, Sec. 24(A)(1) [for victims of specific crimes only]

NORTH CAROLINA: N.C. Gen. Stat. § 15A-825(4)

NORTH DAKOTA: N.D. Cent. Code § 12.1-34-02(6)

OKLAHOMA: 19 Okla. Stat. § 215.33(8)

RHODE ISLAND: R.I. Gen. Laws § 12-28-3(a)(7)

TEXAS: Tex. Code Crim. Proc. Art. 56.02(a)(10)

UTAH: Utah Code Ann. § 77-37-3(1)(g)

VIRGINIA: Va. Code Ann. § 19.2-11.01(A)(3)(a)

WASHINGTON: Wash. Rev. Code § 7.69.030(8)

WEST VIRGINIA: W. Va. Code § 61-11A-6(a)(8)

WISCONSIN: Wis. Stat. § 950.04(1v)(bm)

RECENT LEGISLATIVE PROPOSALS

The following legislation has been introduced in the current or prior legislative sessions. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, you may contact Legal Momentum or the legislative information service at your state or city legislature, or consult your legislature's web page.

Domestic and Sexual Violence Employment Leave

LOUISIANA: H.B. 242, 2004 Reg. Sess. (La. 2004).

An employee who is a victim of domestic or sexual violence or has a family or household member who is a victim of such violence and is employed by a private employer with over 50 employees—or by a state or local government or school district—may take up to 6 weeks unpaid leave during any 12 month period to address the violence. This leave may be used to seek medical attention or counseling, obtain services from a victim services organization, participate in safety planning or relocation, or seek legal assistance. Unless impracticable, the employee shall provide 48-hour notice of the leave. The employer may require the employee to provide certification of the violence and that the leave is for an enumerated purpose. The certification requirement may be satisfied by the employee's sworn statement and by documentation from a service provider who has assisted the employee or his or her family member in addressing the violence, by police or court records, or by other corroborating evidence. Upon return from leave, the employee shall be entitled to restoration to the original job or to an equivalent position. Employers cannot discriminate or retaliate against persons who exercise their rights under this law. Absent written consent by the employee or statutory requirements, all information provided to the employer pursuant to this Section shall be held in the strictest confidence by the employer. An employee whose rights have been violated may bring an administrative complaint in the state Department of Labor. Additional provisions of this bill would address discrimination against victims more generally; these are described in greater detail on the "Discrimination Against Victims of Domestic or Sexual Violence" fact sheet.

KENTUCKY: H.B. 403, 2004 Reg. Sess. (Ky. 2004).

An employer is prohibited from discharging, or discriminating or retaliating against, an employee who is a victim of domestic violence and abuse, stalking, or sexual assault for taking time off to obtain or attempt to obtain judicial relief addressing the violence. The employee must give the employer reasonable notice unless advance notice is not feasible. When an unscheduled absence occurs, the employer may require certification of the violence. The certification requirement may be satisfied by a police report, a court order or other evidence from the court or prosecuting attorney that the employee has appeared in court, or documentation from a relevant service provider. The employer is also required, to the extent allowed by law, to maintain the confidentiality of an employee requesting such leave. In addition, employers with 25 or more employees may not discharge, or in any manner discriminate or retaliate against, an employee who is a victim of domestic violence and abuse, stalking, or sexual assault for taking time off from work to seek medical attention; obtain services from a domestic violence shelter, program, or rape crisis center; obtain psychological counseling; participate in safety planning; or relocate. The bill also prohibits an employer from discharging, or discriminating or retaliating against, an employee, "including but not limited to ... a victim of crime," for taking time off to appear in court to comply with a subpoena or other court orders as a witness in any judicial proceeding. This bill was introduced in 2003 as H.B. 171, which passed the House.

MISSISSIPPI: H.B. 739, 2002 Reg. Sess. (Miss. 2002).

An employer must grant “reasonable and necessary leave from work, with or without pay,” for an employee who is a victim of domestic abuse, sexual assault, or stalking to: (1) prepare for and attend court proceedings; (2) receive medical treatment; or (3) obtain necessary services to remedy a crisis. The employee must request leave within a “reasonable time under the circumstances.” The employer has the discretion to deny the leave request if the employer would sustain undue hardship from the victim’s absence or the requested leave is impractical, unreasonable, or unnecessary based on the facts made known to the employer. The section applies to all public and private employers.

NEW YORK: A.B. 31 & S.B. 4646, 225th Ann. Leg. Sess. (N.Y. 2004).

A victim of domestic violence is permitted up to 90 days of unpaid leave during any 12-month period to address “ongoing domestic violence.” “Ongoing domestic violence” is defined as (a) an inability to perform or attend work due to recent domestic violence or the threat of domestic violence; (b) seeking legal assistance; (c) seeking services from a program for victims of domestic violence; (d) seeking medical attention for the victim or the victim’s child; (e) attending counseling; or (f) engaging in safety planning, including relocation. The leave may be taken on an intermittent basis. The employee must provide the employer with “reasonable” notice. The employer may require certification of the need for leave.

PENNSYLVANIA: H.B. 375 & S.B. 235, 186th Gen. Assemb. (Pa. 2003).

As amended, H.B. 375 permits an “eligible employee,” defined as in the federal Family and Medical Leave Act, who is a victim of domestic violence or the parent of a minor child who is the victim of domestic violence up to 30 days leave during any 12-month period for medical treatment, legal proceedings, relocation, or to obtain counseling or advocacy services related to the violence. The employee must give 5 days advance notice unless it is not possible do so due to a risk to safety of the employee or his or her minor child, scheduling of a legal proceeding, or availability of counseling services. The employee must make a reasonable effort to schedule absences so as not to unduly disrupt the operations of the employer. An employer may request certification of the reason for the request for leave. The certification requirements may be satisfied by a police report, court order, signed statement from relevant professional service provider, or a signed statement from a victim and a witness advocate or court personnel. The employer must continue to pay health benefits during the leave and restore the employee to the same or equivalent position at the end of the leave. If the employee does not return to work, the employer may charge the employee for the cost of the health benefits during the leave. **H.B. 375 passed the Pennsylvania House on June 16, 2004 and was referred to the Senate.**

TENNESSEE: H.B. 713, 102d Gen. Assemb. (Tenn. 2001).

A full-time employee who has been employed by the same employer for at least twelve consecutive months may be absent from employment for up to four months to address domestic violence if it is impacting the employee’s ability to perform the functions of her position or to care for a child or parent of the employee who is addressing domestic violence. An employer may require documentation of the domestic violence, but such documentation is broad and may include: a written statement describing the domestic violence; court records; statements by professionals who the victim consulted as a result of the domestic violence (e.g., shelter workers, attorneys, clergymen, or medical professionals); statements by witnesses of the domestic violence; or physical evidence of the violence (a photograph, torn or bloody clothes, or damaged property). Such documentation must be kept confidential by the employer. Additionally, employees who are entitled to take paid or unpaid leave may use such leave to address domestic violence in their lives or to care for a child

or parent who is a victim of domestic violence. This bill was withdrawn from committee on March 15, 2001 and was not reintroduced in the Tennessee 103rd General Assembly.

TENNESSEE: H.B. 315, 102d Gen. Assemb. (Tenn. 2001).

An employer must grant reasonable and necessary leave from work with or without pay for an eligible employee to: (1) prepare for and attend court proceedings; (2) receive medical treatment; or (3) obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. This leave must be needed because the employee is a victim of violence, assault, sexual assault, stalking, or any act that would support an order of protection. Such leave need not be granted if the employer would sustain undue hardship from the victim's absence or did not receive the request for leave within a reasonable time under the circumstances, or where the requested leave is "impractical, unreasonable or unnecessary" based on the facts made known to the employer. This bill was withdrawn from committee on March 15, 2001 and was not reintroduced in the Tennessee 103rd General Assembly.

WASHINGTON: S.B. 5329, 57th Leg. (Wash. 2001).

An employer must grant "reasonable and necessary leave from work" of up to 6 weeks during any 12-month period for an eligible employee to: (a) prepare for and attend court proceedings; (b) receive medical treatment; or (c) obtain necessary services to address a crisis caused by the violence. To be eligible, an employee must be a victim of a criminal act, harassed or followed by a stalker, a survivor of a homicide victim who was an immediate family member, or the parent of a child who has been subject to sexual abuse. The employer is not required to grant leave if the employer would sustain "undue hardship," if "requested leave is impractical, unreasonable or unnecessary based upon the facts known to the employer;" or if the criminal act has not been reported to local law enforcement. Additionally, the employer is not required to pay for such leave.

Crime Victim Employment Leave

ALASKA: H.B. 391, 23rd Leg., 2d Sess. (Alaska 2003) (would broaden Alaska's existing victim leave statute, Alaska Stat. § 12.61.017, to provide leave for any proceeding where the victim has a right to be present)

DELAWARE: H.B. 276, 141st Gen. Assemb. (Del. 2001) (would allow eligible employees who are victims of violent crime up to 30 days leave for medical treatment, legal proceedings, relocating, or therapy)

GEORGIA: H.B. 508, 147th Gen. Assemb. (Ga. 2003) (would allow an employee who is a victim of a crime to be absent from employment to attend judicial proceedings when such presence is not required by subpoena, summons, or other court order)

NEW HAMPSHIRE: H.B. 747, 158th Sess. (N.H. 2003-04) (would allow an employee who is a victim of a crime leave to attend court or investigative proceedings associated with the prosecution of the crime, or to attend "counseling sessions necessitated by the crime")

SOUTH CAROLINA: H.B. 4651, 115th Sess. (S.C. 2004) (would require the State to grant paid leave for a state employee who was a victim of a violent crime or whose immediate family member was a victim of a violent crime to attend the court proceedings related to that crime). This bill passed the House on Feb. 20, 2004.

WISCONSIN: A.B. 269, 96th Leg. (Wisc. 2003) (would allow an employee who is the victim of a crime leave to attend proceedings related to the crime that the victim “has a right to attend” and up to 12 hours counseling)

This fact sheet, with links to cited laws and bills, is available on the Legal Momentum web site at <http://www.legalmomentum.org/issues/vio/FactsheetPage.shtml>.

For more information, contact Staff Attorneys Deborah Widiss, dwidiss@legalmomentum.org, or Maya Raghu, mraghu@legalmomentum.org, at (212) 925-6635.

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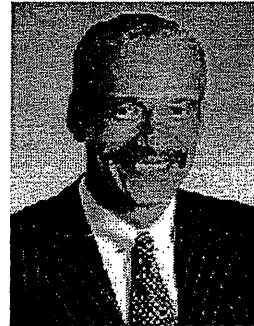
By Marie Tessier
WeNews correspondent

Maine and California were the first states to give victims of domestic violence the right to take time off from work to put their lives on a better track. A growing number of states are following their lead.

(WOMENSENEWS)--Sophia Apossos was a newspaper reporter in Plymouth, Mass., when her husband assaulted her one weekend in July 2000.

At first, the legal and justice system seemed to work.

She phoned the police, he was arrested and charged. Apossos obtained a temporary protection order requiring her husband to have no contact. Over the weekend, he violated the court order by phoning her from jail.



Robert J. Grey Jr

Meanwhile, as she looked ahead, she knew that it would be hard to get to work on Monday. That day she was required to appear at her husband's arraignment, to testify his initial assault, about his violation of the protection order, and seek an extension of the temporary protection order. She also needed to have police photos taken of her injuries for evidence. In between, she needed to get the locks changed on her home, as the police suggested.

So over the weekend, Apossos phoned her supervisor at work. She left a message saying she would not be in on Monday morning because she had been assaulted and needed to attend proceedings in civil and criminal court. On Monday, she phoned again to say that the procedures were going to take all day.

Nasty and Common Surprise

When she came to work Tuesday, Apossos was in for a nasty, but remarkably common, surprise. The human resources director called her into her office and fired her, according to court filings.

Like about 1-in-3 victims of domestic violence, Apossos lost her job because of

the violence and harassment of an abuser and because she took the steps necessary to make it stop.

Later, Apessos filed a lawsuit for wrongful termination that was backed by the NOW Legal Defense and Education Fund, a New York-based group now known as Legal Momentum. Contacted through Legal Momentum, Apessos declined comment. Information on her case was gathered from Legal Momentum and public court records.

Versions of Apessos' story are played out on domestic-violence hotlines around the nation, day in and day out, by many of the one-in-four women who will experience abuse in her lifetime. To stay safe, a woman may need to appear at a hearing during regular office hours. Another might need to meet with prosecutors or detectives. Another might need to meet a landlord to sign a lease on a new apartment so she and her children can start a new life.

And yet many women may not be allowed to take time off work. Many fear reprisal if they even ask, advocates say.

State-by-state, however, that has begun to change as a growing number of legislatures are giving victims of domestic violence the right to take time off from work in order to address the violence in their lives.

First Domestic-Violence Leave Law in 1999

Maine and California passed the first domestic violence leave laws in 1999. Colorado, Hawaii, Illinois, and New York followed, along with some municipalities, such as Miami-Dade County, Fla. The latest is North Carolina's law, which took effect in October 2004, according to Legal Momentum. In recent years, seven other states have considered proposed legislation focused on domestic and sexual violence. Others considered protections for crime victims in general.

Many more states have specific protections for victims who need time off work to attend or testify at criminal proceedings, but these do not extend to civil matters such as seeking a protection order.

Domestic violence-leave laws are a critical piece of protection for battered women, making it possible for them to make use of the court system, lawyers and other advocates for battered women say.

"A lot of people lose their jobs because of domestic violence, and we need to make sure that the full array of legal options is available to victims," says Robert J. Grey Jr., president of the American Bar Association, which has promoted employment rights for victims of domestic and sexual violence in recent years.

Being able to hold on to jobs is also fundamental to helping women change their violent circumstances, advocates say.

Help Separating From Abuser

"Economic security is one of the most important factors in determining

whether a victim of domestic violence will be able to separate effectively from her abuser," says Deborah Widiss, a staff attorney who specializes in domestic-violence law at Legal Momentum. "There's still a lot of stigma around domestic violence and sexual violence, so it's a difficult conversation to have with your employer. Having the legal right to take the time helps victims take the necessary steps to be safe."

For Sophia Apessos, taking steps to stay safe cost her a job, and several years' involvement with a lawsuit against her employer, Memorial Press Group, an independent newspaper group based in Plymouth, Mass. The group did not return a call seeking comment.

Along the way to a settlement in the Apessos case, the Massachusetts Superior Court had to decide whether to allow the suit to proceed--in essence whether she had a legitimate claim under the law. Its decision in Apessos' favor was succinct: "[A] victim should not have to seek physical safety at the cost of her employment," the court wrote.

That decision was the first such case to establish an employer's obligation to accommodate victims of domestic violence, Widiss says.

Filing a lawsuit is a step that is theoretically available to everyone, but is highly impractical--not to say far-fetched--given how strapped victims are for time, money, emotion or energy, advocates say.

Trend in Employment Law, Business Practice

Guaranteeing the legal right to take domestic-violence leave is part of a broader trend in employment law and business practices that assist victims in solving problems, rather than making them worse, attorneys and advocates say.

Leave laws are one approach, but other pieces help, too. Many states offer unemployment compensation for victims whose jobs are affected. Written personnel policies build a climate of support rather than workplace punishment for a victim and they are good for business, too, Widiss says.

"Workplace policies are a good way for an employer to indicate that they want to help correct a problem by providing time off or by making simple changes to keep someone safe," Widiss says. "Things as easy as changing someone's phone extension, adjusting work hours, or transferring to another work site can make a big difference and many are very low cost."

Educating employers on the signs of abuse and on the cost to their businesses is an important step in improving the climate for victims, the Bar Association's Grey and others say.

"Domestic violence is an issue that's difficult for employers to get their arms around, because it's rarely obvious what's going on," Grey says. "A measured response can help victims get to the solution while keeping their personal dignity and their workplace productivity intact."

Pervasive Impact on Women at Work

During training sessions, employers often express surprise at the extent to which abusers' behavior targeted at one of their employees makes its way into their workplace, says Robin Runge, the Washington, D.C., based director of the American Bar Association's Commission on Domestic Violence.

As many as 19 out of every 20 victims say that they experience problems at work related to domestic violence, Runge says. Among the most common forms of workplace disruption are repeated phone calls from batterers who are monitoring or threatening a woman or just harassing her.

Batterers sabotage women's careers in other ways. They might make them late for work, wreck child care arrangements, try to damage their professional reputations or interfere with their jobs to make them look unproductive, advocates say.

The result is that someone who is being victimized can look as if she is the problem, instead of the abuser, Runge says. That ends up endangering a woman's job and makes it even more difficult for her to seek remedies. Often, the employer doesn't even know what is going on. In turn, victims may be compelled to face a Hobson's choice between their jobs and their safety.

"Too often, victims are being forced to choose between staying safe and keeping their jobs secure," Runge says. "The services available in the courts and in our communities won't work unless victims can access them, and that means time off."

Marie Tessier is a frequent contributor to Women's eNews who writes about violence against women and other national affairs.

For more information:

Legal Momentum:

<http://www.legalmomentum.org/issues/vio/laws-leave.shtml>

American Bar Association Commission on Domestic Violence:

<http://www.abanet.org/domviol/home.html>

National Domestic Violence Hotline:

1-800-799-SAFE 1-800-787-3224 (TTY)

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Women's eNews is a nonprofit independent news service covering issues of concern to women and girls.

I have been a women's advocate for 7 years in Duluth, at the Domestic Abuse Intervention Project.

I have heard many stories of women having their jobs in jeopardy or being penalized for attending Order for Protection court hearings.

Here are a few stories:

Amy:

Amy managed a restaurant in a hotel. She missed work to get an order for protection and she was simply fired.

Toni:

Toni worked for a Law office for many years. She had several hearings to attend for her OFP. She was put on probation for 6 months and could not miss one single day. Toni is a mother of 4 children.

April:

April worked at McDonald's she is mother of two small children. She is married but separated from her husband. She missed work to get an order for protection. Lisa was fired also. When she worked she was able to support her children and stay safe. Lisa ended up going back to her husband and the next assault he broke her wrist.

Kami:

Kami worked at Trillium an assisted living center. Kami's OFP court hearing was scheduled on her day off. The hearing was continued for the following week, which is not uncommon. She asked for the time off. Her employer penalized her by cutting her hours from 37 to 17.

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

3 S.F. No. 1438: A bill for an act relating to public
4 safety; expanding the protection against employer retaliation
5 for crime victims; amending Minnesota Statutes 2004, sections
6 518B.01, by adding a subdivision; 609.748, by adding a
7 subdivision; 611A.036.

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

10 Page 1, line 17, after the comma, insert "or unless
11 impracticable,"

12 Page 1, line 18, delete "reasonable" and insert "48 hours'"

13 Page 2, line 8, delete "Total damages"

14 Page 2, delete lines 9 and 10

15 Page 2, line 22, after the comma, insert "or unless
16 impracticable,"

17 Page 2, line 23, delete "reasonable" and insert "48 hours'"

18 Page 3, line 3, delete "Total damages"

19 Page 3, delete lines 4 and 5

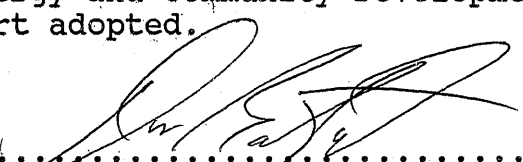
20 Page 3, line 35, delete "reasonable" and insert "48 hours'"

21 Page 3, line 36, after "unless" insert "impracticable or"

22 Page 4, line 18, delete "Total damages recoverable under
23 this section shall not"

24 Page 4, delete line 19

25 And when so amended the bill do pass and be re-referred to
26 the Committee on Jobs, Energy and Community Development.
27 Amendments adopted. Report adopted.

28
29 
30
(Committee Chair)

31
32 April 7, 2005.....
33 (Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 917 - Positive Alternatives Act

Author: Senator Dallas C. Sams

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

Date: April 7, 2005

S.F. No. 917 provides grants to encourage women to carry pregnancies to term.

Subdivision 1 defines “abortion” and “unborn child.”

Subdivision 2, paragraph (a), provides for grants to assist with listed services, including medical care, nutrition, housing, adoption, education, employment, child care, and parenting services.

Paragraph (b) provides that programs may provide more than one service and refer and cooperate with other programs.

Paragraph (c) provides qualifications for program providers. They must be private, nonprofit, properly supervised, free, provide accurate information, assist women to carry pregnancies to term, and not use funds to encourage abortions.

Paragraph (d) makes all the provisions of paragraph (c) nonseverable.

Paragraph (e) makes organizations that provide, promote, or encourage abortion ineligible for participation in the program.

Paragraph (f) requires proper records.

Subdivision 3 provides privacy rules.

Subdivision 4 describes the duties of the Commissioner of Health.

Subdivision 5 makes the provisions of the act severable subject to paragraph (d) of subdivision 2.

Section 2 is an appropriation.

HW:cs

1 A bill for an act

2 relating to health; providing for grants related to
3 positive abortion alternatives; appropriating money;
4 proposing coding for new law in Minnesota Statutes,
5 chapter 145.

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

7 Section 1. [145.4231] [POSITIVE ABORTION ALTERNATIVES.]

8 Subdivision 1. [DEFINITIONS.] For purposes of this

9 section, the following terms have the meaning given:

10 (1) "abortion" means the use of any means to terminate the
11 pregnancy of a woman known to be pregnant with knowledge that
12 the termination with those means will, with reasonable
13 likelihood, cause the death of the unborn child. For purposes
14 of this section, abortion does not include an abortion necessary
15 to prevent the death of the mother; and

16 (2) "unborn child" means an individual organism of the
17 species Homo sapiens from fertilization until birth.

18 Subd. 2. [ELIGIBILITY FOR GRANTS.] (a) The commissioner of
19 health shall award grants to eligible applicants under paragraph
20 (c) for the reasonable expenses of alternatives to abortion
21 programs to support, encourage, and assist women in carrying
22 their pregnancies to term by providing information on, referral
23 to, and assistance with securing necessary services that enable
24 women to carry their pregnancies to term. Necessary services
25 include, but are not limited to:

1 (1) medical care;
2 (2) nutritional services;
3 (3) housing assistance;
4 (4) adoption services;
5 (5) education and employment assistance;
6 (6) child care assistance; and
7 (7) parenting education and support services, including
8 services that support the continuation and completion of high
9 school.

10 (b) In addition to providing information and referral under
11 paragraph (a), an eligible program may provide one or more of
12 the necessary services under paragraph (a) that assists women in
13 carrying their pregnancies to term. To avoid duplication of
14 efforts, grantees may refer to other public or private programs,
15 rather than provide the care directly, if a woman meets
16 eligibility criteria for the other programs.

17 (c) To be eligible for a grant, an agency or organization
18 must:

19 (1) be a private, nonprofit organization;

20 (2) demonstrate that the program is conducted under
21 appropriate supervision;

22 (3) not charge women for services provided under the
23 program;

24 (4) provide each pregnant woman counseled with accurate
25 information on the developmental characteristics of unborn
26 children, including offering the printed information described
27 in section 145.4243;

28 (5) ensure that its alternatives to abortion program's
29 purpose is to assist and encourage women in carrying their
30 pregnancies to term and to maximize their potentials thereafter;
31 and

32 (6) ensure that none of the funds provided is used to
33 encourage a woman to have an abortion not necessary to prevent
34 her death or to provide her an abortion.

35 (d) The provisions, words, phrases, and clauses of
36 paragraph (c) are inseverable from this subdivision, and if any

1 provision, word, phrase, or clause of paragraph (c) or the
2 application thereof to any person or circumstance is held
3 invalid, such invalidity shall apply to all of this subdivision.

4 (e) An organization that provides abortions, promotes
5 abortions, or encourages or arranges for abortions is ineligible
6 to receive a grant under this program. An affiliate of an
7 organization that provides abortions, promotes abortions, or
8 encourages or arranges for abortions is ineligible to receive a
9 grant under this section unless the organizations are separately
10 incorporated and independent from each other. To be
11 independent, the organizations may not share any of the
12 following:

13 (1) the same or a similar name;

14 (2) medical facilities or nonmedical facilities, including
15 but not limited to, business offices, treatment rooms,
16 consultation rooms, examination rooms, and waiting rooms;

17 (3) expenses;

18 (4) employee wages or salaries; or

19 (5) equipment or supplies, including but not limited to,
20 computers, telephone systems, telecommunications equipment, and
21 office supplies.

22 (f) An organization that receives a grant under this
23 section and that is affiliated with an organization that
24 provides abortion services must maintain financial records that
25 demonstrate strict compliance with this subdivision and that
26 demonstrate that its independent affiliate that provides
27 abortion services receives no direct or indirect economic or
28 marketing benefit from the grant under this section.

29 Subd. 3. [PRIVACY PROTECTION.] Any program receiving a
30 grant under this section must have a privacy policy and
31 procedures in place that ensure that the name, address,
32 telephone number, or any other information that might identify
33 any woman seeking the services of the program shall not be made
34 public or shared with any other agency or organization without
35 the written consent of the woman and all communications between
36 the program and the woman must remain confidential. For

1 purposes of any medical care provided by the program, including,
2 but not limited to, pregnancy tests or ultrasonic scanning, the
3 program must adhere to the requirements in section 144.335 that
4 apply to providers before releasing any information relating to
5 the medical care provided.

6 Subd. 4. [DUTIES OF COMMISSIONER.] The commissioner of
7 health shall make grants under subdivision 2 beginning no later
8 than July 1, 2006. In awarding grants, the commissioner shall
9 consider the program's demonstrated capacity in providing
10 services to assist a pregnant woman in carrying her pregnancy to
11 term. The commissioner shall monitor and review the programs of
12 each grantee to ensure that the grantee carefully adheres to the
13 purposes and requirements of subdivision 2 and shall cease
14 funding a grantee that fails to do so.

15 Subd. 5. [SEVERABILITY.] Except as provided in subdivision
16 2, paragraph (d), if any provision, word, phrase, or clause of
17 this section or the application thereof to any person or
18 circumstance is held invalid, such invalidity shall not affect
19 the provisions, words, phrases, clauses, or applications of this
20 section that can be given effect without the invalid provision,
21 word, phrase, clause, or application and to this end, the
22 provisions, words, phrases, and clauses of this section are
23 declared to be severable.

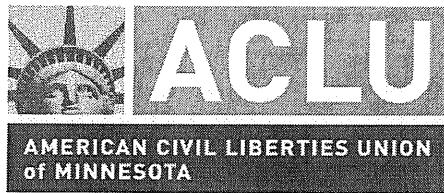
24 Sec. 2. [APPROPRIATIONS; COMMUNITY HEALTH AND FAMILY
25 PROMOTION.]

26 Of the general fund appropriation in fiscal year 2007,
27 \$2,500,000 is for positive abortion alternatives under Minnesota
28 Statutes, section 145.4231. Of this amount, \$100,000 may be
29 used for administrative costs of implementing the grant
30 program. An additional \$50,000 is appropriated from the general
31 fund to the commissioner of health in fiscal year 2006 for
32 administrative costs of program implementation.

1 Senator moves to amend S.F. No. 917 as follows:
 2 Page 2, line 4, after "services" insert "from an accredited
 3 adoption agency"

Page 2, after line 9, insert

An ~~§~~ applicant may not provide
 or assist a woman to obtain
 adoption services from ~~a~~
 a provider of adoption services
 that is not accredited



Lawrence J. Field
President
April 7, 2005

Charles E. Samuelson
Executive Director

Teresa J. Nelson
Legal Counsel

STATEMENT OF CHARLES SAMUELSON RE: SF 917

The ACLU of Minnesota is the statewide affiliate of the ACLU and our mission is to protect the constitutional rights of all Minnesotans, including the rights to free speech and reproductive freedom. The ACLU-MN opposes SF 917 the "Positive Alternatives Act" because of the negative impact that it will have on those rights.

- This bill imposes unconstitutional conditions on the receipt of state funds by requiring organizations to give up their right to free speech and association. Section 1, subdivision 2(e) prohibits funds to be paid to an organization that provides, promotes, encourages or arranges for abortion services. The bill does not define "promotes" or "encourages" This broad scope will place too great a burden on women and organizations.
 - While the U.S. Supreme Court, in Rust v. Sullivan, has upheld gag rules in the context of Title X "Funded Projects", this bill goes much further by requiring an organization not have any other projects that carry out the prohibited activities, which was not even contemplated by the Court. The imposition of a demand to slash all other abortion-related activities to acquire funding violates the organization's right to free speech and association.
 - According to the Court in an Eighth Circuit decision Planned Parenthood v. Dempsey, this funding restriction could cross the line established in Rust and, therefore, would be an unconstitutional condition. The statute may be interpreted to prohibit grantees from using their own private funds to advocate in favor of abortion outside the scope of the funded project. In Dempsey, the 8th Circuit narrowly construed restrictions on the receipt of family planning funds to only require that the grantee provide "nondirective counseling relating to the pregnancy", and expressly noted that grantees maintained the right to "advocate in faor of abortion outside of any patient relationship so long as that speech occurs with private funds and outside the scope of the program." In contrast, SF917 does not allow grantees to exercise their constitutionally protected rights by prohibiting all abortion advocacy – even if that advocacy occurs outside the funded project.
 - Restrictions must differentiate between the grantee and the funded project. While the funded project may be restricted, the grantee must remain free to use its own funds to engage in activities prohibited for the funded project. Speech that occurs outside the context of the government-funded

program must be unrestricted. This provision does just the opposite. It would prevent a program from receiving funding simply because of other activities the organization engages in.

- The remainder of Section 1, subdivision 2(e) does not save the provision from being unconstitutional. The provision allows funds to be paid to an affiliate of a prohibited organization but only if its affiliate is separate and independent.
 - While the U.S. Supreme Court, in Rust v. Sullivan, has upheld gag rules in the context of Title X "Funded Projects", this attempt goes much further by requiring a level of separation between an organization and the funded project that was never contemplated by the Court. The imposition of such a level of separation, including a prohibition on sharing the same or similar name, sharing business offices, or sharing equipment and supplies, violates the organization's right to free speech and association. The Eighth Circuit in Dempsey noted that it was sufficient if the affiliate is separately incorporated, has separate facilities and maintains adequate financial records to demonstrate that it receives no government funds.
 - The requirement that the organization and affiliate cannot share the same or similar name bears no relation as to whether funds are used impermissibly. This requirement violates the right to freedom of association.
 - The remainder of the factors work to effectuate a complete and total separation of the two organizations. Such a requirement would serve to unconstitutionally limit the organization along with the funded program.
- SF 917 may run afoul of the Minnesota Constitutional requirement that the state not use funds in a manner that interferes with a woman's reproductive decisions.
 - In Doe v. Gomez, the Minnesota Supreme Court held that the state cannot use funds to support childbirth while denying them for abortions because it constitutes an unconstitutional interference with a woman's decision about whether to have an abortion. SF 917 establishes a funding mechanism similar to the Medical Assistance program at issue in Gomez by providing funds to promote childbirth while prohibiting funds for abortion-related services.
- SF 917 also runs the risk of organizations using these funds to proselytize and promote religion or a religious agenda. Government funds may not be used to

advance religion nor result in a government endorsement of religion. During legislative hearings on the companion bill to SF 917, House Committees heard testimony from an individual who researched various agencies that will qualify for funding under this legislation. It appears from that testimony that religious counseling is likely to be an integral part of some funded programs. While SF 917 takes great pains to ensure that no government funds go toward abortion advocacy or services, it ignores the Constitutional requirement that government funds may not be used to promote religion. Given the very real threat that funds could be used for religious-based counseling, SF 917 should be amended to expressly prohibit the use of funds for religious proselytizing and counseling.

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

3 S.F. No. 917: A bill for an act relating to health;
4 providing for grants related to positive abortion alternatives;
5 appropriating money; proposing coding for new law in Minnesota
6 Statutes, chapter 145.

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

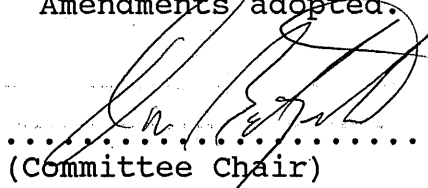
9 Page 2, after line 9, insert:

10 "An applicant may not provide or assist a woman to obtain
11 adoption services from a provider of adoption services that is
12 not accredited."

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

15

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17
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20



.....
(Committee Chair)

April 7, 2005.....
(Date of Committee recommendation)

Senators Hann and LeClair introduced--

S.F. No. 631: Referred to the Committee on Judiciary.

1 A bill for an act
2 relating to civil actions; prohibiting actions against
3 certain persons for weight gain as a result of
4 consuming certain foods; proposing coding for new law
5 in Minnesota Statutes, chapter 604.

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

7 Section 1. [604.17] [ACTIONS ALLEGING WEIGHT GAIN OR
8 OBESITY FROM FOOD CONSUMPTION.]

9 Subdivision 1. [ACTIONS PROHIBITED.] An action may not be
10 brought against a manufacturer or seller of a food or a trade
11 association for a food to recover damages or obtain injunctive
12 relief for alleged injury resulting from consumption of food and
13 weight gain, obesity, or any health condition associated with
14 weight gain or obesity.

15 Subd. 2. [ACTIONS PERMITTED.] Subdivision 1 does not
16 prohibit an action:

17 (1) against a manufacturer or seller of a food that
18 knowingly and willfully violated a state law applicable to the
19 manufacturing, marketing, distribution, advertisement, labeling,
20 or sale of the food, and the violation was a proximate cause of
21 injury related to a person's weight gain, obesity, or any health
22 condition associated with a person's weight gain or obesity; or

23 (2) an action for breach of express contract or express
24 warranty in connection with the purchase of food.

25 Subd. 3. [PLEADINGS.] In an action described in

1 subdivision 2, the complaint must state with particularity each
2 and every state statute that was violated and the facts that
3 caused the alleged injuries.

4 Subd. 4. [DISCOVERY IN CERTAIN ACTIONS.] (a) In an action
5 described in subdivision 2, discovery and other proceedings must
6 be stayed during the pendency of a motion to dismiss unless the
7 court finds on motion of a party that particularized discovery
8 is necessary to preserve evidence or prevent undue prejudice to
9 that party.

10 (b) During the pendency of a stay of discovery under this
11 subdivision, unless otherwise ordered by the court, a party to
12 the action with actual notice of the allegations contained in
13 the complaint shall treat every tangible object or document in
14 that party's control or custody that is relevant to the
15 allegations as if the object or document was the subject of a
16 continuing request for production of documents from any opposing
17 party under the Rules of Civil Procedure. "Document" includes
18 any written or electronically recorded or stored compilation of
19 data.

20 (c) A party aggrieved by the failure of another party to
21 comply with this subdivision may apply to the court for an order
22 awarding appropriate sanctions.

23 Sec. 2. [EFFECTIVE DATE.]

24 Section 1 is effective August 1, 2005, and applies to
25 actions commenced on or after that date.

1 Senator moves to amend S.F. No. 631 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [604.17] [PERSONAL RESPONSIBILITY IN FOOD
4 CONSUMPTION ACT.]

5 Subdivision 1. [TITLE.] This act may be cited as the
6 Personal Responsibility in Food Consumption Act.

7 Subd. 2. [DEFINITIONS.] (a) For purposes of this section
8 the following terms have the meanings given.

9 (b) "Long-term consumption" means the cumulative effect of
10 the consumption of food or nonalcoholic beverages, and not the
11 effect of a single instance of consumption.

12 (c) "Party" means an individual, corporation, company,
13 association, firm, partnership, society, joint stock company, or
14 any other entity, including any governmental entity.

15 Subd. 3. [IMMUNITY FROM CIVIL LIABILITY.] A producer,
16 grower, manufacturer, packer, distributor, carrier, holder,
17 marketer, or seller of a food or nonalcoholic beverage intended
18 for human consumption, or an association of one or more of such
19 entities, shall not be subject to civil liability based on any
20 individual's or group of individuals' purchase or consumption of
21 food or nonalcoholic beverages in cases where liability arises
22 from weight gain, obesity, or a health condition associated with
23 weight gain or obesity and resulting from the individual's or
24 group of individuals' long-term purchase or consumption of a
25 food or nonalcoholic beverage.

26 Subd. 4. [ACTIONS PERMITTED.] Subdivision 3 does not apply
27 to a claim of weight gain or obesity that is based on:

28 (1) a material violation of an adulteration or misbranding
29 requirement prescribed by state or federal statute, rule, or
30 regulation and the claimed injury was proximately caused by the
31 violation; or

32 (2) any other material violation of federal or state law
33 applicable to the manufacturing, marketing, distribution,
34 advertising, labeling, or sale of food, if the violation is
35 knowing and willful, and the claimed injury was proximately
36 caused by the violation.

1 Sec. 2. [EFFECTIVE DATE.]
2 Section 1 is effective the day following final enactment
3 and applies to any action brought by any party on or after the
4 effective date."

5 Delete the title and insert:

6 "A bill for an act relating to civil actions; prohibiting
7 actions against certain persons for weight gain as a result of
8 consuming certain foods; proposing coding for new law in
9 Minnesota Statutes, chapter 604."



"The voice of retailing in Minnesota"

March 2, 2005

The Honorable Member of the House Civil Law and Elections Committee
State Office Building
St. Paul, MN 55155

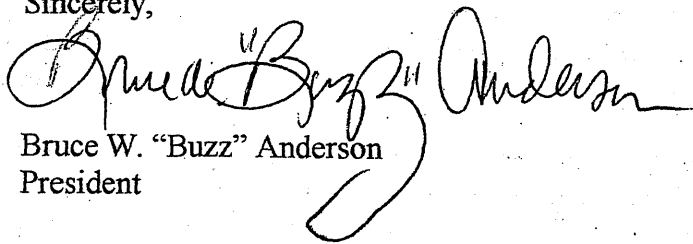
Dear Representatives,

On behalf of the Minnesota Retailers Association, I write in support of H.F. 118, the Personal Responsibility in Food Consumption Act. Our association strongly supports initiatives that help the passage of laws that encourage individual responsibility while at the same time lessening the overburdened judicial system with frivolous lawsuits.

Further, our association opposes any amendments that would weaken this common sense measure. Food sellers provide the public with a wide variety of food products which give consumers numerous choices that will supply them with a well-balanced and nutritional diet.

The Minnesota Retailers Association urges your strong support House File 118.

Sincerely,


Bruce W. "Buzz" Anderson
President



"The voice of retailing in Minnesota"

washingtonpost.com

McDonald's Must Face Claim That Its Food Caused Obesity, Panel Rules

By Tom Becker and David Glovin
Bloomberg News
Wednesday, January 26, 2005; Page E10

McDonald's Corp. must face a suit by New York teenagers who claim the company hid the health risks of Chicken McNuggets and other foods and made them obese, an appeals court ruled.

A three-judge panel overruled U.S. District Judge Robert W. Sweet's decision to dismiss the suit, which seeks billions of dollars in damages. The New York-based panel vacated Sweet's decision and said the children and their lawyers should be allowed to collect evidence in support of their case.

The ruling is a victory for the teenagers, Ashley Pelman and Jazlen Bradley, who claimed food from McDonald's made them obese and led to health problems such as diabetes and heart disease. The suit is the first complaint accusing a fast-food chain of hiding the health risks of its food to be considered by a judge.

The teenagers said they ate at McDonald's restaurants three to five times a week over a 15-year period. The suit claimed the company hid the health risks of Big Macs, Chicken McNuggets and other foods high in fat and cholesterol in 1987 advertisements in the United States and brochures circulated in Britain.

McDonald's said there was no evidence that the teenage plaintiffs, one of whom was born in 1988, saw the ads. The company also defended the accuracy of its ads.

"As we have consistently said, common sense tells you this particular case makes no sense," McDonald's spokesman Walt Riker said. "We are confident this frivolous suit will once again be dismissed. The key issue remains personal responsibility and making informed choices."

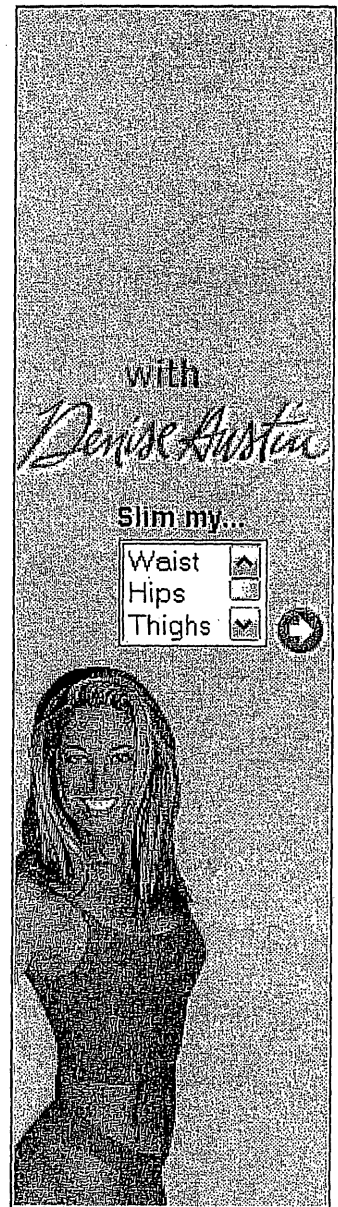
Samuel Hirsch, a lawyer representing the teenagers, didn't immediately return a call seeking comment.

Sweet twice dismissed the suit, most recently in September 2003. The appeal was heard in October.

The decision came the same day that the movie "Super Size Me," a documentary in which director Morgan Spurlock eats only at McDonald's Corp. restaurants for 30 days and gains 25 pounds, was nominated for an Academy Award.

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Advertisement



The Frivolous Lawsuit / Personal Responsibility

(as of February 8, 2005)

OVERVIEW: 2005: **19** BILLS INTRODUCED | 2004: **26** BILLS INTRODUCED | **14** ENACTED

ENACTED:

ALABAMA
ARIZONA
CALIFORNIA
COLORADO
FLORIDA
GEORGIA
IDAHO
ILLINOIS
LOUISIANA
MICHIGAN
MISSOURI
OHIO
SOUTH DAKOTA
TENNESSEE
UTAH
WASHINGTON

DEAD FOR '04:

CALIFORNIA
IOWA
KENTUCKY
MINNESOTA
MISSISSIPPI
NEBRASKA
NEW HAMPSHIRE
NEW YORK
PENNSYLVANIA
RHODE ISLAND
VIRGINIA
WISCONSIN (*Gov. veto*)

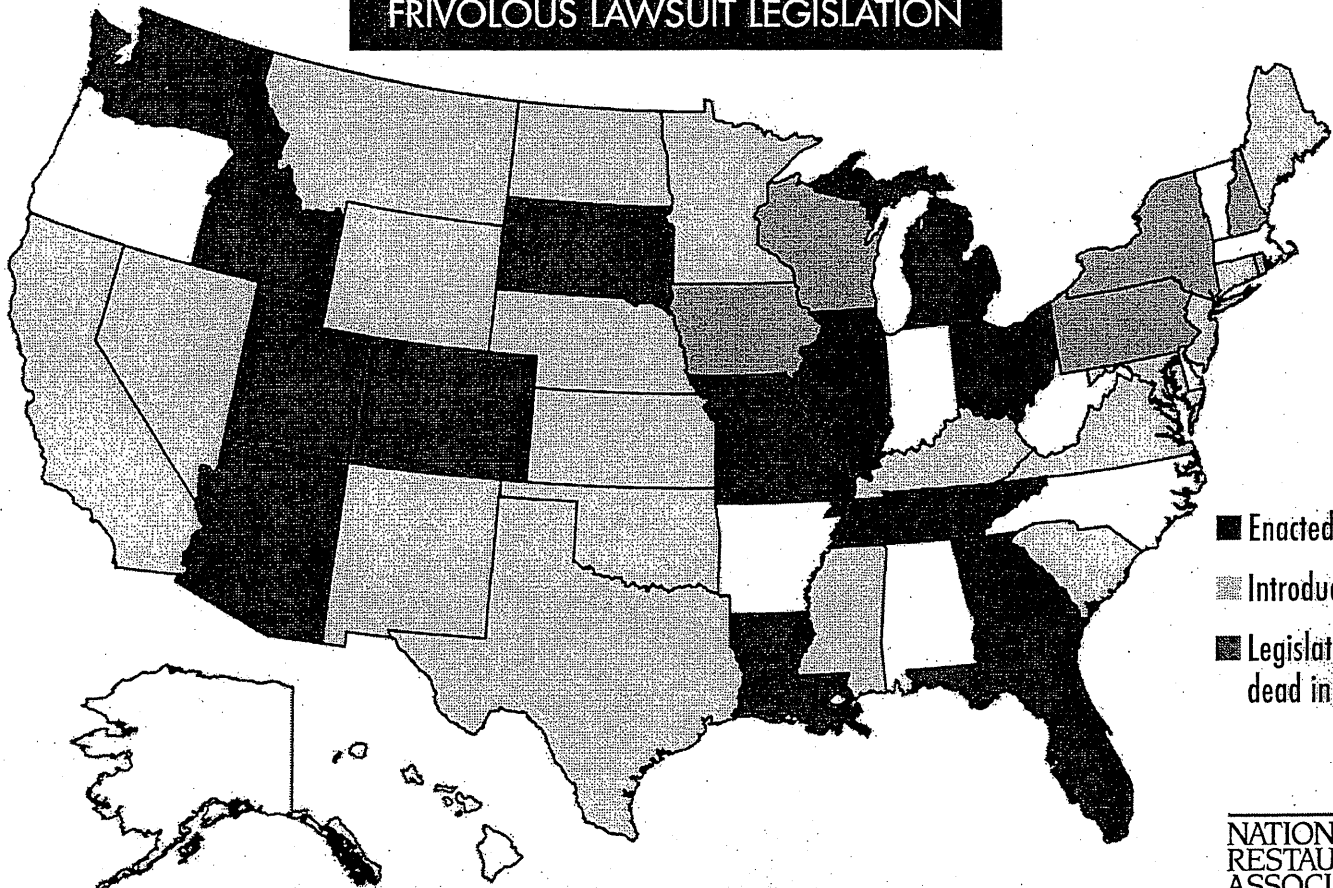
ACTIVE:

CALIFORNIA
CONNECTICUT
GEORGIA (*reintroduced*)
KANSAS
KENTUCKY
MAINE
MARYLAND
MINNESOTA
MISSISSIPPI
MONTANA (*prefiled '05*)
NEBRASKA
NEVADA (*prefiled '05*)
NEW JERSEY (*carry over*)
NEW MEXICO
NORTH DAKOTA
OKLAHOMA (*prefiled '05*)
SOUTH CAROLINA
TEXAS
VIRGINIA
WYOMING

STATUS OF ACTIVE BILLS:

CONNECTICUT: Joint Committee on Judiciary
KANSAS: Senate Judiciary Committee
MAINE: Referred to Judiciary Committee
MARYLAND: House Judiciary/Senate Committee on Judicial Proceedings
MINNESOTA: Referred to Committee on Agriculture and Rural Development
MISSISSIPPI: Referred to the House Judiciary A Committee
MONTANA: Bill still in drafting process
NEBRASKA: Awaits committee referral
NEVADA: Awaits committee referral.
NEW JERSEY: Currently before the Judiciary Committee
NEW MEXICO: Senate Public Affairs Committee
NORTH DAKOTA: Passes House moves to Senate
SOUTH CAROLINA: Referred to Judiciary Committee
TEXAS: Awaits committee referral
VIRGINIA: Passes House moves to Senate
WYOMING: Passes House moves to Senate

FRIVOLOUS LAWSUIT LEGISLATION





February 15, 2005

Minnesota House Agriculture and Rural Development Committee
St. Paul, MN

Dear House Agriculture and Rural Development Committee Members:

The Midwest Food Processors Association, Inc. (MWFP), representing approximately 18 processor members in the region which operate around 15 processing facilities in Minnesota, firmly supports H.F. 118, the Responsible Food Consumption Act. I want to assure you that this is a bill which needs to be passed. H.F. 118 will allow for food processors to be protected from frivolous lawsuits related to weight gain or obesity, while allowing legitimate concerns to move forward in the legal system. Food processors are among the most regulated industries, with oversight from FDA, USDA, EPA, Minnesota Department of Agriculture, Pollution Control Agency, and many other agencies. Labeling and nutritional claims are subject to regulatory scrutiny and make the US food supply one of the safest in the world. Lawsuits targeted against food processors based on consumption of food go against the regulatory system already in place to provide consumers the knowledge, choice and freedom they desire in their food purchases.

The recent publicity surrounding obesity and weight gain is stimulating a healthy dialogue about our lifestyles, eating habits and food manufacturing and preparation. However, lawsuits attached to the publicity do not help solve the problem of obesity in the general public. Resources diverted away from food processing to battle frivolous lawsuits diminish our ability to feed the world. Minnesota is one of the leading food manufacturing states and H.F. 118 will help maintain this status for processors and farmers.

MWFP respectfully urges your support for H.F. 118. Lawsuits will not solve the problem of obesity. Consumers will ultimately solve the problem through purchasing decisions and lifestyle choices. Restricting food processors by allowing dubious claims in lawsuits diminishes the ability to meet the demands of the consumer in the marketplace. If you have any questions or concerns, please feel free to contact me. The MWFP looks forward to working with you as H.F. 118 moves forward.

Sincerely,

John D. Exner, CAE
MWFP President/Legal Counsel

EXPERTISE AND INFLUENCE TO POWER YOUR FOOD BUSINESS

1 A bill for an act

2 relating to human services; implementing child
3 protection, child care, and child and family support
4 provisions; amending Minnesota Statutes 2004, sections
5 119A.43, subdivision 2; 119B.025, subdivision 1;
6 119B.03, subdivision 6; 119B.09, subdivisions 4, 9;
7 144D.025; 256.978, subdivision 2; 256D.02, subdivision
8 17; 256D.051, subdivision 6c; 256I.04, subdivision 2a;
9 256I.05, by adding a subdivision; 256J.626,
10 subdivisions 6, 7, 8; 256J.751, subdivisions 2, 5;
11 257.85, subdivisions 2, 3; 259.23, subdivisions 1, 2;
12 259.41, subdivision 3; 259.75, subdivision 1; 259.79,
13 subdivision 1; 259.85, subdivision 1; 260.012;
14 260C.001, subdivision 3; 260C.007, subdivision 8;
15 260C.151, subdivision 6; 260C.178; 260C.201,
16 subdivisions 1, 10, 11; 260C.312; 260C.317,
17 subdivision 3; 518.551, subdivision 5; 518.68,
18 subdivision 2; 548.091, subdivision 1a; 626.556,
19 subdivisions 1, 2, 3, 10, 10b, 10e, 10f, 10i, 11, 11c,
20 by adding subdivisions; repealing Minnesota Statutes
21 2004, sections 626.5551, subdivisions 1, 2, 3, 4, 5;
22 Minnesota Rules, parts 9500.1206, subparts 20, 26d,
23 27; 9560.0220, subpart 6, item B; 9560.0230, subpart 2.

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

25 ARTICLE 1

26 CHILD WELFARE: ALTERNATIVE RESPONSE

27 Section 1. Minnesota Statutes 2004, section 626.556,
28 subdivision 1, is amended to read:

29 Subdivision 1. [PUBLIC POLICY.] The legislature hereby
30 declares that the public policy of this state is to protect
31 children whose health or welfare may be jeopardized through
32 physical abuse, neglect, or sexual abuse. While it is
33 recognized that most parents want to keep their children safe,
34 sometimes circumstances or conditions interfere with their

1 ability to do so. When this occurs, families are best served by
2 interventions that engage their protective capacities and
3 address immediate safety concerns and ongoing risks of child
4 maltreatment. In furtherance of this public policy, it is the
5 intent of the legislature under this section to strengthen the
6 family and make the home, school, and community safe for
7 children by promoting responsible child care in all settings;
8 and to provide, when necessary, a safe temporary or permanent
9 home environment for physically or sexually abused or neglected
10 children.

11 In addition, it is the policy of this state to require the
12 reporting of neglect, physical or sexual abuse of children in
13 the home, school, and community settings; to provide for the
14 voluntary reporting of abuse or neglect of children; to require
15 the a family assessment and, when appropriate, as the preferred
16 response to reports not alleging substantial child endangerment;
17 to require an investigation of-the-reports when the report
18 alleges substantial child endangerment; and to provide
19 protective and-counseling, family support, and family
20 preservation services when needed in appropriate cases.

21 Sec. 2. Minnesota Statutes 2004, section 626.556,
22 subdivision 2, is amended to read:

23 Subd. 2. [DEFINITIONS.] As used in this section, the
24 following terms have the meanings given them unless the specific
25 content indicates otherwise:

26 (a) "Family assessment" means a comprehensive assessment of
27 child safety, risk of subsequent child maltreatment, and family
28 strengths and needs that is applied to a child maltreatment
29 report that does not allege substantial child endangerment.
30 Family assessment does not include a determination as to whether
31 child maltreatment occurred but does determine the need for
32 services to address the safety of family members and the risk of
33 subsequent maltreatment.

34 (b) "Investigation" means fact gathering related to the
35 current safety of a child and the risk of subsequent
36 maltreatment that determines whether child maltreatment occurred

1 and whether child protective services are needed. An
2 investigation must be used when reports involve substantial
3 child endangerment, and for reports of maltreatment in
4 facilities required to be licensed under chapter 245A or 245B;
5 under sections 144.50 to 144.58 and 241.021; in a school-as
6 defined in sections 120A.05, subdivisions 9, 11, and 13, and
7 124D.10; or in a nonlicensed personal care provider association
8 as defined in sections 256B.04, subdivision 16, and 256B.0625,
9 subdivision 19a.

10 (c) "Substantial child endangerment" means a person
11 responsible for a child's care, a person who has a significant
12 relationship to the child as defined in section 609.341, or a
13 person in a position of authority as defined in section 609.341,
14 who by act or omission commits or attempts to commit an act
15 against a child under their care that constitutes any of the
16 following:

17 (1) egregious harm as defined in section 260C.007,
18 subdivision 14;

19 (2) sexual abuse as defined in paragraph (d);

20 (3) abandonment under section 260C.301, subdivision 2;

21 (4) neglect as defined in paragraph (f), clause (2), that
22 substantially endangers the child's physical or mental health,
23 including a growth delay, which may be referred to as failure to
24 thrive, that has been diagnosed by a physician and is due to
25 parental neglect;

26 (5) murder in the first, second, or third degree under
27 section 609.185, 609.19, or 609.195;

28 (6) manslaughter in the first or second degree under
29 section 609.20 or 609.205;

30 (7) assault in the first, second, or third degree under
31 section 609.221, 609.222, or 609.223;

32 (8) solicitation, inducement, and promotion of prostitution
33 under section 609.322;

34 (9) criminal sexual conduct under sections 609.342 to
35 609.3451;

36 (10) solicitation of children to engage in sexual conduct

1 under section 609.352;

2 (11) malicious punishment or neglect or endangerment of a
3 child under section 609.377 or 609.378;

4 (12) use of a minor in sexual performance under section
5 617.246; or

6 (13) parental behavior, status, or condition which mandates
7 that the county attorney file a termination of parental rights
8 petition under section 260C.301, subdivision 3, paragraph (a).

9 (d) "Sexual abuse" means the subjection of a child by a
10 person responsible for the child's care, by a person who has a
11 significant relationship to the child, as defined in section
12 609.341, or by a person in a position of authority, as defined
13 in section 609.341, subdivision 10, to any act which constitutes
14 a violation of section 609.342 (criminal sexual conduct in the
15 first degree), 609.343 (criminal sexual conduct in the second
16 degree), 609.344 (criminal sexual conduct in the third degree),
17 609.345 (criminal sexual conduct in the fourth degree), or
18 609.3451 (criminal sexual conduct in the fifth degree). Sexual
19 abuse also includes any act which involves a minor which
20 constitutes a violation of prostitution offenses under sections
21 609.321 to 609.324 or 617.246. Sexual abuse includes threatened
22 sexual abuse.

23 ~~(b)~~ (e) "Person responsible for the child's care" means (1)
24 an individual functioning within the family unit and having
25 responsibilities for the care of the child such as a parent,
26 guardian, or other person having similar care responsibilities,
27 or (2) an individual functioning outside the family unit and
28 having responsibilities for the care of the child such as a
29 teacher, school administrator, other school employees or agents,
30 or other lawful custodian of a child having either full-time or
31 short-term care responsibilities including, but not limited to,
32 day care, babysitting whether paid or unpaid, counseling,
33 teaching, and coaching.

34 ~~(c)~~ (f) "Neglect" means:

35 (1) failure by a person responsible for a child's care to
36 supply a child with necessary food, clothing, shelter, health,

1 medical, or other care required for the child's physical or
2 mental health when reasonably able to do so;

3 (2) failure to protect a child from conditions or actions
4 that seriously endanger the child's physical or mental health
5 when reasonably able to do so, including a growth delay, which
6 may be referred to as a failure to thrive, that has been
7 diagnosed by a physician and is due to parental neglect;

8 (3) failure to provide for necessary supervision or child
9 care arrangements appropriate for a child after considering
10 factors as the child's age, mental ability, physical condition,
11 length of absence, or environment, when the child is unable to
12 care for the child's own basic needs or safety, or the basic
13 needs or safety of another child in their care;

14 (4) failure to ensure that the child is educated as defined
15 in sections 120A.22 and 260C.163, subdivision 11, which does not
16 include a parent's refusal to provide the parent's child with
17 sympathomimetic medications, consistent with section 125A.091,
18 subdivision 5;

19 (5) nothing in this section shall be construed to mean that
20 a child is neglected solely because the child's parent,
21 guardian, or other person responsible for the child's care in
22 good faith selects and depends upon spiritual means or prayer
23 for treatment or care of disease or remedial care of the child
24 in lieu of medical care; except that a parent, guardian, or
25 caretaker, or a person mandated to report pursuant to
26 subdivision 3, has a duty to report if a lack of medical care
27 may cause serious danger to the child's health. This section
28 does not impose upon persons, not otherwise legally responsible
29 for providing a child with necessary food, clothing, shelter,
30 education, or medical care, a duty to provide that care;

31 (6) prenatal exposure to a controlled substance, as defined
32 in section 253B.02, subdivision 2, used by the mother for a
33 nonmedical purpose, as evidenced by withdrawal symptoms in the
34 child at birth, results of a toxicology test performed on the
35 mother at delivery or the child at birth, or medical effects or
36 developmental delays during the child's first year of life that

1 medically indicate prenatal exposure to a controlled substance;

2 (7) "medical neglect" as defined in section 260C.007,

3 subdivision 6, clause (5);

4 (8) chronic and severe use of alcohol or a controlled

5 substance by a parent or person responsible for the care of the

6 child that adversely affects the child's basic needs and safety;

7 or

8 (9) emotional harm from a pattern of behavior which

9 contributes to impaired emotional functioning of the child which

10 may be demonstrated by a substantial and observable effect in

11 the child's behavior, emotional response, or cognition that is

12 not within the normal range for the child's age and stage of

13 development, with due regard to the child's culture.

14 ~~(d)~~ (g) "Physical abuse" means any physical injury, mental

15 injury, or threatened injury, inflicted by a person responsible

16 for the child's care on a child other than by accidental means,

17 or any physical or mental injury that cannot reasonably be

18 explained by the child's history of injuries, or any aversive or

19 deprivation procedures, or regulated interventions, that have

20 not been authorized under section 121A.67 or 245.825. Abuse

21 does not include reasonable and moderate physical discipline of

22 a child administered by a parent or legal guardian which does

23 not result in an injury. Abuse does not include the use of

24 reasonable force by a teacher, principal, or school employee as

25 allowed by section 121A.582. Actions which are not reasonable

26 and moderate include, but are not limited to, any of the

27 following that are done in anger or without regard to the safety

28 of the child:

29 (1) throwing, kicking, burning, biting, or cutting a child;

30 (2) striking a child with a closed fist;

31 (3) shaking a child under age three;

32 (4) striking or other actions which result in any

33 nonaccidental injury to a child under 18 months of age;

34 (5) unreasonable interference with a child's breathing;

35 (6) threatening a child with a weapon, as defined in

36 section 609.02, subdivision 6;

1 (7) striking a child under age one on the face or head;

2 (8) purposely giving a child poison, alcohol, or dangerous,
3 harmful, or controlled substances which were not prescribed for
4 the child by a practitioner, in order to control or punish the
5 child; or other substances that substantially affect the child's
6 behavior, motor coordination, or judgment or that results in
7 sickness or internal injury, or subjects the child to medical
8 procedures that would be unnecessary if the child were not
9 exposed to the substances;

10 (9) unreasonable physical confinement or restraint not
11 permitted under section 609.379, including but not limited to
12 tying, caging, or chaining; or

13 (10) in a school facility or school zone, an act by a
14 person responsible for the child's care that is a violation
15 under section 121A.58.

16 ~~(e)~~ (h) "Report" means any report received by the local
17 welfare agency, police department, county sheriff, or agency
18 responsible for assessing or investigating maltreatment pursuant
19 to this section.

20 ~~(f)~~ (i) "Facility" means a licensed or unlicensed day care
21 facility, residential facility, agency, hospital, sanitarium, or
22 other facility or institution required to be licensed under
23 sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or
24 chapter 245B; or a school as defined in sections 120A.05,
25 subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed
26 personal care provider organization as defined in sections
27 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

28 ~~(g)~~ (j) "Operator" means an operator or agency as defined
29 in section 245A.02.

30 ~~(h)~~ (k) "Commissioner" means the commissioner of human
31 services.

32 ~~(i)~~ ~~"Assessment" includes authority to interview the child,~~
33 ~~the person or persons responsible for the child's care, the~~
34 ~~alleged perpetrator, and any other person with knowledge of the~~
35 ~~abuse or neglect for the purpose of gathering the facts,~~
36 ~~assessing the risk to the child, and formulating a plan.~~

1 ~~(j)~~ (l) "Practice of social services," for the purposes of
2 subdivision 3, includes but is not limited to employee
3 assistance counseling and the provision of guardian ad litem and
4 parenting time expeditor services.

5 ~~(k)~~ (m) "Mental injury" means an injury to the
6 psychological capacity or emotional stability of a child as
7 evidenced by an observable or substantial impairment in the
8 child's ability to function within a normal range of performance
9 and behavior with due regard to the child's culture.

10 ~~(l)~~ (n) "Threatened injury" means a statement, overt act,
11 condition, or status that represents a substantial risk of
12 physical or sexual abuse or mental injury. Threatened injury
13 includes, but is not limited to, exposing a child to a person
14 responsible for the child's care, as defined in
15 paragraph ~~(b)~~ (e), clause (1), who has:

16 (1) subjected a child to, or failed to protect a child
17 from, an overt act or condition that constitutes egregious harm,
18 as defined in section 260C.007, subdivision 14, or a similar law
19 of another jurisdiction;

20 (2) been found to be palpably unfit under section 260C.301,
21 paragraph (b), clause (4), or a similar law of another
22 jurisdiction;

23 (3) committed an act that has resulted in an involuntary
24 termination of parental rights under section 260C.301, or a
25 similar law of another jurisdiction; or

26 (4) committed an act that has resulted in the involuntary
27 transfer of permanent legal and physical custody of a child to a
28 relative under section 260C.201, subdivision 11, paragraph (d),
29 clause (1), or a similar law of another jurisdiction.

30 ~~(m)~~ (o) Persons who conduct assessments or investigations
31 under this section shall take into account accepted
32 child-rearing practices of the culture in which a child
33 participates and accepted teacher discipline practices, which
34 are not injurious to the child's health, welfare, and safety.

35 Sec. 3. Minnesota Statutes 2004, section 626.556,
36 subdivision 3, is amended to read:

1 Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who
2 knows or has reason to believe a child is being neglected or
3 physically or sexually abused, as defined in subdivision 2, or
4 has been neglected or physically or sexually abused within the
5 preceding three years, shall immediately report the information
6 to the local welfare agency, agency responsible for assessing or
7 investigating the report, police department, or the county
8 sheriff if the person is:

9 (1) a professional or professional's delegate who is
10 engaged in the practice of the healing arts, social services,
11 hospital administration, psychological or psychiatric treatment,
12 child care, education, probation and correctional services, or
13 law enforcement; or

14 (2) employed as a member of the clergy and received the
15 information while engaged in ministerial duties, provided that a
16 member of the clergy is not required by this subdivision to
17 report information that is otherwise privileged under section
18 595.02, subdivision 1, paragraph (c).

19 The police department or the county sheriff, upon receiving
20 a report, shall immediately notify the local welfare agency or
21 agency responsible for assessing or investigating the report,
22 orally and in writing. The local welfare agency, or agency
23 responsible for assessing or investigating the report, upon
24 receiving a report, shall immediately notify the local police
25 department or the county sheriff orally and in writing. The
26 county sheriff and the head of every local welfare agency,
27 agency responsible for assessing or investigating reports, and
28 police department shall each designate a person within their
29 agency, department, or office who is responsible for ensuring
30 that the notification duties of this paragraph and paragraph (b)
31 are carried out. Nothing in this subdivision shall be construed
32 to require more than one report from any institution, facility,
33 school, or agency.

34 (b) Any person may voluntarily report to the local welfare
35 agency, agency responsible for assessing or investigating the
36 report, police department, or the county sheriff if the person

1 knows, has reason to believe, or suspects a child is being or
2 has been neglected or subjected to physical or sexual abuse.
3 The police department or the county sheriff, upon receiving a
4 report, shall immediately notify the local welfare agency or
5 agency responsible for assessing or investigating the report,
6 orally and in writing. The local welfare agency or agency
7 responsible for assessing or investigating the report, upon
8 receiving a report, shall immediately notify the local police
9 department or the county sheriff orally and in writing.

10 (c) A person mandated to report physical or sexual child
11 abuse or neglect occurring within a licensed facility shall
12 report the information to the agency responsible for licensing
13 the facility under sections 144.50 to 144.58; 241.021; 245A.01
14 to 245A.16; or chapter 245B; or a nonlicensed personal care
15 provider organization as defined in sections 256B.04,
16 subdivision 16; and 256B.0625, subdivision 19. A health or
17 corrections agency receiving a report may request the local
18 welfare agency to provide assistance pursuant to subdivisions
19 10, 10a, and 10b. A board or other entity whose licensees
20 perform work within a school facility, upon receiving a
21 complaint of alleged maltreatment, shall provide information
22 about the circumstances of the alleged maltreatment to the
23 commissioner of education. Section 13.03, subdivision 4,
24 applies to data received by the commissioner of education from a
25 licensing entity.

26 (d) Any person mandated to report shall receive a summary
27 of the disposition of a family assessment or investigation
28 related to any report made by that reporter, including whether
29 the case has been opened for child protection or other services,
30 or if a referral has been made to a community organization,
31 unless release would be detrimental to the best interests of the
32 child. Any person who is not mandated to report shall, upon
33 request to the local welfare agency, receive a concise summary
34 of the disposition of any report made by that reporter, unless
35 release would be detrimental to the best interests of the child.

36 (e) For purposes of this subdivision, "immediately" means

1 as soon as possible but in no event longer than 24 hours.

2 Sec. 4. Minnesota Statutes 2004, section 626.556, is
3 amended by adding a subdivision to read:

4 Subd. 3d. [AUTHORITY TO INTERVIEW.] The agency responsible
5 for assessing or investigating reports of child maltreatment has
6 the authority to interview the child, the person or persons
7 responsible for the child's care, the alleged perpetrator, and
8 any other person with knowledge of the abuse or neglect for the
9 purpose of gathering the facts, assessing safety and risk to the
10 child, and formulating a plan.

11 Sec. 5. Minnesota Statutes 2004, section 626.556,
12 subdivision 10, is amended to read:

13 Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW
14 ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) Upon receipt
15 of a report, the local welfare agency shall determine whether to
16 conduct a family assessment or an investigation as appropriate
17 to prevent or provide a remedy for child maltreatment. The
18 local welfare agency:

19 (1) shall conduct an investigation on reports involving
20 substantial child endangerment;

21 (2) shall begin an immediate investigation if, at any time
22 when it is using a family assessment response, it determines
23 that there is reason to believe that substantial child
24 endangerment or a serious threat to the child's safety exists;

25 (3) may conduct a family assessment for reports that do not
26 allege substantial child endangerment. In determining that a
27 family assessment is appropriate, the local welfare agency may
28 consider issues of child safety, parental cooperation, and the
29 need for an immediate response; and

30 (4) may conduct a family assessment on a report that was
31 initially screened and assigned for an investigation. In
32 determining that a complete investigation is not required, the
33 local welfare agency must document the reason for terminating
34 the investigation and notify the local law enforcement agency if
35 the local law enforcement agency is conducting a joint
36 investigation.

1 If the report alleges neglect, physical abuse, or sexual
2 abuse by a parent, guardian, or individual functioning within
3 the family unit as a person responsible for the child's care,
4 the local welfare agency shall immediately conduct an a family
5 assessment including-gathering or investigation as identified in
6 clauses (1) to (4). In conducting a family assessment or
7 investigation, the local welfare agency shall gather information
8 on the existence of substance abuse and domestic violence and
9 offer ~~protective-social~~ services for purposes of preventing
10 ~~further-abuses~~ future child maltreatment, safeguarding and
11 enhancing the welfare of the abused or neglected minor,
12 and supporting and preserving family life whenever possible. If
13 the report alleges a violation of a criminal statute involving
14 sexual abuse, physical abuse, or neglect or endangerment, under
15 section 609.378, the local law enforcement agency and local
16 welfare agency shall coordinate the planning and execution of
17 their respective investigation and assessment efforts to avoid a
18 duplication of fact-finding efforts and multiple interviews.
19 Each agency shall prepare a separate report of the results of
20 its investigation. In cases of alleged child maltreatment
21 resulting in death, the local agency may rely on the
22 fact-finding efforts of a law enforcement investigation to make
23 a determination of whether or not maltreatment occurred. When
24 necessary the local welfare agency shall seek authority to
25 remove the child from the custody of a parent, guardian, or
26 adult with whom the child is living. In performing any of these
27 duties, the local welfare agency shall maintain appropriate
28 records.

29 If the family assessment or investigation indicates there
30 is a potential for abuse of alcohol or other drugs by the
31 parent, guardian, or person responsible for the child's care,
32 the local welfare agency shall conduct a chemical use assessment
33 pursuant to Minnesota Rules, part 9530.6615. The local welfare
34 agency shall report the determination of the chemical use
35 assessment, and the recommendations and referrals for alcohol
36 and other drug treatment services to the state authority on

1 alcohol and drug abuse.

2 (b) When a local agency receives a report or otherwise has
3 information indicating that a child who is a client, as defined
4 in section 245.91, has been the subject of physical abuse,
5 sexual abuse, or neglect at an agency, facility, or program as
6 defined in section 245.91, it shall, in addition to its other
7 duties under this section, immediately inform the ombudsman
8 established under sections 245.91 to 245.97. The commissioner
9 of education shall inform the ombudsman established under
10 sections 245.91 to 245.97 of reports regarding a child defined
11 as a client in section 245.91 that maltreatment occurred at a
12 school as defined in sections 120A.05, subdivisions 9, 11, and
13 13, and 124D.10.

14 (c) Authority of the local welfare agency responsible for
15 assessing or investigating the child abuse or neglect report,
16 the agency responsible for assessing or investigating the
17 report, and of the local law enforcement agency for
18 investigating the alleged abuse or neglect includes, but is not
19 limited to, authority to interview, without parental consent,
20 the alleged victim and any other minors who currently reside
21 with or who have resided with the alleged offender. The
22 interview may take place at school or at any facility or other
23 place where the alleged victim or other minors might be found or
24 the child may be transported to, and the interview conducted at,
25 a place appropriate for the interview of a child designated by
26 the local welfare agency or law enforcement agency. The
27 interview may take place outside the presence of the alleged
28 offender or parent, legal custodian, guardian, or school
29 official. For family assessments, it is the preferred practice
30 to request a parent or guardian's permission to interview the
31 child prior to conducting the child interview, unless doing so
32 would compromise the safety assessment. Except as provided in
33 this paragraph, the parent, legal custodian, or guardian shall
34 be notified by the responsible local welfare or law enforcement
35 agency no later than the conclusion of the investigation or
36 assessment that this interview has occurred. Notwithstanding

1 rule 49.02 of the Minnesota Rules of Procedure for Juvenile
2 Courts, the juvenile court may, after hearing on an ex parte
3 motion by the local welfare agency, order that, where reasonable
4 cause exists, the agency withhold notification of this interview
5 from the parent, legal custodian, or guardian. If the interview
6 took place or is to take place on school property, the order
7 shall specify that school officials may not disclose to the
8 parent, legal custodian, or guardian the contents of the
9 notification of intent to interview the child on school
10 property, as provided under this paragraph, and any other
11 related information regarding the interview that may be a part
12 of the child's school record. A copy of the order shall be sent
13 by the local welfare or law enforcement agency to the
14 appropriate school official.

15 (d) When the local welfare, local law enforcement agency,
16 or the agency responsible for assessing or investigating a
17 report of maltreatment determines that an interview should take
18 place on school property, written notification of intent to
19 interview the child on school property must be received by
20 school officials prior to the interview. The notification shall
21 include the name of the child to be interviewed, the purpose of
22 the interview, and a reference to the statutory authority to
23 conduct an interview on school property. For interviews
24 conducted by the local welfare agency, the notification shall be
25 signed by the chair of the local social services agency or the
26 chair's designee. The notification shall be private data on
27 individuals subject to the provisions of this paragraph. School
28 officials may not disclose to the parent, legal custodian, or
29 guardian the contents of the notification or any other related
30 information regarding the interview until notified in writing by
31 the local welfare or law enforcement agency that the
32 investigation or assessment has been concluded, unless a school
33 employee or agent is alleged to have maltreated the child.
34 Until that time, the local welfare or law enforcement agency or
35 the agency responsible for assessing or investigating a report
36 of maltreatment shall be solely responsible for any disclosures

1 regarding the nature of the assessment or investigation.

2 Except where the alleged offender is believed to be a
3 school official or employee, the time and place, and manner of
4 the interview on school premises shall be within the discretion
5 of school officials, but the local welfare or law enforcement
6 agency shall have the exclusive authority to determine who may
7 attend the interview. The conditions as to time, place, and
8 manner of the interview set by the school officials shall be
9 reasonable and the interview shall be conducted not more than 24
10 hours after the receipt of the notification unless another time
11 is considered necessary by agreement between the school
12 officials and the local welfare or law enforcement agency.
13 Where the school fails to comply with the provisions of this
14 paragraph, the juvenile court may order the school to comply.
15 Every effort must be made to reduce the disruption of the
16 educational program of the child, other students, or school
17 staff when an interview is conducted on school premises.

18 (e) Where the alleged offender or a person responsible for
19 the care of the alleged victim or other minor prevents access to
20 the victim or other minor by the local welfare agency, the
21 juvenile court may order the parents, legal custodian, or
22 guardian to produce the alleged victim or other minor for
23 questioning by the local welfare agency or the local law
24 enforcement agency outside the presence of the alleged offender
25 or any person responsible for the child's care at reasonable
26 places and times as specified by court order.

27 (f) Before making an order under paragraph (e), the court
28 shall issue an order to show cause, either upon its own motion
29 or upon a verified petition, specifying the basis for the
30 requested interviews and fixing the time and place of the
31 hearing. The order to show cause shall be served personally and
32 shall be heard in the same manner as provided in other cases in
33 the juvenile court. The court shall consider the need for
34 appointment of a guardian ad litem to protect the best interests
35 of the child. If appointed, the guardian ad litem shall be
36 present at the hearing on the order to show cause.

1 (g) The commissioner of human services, the ombudsman for
2 mental health and mental retardation, the local welfare agencies
3 responsible for investigating reports, the commissioner of
4 education, and the local law enforcement agencies have the right
5 to enter facilities as defined in subdivision 2 and to inspect
6 and copy the facility's records, including medical records, as
7 part of the investigation. Notwithstanding the provisions of
8 chapter 13, they also have the right to inform the facility
9 under investigation that they are conducting an investigation,
10 to disclose to the facility the names of the individuals under
11 investigation for abusing or neglecting a child, and to provide
12 the facility with a copy of the report and the investigative
13 findings.

14 (h) The local welfare agency ~~or the agency~~ responsible for
15 assessing or conducting a family assessment shall collect
16 available and relevant information to determine child safety,
17 risk of subsequent child maltreatment, and family strengths and
18 needs. The local welfare agency or the agency responsible for
19 investigating the report shall collect available and relevant
20 information to ascertain whether maltreatment occurred and
21 whether protective services are needed. Information collected
22 includes, when relevant, information with regard to the person
23 reporting the alleged maltreatment, including the nature of the
24 reporter's relationship to the child and to the alleged
25 offender, and the basis of the reporter's knowledge for the
26 report; the child allegedly being maltreated; the alleged
27 offender; the child's caretaker; and other collateral sources
28 having relevant information related to the alleged
29 maltreatment. The local welfare agency or the agency
30 responsible for assessing or investigating the report may make a
31 determination of no maltreatment early in an assessment, and
32 close the case and retain immunity, if the collected information
33 shows no basis for a full assessment or investigation.

34 Information relevant to the assessment or investigation
35 must be asked for, and may include:

36 (1) the child's sex and age, prior reports of maltreatment,

1 information relating to developmental functioning, credibility
2 of the child's statement, and whether the information provided
3 under this clause is consistent with other information collected
4 during the course of the assessment or investigation;

5 (2) the alleged offender's age, a record check for prior
6 reports of maltreatment, and criminal charges and convictions.
7 The local welfare agency or the agency responsible for assessing
8 or investigating the report must provide the alleged offender
9 with an opportunity to make a statement. The alleged offender
10 may submit supporting documentation relevant to the assessment
11 or investigation;

12 (3) collateral source information regarding the alleged
13 maltreatment and care of the child. Collateral information
14 includes, when relevant: (i) a medical examination of the
15 child; (ii) prior medical records relating to the alleged
16 maltreatment or the care of the child maintained by any
17 facility, clinic, or health care professional and an interview
18 with the treating professionals; and (iii) interviews with the
19 child's caretakers, including the child's parent, guardian,
20 foster parent, child care provider, teachers, counselors, family
21 members, relatives, and other persons who may have knowledge
22 regarding the alleged maltreatment and the care of the child;
23 and

24 (4) information on the existence of domestic abuse and
25 violence in the home of the child, and substance abuse.

26 Nothing in this paragraph precludes the local welfare
27 agency, the local law enforcement agency, or the agency
28 responsible for assessing or investigating the report from
29 collecting other relevant information necessary to conduct the
30 assessment or investigation. Notwithstanding section 13.384 or
31 144.335, the local welfare agency has access to medical data and
32 records for purposes of clause (3). Notwithstanding the data's
33 classification in the possession of any other agency, data
34 acquired by the local welfare agency or the agency responsible
35 for assessing or investigating the report during the course of
36 the assessment or investigation are private data on individuals

1 and must be maintained in accordance with subdivision 11. Data
2 of the commissioner of education collected or maintained during
3 and for the purpose of an investigation of alleged maltreatment
4 in a school are governed by this section, notwithstanding the
5 data's classification as educational, licensing, or personnel
6 data under chapter 13.

7 In conducting an assessment or investigation involving a
8 school facility as defined in subdivision 2, paragraph ~~(f)~~ (i),
9 the commissioner of education shall collect investigative
10 reports and data that are relevant to a report of maltreatment
11 and are from local law enforcement and the school facility.

12 ~~(i) In the initial stages of an assessment or investigation~~
13 Upon receipt of a report, the local welfare agency shall conduct
14 a face-to-face ~~observation of~~ contact with the child reported to
15 be maltreated ~~and a face-to-face interview of the alleged~~
16 offender and with the child's primary caregiver sufficient to
17 complete a safety assessment and ensure the immediate safety of
18 the child. The face-to-face contact with the child and primary
19 caregiver shall occur immediately if substantial child
20 endangerment is alleged and within five calendar days for all
21 other reports. If the alleged offender was not already
22 interviewed as the primary caregiver, the local welfare agency
23 shall also conduct a face-to-face interview with the alleged
24 offender in the early stages of the assessment or
25 investigation. At the initial contact, the local child welfare
26 agency or the agency responsible for assessing or investigating
27 the report must inform the alleged offender of the complaints or
28 allegations made against the individual in a manner consistent
29 with laws protecting the rights of the person who made the
30 report. The interview with the alleged offender may be
31 postponed if it would jeopardize an active law enforcement
32 investigation.

33 (j) When conducting an investigation, the local welfare
34 agency shall use a question and answer interviewing format with
35 questioning as nondirective as possible to elicit spontaneous
36 responses. For investigations only, the following interviewing

1 methods and procedures must be used whenever possible when
2 collecting information:

3 (1) audio recordings of all interviews with witnesses and
4 collateral sources; and

5 (2) in cases of alleged sexual abuse, audio-video
6 recordings of each interview with the alleged victim and child
7 witnesses.

8 (k) In conducting an assessment or investigation involving
9 a school facility as defined in subdivision 2,
10 paragraph ~~(f)~~ (i), the commissioner of education shall collect
11 available and relevant information and use the procedures in
12 paragraphs ~~(h)~~, (i), (k), and ~~(j)~~ subdivision 3d, except that
13 the requirement for face-to-face observation of the child and
14 face-to-face interview of the alleged offender is to occur in
15 the initial stages of the assessment or investigation provided
16 that the commissioner may also base the assessment or
17 investigation on investigative reports and data received from
18 the school facility and local law enforcement, to the extent
19 those investigations satisfy the requirements of
20 paragraphs ~~(h)~~, (i), (k), and ~~(j)~~ subdivision 3d.

21 Sec. 6. Minnesota Statutes 2004, section 626.556,
22 subdivision 10b, is amended to read:

23 Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN
24 FACILITY.] (a) This section applies to the commissioners of
25 human services, health, and education. The commissioner of the
26 agency responsible for assessing or investigating the report
27 shall immediately assess or investigate if the report alleges
28 that:

29 (1) a child who is in the care of a facility as defined in
30 subdivision 2 is neglected, physically abused, sexually abused,
31 or is the victim of maltreatment in a facility by an individual
32 in that facility, or has been so neglected or abused, or been
33 the victim of maltreatment in a facility by an individual in
34 that facility within the three years preceding the report; or

35 (2) a child was neglected, physically abused, sexually
36 abused, or is the victim of maltreatment in a facility by an

1 individual in a facility defined in subdivision 2, while in the
2 care of that facility within the three years preceding the
3 report.

4 The commissioner of the agency responsible for assessing or
5 investigating the report shall arrange for the transmittal to
6 the commissioner of reports received by local agencies and may
7 delegate to a local welfare agency the duty to investigate
8 reports. In conducting an investigation under this section, the
9 commissioner has the powers and duties specified for local
10 welfare agencies under this section. The commissioner of the
11 agency responsible for assessing or investigating the report or
12 local welfare agency may interview any children who are or have
13 been in the care of a facility under investigation and their
14 parents, guardians, or legal custodians.

15 (b) Prior to any interview, the commissioner of the agency
16 responsible for assessing or investigating the report or local
17 welfare agency shall notify the parent, guardian, or legal
18 custodian of a child who will be interviewed in the manner
19 provided for in subdivision 10d, paragraph (a). If reasonable
20 efforts to reach the parent, guardian, or legal custodian of a
21 child in an out-of-home placement have failed, the child may be
22 interviewed if there is reason to believe the interview is
23 necessary to protect the child or other children in the
24 facility. The commissioner of the agency responsible for
25 assessing or investigating the report or local agency must
26 provide the information required in this subdivision to the
27 parent, guardian, or legal custodian of a child interviewed
28 without parental notification as soon as possible after the
29 interview. When the investigation is completed, any parent,
30 guardian, or legal custodian notified under this subdivision
31 shall receive the written memorandum provided for in subdivision
32 10d, paragraph (c).

33 (c) In conducting investigations under this subdivision the
34 commissioner or local welfare agency shall obtain access to
35 information consistent with subdivision 10, paragraphs (h), (i),
36 and (j). In conducting assessments or investigations under this

1 subdivision, the commissioner of education shall obtain access
2 to reports and investigative data that are relevant to a report
3 of maltreatment and are in the possession of a school facility
4 as defined in subdivision 2, paragraph ~~(f)~~ (i), notwithstanding
5 the classification of the data as educational or personnel data
6 under chapter 13. This includes, but is not limited to, school
7 investigative reports, information concerning the conduct of
8 school personnel alleged to have committed maltreatment of
9 students, information about witnesses, and any protective or
10 corrective action taken by the school facility regarding the
11 school personnel alleged to have committed maltreatment.

12 (d) The commissioner may request assistance from the local
13 social services agency.

14 Sec. 7. Minnesota Statutes 2004, section 626.556,
15 subdivision 10e, is amended to read:

16 Subd. 10e. ~~[DETERMINATIONS.] Upon-the-conclusion-of-every~~
17 ~~assessment-or-investigation-it-conducts,~~ (a) The local welfare
18 agency shall conclude the family assessment or the investigation
19 within 45 days of the receipt of a report. The conclusion of
20 the assessment or investigation may be extended to permit the
21 completion of a criminal investigation or the receipt of expert
22 information requested within 45 days of the receipt of the
23 report.

24 (b) After conducting a family assessment, the local welfare
25 agency shall determine whether services are needed to address
26 the safety of the child and other family members and the risk of
27 subsequent maltreatment.

28 (c) After conducting an investigation, the local welfare
29 agency shall make two determinations: first, whether
30 maltreatment has occurred; and second, whether child protective
31 services are needed. ~~Upon-the-conclusion-of~~

32 (d) If the commissioner of education conducts an assessment
33 or investigation ~~by-the-commissioner-of-education,~~ the
34 commissioner shall determine whether maltreatment occurred and
35 what corrective or protective action was taken by the school
36 facility. If a determination is made that maltreatment has

1 occurred, the commissioner shall report to the employer, the
2 school board, and any appropriate licensing entity the
3 determination that maltreatment occurred and what corrective or
4 protective action was taken by the school facility. In all
5 other cases, the commissioner shall inform the school board or
6 employer that a report was received, the subject of the report,
7 the date of the initial report, the category of maltreatment
8 alleged as defined in paragraph ~~(a)~~ (f), the fact that
9 maltreatment was not determined, and a summary of the specific
10 reasons for the determination.

11 (e) When maltreatment is determined in an investigation
12 involving a facility, the investigating agency shall also
13 determine whether the facility or individual was responsible, or
14 whether both the facility and the individual were responsible
15 for the maltreatment using the mitigating factors in paragraph
16 ~~(d)~~ (i). Determinations under this subdivision must be made
17 based on a preponderance of the evidence and are private data on
18 individuals or nonpublic data as maintained by the commissioner
19 of education.

20 ~~(a)~~ (f) For the purposes of this subdivision, "maltreatment"
21 means any of the following acts or omissions:

22 (1) physical abuse as defined in subdivision 2, paragraph

23 ~~(d)~~ (g);

24 (2) neglect as defined in subdivision 2, paragraph ~~(e)~~ (f);

25 (3) sexual abuse as defined in subdivision 2, paragraph

26 ~~(a)~~ (d);

27 (4) mental injury as defined in subdivision 2, paragraph

28 ~~(k)~~ (m); or

29 (5) maltreatment of a child in a facility as defined in
30 subdivision 2, paragraph ~~(f)~~ (i).

31 ~~(b)~~ (g) For the purposes of this subdivision, a
32 determination that child protective services are needed means
33 that the local welfare agency has documented conditions during
34 the assessment or investigation sufficient to cause a child
35 protection worker, as defined in section 626.559, subdivision 1,
36 to conclude that a child is at significant risk of maltreatment

1 if protective intervention is not provided and that the
2 individuals responsible for the child's care have not taken or
3 are not likely to take actions to protect the child from
4 maltreatment or risk of maltreatment.

5 ~~(e)~~ (h) This subdivision does not mean that maltreatment
6 has occurred solely because the child's parent, guardian, or
7 other person responsible for the child's care in good faith
8 selects and depends upon spiritual means or prayer for treatment
9 or care of disease or remedial care of the child, in lieu of
10 medical care. However, if lack of medical care may result in
11 serious danger to the child's health, the local welfare agency
12 may ensure that necessary medical services are provided to the
13 child.

14 ~~(d)~~ (i) When determining whether the facility or individual
15 is the responsible party for determined maltreatment in a
16 facility, the investigating agency shall consider at least the
17 following mitigating factors:

18 (1) whether the actions of the facility or the individual
19 caregivers were according to, and followed the terms of, an
20 erroneous physician order, prescription, individual care plan,
21 or directive; however, this is not a mitigating factor when the
22 facility or caregiver was responsible for the issuance of the
23 erroneous order, prescription, individual care plan, or
24 directive or knew or should have known of the errors and took no
25 reasonable measures to correct the defect before administering
26 care;

27 (2) comparative responsibility between the facility, other
28 caregivers, and requirements placed upon an employee, including
29 the facility's compliance with related regulatory standards and
30 the adequacy of facility policies and procedures, facility
31 training, an individual's participation in the training, the
32 caregiver's supervision, and facility staffing levels and the
33 scope of the individual employee's authority and discretion; and

34 (3) whether the facility or individual followed
35 professional standards in exercising professional judgment.

36 (j) Individual counties may implement more detailed

1 definitions or criteria that indicate which allegations to
2 investigate, as long as a county's policies are consistent with
3 the definitions in the statutes and rules and are approved by
4 the county board. Each local welfare agency shall periodically
5 inform mandated reporters under subdivision 3 who work in the
6 county of the definitions of maltreatment in the statutes and
7 rules and any additional definitions or criteria that have been
8 approved by the county board.

9 Sec. 8. Minnesota Statutes 2004, section 626.556,
10 subdivision 10f, is amended to read:

11 Subd. 10f. [NOTICE OF DETERMINATIONS.] Within ten working
12 days of the conclusion of a family assessment, the local welfare
13 agency shall notify the parent or guardian of the child of the
14 need for services to address child safety concerns or
15 significant risk of subsequent child maltreatment. The local
16 welfare agency and the family may also jointly agree that family
17 support and family preservation services are needed. Within ten
18 working days of the conclusion of an assessment investigation,
19 the local welfare agency or agency responsible for assessing or
20 investigating the report shall notify the parent or guardian of
21 the child, the person determined to be maltreating the child,
22 and if applicable, the director of the facility, of the
23 determination and a summary of the specific reasons for the
24 determination. The notice must also include a certification
25 that the information collection procedures under subdivision 10,
26 paragraphs (h), (i), and (j), were followed and a notice of the
27 right of a data subject to obtain access to other private data
28 on the subject collected, created, or maintained under this
29 section. In addition, the notice shall include the length of
30 time that the records will be kept under subdivision 11c. The
31 investigating agency shall notify the parent or guardian of the
32 child who is the subject of the report, and any person or
33 facility determined to have maltreated a child, of their appeal
34 or review rights under this section or section 256.022.

35 Sec. 9. Minnesota Statutes 2004, section 626.556,
36 subdivision 10i, is amended to read:

1 Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL
2 DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON
3 SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.]
4 (a) Administrative reconsideration is not applicable in family
5 assessments since no determination concerning maltreatment is
6 made. For investigations, except as provided under paragraph
7 (e), an individual or facility that the commissioner of human
8 services, a local social service agency, or the commissioner of
9 education determines has maltreated a child, an interested
10 person acting on behalf of the child, regardless of the
11 determination, who contests the investigating agency's final
12 determination regarding maltreatment, may request the
13 investigating agency to reconsider its final determination
14 regarding maltreatment. The request for reconsideration must be
15 submitted in writing to the investigating agency within 15
16 calendar days after receipt of notice of the final determination
17 regarding maltreatment or, if the request is made by an
18 interested person who is not entitled to notice, within 15 days
19 after receipt of the notice by the parent or guardian of the
20 child. Effective January 1, 2002, an individual who was
21 determined to have maltreated a child under this section and who
22 was disqualified on the basis of serious or recurring
23 maltreatment under sections 245C.14 and 245C.15, may request
24 reconsideration of the maltreatment determination and the
25 disqualification. The request for reconsideration of the
26 maltreatment determination and the disqualification must be
27 submitted within 30 calendar days of the individual's receipt of
28 the notice of disqualification under sections 245C.16 and
29 245C.17.

30 (b) Except as provided under paragraphs (e) and (f), if the
31 investigating agency denies the request or fails to act upon the
32 request within 15 calendar days after receiving the request for
33 reconsideration, the person or facility entitled to a fair
34 hearing under section 256.045 may submit to the commissioner of
35 human services or the commissioner of education a written
36 request for a hearing under that section. Section 256.045 also

1 governs hearings requested to contest a final determination of
2 the commissioner of education. For reports involving
3 maltreatment of a child in a facility, an interested person
4 acting on behalf of the child may request a review by the Child
5 Maltreatment Review Panel under section 256.022 if the
6 investigating agency denies the request or fails to act upon the
7 request or if the interested person contests a reconsidered
8 determination. The investigating agency shall notify persons
9 who request reconsideration of their rights under this
10 paragraph. The request must be submitted in writing to the
11 review panel and a copy sent to the investigating agency within
12 30 calendar days of receipt of notice of a denial of a request
13 for reconsideration or of a reconsidered determination. The
14 request must specifically identify the aspects of the agency
15 determination with which the person is dissatisfied.

16 (c) If, as a result of a reconsideration or review, the
17 investigating agency changes the final determination of
18 maltreatment, that agency shall notify the parties specified in
19 subdivisions 10b, 10d, and 10f.

20 (d) Except as provided under paragraph (f), if an
21 individual or facility contests the investigating agency's final
22 determination regarding maltreatment by requesting a fair
23 hearing under section 256.045, the commissioner of human
24 services shall assure that the hearing is conducted and a
25 decision is reached within 90 days of receipt of the request for
26 a hearing. The time for action on the decision may be extended
27 for as many days as the hearing is postponed or the record is
28 held open for the benefit of either party.

29 (e) Effective January 1, 2002, if an individual was
30 disqualified under sections 245C.14 and 245C.15, on the basis of
31 a determination of maltreatment, which was serious or recurring,
32 and the individual has requested reconsideration of the
33 maltreatment determination under paragraph (a) and requested
34 reconsideration of the disqualification under sections 245C.21
35 to 245C.27, reconsideration of the maltreatment determination
36 and reconsideration of the disqualification shall be

1 consolidated into a single reconsideration. If reconsideration
2 of the maltreatment determination is denied or the
3 disqualification is not set aside under sections 245C.21 to
4 245C.27, the individual may request a fair hearing under section
5 256.045. If an individual requests a fair hearing on the
6 maltreatment determination and the disqualification, the scope
7 of the fair hearing shall include both the maltreatment
8 determination and the disqualification.

9 (f) Effective January 1, 2002, if a maltreatment
10 determination or a disqualification based on serious or
11 recurring maltreatment is the basis for a denial of a license
12 under section 245A.05 or a licensing sanction under section
13 245A.07, the license holder has the right to a contested case
14 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
15 1400.8612. As provided for under section 245A.08, subdivision
16 2a, the scope of the contested case hearing shall include the
17 maltreatment determination, disqualification, and licensing
18 sanction or denial of a license. In such cases, a fair hearing
19 regarding the maltreatment determination shall not be conducted
20 under paragraph (b). If the disqualified subject is an
21 individual other than the license holder and upon whom a
22 background study must be conducted under chapter 245C, the
23 hearings of all parties may be consolidated into a single
24 contested case hearing upon consent of all parties and the
25 administrative law judge.

26 (g) For purposes of this subdivision, "interested person
27 acting on behalf of the child" means a parent or legal guardian;
28 stepparent; grandparent; guardian ad litem; adult stepbrother,
29 stepsister, or sibling; or adult aunt or uncle; unless the
30 person has been determined to be the perpetrator of the
31 maltreatment.

32 Sec. 10. Minnesota Statutes 2004, section 626.556, is
33 amended by adding a subdivision to read:

34 Subd. 101. [DOCUMENTATION.] When a case is closed that has
35 been open for services, the local welfare agency shall document
36 the outcome of the family assessment or investigation, including

1 a description of services provided and the removal or reduction
2 of risk to the child, if it existed.

3 Sec. 11. Minnesota Statutes 2004, section 626.556, is
4 amended by adding a subdivision to read:

5 Subd. 10m. [PROVISION OF CHILD PROTECTIVE SERVICES.] The
6 local welfare agency shall create a written plan, in
7 collaboration with the family whenever possible, within 30 days
8 of the determination that protective services are needed or upon
9 joint agreement of the local welfare agency and the family that
10 family support and preservation services are needed.

11 Sec. 12. Minnesota Statutes 2004, section 626.556,
12 subdivision 11, is amended to read:

13 Subd. 11. [RECORDS.] (a) Except as provided in paragraph
14 (b) or (d) and subdivisions 10b, 10d, 10g, and 11b, all records
15 concerning individuals maintained by a local welfare agency or
16 agency responsible for assessing or investigating the report
17 under this section, including any written reports filed under
18 subdivision 7, shall be private data on individuals, except
19 insofar as copies of reports are required by subdivision 7 to be
20 sent to the local police department or the county sheriff. All
21 records concerning determinations of maltreatment by a facility
22 are nonpublic data as maintained by the Department of Education,
23 except insofar as copies of reports are required by subdivision
24 7 to be sent to the local police department or the county
25 sheriff. Reports maintained by any police department or the
26 county sheriff shall be private data on individuals except the
27 reports shall be made available to the investigating,
28 petitioning, or prosecuting authority, including county medical
29 examiners or county coroners. Section 13.82, subdivisions 8, 9,
30 and 14, apply to law enforcement data other than the reports.
31 The local social services agency or agency responsible for
32 assessing or investigating the report shall make available to
33 the investigating, petitioning, or prosecuting authority,
34 including county medical examiners or county coroners or their
35 professional delegates, any records which contain information
36 relating to a specific incident of neglect or abuse which is

1 under investigation, petition, or prosecution and information
2 relating to any prior incidents of neglect or abuse involving
3 any of the same persons. The records shall be collected and
4 maintained in accordance with the provisions of chapter 13. In
5 conducting investigations and assessments pursuant to this
6 section, the notice required by section 13.04, subdivision 2,
7 need not be provided to a minor under the age of ten who is the
8 alleged victim of abuse or neglect. An individual subject of a
9 record shall have access to the record in accordance with those
10 sections, except that the name of the reporter shall be
11 confidential while the report is under assessment or
12 investigation except as otherwise permitted by this
13 subdivision. Any person conducting an investigation or
14 assessment under this section who intentionally discloses the
15 identity of a reporter prior to the completion of the
16 investigation or assessment is guilty of a misdemeanor. After
17 the assessment or investigation is completed, the name of the
18 reporter shall be confidential. The subject of the report may
19 compel disclosure of the name of the reporter only with the
20 consent of the reporter or upon a written finding by the court
21 that the report was false and that there is evidence that the
22 report was made in bad faith. This subdivision does not alter
23 disclosure responsibilities or obligations under the Rules of
24 Criminal Procedure.

25 (b) Upon request of the legislative auditor, data on
26 individuals maintained under this section must be released to
27 the legislative auditor in order for the auditor to fulfill the
28 auditor's duties under section 3.971. The auditor shall
29 maintain the data in accordance with chapter 13.

30 (c) The commissioner of education must be provided with all
31 requested data that are relevant to a report of maltreatment and
32 are in possession of a school facility as defined in subdivision
33 2, paragraph ~~(f)~~ (i), when the data is requested pursuant to an
34 assessment or investigation of a maltreatment report of a
35 student in a school. If the commissioner of education makes a
36 determination of maltreatment involving an individual performing

1 work within a school facility who is licensed by a board or
2 other agency, the commissioner shall provide necessary and
3 relevant information to the licensing entity to enable the
4 entity to fulfill its statutory duties. Notwithstanding section
5 13.03, subdivision 4, data received by a licensing entity under
6 this paragraph are governed by section 13.41 or other applicable
7 law governing data of the receiving entity, except that this
8 section applies to the classification of and access to data on
9 the reporter of the maltreatment.

10 (d) The investigating agency shall exchange not public data
11 with the Child Maltreatment Review Panel under section 256.022
12 if the data are pertinent and necessary for a review requested
13 under section 256.022. Upon completion of the review, the not
14 public data received by the review panel must be returned to the
15 investigating agency.

16 Sec. 13. Minnesota Statutes 2004, section 626.556,
17 subdivision 11c, is amended to read:

18 Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL
19 RECORDS MAINTAINED.] Notwithstanding sections 138.163 and
20 138.17, records maintained or records derived from reports of
21 abuse by local welfare agencies, agencies responsible for
22 assessing or investigating the report, court services agencies,
23 or schools under this section shall be destroyed as provided in
24 paragraphs (a) to (d) by the responsible authority.

25 (a) ~~If upon~~ For family assessment or cases and cases where
26 an investigation there-is results in no determination of
27 maltreatment or the need for child protective services,
28 the assessment or investigation records must be maintained for a
29 period of four years. Records under this paragraph may not be
30 used for employment, background checks, or purposes other than
31 to assist in future risk and safety assessments.

32 (b) All records relating to reports which, upon ~~assessment~~
33 ~~or~~ investigation, indicate either maltreatment or a need for
34 child protective services shall be maintained for at least ten
35 years after the date of the final entry in the case record.

36 (c) All records regarding a report of maltreatment,

1 including any notification of intent to interview which was
2 received by a school under subdivision 10, paragraph (d), shall
3 be destroyed by the school when ordered to do so by the agency
4 conducting the assessment or investigation. The agency shall
5 order the destruction of the notification when other records
6 relating to the report under investigation or assessment are
7 destroyed under this subdivision.

8 (d) Private or confidential data released to a court
9 services agency under subdivision 10h must be destroyed by the
10 court services agency when ordered to do so by the local welfare
11 agency that released the data. The local welfare agency or
12 agency responsible for assessing or investigating the report
13 shall order destruction of the data when other records relating
14 to the assessment or investigation are destroyed under this
15 subdivision.

16 Sec. 14. [REPEALER.]

17 (a) Minnesota Statutes 2004, section 626.5551, subdivisions
18 1, 2, 3, 4, and 5, are repealed.

19 (b) Minnesota Rules, parts 9560.0220, subpart 6, item B;
20 and 9560.0230, subpart 2, are repealed.

21 ARTICLE 2

22 CHILD WELFARE: PERMANENCY

23 Section 1. Minnesota Statutes 2004, section 257.85,
24 subdivision 2, is amended to read:

25 Subd. 2. [SCOPE.] The provisions of this section apply to
26 those situations in which the legal and physical custody of a
27 child is established with a relative or important friend with
28 whom the child has resided or had significant contact according
29 to section 260C.201, subdivision 11, by a district court order
30 issued on or after July 1, 1997, or a tribal court order issued
31 on or after July 1, 2005, when the child has been removed from
32 the care of the parent by previous district or tribal court
33 order.

34 Sec. 2. Minnesota Statutes 2004, section 257.85,
35 subdivision 3, is amended to read:

36 Subd. 3. [DEFINITIONS.] For purposes of this section, the

1 terms defined in this subdivision have the meanings given them.

2 (a) "MFIP standard" means the transitional standard used to
3 calculate assistance under the MFIP program, or, if permanent
4 legal and physical custody of the child is given to a relative
5 custodian residing outside of Minnesota, the analogous
6 transitional standard or standard of need used to calculate
7 assistance under the TANF program of the state where the
8 relative custodian lives.

9 (b) "Local agency" means the ~~local~~ county social services
10 agency or tribal social services agency with legal custody of a
11 child prior to the transfer of permanent legal and physical
12 custody.

13 (c) "Permanent legal and physical custody" means permanent
14 legal and physical custody ordered by a Minnesota Juvenile Court
15 under section 260C.201, subdivision 27 11.

16 (d) "Relative" has the meaning given in section 260C.007,
17 subdivision 27.

18 (e) "Relative custodian" means a person who has permanent
19 legal and physical custody of a child. When siblings, including
20 half-siblings and stepsiblings, are placed together in permanent
21 legal and physical custody, the person receiving permanent legal
22 and physical custody of the siblings is considered a relative
23 custodian of all of the siblings for purposes of this section.

24 (f) "Relative custody assistance agreement" means an
25 agreement entered into between a local agency and a person who
26 has been or will be awarded permanent legal and physical custody
27 of a child.

28 (g) "Relative custody assistance payment" means a monthly
29 cash grant made to a relative custodian pursuant to a relative
30 custody assistance agreement and in an amount calculated under
31 subdivision 7.

32 (h) "Remains in the physical custody of the relative
33 custodian" means that the relative custodian is providing
34 day-to-day care for the child and that the child lives with the
35 relative custodian; absence from the relative custodian's home
36 for a period of more than 120 days raises a presumption that the

1 child no longer remains in the physical custody of the relative
2 custodian.

3 Sec. 3. Minnesota Statutes 2004, section 259.23,
4 subdivision 1, is amended to read:

5 Subdivision 1. [VENUE.] (a) Except as provided in section
6 260C.101, subdivision 2, the juvenile court shall have original
7 jurisdiction in all adoption proceedings. The proper venue for
8 an adoption proceeding shall be the county of the petitioner's
9 residence, except as provided in paragraph (b). ~~However,~~

10 (b) Venue for the adoption of a child committed to the
11 guardianship of the commissioner of human services shall be the
12 county with jurisdiction in the matter according to section
13 260C.317, subdivision 3.

14 (c) Upon request of the petitioner, the court having
15 jurisdiction over the matter under section 260C.317, subdivision
16 3, may transfer venue of an adoption proceeding involving a
17 child under the guardianship of the commissioner to the county
18 of the petitioner's residence upon determining that:

19 (1) the commissioner has given consent to the petitioner's
20 adoption of the child or that consent is unreasonably withheld;

21 (2) there is no other adoption petition for the child that
22 has been filed or is reasonably anticipated by the commissioner
23 or the commissioner's delegate to be filed; and

24 (3) transfer of venue is in the best interests of the child.
25 Transfer of venue under this paragraph shall be according to the
26 rules of adoption court procedure.

27 (d) In all other adoptions, if the petitioner has acquired
28 a new residence in another county and requests a transfer of the
29 adoption proceeding, the court in which an adoption is initiated
30 may transfer the proceeding to the appropriate court in the new
31 county of residence if the transfer is in the best interests of
32 the person to be adopted. The court transfers the proceeding by
33 ordering a continuance and by forwarding to the court
34 administrator of the appropriate court a certified copy of all
35 papers filed, together with an order of transfer. The
36 transferring court also shall forward copies of the order of

1 transfer to the commissioner of human services and any agency
2 participating in the proceedings. The judge of the receiving
3 court shall accept the order of the transfer and any other
4 documents transmitted and hear the case; provided, however, the
5 receiving court may in its discretion require the filing of a
6 new petition prior to the hearing.

7 Sec. 4. Minnesota Statutes 2004, section 259.23,
8 subdivision 2, is amended to read:

9 Subd. 2. [CONTENTS OF PETITION.] The petition shall be
10 signed by the petitioner and, if married, by the spouse. It
11 shall be verified, and filed in duplicate. The petition shall
12 allege:

13 (a) The full name, age and place of residence of
14 petitioner, and if married, the date and place of marriage;

15 (b) The date petitioner acquired physical custody of the
16 child and from what person or agency;

17 (c) The date of birth of the child, if known, and the state
18 and county where born;

19 (d) The name of the child's parents, if known, and the
20 guardian if there be one;

21 (e) The actual name of the child, if known, and any known
22 aliases;

23 (f) The name to be given the child if a change of name is
24 desired;

25 (g) The description and value of any real or personal
26 property owned by the child;

27 (h) That the petitioner desires that the relationship of
28 parent and child be established between petitioner and the
29 child, and that it is to the best interests of the child for the
30 child to be adopted by the petitioner.

31 In agency placements, the information required in clauses
32 (d) and (e) above shall not be required to be alleged in the
33 petition but shall be transmitted to the court by the
34 commissioner of human services or the agency.

35 Sec. 5. Minnesota Statutes 2004, section 259.41,
36 subdivision 3, is amended to read:

1 Subd. 3. [BACKGROUND CHECK; AFFIDAVIT OF HISTORY.] (a) At
2 the time an adoption study is commenced, each prospective
3 adoptive parent must:

4 (1) authorize access by the agency to any private data
5 needed to complete the study;

6 (2) provide all addresses at which the prospective adoptive
7 parent and anyone in the household over the age of 13 has
8 resided in the previous ten five years; and

9 (3) disclose any names used previously other than the name
10 used at the time of the study; ~~and~~

11 ~~(4) provide a set of fingerprints, which shall be forwarded~~
12 ~~to the Bureau of Criminal Apprehension to facilitate the~~
13 ~~criminal conviction background check required under paragraph~~
14 ~~(b).~~

15 (b) When the requirements of paragraph (a) have been met,
16 the agency shall immediately begin a background check, on each
17 person over the age of 13 living in the home, consisting, at a
18 minimum, of the following:

19 (1) a check of criminal conviction data with the Bureau of
20 Criminal Apprehension and local law enforcement authorities;

21 (2) a check for data on substantiated maltreatment of a
22 child or vulnerable adult and domestic violence data with local
23 law enforcement and social services agencies and district
24 courts; and

25 (3) for those persons under the age of 25, a check of
26 juvenile court records.

27 Notwithstanding the provisions of section 260B.171 or
28 260C.171, the Bureau of Criminal Apprehension, local law
29 enforcement and social services agencies, district courts, and
30 juvenile courts shall release the requested information to the
31 agency completing the adoption study.

32 (c) When paragraph (b) requires checking the data or
33 records of local law enforcement and social services agencies
34 and district and juvenile courts, the agency shall check with
35 the law enforcement and social services agencies and courts
36 whose jurisdictions cover the addresses under paragraph (a),

1 clause (2). In the event that the agency is unable to complete
2 any of the record checks required by paragraph (b), the agency
3 shall document the fact and the agency's efforts to obtain the
4 information.

5 (d) For a study completed under this section, when the
6 agency has reasonable cause to believe that further information
7 may exist on the prospective adoptive parent or household member
8 over the age of 13 that may relate to the health, safety, or
9 welfare of the child, the prospective adoptive parent or
10 household member over the age of 13 shall provide the agency
11 with a set of classifiable fingerprints obtained from an
12 authorized law enforcement agency and the agency may obtain
13 criminal history data from the National Criminal Records
14 Repository by submitting fingerprints to the Bureau of Criminal
15 Apprehension. The agency has reasonable cause when, but not
16 limited to, the:

17 (1) information from the Bureau of Criminal Apprehension
18 indicates that the prospective adoptive parent or household
19 member over the age of 13 is a multistate offender;

20 (2) information from the Bureau of Criminal Apprehension
21 indicates that multistate offender status is undetermined;

22 (3) the agency has received a report from the prospective
23 adoptive parent or household member over the age of 13 or a
24 third party indicating that the prospective adoptive parent or
25 household member over the age of 13 has a criminal history in a
26 jurisdiction other than Minnesota; or

27 (4) the prospective adoptive parent or household member
28 over the age of 13 is or has been a resident of a state other
29 than Minnesota in the prior five years.

30 ~~(c)~~ (e) At any time prior to completion of the background
31 check required under paragraph (b), a prospective adoptive
32 parent may submit to the agency conducting the study a sworn
33 affidavit stating whether they or any person residing in the
34 household have been convicted of a crime. The affidavit shall
35 also state whether the adoptive parent or any other person
36 residing in the household is the subject of an open

1 investigation of, or have been the subject of a substantiated
2 allegation of, child or vulnerable-adult maltreatment within the
3 past ten years. A complete description of the crime, open
4 investigation, or substantiated abuse, and a complete
5 description of any sentence, treatment, or disposition must be
6 included. The affidavit must contain an acknowledgment that if,
7 at any time before the adoption is final, a court receives
8 evidence leading to a conclusion that a prospective adoptive
9 parent knowingly gave false information in the affidavit, it
10 shall be determined that the adoption of the child by the
11 prospective adoptive parent is not in the best interests of the
12 child.

13 ~~(d)~~ (f) For the purposes of subdivision 1 and section
14 259.47, subdivisions 3 and 6, an adoption study is complete for
15 placement, even though the background checks required by
16 paragraph (b) have not been completed, if each prospective
17 adoptive parent has completed the affidavit allowed by paragraph
18 ~~(e)~~ (e) and the other requirements of this section have been met.
19 The background checks required by paragraph (b) must be
20 completed before an adoption petition is filed. If an adoption
21 study has been submitted to the court under section 259.47,
22 subdivision 3 or 6, before the background checks required by
23 paragraph (b) were complete, an updated adoption study report
24 which includes the results of the background check must be filed
25 with the adoption petition. In the event that an agency is
26 unable to complete any of the records checks required by
27 paragraph (b), the agency shall submit with the petition to
28 adopt an affidavit documenting the agency's efforts to complete
29 the checks.

30 Sec. 6. Minnesota Statutes 2004, section 259.75,
31 subdivision 1, is amended to read:

32 Subdivision 1. [ESTABLISHMENT; CONTENTS; AVAILABILITY.]
33 The commissioner of human services shall establish an adoption
34 exchange~~7-which-shall-include-but-not-be-limited-to-a-book7~~
35 ~~updated-monthly7~~ that contains a photograph and description of
36 each child who has been legally freed for adoption. The

1 exchange service shall be available to all local social service
2 agencies and licensed child-placing agencies whose purpose is to
3 assist in the adoptive placement of children, ~~and the exchange~~
4 ~~book shall be distributed to all such agencies.~~

5 Sec. 7. Minnesota Statutes 2004, section 259.79,
6 subdivision 1, is amended to read:

7 Subdivision 1. [CONTENT.] (a) The adoption records of the
8 commissioner, the commissioner's agents and licensed
9 child-placing agencies shall contain copies of all relevant
10 legal documents, responsibly collected genetic, medical and
11 social history of the child and the child's birth parents, the
12 child's placement record, copies of all pertinent agreements,
13 contracts, and correspondence relevant to the adoption, and
14 copies of all reports and recommendations made to the court.

15 (b) The commissioner of human services shall maintain a
16 permanent record of all adoptions granted in district court in
17 Minnesota regarding children who are:

18 (1) under guardianship of the commissioner or a licensed
19 child-placing agency according to section 260C.201, subdivision
20 11, or 260C.317;

21 (2) placed by the commissioner, commissioner's agent, or
22 licensed child-placing agency after a consent to adopt according
23 to section 259.24 or under an agreement conferring authority to
24 place for adoption according to section 259.25; or

25 (3) adopted after a direct adoptive placement approved by
26 the district court under section 259.47.

27 Each record shall contain identifying information about the
28 child, the birth or legal parents, and adoptive parents. The
29 record must also contain: (1) the date the child was legally
30 freed for adoption; (2) the date of the adoptive placement; (3)
31 the name of the placing agency; (4) the county where the
32 adoptive placement occurred; (5) the date that the petition to
33 adopt was filed; (6) the county where the petition to adopt was
34 filed; and (7) the date and county where the adoption decree was
35 granted.

36 (c) Identifying information contained in the adoption

1 record shall be confidential and shall be disclosed only
2 pursuant to section 259.61.

3 Sec. 8. Minnesota Statutes 2004, section 259.85,
4 subdivision 1, is amended to read:

5 Subdivision 1. [PURPOSE.] The commissioner of human
6 services shall establish and supervise a postadoption service
7 grants program to be administered by local social service
8 agencies for the purpose of preserving and strengthening
9 adoptive families. The program will provide financial
10 assistance to adoptive parents who are not receiving adoption
11 assistance under section 259.67 to meet the special needs of an
12 adopted child that cannot be met by other resources available to
13 the family.

14 Sec. 9. Minnesota Statutes 2004, section 260.012, is
15 amended to read:

16 260.012 [DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY
17 REUNIFICATION; REASONABLE EFFORTS.]

18 (a) Once a child alleged to be in need of protection or
19 services is under the court's jurisdiction, the court shall
20 ensure that reasonable efforts including culturally appropriate
21 services by the social services agency are made to prevent
22 placement ~~or~~ and to finalize a permanent plan for the child, as
23 appropriate. "Reasonable efforts to finalize the permanent plan
24 for the child" include the agency's efforts to eliminate the
25 need for removal and to reunite the child with the child's
26 family at the earliest possible time, consistent-with-the-best
27 interests, safety, and protection-of-the-child or to place the
28 child with a family that will be the legally permanent home for
29 the child in the event the child cannot be reunited with the
30 parent or guardian from whom the child was removed. In
31 determining reasonable efforts to be made with respect to a
32 child and in making those reasonable efforts, the child's best
33 interests, health, and safety must be of paramount concern.
34 Reasonable efforts to prevent placement or for rehabilitation
35 and reunification are not required upon a determination by the
36 court that:

1 ~~(i)~~ a termination-of-parental-rights petition has been
2 filed stating a prima facie case that:

3 ~~(i)~~ (1) the parent has subjected a child to egregious harm
4 as defined in section 260C.007, subdivision 14;

5 ~~(ii)~~ (2) the parental rights of the parent to another child
6 have been terminated involuntarily;

7 ~~(iii)~~ (3) the child is an abandoned infant under section
8 260C.301, subdivision 2, paragraph (a), clause (2); or

9 ~~(iv)~~ (4) the parent's custodial rights to another child
10 have been involuntarily transferred to a relative under section
11 260C.201, subdivision 11, paragraph (e), clause (1), or a
12 similar law of another jurisdiction; or

13 ~~(2)-the-county-attorney-has-filed-a-determination-not-to~~
14 ~~proceed-with-a-termination-of-parental-rights-petition-on-these~~
15 ~~grounds-was-made-under-section-260C-301-subdivision-3,~~
16 ~~paragraph-(b),-and-a-permanency-hearing-is-held-within-30-days~~
17 ~~of-the-determination,-or~~

18 ~~(3)-a-termination-of-parental-rights-petition-or-other~~
19 ~~petition-according-to-section-260C-201-subdivision-11,-has-been~~
20 ~~filed-alleging-a-prima-facie-case-that~~

21 (5) the provision of services or further services for the
22 purpose of reunification is futile and therefore unreasonable
23 under the circumstances.

24 (b) When the court makes one of the prima facie
25 determinations under paragraph (a), either permanency pleadings
26 under section 260C.201, subdivision 11, or a termination of
27 parental rights petition under sections 260C.141 and 260C.301
28 must be filed. A permanency hearing under section 260C.201,
29 subdivision 11, must be held within 30 days of this
30 determination.

31 (c) In the case of an Indian child, in proceedings under
32 sections 260B.178 or 260C.178, 260C.201, and 260C.301 the
33 juvenile court must make findings and conclusions consistent
34 with the Indian Child Welfare Act of 1978, United States Code,
35 title 25, section 1901 et seq., as to the provision of active
36 efforts. If a child is under the court's delinquency

1 jurisdiction, it shall be the duty of the court to ensure that
2 reasonable efforts are made to reunite the child with the
3 child's family at the earliest possible time, consistent with
4 the best interests of the child and the safety of the public.

5 ~~(b)~~ (d) "Reasonable efforts to prevent placement" means:

6 (1) the agency has made reasonable efforts to prevent the
7 placement of the child; or

8 (2) given the particular circumstances of the child and
9 family at the time of the child's removal, there are no services
10 or efforts available which could allow the child to safely
11 remain in the home.

12 (e) As appropriate under the particular circumstances and
13 stage of the case, "reasonable efforts to finalize a permanent
14 plan for the child" means reasonable efforts by the responsible
15 social services agency to:

16 (1) reunify the child with the parent or guardian from whom
17 the child was removed;

18 (2) assess a noncustodial parent's ability to provide
19 day-to-day care for the child and, where appropriate, provide
20 services necessary to enable the noncustodial parent to safely
21 provide the care; and

22 (3) finalize a safe and legally permanent home for the
23 child, preferably through adoption or transfer of permanent
24 legal and physical custody of the child, when the child cannot
25 return to the parent or guardian from whom the child was removed.

26 (f) Reasonable efforts are made upon the exercise of due
27 diligence by the responsible social services agency to use
28 appropriate and available services to meet the needs of the
29 child and the child's family ~~in-order-to-prevent-removal-of-the~~
30 ~~child-from-the-child's-family,-or-upon-removal,-services-to~~
31 ~~eliminate-the-need-for-removal-and-reunite-the-family.~~ (†)

32 Services may include those provided by the responsible social
33 services agency and other appropriate services available in the
34 community. (‡) At each stage of the proceedings where the court
35 is required to review the appropriateness of the responsible
36 social services agency's reasonable efforts, the social services

1 agency has the burden of demonstrating that:

2 (1) it has made reasonable efforts, or that provision of
3 services or further services for the purpose of rehabilitation
4 and reunification is futile and therefore unreasonable under the
5 circumstances or that reasonable efforts aimed at reunification
6 are not required under this section to prevent placement;

7 (2) it has made reasonable efforts to finalize the
8 permanent plan for the child; or

9 (3) reasonable efforts to prevent placement and to reunify
10 the child with the parent or guardian are not required. The
11 agency may meet this burden by stating facts in a sworn petition
12 filed under section 260C.141, or by filing an affidavit
13 summarizing the agency's reasonable efforts or facts the agency
14 believes demonstrate there is no need for reasonable efforts to
15 reunify the parent and child, or through testimony or a
16 certified report required under juvenile court rules.

17 ~~(3)~~ (g) Once the court determines that reasonable
18 efforts for reunification are not required when the court makes
19 a determination because the court has made one of the prima
20 facie determinations under paragraph (a) unless, the court may
21 only require reasonable efforts for reunification after a
22 hearing according to section 260C.163, where the court finds
23 there is not clear and convincing evidence of the facts upon
24 which the court based its prima facie determination. In this
25 case, the court may proceed under section 260C.312.

26 Reunification of a surviving child with a parent is not required
27 if the parent has been convicted of:

28 ~~(1)~~ (1) a violation of, or an attempt or conspiracy to
29 commit a violation of, sections 609.185 to 609.20; 609.222,
30 subdivision 2; or 609.223 in regard to another child of the
31 parent;

32 ~~(2)~~ (2) a violation of section 609.222, subdivision 2; or
33 609.223, in regard to the surviving child; or

34 ~~(3)~~ (3) a violation of, or an attempt or conspiracy to
35 commit a violation of, United States Code, title 18, section
36 1111(a) or 1112(a), in regard to another child of the parent.

1 ~~(e)~~ (h) The juvenile court, in proceedings under sections
2 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings
3 and conclusions as to the provision of reasonable efforts. When
4 determining whether reasonable efforts have been made, the court
5 shall consider whether services to the child and family were:

- 6 (1) relevant to the safety and protection of the child;
- 7 (2) adequate to meet the needs of the child and family;
- 8 (3) culturally appropriate;
- 9 (4) available and accessible;
- 10 (5) consistent and timely; and
- 11 (6) realistic under the circumstances.

12 In the alternative, the court may determine that provision
13 of services or further services for the purpose of
14 rehabilitation is futile and therefore unreasonable under the
15 circumstances or that reasonable efforts are not required as
16 provided in paragraph (a).

17 ~~(d)~~ (i) This section does not prevent out-of-home placement
18 for treatment of a child with a mental disability when the
19 child's diagnostic assessment or individual treatment plan
20 indicates that appropriate and necessary treatment cannot be
21 effectively provided outside of a residential or inpatient
22 treatment program.

23 ~~(e)~~ (j) If continuation of reasonable efforts ~~described-in~~
24 ~~paragraph-(b)~~ to prevent placement or reunify the child with the
25 parent or guardian from whom the child was removed is determined
26 by the court to be inconsistent with the permanent plan for the
27 child ~~7-or-upon-a-determination~~ or the court making one of the
28 prima facie determinations under paragraph (a), reasonable
29 efforts must be made to place the child in a timely manner in
30 ~~accordance-with-the-permanent-plan-ordered-by-the-court~~ a safe
31 and permanent home and to complete whatever steps are necessary
32 to legally finalize the permanent ~~plan-for~~ placement of the
33 child.

34 ~~(f)~~ (k) Reasonable efforts to place a child for adoption or
35 in another permanent placement may be made concurrently with
36 reasonable efforts ~~as-described-in-paragraphs-(a)-and-(b)~~ to

1 prevent placement or to reunify the child with the parent or
2 guardian from whom the child was removed. When the responsible
3 social services agency decides to concurrently make reasonable
4 efforts for both reunification and permanent placement away from
5 the parent under ~~paragraphs~~ paragraph (a) and-(b), the agency
6 shall disclose its decision and both plans for concurrent
7 reasonable efforts to all parties and the court. When the
8 agency discloses its decision to proceed on both plans for
9 reunification and permanent placement away from the parent, the
10 court's review of the agency's reasonable efforts shall include
11 the agency's efforts under ~~paragraphs-(a)-and-(b)~~ both plans.

12 Sec. 10. Minnesota Statutes 2004, section 260C.001,
13 subdivision 3, is amended to read:

14 Subd. 3. [PERMANENCY AND TERMINATION OF PARENTAL RIGHTS.]

15 The purpose of the laws relating to permanency and termination
16 of parental rights is to ensure that:

17 (1) when required and appropriate, reasonable efforts have
18 been made by the social services agency to reunite the child
19 with the child's parents in a home that is safe and permanent;
20 and

21 (2) if placement with the parents is not reasonably
22 foreseeable, to secure for the child a safe and permanent
23 placement, preferably with adoptive parents or a fit and willing
24 relative through transfer of permanent legal and physical
25 custody to that relative.

26 Nothing in this section requires reasonable efforts to
27 prevent placement or to reunify the child with the parent or
28 guardian to be made in circumstances where the court has
29 determined that the child has been subjected to egregious
30 harm or, when the child is an abandoned infant, the parent has
31 involuntarily lost custody of another child through a proceeding
32 under section 260C.201, subdivision 11, or similar law of
33 another state, the parental rights of the parent to a sibling
34 have been involuntarily terminated, or the court has determined
35 that reasonable efforts or further reasonable efforts to reunify
36 the child with the parent or guardian would be futile.

1 The paramount consideration in all proceedings for
2 permanent placement of the child under section 260C.201,
3 subdivision 11, or the termination of parental rights is the
4 best interests of the child. In proceedings involving an
5 American Indian child, as defined in section 260.755,
6 subdivision 8, the best interests of the child must be
7 determined consistent with the Indian Child Welfare Act of 1978,
8 United States Code, title 25, section 1901, et seq.

9 Sec. 11. Minnesota Statutes 2004, section 260C.007,
10 subdivision 8, is amended to read:

11 Subd. 8. [COMPELLING REASONS.] "Compelling reasons" means
12 an individualized determination by the responsible social
13 services agency, which is approved by the court, related to a
14 request by the agency not to initiate proceedings to terminate
15 parental rights or transfer permanent legal and physical custody
16 of a child to the child's relative or former noncustodial parent
17 under section 260C.301, subdivision 3.

18 Sec. 12. Minnesota Statutes 2004, section 260C.151,
19 subdivision 6, is amended to read:

20 Subd. 6. [IMMEDIATE CUSTODY.] If the court makes
21 individualized, explicit findings, based on the notarized
22 petition or sworn affidavit, that there are reasonable grounds
23 to believe the child is in surroundings or conditions which
24 endanger the child's health, safety, or welfare that require
25 that responsibility for the child's care and custody be
26 immediately assumed by the court responsible social services
27 agency and that continuation of the child in the custody of the
28 parent or guardian is contrary to the child's welfare, the court
29 may order that the officer serving the summons take the child
30 into immediate custody for placement of the child in foster
31 care. In ordering that responsibility for the care, custody,
32 and control of the child be assumed by the responsible social
33 services agency, the court is ordering emergency protective care
34 as that term is defined in the juvenile court rules.

35 Sec. 13. Minnesota Statutes 2004, section 260C.178, is
36 amended to read:

1 260C.178 [~~DETENTION~~ EMERGENCY REMOVAL HEARING.]

2 Subdivision 1. [HEARING AND RELEASE REQUIREMENTS.] (a) If
3 a child was taken into custody under section 260C.175,
4 subdivision 1, clause (a) or (b)(2), the court shall hold a
5 hearing within 72 hours of the time the child was taken into
6 custody, excluding Saturdays, Sundays, and holidays, to
7 determine whether the child should continue in custody.

8 (b) Unless there is reason to believe that the child would
9 endanger self or others, not return for a court hearing, run
10 away from the child's parent, guardian, or custodian or
11 otherwise not remain in the care or control of the person to
12 whose lawful custody the child is released, or that the child's
13 health or welfare would be immediately endangered, the child
14 shall be released to the custody of a parent, guardian,
15 custodian, or other suitable person, subject to reasonable
16 conditions of release including, but not limited to, a
17 requirement that the child undergo a chemical use assessment as
18 provided in section 260C.157, subdivision 1. If the court
19 determines there is reason to believe that the child would
20 endanger self or others; not return for a court hearing; run
21 away from the child's parent, guardian, or custodian or
22 otherwise not remain in the care or control of the person to
23 whose lawful custody the child is released; or that the child's
24 health or welfare would be immediately endangered, the court
25 shall order the child into foster care under the responsibility
26 of the responsible social services agency or responsible
27 probation or corrections agency for the purposes of protective
28 care as that term is used in the juvenile court rules. In
29 determining whether the child's health or welfare would be
30 immediately endangered, the court shall consider whether the
31 child would reside with a perpetrator of domestic child abuse.

32 (c) The court, before determining whether a child should be
33 placed in or continue in custody foster care under the
34 protective care of the responsible agency, shall also make a
35 determination, consistent with section 260.012 as to whether
36 reasonable efforts ~~7-~~ were made to prevent placement or whether

1 reasonable efforts to prevent placement are not required. In
2 the case of an Indian child, the court shall determine whether
3 active efforts, according to the Indian Child Welfare Act of
4 1978, United States Code, title 25, section 1912(d), were made
5 to prevent placement. The court shall also-determine-whether
6 there-are-available-services-that-would-prevent-the-need-for
7 further-detention---In-the-alternative, enter a finding that the
8 responsible social services agency has made reasonable efforts
9 to prevent placement when the agency establishes either:

10 (1) that it has actually provided services or made efforts
11 in an attempt to prevent the child's removal but that such
12 services or efforts have not proven sufficient to permit the
13 child to safely remain in the home; or

14 (2) that there are no services or other efforts that could
15 be made at the time of the hearing that could safely permit the
16 child to remain home or to return home. When reasonable efforts
17 to prevent placement are required and there are services or
18 other efforts that could be ordered which would permit the child
19 to safely return home, the court shall order the child returned
20 to the care of the parent or guardian and the services or
21 efforts put in place to ensure the child's safety. When the
22 court makes a prima facie determination that one of the
23 circumstances under paragraph (e) exists, the court shall
24 determine that reasonable efforts to prevent placement and to
25 return the child to the care of the parent or guardian are not
26 required if-the-court-makes-a-prima-facie-determination-that-one
27 of-the-circumstances-under-paragraph-(e)-exists.

28 If the court finds the social services agency's preventive
29 or reunification efforts have not been reasonable but further
30 preventive or reunification efforts could not permit the child
31 to safely remain at home, the court may nevertheless authorize
32 or continue the removal of the child.

33 (d) The court may not order or continue the foster care
34 placement of the child unless the court makes explicit,
35 individualized findings that continued custody of the child by
36 the parent or guardian would be contrary to the welfare of the

1 child.

2 (e) At the detention emergency removal hearing, or at any
3 time during the course of the proceeding, and upon notice and
4 request of the county attorney, the court shall ~~make the~~
5 ~~following determinations:~~

6 ~~(i) determine~~ whether a ~~termination-of-parental-rights~~
7 petition has been filed stating a prima facie case that:

8 ~~(i) (1)~~ the parent has subjected a child to egregious harm
9 as defined in section 260C.007, subdivision 14;

10 ~~(ii) (2)~~ the parental rights of the parent to another child
11 have been involuntarily terminated; or

12 ~~(iii) (3)~~ the child is an abandoned infant under section
13 260C.301, subdivision 2, paragraph (a), clause (2);

14 ~~(2)-that (4)~~ the parents' custodial rights to another child
15 have been involuntarily transferred to a relative under section
16 260C.201, subdivision 11, paragraph (e), clause (1), or a
17 similar law of another jurisdiction; or

18 (5) the provision of services or further services for the
19 purpose of reunification is futile and therefore unreasonable.

20 (f) When a petition to terminate parental rights is
21 required under section 260C.301, subdivision 3 or 4, but the
22 county attorney has determined not to proceed with a termination
23 of parental rights petition ~~under section 260C.307; or~~

24 ~~(3)-whether-a-termination-of-parental-rights-petition-or~~
25 ~~other-petition-according-to-section-260C.201, subdivision 11,~~
26 ~~has-been-filed-alleging-a-prima-facie-case-that-the-provision-of~~
27 ~~services-or-further-services-for-the-purpose-of-rehabilitation~~
28 ~~and-reunification-is-futile-and-therefore-unreasonable-under-the~~
29 ~~circumstances.~~

30 ~~If-the-court-determines-that-the-county-attorney-is-not~~
31 ~~proceeding-with-a-termination-of-parental-rights-petition-under~~
32 ~~section-260C.307, but-is-proceeding-with-a-petition-under~~
33 ~~section-260C.201, subdivision 11, the court shall schedule a~~
34 permanency hearing within 30 days, and has instead filed a
35 petition to transfer permanent legal and physical custody to a
36 relative under section 260C.201, subdivision 11, the court shall

1 schedule a permanency hearing within 30 days of the filing of
2 the petition.

3 (g) If the county attorney has filed a petition under
4 section 260C.307, the court shall schedule a trial under section
5 260C.163 within 90 days of the filing of the petition except
6 when the county attorney determines that the criminal case shall
7 proceed to trial first under section 260C.201, subdivision 3.

8 ~~(f)~~ (h) If the court determines the child should be ordered
9 into ~~out-of-home-placement~~ foster care and the child's parent
10 refuses to give information to the responsible social services
11 agency regarding the child's father or relatives of the child,
12 the court may order the parent to disclose the names, addresses,
13 telephone numbers, and other identifying information to the
14 responsible social services agency for the purpose of complying
15 with the requirements of sections 260C.151, 260C.212, and
16 260C.215.

17 ~~(g)~~ (i) If a child ordered into ~~out-of-home-placement~~
18 foster care has siblings, whether full, half, or step, who are
19 also ordered into ~~placement~~ foster care, the court shall inquire
20 of the responsible social services agency of the efforts to
21 place the children together as required by section 260C.212,
22 subdivision 2, paragraph (d), if placement together is in each
23 child's best interests, unless a child is in placement due
24 solely to the child's own behavior or a child is placed with a
25 previously noncustodial parent who is not parent to all
26 siblings. If the children are not placed together at the time
27 of the hearing, the court shall inquire at each subsequent
28 hearing of the agency's efforts to place the siblings together.
29 If any sibling is not placed with another sibling or siblings,
30 the agency must develop a plan for visitation among the siblings
31 as required under section 260C.212, subdivision 1.

32 ~~Subd.--2.--{DURATION.}--If--the--court--determines--that--the~~
33 ~~child--should--continue--in--detention,--it--may--order--detention~~
34 ~~continued--for--eight--days,--excluding--Saturdays,--Sundays--and~~
35 ~~holidays,--from--and--including--the--date--of--the--order,--The--court~~
36 ~~shall--include--in--its--order--the--reasons--for--continued--detention~~

1 ~~and-the-findings-of-fact-which-support-these-reasons-~~

2 Subd. 3. [PARENTAL VISITATION.] If a child has been taken
3 into custody under section 260C.151, subdivision 5, or 260C.175,
4 subdivision 1, clause (b)(2), and the court determines that the
5 child should continue in detention foster care, the court shall
6 include in its order reasonable rules for supervised or
7 unsupervised parental visitation of the child in the ~~shelter~~
8 foster care facility unless it finds that visitation would
9 endanger the child's physical or emotional well-being.

10 Subd. 4. [MENTAL HEALTH TREATMENT.] (a) Except as provided
11 in paragraph (b), a child who is ~~held~~ ordered placed in
12 detention foster care as an alleged victim of child abuse as
13 defined in section 630.36, subdivision 2, may not be given
14 mental health treatment specifically for the effects of the
15 alleged abuse until the court finds that there is ~~probable-cause~~
16 a prima facie basis to believe the abuse has occurred.

17 (b) A child described in paragraph (a) may be given mental
18 health treatment prior to a ~~probable-cause~~ prima facie finding
19 of child abuse if the treatment is either agreed to by the
20 child's parent or guardian in writing, or ordered by the court
21 according to the standard contained in section 260C.201,
22 subdivision 1.

23 Subd. 5. [COPIES OF ORDER.] Copies of the court's order
24 shall be served upon the parties, including the ~~supervisor-of~~
25 the-detention placement facility, who which shall release the
26 child or continue to hold the child as the court orders.

27 When the court's order is served upon these parties, notice
28 shall also be given to the parties of the subsequent reviews
29 provided by subdivision 6. ~~The-notice-shall-also-inform-each~~
30 ~~party-of-the-right-to-submit-to-the-court-for-informal-review~~
31 ~~any-new-evidence-regarding-whether-the-child-should-be-continued~~
32 ~~in-detention-and-to-request-a-hearing-to-present-the-evidence-to~~
33 ~~the-court-~~

34 Subd. 6. [REVIEW.] ~~If-a-child-held-in-detention-under-a~~
35 ~~court-order-issued-under-subdivision-2-has-not-been-released~~
36 ~~prior-to-expiration-of-the-order,-the-court-or-referee-shall~~

1 ~~informally review the child's case file to determine, under the~~
2 ~~standards provided by subdivision 1, whether detention should be~~
3 ~~continued. If detention is continued thereafter, informal~~
4 ~~reviews such as these shall be held within every eight days,~~
5 ~~excluding Saturdays, Sundays, and holidays, of the child's~~
6 ~~detention. When a child is placed in foster care, the child's~~
7 ~~placement shall be periodically reviewed as required under the~~
8 ~~juvenile court rules including notice to the parties required to~~
9 ~~be served with a copy of the order under subdivision 4.~~

10 A hearing, ~~rather than an informal review of the child's~~
11 ~~case file,~~ shall be held at the request of any one of the
12 parties notified pursuant to subdivision 5, if that party
13 notifies the court of a wish to present to the court new
14 evidence concerning whether the child should be continued in
15 detention or notifies the court of a wish to present an
16 alternate placement arrangement to provide for the safety and
17 protection of the child.

18 In addition, if a child was taken into detention custody
19 under section 260C.151, subdivision 5, or 260C.175, subdivision
20 1, clause (c)(2), and is ~~held~~ placed in detention foster care or
21 placed in another facility under a court order issued under
22 subdivision 2, the court shall schedule and hold an adjudicatory
23 hearing on the petition within 60 days of the detention
24 emergency removal hearing upon the request of any party to the
25 proceeding. However, if good cause is shown by a party to the
26 proceeding why the hearing should not be held within that time
27 period, the hearing shall be held within 90 days, unless the
28 parties agree otherwise and the court so orders.

29 Subd. 7. [OUT-OF-HOME PLACEMENT PLAN.] (a) An out-of-home
30 placement plan required under section 260C.212 shall be filed
31 with the court within 30 days of the filing of a petition
32 alleging the child to be in need of protection or services under
33 section 260C.141, subdivision 1, or filed with the petition if
34 the petition is a review of a voluntary placement under section
35 260C.141, subdivision 2.

36 (b) Upon the filing of the out-of-home placement plan which

1 has been developed jointly with the parent and in consultation
2 with others as required under section 260C.212, subdivision 1,
3 the court may approve implementation of the plan by the
4 responsible social services agency based on the allegations
5 contained in the petition. The court shall send written notice
6 of the approval of the out-of-home placement plan to all parties
7 and the county attorney or may state such approval on the record
8 at a hearing. A parent may agree to comply with the terms of
9 the plan filed with the court.

10 ~~(c) Upon notice and motion by a parent who agrees to comply~~
11 ~~with the terms of an out-of-home placement plan, the court may~~
12 ~~modify the plan and order the responsible social services agency~~
13 ~~to provide other or additional services for reunification, if~~
14 ~~reunification efforts are required, and the court determines the~~
15 ~~agency's plan inadequate under section 260.012. If, after~~
16 reasonable attempts by the responsible social services agency to
17 engage a parent in case planning, the parent refuses to
18 cooperate in the development of the out-of-home placement plan
19 or disagrees with the services recommended by the responsible
20 social service agency, the agency shall note such refusal or
21 disagreement for the court in the out-of-home placement plan
22 filed with the court. The agency shall notify the court of the
23 services it will provide or efforts it will attempt under the
24 plan notwithstanding the parent's refusal to cooperate or
25 disagreement with the services, and the court may approve the
26 plan based on the content of the petition.

27 (d) Unless the parent agrees to comply with the terms of
28 the out-of-home placement plan, the court may not order a parent
29 to comply with the provisions of the plan until the court makes
30 a determination finds the child is in need of protection or
31 services and orders disposition under section 260C.201,
32 subdivision 1. However, the court may find that the responsible
33 social services agency has made reasonable efforts for
34 reunification if the agency makes efforts to implement the terms
35 of an out-of-home placement plan approved under this section.

36 Sec. 14. Minnesota Statutes 2004, section 260C.201,

1 subdivision 1, is amended to read:

2 Subdivision 1. [DISPOSITIONS.] (a) If the court finds that
3 the child is in need of protection or services or neglected and
4 in foster care, it shall enter an order making any of the
5 following dispositions of the case:

6 (1) place the child under the protective supervision of the
7 responsible social services agency or child-placing agency in
8 the home of a parent of the child under conditions prescribed by
9 the court directed to the correction of the child's need for
10 protection or services:

11 (i) the court may order the child into the home of a parent
12 who does not otherwise have legal custody of the child, however,
13 an order under this section does not confer legal custody on
14 that parent;

15 (ii) if the court orders the child into the home of a
16 father who is not adjudicated, he must cooperate with paternity
17 establishment proceedings regarding the child in the appropriate
18 jurisdiction as one of the conditions prescribed by the court
19 for the child to continue in his home; and

20 (iii) the court may order the child into the home of a
21 noncustodial parent with conditions and may also order both the
22 noncustodial and the custodial parent to comply with the
23 requirements of a case plan under subdivision 2; or

24 (2) transfer legal custody to one of the following:

25 (i) a child-placing agency; or

26 (ii) the responsible social services agency. In placing
27 making a foster care placement for a child whose custody has
28 been transferred under this paragraph subdivision, the agencies
29 agency shall make an individualized determination of how the
30 placement is in the child's best interests using the
31 consideration for relatives and the best interest factors in
32 section 260C.212, subdivision 2, paragraph (b); or

33 (3) order a trial home visit without modifying the transfer
34 of legal custody to the responsible social services agency under
35 clause (2). Trial home visit means the child is returned to the
36 care of the parent or guardian from whom the child was removed

1 for a period not to exceed six months. During the period of the
2 trial home visit, the responsible social services agency:

3 (i) shall continue to have legal custody of the child,
4 which means the agency may see the child in the parent's home,
5 at school, in a child care facility, or other setting as the
6 agency deems necessary and appropriate;

7 (ii) shall continue to have the ability to access
8 information under section 260C.208;

9 (iii) shall continue to provide appropriate services to
10 both the parent and the child during the period of the trial
11 home visit;

12 (iv) without previous court order or authorization, may
13 terminate the trial home visit and remove the child to foster
14 care;

15 (v) shall advise the court and parties within three days of
16 the termination of the trial home visit when a visit is
17 terminated by the responsible social services agency without a
18 court order; and

19 (vi) shall prepare a report for the court when the trial
20 home visit is terminated whether by the agency or court order
21 which describes the child's circumstances during the trial home
22 visit and recommends appropriate orders, if any, for the court
23 to enter to provide for the child's safety and stability. In
24 the event a trial home visit is terminated by the agency by
25 removing the child to foster care without prior court order or
26 authorization, the court shall conduct a hearing within ten days
27 of receiving notice of the termination of the trial home visit
28 by the agency and shall order disposition under this subdivision
29 or conduct a permanency hearing under subdivision 11 or 11a.
30 The time period for the hearing may be extended by the court for
31 good cause shown and if it is in the best interests of the child
32 as long as the total time the child spends in foster care
33 without a permanency hearing does not exceed 12 months.

34 (4) If the child has been adjudicated as a child in need of
35 protection or services because the child is in need of special
36 services or care to treat or ameliorate a physical or mental

1 disability, the court may order the child's parent, guardian, or
2 custodian to provide it. The court may order the child's health
3 plan company to provide mental health services to the child.
4 Section 62Q.535 applies to an order for mental health services
5 directed to the child's health plan company. If the health
6 plan, parent, guardian, or custodian fails or is unable to
7 provide this treatment or care, the court may order it
8 provided. Absent specific written findings by the court that
9 the child's disability is the result of abuse or neglect by the
10 child's parent or guardian, the court shall not transfer legal
11 custody of the child for the purpose of obtaining special
12 treatment or care solely because the parent is unable to provide
13 the treatment or care. If the court's order for mental health
14 treatment is based on a diagnosis made by a treatment
15 professional, the court may order that the diagnosing
16 professional not provide the treatment to the child if it finds
17 that such an order is in the child's best interests; or

18 ~~(4)~~ (5) If the court believes that the child has sufficient
19 maturity and judgment and that it is in the best interests of
20 the child, the court may order a child 16 years old or older to
21 be allowed to live independently, either alone or with others as
22 approved by the court under supervision the court considers
23 appropriate, if the county board, after consultation with the
24 court, has specifically authorized this dispositional
25 alternative for a child.

26 (b) If the child was adjudicated in need of protection or
27 services because the child is a runaway or habitual truant, the
28 court may order any of the following dispositions in addition to
29 or as alternatives to the dispositions authorized under
30 paragraph (a):

31 (1) counsel the child or the child's parents, guardian, or
32 custodian;

33 (2) place the child under the supervision of a probation
34 officer or other suitable person in the child's own home under
35 conditions prescribed by the court, including reasonable rules
36 for the child's conduct and the conduct of the parents,

1 guardian, or custodian, designed for the physical, mental, and
2 moral well-being and behavior of the child; or with the consent
3 of the commissioner of corrections, place the child in a group
4 foster care facility which is under the commissioner's
5 management and supervision;

6 (3) subject to the court's supervision, transfer legal
7 custody of the child to one of the following:

8 (i) a reputable person of good moral character. No person
9 may receive custody of two or more unrelated children unless
10 licensed to operate a residential program under sections 245A.01
11 to 245A.16; or

12 (ii) a county probation officer for placement in a group
13 foster home established under the direction of the juvenile
14 court and licensed pursuant to section 241.021;

15 (4) require the child to pay a fine of up to \$100. The
16 court shall order payment of the fine in a manner that will not
17 impose undue financial hardship upon the child;

18 (5) require the child to participate in a community service
19 project;

20 (6) order the child to undergo a chemical dependency
21 evaluation and, if warranted by the evaluation, order
22 participation by the child in a drug awareness program or an
23 inpatient or outpatient chemical dependency treatment program;

24 (7) if the court believes that it is in the best interests
25 of the child and of public safety that the child's driver's
26 license or instruction permit be canceled, the court may order
27 the commissioner of public safety to cancel the child's license
28 or permit for any period up to the child's 18th birthday. If
29 the child does not have a driver's license or permit, the court
30 may order a denial of driving privileges for any period up to
31 the child's 18th birthday. The court shall forward an order
32 issued under this clause to the commissioner, who shall cancel
33 the license or permit or deny driving privileges without a
34 hearing for the period specified by the court. At any time
35 before the expiration of the period of cancellation or denial,
36 the court may, for good cause, order the commissioner of public

1 safety to allow the child to apply for a license or permit, and
2 the commissioner shall so authorize;

3 (8) order that the child's parent or legal guardian deliver
4 the child to school at the beginning of each school day for a
5 period of time specified by the court; or

6 (9) require the child to perform any other activities or
7 participate in any other treatment programs deemed appropriate
8 by the court.

9 To the extent practicable, the court shall enter a
10 disposition order the same day it makes a finding that a child
11 is in need of protection or services or neglected and in foster
12 care, but in no event more than 15 days after the finding unless
13 the court finds that the best interests of the child will be
14 served by granting a delay. If the child was under eight years
15 of age at the time the petition was filed, the disposition order
16 must be entered within ten days of the finding and the court may
17 not grant a delay unless good cause is shown and the court finds
18 the best interests of the child will be served by the delay.

19 (c) If a child who is 14 years of age or older is
20 adjudicated in need of protection or services because the child
21 is a habitual truant and truancy procedures involving the child
22 were previously dealt with by a school attendance review board
23 or county attorney mediation program under section 260A.06 or
24 260A.07, the court shall order a cancellation or denial of
25 driving privileges under paragraph (b), clause (7), for any
26 period up to the child's 18th birthday.

27 (d) In the case of a child adjudicated in need of
28 protection or services because the child has committed domestic
29 abuse and been ordered excluded from the child's parent's home,
30 the court shall dismiss jurisdiction if the court, at any time,
31 finds the parent is able or willing to provide an alternative
32 safe living arrangement for the child, as defined in Laws 1997,
33 chapter 239, article 10, section 2.

34 (e) When a parent has complied with a case plan ordered
35 under subdivision 6 and the child is in the care of the parent,
36 the court may order the responsible social services agency to

1 monitor the parent's continued ability to maintain the child
2 safely in the home under such terms and conditions as the court
3 determines appropriate under the circumstances.

4 Sec. 15. Minnesota Statutes 2004, section 260C.201,
5 subdivision 10, is amended to read:

6 Subd. 10. [~~COURT REVIEW OF OUT-OF-HOME-PLACEMENTS~~ FOSTER
7 CARE.] (a) If the court places orders a child placed in a
8 ~~residential-facility, as defined in section 260C.212,~~
9 subdivision 1 foster care, the court shall review the
10 out-of-home placement at least every 90 days as required in
11 juvenile court rules to determine whether continued out-of-home
12 placement is necessary and appropriate or whether the child
13 should be returned home. This review is not required if the
14 court has returned the child home, ordered the child permanently
15 placed away from the parent under subdivision 11, or terminated
16 rights under section 260C.301. Court review for a child
17 permanently placed away from a parent, including where the child
18 is under guardianship and legal custody of the commissioner,
19 shall be governed by subdivision 11 or section 260C.317,
20 subdivision 3, whichever is applicable.

21 (b) No later than six months after the child's out-of-home
22 placement in foster care, the court shall review agency efforts
23 pursuant to section 260C.212, subdivision 2, and order that the
24 efforts continue if the agency has failed to perform the duties
25 under that section.

26 (c) The court shall review the out-of-home placement plan
27 and may modify the plan as provided under subdivisions 6 and 7.

28 (d) When the court orders out-of-home-placement transfer of
29 custody to a responsible social services agency resulting in
30 foster care or protective supervision with a noncustodial parent
31 under subdivision 1, the court shall notify the parents of the
32 provisions of subdivisions 11 and 11a as required under juvenile
33 court rules.

34 Sec. 16. Minnesota Statutes 2004, section 260C.201,
35 subdivision 11, is amended to read:

36 Subd. 11. [REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT

1 PLACEMENT DETERMINATION.] (a) This subdivision and subdivision
2 11a do not apply in cases where the child is in placement due
3 solely to the child's developmental disability or emotional
4 disturbance, where legal custody has not been transferred to the
5 responsible social services agency, and where the court finds
6 compelling reasons under section 260C.007, subdivision 8, to
7 continue the child in foster care past the time periods
8 specified in this subdivision. Foster care placements of
9 children due solely to their disability are governed by section
10 260C.141, subdivision 2b. In all other cases where the child is
11 in foster care or in the care of a noncustodial parent under
12 subdivision 1, the court shall ~~conduct-a-hearing~~ commence
13 proceedings to determine the permanent status of a child not
14 later than 12 months after the child is placed in foster care or
15 in the care of a noncustodial parent. At the admit-deny hearing
16 commencing such proceedings, the court shall determine whether
17 there is a prima facie basis for finding that the agency made
18 reasonable efforts, or in the case of an Indian child active
19 efforts, required under section 260.012 and proceed according to
20 the rules of juvenile court.

21 For purposes of this subdivision, the date of the child's
22 placement in foster care is the earlier of the first
23 court-ordered placement or 60 days after the date on which the
24 child has been voluntarily placed in foster care by the child's
25 parent or guardian. For purposes of this subdivision, time
26 spent by a child under the protective supervision of the
27 responsible social services agency in the home of a noncustodial
28 parent pursuant to an order under subdivision 1 counts towards
29 the requirement of a permanency hearing under this subdivision
30 or subdivision 11a. Time spent on a trial home visit does not
31 count towards the requirement of a permanency hearing under this
32 subdivision or subdivision 11a.

33 For purposes of this subdivision, 12 months is calculated
34 as follows:

35 (1) during the pendency of a petition alleging that a child
36 is in need of protection or services, all time periods when a

1 child is placed in foster care or in the home of a noncustodial
2 parent are cumulated;

3 (2) if a child has been placed in foster care within the
4 previous five years under one or more previous petitions, the
5 lengths of all prior time periods when the child was placed in
6 foster care within the previous five years are cumulated. If a
7 child under this clause has been in foster care for 12 months or
8 more, the court, if it is in the best interests of the child and
9 for compelling reasons, may extend the total time the child may
10 continue out of the home under the current petition up to an
11 additional six months before making a permanency determination.

12 (b) Unless the responsible social services agency
13 recommends return of the child to the custodial parent or
14 parents, not later than 30 days prior to ~~this~~ the admit-deny
15 hearing required under paragraph (a) and the rules of juvenile
16 court, the responsible social services agency shall file
17 pleadings in juvenile court to establish the basis for the
18 juvenile court to order permanent placement of the child,
19 including a termination of parental rights petition, according
20 to paragraph (d). Notice of the hearing and copies of the
21 pleadings must be provided pursuant to section 260C.152. ~~if a~~
22 ~~termination-of-parental-rights-petition-is-filed-before-the-date~~
23 ~~required-for-the-permanency-planning-determination-and-there-is~~
24 ~~a-trial-under-section-260C.163-scheduled-on-that-petition-within~~
25 ~~90-days-of-the-filing-of-the-petition, no hearing need be~~
26 ~~conducted-under-this-subdivision.~~

27 (c) The permanency proceedings shall be conducted in a
28 timely fashion including that any trial required under section
29 260C.163 shall be commenced within 60 days of the admit-deny
30 hearing required under paragraph (a). At the conclusion of the
31 hearing permanency proceedings, the court shall:

32 (1) order the child returned to the care of the parent or
33 guardian from whom the child was removed; or

34 (2) order a permanent placement or termination of parental
35 rights if permanent placement or termination of parental rights
36 is in the child's best interests. The "best interests of the

1 child" means all relevant factors to be considered and
2 evaluated. Transfer of permanent legal and physical custody,
3 termination of parental rights, or guardianship and legal
4 custody to the commissioner through a consent to adopt are
5 preferred permanency options for a child who cannot return home.

6 (d) If the child is not returned to the home, the court
7 must order one of the following dispositions:

8 (1) permanent legal and physical custody to a relative in
9 the best interests of the child according to the following
10 conditions:

11 (i) an order for transfer of permanent legal and physical
12 custody to a relative shall only be made after the court has
13 reviewed the suitability of the prospective legal and physical
14 custodian;

15 (ii) in transferring permanent legal and physical custody
16 to a relative, the juvenile court shall follow the standards
17 applicable under this chapter and chapter 260, and the
18 procedures set out in the juvenile court rules;

19 (iii) an order establishing permanent legal and physical
20 custody under this subdivision must be filed with the family
21 court;

22 (iv) a transfer of legal and physical custody includes
23 responsibility for the protection, education, care, and control
24 of the child and decision making on behalf of the child;

25 (v) the social services agency may bring a petition or
26 motion naming a fit and willing relative as a proposed permanent
27 legal and physical custodian. The commissioner of human
28 services shall annually prepare for counties information that
29 must be given to proposed custodians about their legal rights
30 and obligations as custodians together with information on
31 financial and medical benefits for which the child is eligible;
32 and

33 (vi) the juvenile court may maintain jurisdiction over the
34 responsible social services agency, the parents or guardian of
35 the child, the child, and the permanent legal and physical
36 custodian for purposes of ensuring appropriate services are

1 delivered to the child and permanent legal custodian or for the
2 purpose of ensuring conditions ordered by the court related to
3 the care and custody of the child are met;

4 (2) termination of parental rights when the requirements of
5 sections 260C.301 to 260C.328 are met or according to the
6 following conditions:

7 (i) ~~unless order~~ the social services agency ~~has-already~~
8 ~~filed to file~~ a petition for termination of parental
9 rights ~~under-section-260C-307,-the-court-may-order-such-a~~
10 ~~petition-filed-and~~ in which case all the requirements of
11 sections 260C.301 to 260C.328 remain applicable; 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~~ approves the responsible social service
19 agency's compelling reasons that neither an award of permanent
20 legal and physical custody to a relative, nor termination of
21 parental rights is in the child's best interests; 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~~ has made
26 reasonable efforts to locate and place the child with an
27 adoptive family ~~for-the-child~~ or with a fit and willing relative
28 who will agree to a transfer of permanent legal and physical
29 custody of the child, but such efforts have not proven
30 successful; or

31 (B) the child is a sibling of a child described in subitem
32 (A) and the siblings have a significant positive relationship
33 and are ordered into the same long-term foster care home; and

34 (iii) at least annually, the responsible social services
35 agency reconsiders its provision of services to the child and
36 the child's placement in long-term foster care to ensure that:

1 (A) long-term foster care continues to be the most
2 appropriate legal arrangement for meeting the child's need for
3 permanency and stability, including whether there is another
4 permanent placement option under this chapter that would better
5 serve the child's needs and best interests;

6 (B) whenever possible, there is an identified long-term
7 foster care family that is committed to being the foster family
8 for the child as long as the child is a minor or under the
9 jurisdiction of the court;

10 (C) the child is receiving appropriate services or
11 assistance to maintain or build connections with the child's
12 family and community;

13 (D) the child's physical and mental health needs are being
14 appropriately provided for; and

15 (E) the child's educational needs are being met;

16 (4) foster care for a specified period of time according to
17 the following conditions:

18 (i) foster care for a specified period of time may be
19 ordered only if:

20 (A) the sole basis for an adjudication that the child is in
21 need of protection or services is the child's behavior;

22 (B) the court finds that foster care for a specified period
23 of time is in the best interests of the child; and

24 (C) the court ~~finds~~ approves the responsible social
25 services agency's compelling reasons that neither an award of
26 permanent legal and physical custody to a relative, nor
27 termination of parental rights is in the child's best interests;

28 (ii) the order does not specify that the child continue in
29 foster care for any period exceeding one year; or

30 (5) guardianship and legal custody to the commissioner of
31 human services under the following procedures and conditions:

32 (i) there is an identified prospective adoptive home agreed
33 to by the responsible social services agency that has agreed to
34 adopt the child and the court accepts the parent's voluntary
35 consent to adopt under section 259.24, except that such consent
36 executed by a parent under this item shall be irrevocable unless

1 fraud is established and an order issues permitting revocation
2 as stated in item (vii);

3 (ii) if the court accepts a consent to adopt in lieu of
4 ordering one of the other enumerated permanency dispositions,
5 the court must review the matter at least every 90 days. The
6 review will address the reasonable efforts of the agency to
7 achieve a finalized adoption;

8 (iii) a consent to adopt under this clause vests all legal
9 authority regarding the child, including guardianship and legal
10 custody of the child, with the commissioner of human services as
11 if the child were a state ward after termination of parental
12 rights;

13 (iv) the court must forward a copy of the consent to adopt,
14 together with a certified copy of the order transferring
15 guardianship and legal custody to the commissioner, to the
16 commissioner; and

17 (v) if an adoption is not finalized by the identified
18 prospective adoptive parent within 12 months of the execution of
19 the consent to adopt under this clause, the commissioner of
20 human services or the commissioner's delegate shall pursue
21 adoptive placement in another home unless the commissioner
22 certifies that the failure to finalize is not due to either an
23 action or a failure to act by the prospective adoptive parent;

24 (vi) notwithstanding item (v), as soon as the commissioner
25 or commissioner's delegate determines that finalization of the
26 adoption with the identified prospective adoptive parent is not
27 possible, that the prospective adoptive parent is not
28 cooperative in completing the steps necessary to finalize the
29 adoption, or upon the commissioner's determination to withhold
30 consent to the adoption under chapter 259, the commissioner or
31 commissioner's delegate shall pursue adoptive placement in
32 another home; and

33 (vii) unless otherwise required by the Indian Child Welfare
34 Act, United States Code, title 25, section 1913, a consent to
35 adopt executed under this section shall be irrevocable upon
36 acceptance by the court except upon order permitting revocation

1 issued by the same court after written findings that consent was
2 obtained by fraud.

3 (e) In ordering a permanent placement of a child, the court
4 must be governed by the best interests of the child, including a
5 review of the relationship between the child and relatives and
6 the child and other important persons with whom the child has
7 resided or had significant contact.

8 (f) Once a permanent placement determination has been made
9 and permanent placement has been established, further court
10 reviews are necessary if:

11 (1) the placement is long-term foster care or foster care
12 for a specified period of time;

13 (2) the court orders further hearings because it has
14 retained jurisdiction of a transfer of permanent legal and
15 physical custody matter;

16 (3) an adoption has not yet been finalized; or

17 (4) there is a disruption of the permanent or long-term
18 placement.

19 (g) Court reviews of an order for long-term foster care,
20 whether under this section or section 260C.317, subdivision 3,
21 paragraph (d), ~~or-foster-care-for-a-specified-period-of-time~~
22 must be conducted at least yearly and must review the child's
23 out-of-home placement plan and the reasonable efforts of the
24 agency to finalize the permanent plan for the child including
25 the agency's efforts to:

26 (1) ensure that long-term foster care continues to be the
27 most appropriate legal arrangement for meeting the child's need
28 for permanency and stability or, if not, to identify and attempt
29 to finalize another permanent placement option under this
30 chapter that would better serve the child's needs and best
31 interests;

32 (2) identify a specific long-term foster home for the child
33 ~~or-a-specific-foster-home-for-the-time-the-child-is-specified-to~~
34 ~~be-out-of-the-care-of-the-parent~~, if one has not already been
35 identified;

36 (2) (3) support continued placement of the child in the

1 identified home, if one has been identified;

2 ~~(3)~~ (4) ensure appropriate services are provided to address
3 the physical health, mental health, and educational needs of the
4 child during the period of long-term foster care or-foster-care
5 for-a-specified-period-of-time and also ensure appropriate
6 services or assistance to maintain relationships with
7 appropriate family members and the child's community; and

8 ~~(4)~~ (5) plan for the child's independence upon the child's
9 leaving long-term foster care living as required under section
10 260C.212, subdivision 1~~;~~-and

11 ~~(5)-where-placement-is-for-a-specified-period-of-time;-a~~
12 ~~plan-for-the-safe-return-of-the-child-to-the-care-of-the-parent.~~

13 (h) In the event it is necessary for a child that has been
14 ordered into foster care for a specified period of time to be in
15 foster care longer than one year after the permanency hearing
16 held under this section, not later than 12 months after the time
17 the child was ordered into foster care for a specified period of
18 time, the matter must be returned to court for a review of the
19 appropriateness of continuing the child in foster care and of
20 the responsible social services agency's reasonable efforts to
21 finalize a permanent plan for the child; if it is in the child's
22 best interests to continue the order for foster care for a
23 specified period of time past a total of 12 months, the court
24 shall set objectives for the child's continuation in foster
25 care, specify any further amount of time the child may be in
26 foster care, and review the plan for the safe return of the
27 child to the parent.

28 (i) An order under-this-subdivision permanently placing a
29 child out of the home of the parent or guardian must include the
30 following detailed findings:

31 (1) how the child's best interests are served by the order;

32 (2) the nature and extent of the responsible social service
33 agency's reasonable efforts, or, in the case of an Indian child,
34 active efforts to reunify the child with the parent or parents
35 guardian where reasonable efforts are required;

36 (3) the parent's or parents' efforts and ability to use

1 services to correct the conditions which led to the out-of-home
2 placement; and

3 (4) ~~whether~~ that the conditions which led to the
4 out-of-home placement have not been corrected so that the child
5 can safely return home.

6 ~~(i)~~ (j) An order for permanent legal and physical custody
7 of a child may be modified under sections 518.18 and 518.185.
8 The social services agency is a party to the proceeding and must
9 receive notice. A parent may only seek modification of an order
10 for long-term foster care upon motion and a showing by the
11 parent of a substantial change in the parent's circumstances
12 such that the parent could provide appropriate care for the
13 child and that removal of the child from the child's permanent
14 placement and the return to the parent's care would be in the
15 best interest of the child. The responsible social services
16 agency may ask the court to vacate an order for long-term foster
17 care upon a prima facie showing that there is a factual basis
18 for the court to order another permanency option under this
19 chapter and that such an option is in the child's best
20 interests. Upon a hearing where the court determines that there
21 is a factual basis for vacating the order for long-term foster
22 care and that another permanent order regarding the placement of
23 the child is in the child's best interests, the court may vacate
24 the order for long-term foster care and enter a different order
25 for permanent placement that is in the child's best interests.
26 The court shall not require further reasonable efforts to
27 reunify the child with the parent or guardian as a basis for
28 vacating the order for long-term foster care and ordering a
29 different permanent placement in the child's best interests.
30 The county attorney must file pleadings and give notice as
31 required under the rules of juvenile court in order to modify an
32 order for long-term foster care under this paragraph.

33 ~~(j)~~ (k) The court shall issue an order required under this
34 section within 15 days of the close of the proceedings. The
35 court may extend issuing the order an additional 15 days when
36 necessary in the interests of justice and the best interests of

1 the child.

2 Sec. 17. Minnesota Statutes 2004, section 260C.312, is
3 amended to read:

4 260C.312 [DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.]

5 (a) If, after a hearing, the court does not terminate
6 parental rights but determines that the child is in need of
7 protection or services, or that the child is neglected and in
8 foster care, the court may find the child is in need of
9 protection or services or neglected and in foster care and may
10 enter an order in accordance with the provisions of section
11 260C.201.

12 (b) When a child has been in placement 15 of the last 22
13 months after a trial on a termination of parental rights
14 petition, if the court finds that the petition is not proven or
15 that termination of parental rights is not in the child's best
16 interests, the court must order the child returned to the care
17 of the parent unless the court finds approves the responsible
18 social services agency's determination of compelling reasons why
19 the child should remain out of the care of the parent. If the
20 court orders the child returned to the care of the parent, the
21 court may order a trial home visit, protective supervision, or
22 monitoring under section 260C.201.

23 Sec. 18. Minnesota Statutes 2004, section 260C.317,
24 subdivision 3, is amended to read:

25 Subd. 3. [ORDER; RETENTION OF JURISDICTION.] (a) A
26 certified copy of the findings and the order terminating
27 parental rights, and a summary of the court's information
28 concerning the child shall be furnished by the court to the
29 commissioner or the agency to which guardianship is
30 transferred. The orders shall be on a document separate from
31 the findings. The court shall furnish the individual to whom
32 guardianship is transferred a copy of the order terminating
33 parental rights.

34 (b) The court shall retain jurisdiction in a case where
35 adoption is the intended permanent placement disposition until
36 the child's adoption is finalized, the child is 18 years of age,

1 or the child is otherwise ordered discharged from the
 2 jurisdiction of the court. The guardian ad litem and counsel
 3 for the child shall continue on the case until an adoption
 4 decree is entered. A hearing must be held every 90 days
 5 following termination of parental rights for the court to review
 6 progress toward an adoptive placement and the specific
 7 recruitment efforts the agency has taken to find an adoptive
 8 family or other placement living arrangement for the child and
 9 to finalize the adoption or other permanency plan.

10 ~~(c) When adoption is not the intended disposition~~ The
 11 responsible social services agency may make a determination of
 12 compelling reasons for a child to be in long-term foster care
 13 when the agency has made exhaustive efforts to recruit,
 14 identify, and place the child in an adoptive home, and if the
 15 child continues in out-of-home placement foster care for at least
 16 24 months after the court has issued the order terminating
 17 parental rights and. Upon approving the agency's determination
 18 of compelling reasons, the court may order the child placed in
 19 long-term foster care. At least every 12 months thereafter as
 20 long as the child continues in out-of-home placement, the court
 21 shall conduct a permanency review hearing to determine the
 22 future status of the child ~~including but not limited to,~~
 23 ~~whether the child should be continued in out-of-home placement,~~
 24 ~~should be placed for adoption, or should, because of the child's~~
 25 ~~special needs and for compelling reasons, be ordered into~~
 26 ~~long-term out-of-home placement~~ using the review requirements of
 27 section 260C.201, subdivision 11, paragraph (g).

28 (d) The court shall retain jurisdiction through the child's
 29 minority in a case where long-term foster care is the permanent
 30 disposition whether under paragraph (c) or section 260C.201,
 31 subdivision 11. ~~All of the review requirements under section~~
 32 ~~260C.201, subdivision 11, paragraph (g) apply.~~

33 ARTICLE 3

34 CHILD CARE

35 Section 1. Minnesota Statutes 2004, section 119B.025,
 36 subdivision 1, is amended to read:

1 Subdivision 1. [FACTORS WHICH MUST BE VERIFIED.] (a) The
2 county shall verify the following at all initial child care
3 applications using the universal application:

4 (1) identity of adults;

5 (2) presence of the minor child in the home, if
6 questionable;

7 (3) relationship of minor child to the parent, stepparent,
8 legal guardian, eligible relative caretaker, or the spouses of
9 any of the foregoing;

10 (4) age;

11 (5) immigration status, if related to eligibility;

12 (6) Social Security number, if given;

13 (7) income;

14 (8) spousal support and child support payments made to
15 persons outside the household;

16 (9) residence; and

17 (10) inconsistent information, if related to eligibility.

18 (b) If a family did not use the universal application or
19 child care addendum to apply for child care assistance, the
20 family must complete the universal application or child care
21 addendum at its next eligibility redetermination and the county
22 must verify the factors listed in paragraph (a) as part of that
23 redetermination. Once a family has completed a universal
24 application or child care addendum, the county shall use the
25 redetermination form described in paragraph (c) for that
26 family's subsequent redeterminations. Eligibility must be
27 redetermined at least every six months. If a family reports a
28 change in an eligibility factor before the family's next
29 regularly scheduled redetermination, the county must recalculate
30 eligibility without requiring verification of any eligibility
31 factor that did not change.

32 (c) The commissioner shall develop a recertification
33 redetermination form to redetermine eligibility and a change
34 report form to report changes that minimizes minimize paperwork
35 for the county and the participant.

36 Sec. 2. Minnesota Statutes 2004, section 119B.03,

1 subdivision 6, is amended to read:

2 Subd. 6. [ALLOCATION FORMULA.] The basic sliding fee state
3 and federal funds shall be allocated on a calendar year basis.
4 Funds shall be allocated first in amounts equal to each county's
5 guaranteed floor according to subdivision 8, with any remaining
6 available funds allocated according to the following formula:

7 (a) One-fourth of the funds shall be allocated in
8 proportion to each county's total expenditures for the basic
9 sliding fee child care program reported during the most recent
10 fiscal year completed at the time of the notice of allocation.

11 (b) One-fourth of the funds shall be allocated based on the
12 number of families participating in the transition year child
13 care program as reported during the most recent quarter
14 completed at the time of the notice of allocation.

15 (c) One-fourth of the funds shall be allocated in
16 proportion to each county's most recently reported first,
17 second, and third priority waiting list as defined in
18 subdivision 2 and the reinstatement list of those families whose
19 assistance was terminated with the approval of the commissioner
20 under Minnesota Rules, part 3400.0183, subpart 1.

21 (d) One-fourth of the funds must be allocated in proportion
22 to each county's most recently reported waiting list as defined
23 in subdivision 2 and the reinstatement list of those families
24 whose assistance was terminated with the approval of the
25 commissioner under Minnesota Rules, part 3400.0183, subpart 1.

26 Sec. 3. Minnesota Statutes 2004, section 119B.09,
27 subdivision 4, is amended to read:

28 Subd. 4. [ELIGIBILITY; ANNUAL INCOME; CALCULATION.] Annual
29 income of the applicant family is the current monthly income of
30 the family multiplied by 12 or the income for the 12-month
31 period immediately preceding the date of application, or income
32 calculated by the method which provides the most accurate
33 assessment of income available to the family. Self-employment
34 income must be calculated based on gross receipts less operating
35 expenses. Income must be ~~redetermined~~ recalculated when the
36 family's income changes, but no less often than every six

1 months. Income must be verified with documentary evidence. If
2 the applicant does not have sufficient evidence of income,
3 verification must be obtained from the source of the income.

4 Sec. 4. Minnesota Statutes 2004, section 119B.09,
5 subdivision 9, is amended to read:

6 Subd. 9. [LICENSED AND LEGAL NONLICENSED FAMILY CHILD CARE
7 PROVIDERS; ASSISTANCE.] Licensed and legal nonlicensed family
8 child care providers are not eligible to receive child care
9 assistance subsidies under this chapter for their own children
10 or children in their ~~custody~~ family during the hours they are
11 providing child care or being paid to provide child care. Child
12 care providers are eligible to receive child care assistance
13 subsidies for their children when they are engaged in other
14 activities that meet the requirements of this chapter and for
15 which child care assistance can be paid. The hours for which
16 the provider receives a child care subsidy for their own
17 children must not overlap with the hours the provider provides
18 child care services.

19 ARTICLE 4

20 CHILD SUPPORT

21 Section 1. Minnesota Statutes 2004, section 256.978,
22 subdivision 2, is amended to read:

23 Subd. 2. [ACCESS TO INFORMATION.] (a) A request for
24 information by the public authority responsible for child
25 support of this state or any other state may be made to:

26 (1) employers when there is reasonable cause to believe
27 that the subject of the inquiry is or was an employee or
28 independent contractor of the employer. Information to be
29 released by employers of employees is limited to place of
30 residence, employment status, wage or payment information,
31 benefit information, and Social Security number. Information to
32 be released by employers of independent contractors is limited
33 to place of residence or address, contract status, payment
34 information, benefit information, and Social Security number or
35 identification number;

36 (2) utility companies when there is reasonable cause to

1 believe that the subject of the inquiry is or was a retail
2 customer of the utility company. Customer information to be
3 released by utility companies is limited to place of residence,
4 home telephone, work telephone, source of income, employer and
5 place of employment, and Social Security number;

6 (3) insurance companies when there is reasonable cause to
7 believe that the subject of the inquiry is or was receiving
8 funds either in the form of a lump sum or periodic payments.
9 Information to be released by insurance companies is limited to
10 place of residence, home telephone, work telephone, employer,
11 Social Security number, and amounts and type of payments made to
12 the subject of the inquiry;

13 (4) labor organizations when there is reasonable cause to
14 believe that the subject of the inquiry is or was a member of
15 the labor association. Information to be released by labor
16 associations is limited to place of residence, home telephone,
17 work telephone, Social Security number, and current and past
18 employment information; and

19 (5) financial institutions when there is reasonable cause
20 to believe that the subject of the inquiry has or has had
21 accounts, stocks, loans, certificates of deposits, treasury
22 bills, life insurance policies, or other forms of financial
23 dealings with the institution. Information to be released by
24 the financial institution is limited to place of residence, home
25 telephone, work telephone, identifying information on the type
26 of financial relationships, Social Security number, current
27 value of financial relationships, and current indebtedness of
28 the subject with the financial institution.

29 (b) For purposes of this subdivision, utility companies
30 include telephone companies, radio common carriers, and
31 telecommunications carriers as defined in section 237.01, and
32 companies that provide electrical, telephone, natural gas,
33 propane gas, oil, coal, or cable television services to retail
34 customers. The term financial institution includes banks,
35 savings and loans, credit unions, brokerage firms, mortgage
36 companies, insurance companies, benefit associations, safe

1 deposit companies, money market mutual funds, or similar
2 entities authorized to do business in the state.

3 (c) For purposes of this section, the public authority may
4 request or obtain information from any person or entity
5 enumerated in this section, or from any third party who
6 contracts with any such person or entity to obtain or retain
7 information that may be requested by the public authority.

8 Sec. 2. Minnesota Statutes 2004, section 518.551,
9 subdivision 5, is amended to read:

10 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The
11 petitioner shall notify the public authority of all proceedings
12 for dissolution, legal separation, determination of parentage or
13 for the custody of a child, if either party is receiving public
14 assistance or applies for it subsequent to the commencement of
15 the proceeding. The notice must contain the full names of the
16 parties to the proceeding, their Social Security account
17 numbers, and their birth dates. After receipt of the notice,
18 the court shall set child support as provided in this
19 subdivision. The court may order either or both parents owing a
20 duty of support to a child of the marriage to pay an amount
21 reasonable or necessary for the child's support, without regard
22 to marital misconduct. The court shall approve a child support
23 stipulation of the parties if each party is represented by
24 independent counsel, unless the stipulation does not meet the
25 conditions of paragraph (i). In other cases the court shall
26 determine and order child support in a specific dollar amount in
27 accordance with the guidelines and the other factors set forth
28 in paragraph (c) and any departure therefrom. The court may
29 also order the obligor to pay child support in the form of a
30 percentage share of the obligor's net bonuses, commissions, or
31 other forms of compensation, in addition to, or if the obligor
32 receives no base pay, in lieu of, an order for a specific dollar
33 amount.

34 (b) The court shall derive a specific dollar amount for
35 child support by multiplying the obligor's net income by the
36 percentage indicated by the following guidelines:

1 Net Income Per 2 Month of Obligor	Number of Children							
	3 1	4 2	5 3	6 4	7 5	8 6	9 7 or 10 more	11
12 \$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.							
13 \$551 - 600	16%	19%	22%	25%	28%	30%	32%	
14 \$601 - 650	17%	21%	24%	27%	29%	32%	34%	
15 \$651 - 700	18%	22%	25%	28%	31%	34%	36%	
16 \$701 - 750	19%	23%	27%	30%	33%	36%	38%	
17 \$751 - 800	20%	24%	28%	31%	35%	38%	40%	
18 \$801 - 850	21%	25%	29%	33%	36%	40%	42%	
19 \$851 - 900	22%	27%	31%	34%	38%	41%	44%	
20 \$901 - 950	23%	28%	32%	36%	40%	43%	46%	
21 \$951 - 1000	24%	29%	34%	38%	41%	45%	48%	
22 \$1001- 5000	25%	30%	35%	39%	43%	47%	50%	

23 or the amount
24 in effect under
25 paragraph (k)

26 Guidelines for support for an obligor with a monthly income
27 in excess of the income limit currently in effect under
28 paragraph (k) shall be the same dollar amounts as provided for
29 in the guidelines for an obligor with a monthly income equal to
30 the limit in effect.

31 Net Income defined as:

32 Total monthly
33 income less
34 *(i) Federal Income Tax
35 *(ii) State Income Tax
36 *(iii) Social Security
Deductions
(iv) Reasonable
Pension Deductions

1 *Standard

2 Deductions apply-

(v) Union Dues

3 use of tax tables

(vi) Cost of Dependent Health

4 recommended

Insurance Coverage

5

(vii) Cost of Individual or Group

6

Health/Hospitalization

7

Coverage or an

8

Amount for Actual

9

Medical Expenses

10

(viii) A Child Support or

11

Maintenance Order ~~that is~~

12

Currently-Being-Paid, not

13

including payments or

14

orders for child support

15

or maintenance debts or

16

arrears.

17

"Net income" does not include:

18

(1) the income of the obligor's spouse, but does include

19

in-kind payments received by the obligor in the course of

20

employment, self-employment, or operation of a business if the

21

payments reduce the obligor's living expenses; or

22

(2) compensation received by a party for employment in

23

excess of a 40-hour work week, provided that:

24

(i) support is nonetheless ordered in an amount at least

25

equal to the guidelines amount based on income not excluded

26

under this clause; and

27

(ii) the party demonstrates, and the court finds, that:

28

(A) the excess employment began after the filing of the

29

petition for dissolution;

30

(B) the excess employment reflects an increase in the work

31

schedule or hours worked over that of the two years immediately

32

preceding the filing of the petition;

33

(C) the excess employment is voluntary and not a condition

34

of employment;

35

(D) the excess employment is in the nature of additional,

36

part-time or overtime employment compensable by the hour or

1 fraction of an hour; and

2 (E) the party's compensation structure has not been changed
3 for the purpose of affecting a support or maintenance obligation.

4 The court shall review the work-related and
5 education-related child care costs paid and shall allocate the
6 costs to each parent in proportion to each parent's net income,
7 as determined under this subdivision, after the transfer of
8 child support and spousal maintenance, unless the allocation
9 would be substantially unfair to either parent. There is a
10 presumption of substantial unfairness if after the sum total of
11 child support, spousal maintenance, and child care costs is
12 subtracted from the obligor's income, the income is at or below
13 100 percent of the federal poverty guidelines. The cost of
14 child care for purposes of this paragraph is 75 percent of the
15 actual cost paid for child care, to reflect the approximate
16 value of state and federal tax credits available to the
17 obligee. The actual cost paid for child care is the total
18 amount received by the child care provider for the child or
19 children of the obligor from the obligee or any public agency.
20 The court shall require verification of employment or school
21 attendance and documentation of child care expenses from the
22 obligee and the public agency, if applicable. If child care
23 expenses fluctuate during the year because of seasonal
24 employment or school attendance of the obligee or extended
25 periods of parenting time with the obligor, the court shall
26 determine child care expenses based on an average monthly cost.
27 The amount allocated for child care expenses is considered child
28 support but is not subject to a cost-of-living adjustment under
29 section 518.641. If a court order provides for child care
30 expenses and the public authority provides child support
31 enforcement services, the collection of the amount allocated for
32 child care expenses terminates must be suspended when either
33 party notifies informs the public authority that the no child
34 care costs ~~have-ended-and-without-any-legal-action-on-the-part~~
35 of-either-party are being incurred and the public authority
36 verifies the accuracy of the information with the other party.

1 The public authority shall ~~verify-the-information-received-under~~
2 ~~this-provision-before-authorizing-termination---~~The-termination
3 ~~is-effective-as-of-the-date-of-the-notification;~~ resume
4 collection of the amount allocated for child care expenses when
5 either party provides information that child care costs have
6 resumed. If the parties provide conflicting information to the
7 public authority regarding whether or not child care expenses
8 are being incurred, the collection of the amount allocated for
9 child care expenses must continue or resume. Either party,
10 through motion to the court, may challenge the suspension or
11 resumption of the collection of the amount allocated for child
12 care expenses. All provisions of the court order remain in
13 effect even though the public authority suspends collection
14 activities for the amount allocated for child care expenses. In
15 these and other cases where there is a substantial increase or
16 decrease in child care expenses, the parties may modify the
17 order under section 518.64.

18 The court may allow the obligor parent to care for the
19 child while the obligee parent is working, as provided in
20 section 518.175, subdivision 8, but this is not a reason to
21 deviate from the guidelines.

22 (c) In addition to the child support guidelines, the court
23 shall take into consideration the following factors in setting
24 or modifying child support or in determining whether to deviate
25 from the guidelines:

26 (1) all earnings, income, and resources of the parents,
27 including real and personal property, but excluding income from
28 excess employment of the obligor or obligee that meets the
29 criteria of paragraph (b), clause (2)(ii);

30 (2) the financial needs and resources, physical and
31 emotional condition, and educational needs of the child or
32 children to be supported;

33 (3) the standard of living the child would have enjoyed had
34 the marriage not been dissolved, but recognizing that the
35 parents now have separate households;

36 (4) which parent receives the income taxation dependency

1 exemption and what financial benefit the parent receives from
2 it;

3 (5) the parents' debts as provided in paragraph (d); and

4 (6) the obligor's receipt of public assistance under the
5 AFDC program formerly codified under sections 256.72 to -256.82
6 or 256B.01 to 256B.40 and chapter 256J or 256K.

7 (d) In establishing or modifying a support obligation, the
8 court may consider debts owed to private creditors, but only if:

9 (1) the right to support has not been assigned under
10 section 256.741;

11 (2) the court determines that the debt was reasonably
12 incurred for necessary support of the child or parent or for the
13 necessary generation of income. If the debt was incurred for
14 the necessary generation of income, the court shall consider
15 only the amount of debt that is essential to the continuing
16 generation of income; and

17 (3) the party requesting a departure produces a sworn
18 schedule of the debts, with supporting documentation, showing
19 goods or services purchased, the recipient of them, the amount
20 of the original debt, the outstanding balance, the monthly
21 payment, and the number of months until the debt will be fully
22 paid.

23 (e) Any schedule prepared under paragraph (d), clause (3),
24 shall contain a statement that the debt will be fully paid after
25 the number of months shown in the schedule, barring emergencies
26 beyond the party's control.

27 (f) Any further departure below the guidelines that is
28 based on a consideration of debts owed to private creditors
29 shall not exceed 18 months in duration, after which the support
30 shall increase automatically to the level ordered by the court.
31 Nothing in this section shall be construed to prohibit one or
32 more step increases in support to reflect debt retirement during
33 the 18-month period.

34 (g) If payment of debt is ordered pursuant to this section,
35 the payment shall be ordered to be in the nature of child
36 support.

1 (h) Nothing shall preclude the court from receiving
2 evidence on the above factors to determine if the guidelines
3 should be exceeded or modified in a particular case.

4 (i) The guidelines in this subdivision are a rebuttable
5 presumption and shall be used in all cases when establishing or
6 modifying child support. If the court does not deviate from the
7 guidelines, the court shall make written findings concerning the
8 amount of the obligor's income used as the basis for the
9 guidelines calculation and any other significant evidentiary
10 factors affecting the determination of child support. If the
11 court deviates from the guidelines, the court shall make written
12 findings giving the amount of support calculated under the
13 guidelines, the reasons for the deviation, and shall
14 specifically address the criteria in paragraph (c) and how the
15 deviation serves the best interest of the child. The court may
16 deviate from the guidelines if both parties agree and the court
17 makes written findings that it is in the best interests of the
18 child, except that in cases where child support payments are
19 assigned to the public agency under section 256.741, the court
20 may deviate downward only as provided in paragraph (j). Nothing
21 in this paragraph prohibits the court from deviating in other
22 cases. The provisions of this paragraph apply whether or not
23 the parties are each represented by independent counsel and have
24 entered into a written agreement. The court shall review
25 stipulations presented to it for conformity to the guidelines
26 and the court is not required to conduct a hearing, but the
27 parties shall provide the documentation of earnings required
28 under subdivision 5b.

29 (j) If the child support payments are assigned to the
30 public agency under section 256.741, the court may not deviate
31 downward from the child support guidelines unless the court
32 specifically finds that the failure to deviate downward would
33 impose an extreme hardship on the obligor.

34 (k) The dollar amount of the income limit for application
35 of the guidelines must be adjusted on July 1 of every
36 even-numbered year to reflect cost-of-living changes. The

1 Supreme Court shall select the index for the adjustment from the
2 indices listed in section 518.641. The state court
3 administrator shall make the changes in the dollar amount
4 required by this paragraph available to courts and the public on
5 or before April 30 of the year in which the amount is to change.

6 (1) In establishing or modifying child support, if a child
7 receives a child's insurance benefit under United States Code,
8 title 42, section 402, because the obligor is entitled to old
9 age or disability insurance benefits, the amount of support
10 ordered shall be offset by the amount of the child's benefit.
11 The court shall make findings regarding the obligor's income
12 from all sources, the child support amount calculated under this
13 section, the amount of the child's benefit, and the obligor's
14 child support obligation. Any benefit received by the child in
15 a given month in excess of the child support obligation shall
16 not be treated as an arrearage payment or a future payment.

17 Sec. 3. Minnesota Statutes 2004, section 518.68,
18 subdivision 2, is amended to read:

19 Subd. 2. [CONTENTS.] The required notices must be
20 substantially as follows:

21 **IMPORTANT NOTICE**

22 **1. PAYMENTS TO PUBLIC AGENCY**

23 According to Minnesota Statutes, section 518.551,
24 subdivision 1, payments ordered for maintenance and support
25 must be paid to the public agency responsible for child
26 support enforcement as long as the person entitled to
27 receive the payments is receiving or has applied for public
28 assistance or has applied for support and maintenance
29 collection services. **MAIL PAYMENTS TO:**

30 **2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A**
31 **FELONY**

32 A person may be charged with a felony who conceals a minor
33 child or takes, obtains, retains, or fails to return a
34 minor child from or to the child's parent (or person with
35 custodial or visitation rights), according to Minnesota
36 Statutes, section 609.26. A copy of that section is

1 available from any district court clerk.

2 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

3 A person who fails to pay court-ordered child support or
4 maintenance may be charged with a crime, which may include
5 misdemeanor, gross misdemeanor, or felony charges,
6 according to Minnesota Statutes, section 609.375. A copy
7 of that section is available from any district court clerk.

8 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

9 (a) Payment of support or spousal maintenance is to be as
10 ordered, and the giving of gifts or making purchases of
11 food, clothing, and the like will not fulfill the
12 obligation.

13 (b) Payment of support must be made as it becomes due, and
14 failure to secure or denial of parenting time is NOT an
15 excuse for nonpayment, but the aggrieved party must seek
16 relief through a proper motion filed with the court.

17 (c) Nonpayment of support is not grounds to deny parenting
18 time. The party entitled to receive support may apply for
19 support and collection services, file a contempt motion, or
20 obtain a judgment as provided in Minnesota Statutes,
21 section 548.091.

22 (d) The payment of support or spousal maintenance takes
23 priority over payment of debts and other obligations.

24 (e) A party who accepts additional obligations of support
25 does so with the full knowledge of the party's prior
26 obligation under this proceeding.

27 (f) Child support or maintenance is based on annual income,
28 and it is the responsibility of a person with seasonal
29 employment to budget income so that payments are made
30 throughout the year as ordered.

31 (g) If the obligor is laid off from employment or receives
32 a pay reduction, support may be reduced, but only if a
33 motion to reduce the support is served and filed with the
34 court. Any reduction will take effect only if ordered by
35 the court and may only relate back to the time that the
36 motion is filed. If a motion is not filed, the support

1 obligation will continue at the current level. The court
2 is not permitted to reduce support retroactively, except as
3 provided in Minnesota Statutes, section 518.64, subdivision
4 2, paragraph (c).

5 (h) Reasonable parenting time guidelines are contained in
6 Appendix B, which is available from the court administrator.

7 (i) The nonpayment of support may be enforced through the
8 denial of student grants; interception of state and federal
9 tax refunds; suspension of driver's, recreational, and
10 occupational licenses; referral to the department of
11 revenue or private collection agencies; seizure of assets,
12 including bank accounts and other assets held by financial
13 institutions; reporting to credit bureaus; interest
14 charging, income withholding, and contempt proceedings; and
15 other enforcement methods allowed by law.

16 (j) The public authority may suspend or resume collection
17 of the amount allocated for child care expenses if the
18 conditions of Minnesota Statutes, section 518.551,
19 subdivision 5, paragraph (b), are met.

20 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
21 SUBDIVISION 3

22 Unless otherwise provided by the Court:

23 (a) Each party has the right of access to, and to receive
24 copies of, school, medical, dental, religious training, and
25 other important records and information about the minor
26 children. Each party has the right of access to
27 information regarding health or dental insurance available
28 to the minor children. Presentation of a copy of this
29 order to the custodian of a record or other information
30 about the minor children constitutes sufficient
31 authorization for the release of the record or information
32 to the requesting party.

33 (b) Each party shall keep the other informed as to the name
34 and address of the school of attendance of the minor
35 children. Each party has the right to be informed by
36 school officials about the children's welfare, educational

1 progress and status, and to attend school and parent
2 teacher conferences. The school is not required to hold a
3 separate conference for each party.

4 (c) In case of an accident or serious illness of a minor
5 child, each party shall notify the other party of the
6 accident or illness, and the name of the health care
7 provider and the place of treatment.

8 (d) Each party has the right of reasonable access and
9 telephone contact with the minor children.

10 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

11 Child support and/or spousal maintenance may be withheld
12 from income, with or without notice to the person obligated
13 to pay, when the conditions of Minnesota Statutes, section
14 518.6111 have been met. A copy of those sections is
15 available from any district court clerk.

16 7. CHANGE OF ADDRESS OR RESIDENCE

17 Unless otherwise ordered, each party shall notify the other
18 party, the court, and the public authority responsible for
19 collection, if applicable, of the following information
20 within ten days of any change: the residential and mailing
21 address, telephone number, driver's license number, Social
22 Security number, and name, address, and telephone number of
23 the employer.

24 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

25 Child support and/or spousal maintenance may be adjusted
26 every two years based upon a change in the cost of living
27 (using Department of Labor Consumer Price Index,
28 unless otherwise specified in this order) when the
29 conditions of Minnesota Statutes, section 518.641, are met.
30 Cost of living increases are compounded. A copy of
31 Minnesota Statutes, section 518.641, and forms necessary to
32 request or contest a cost of living increase are available
33 from any district court clerk.

34 9. JUDGMENTS FOR UNPAID SUPPORT

35 If a person fails to make a child support payment, the
36 payment owed becomes a judgment against the person

1 responsible to make the payment by operation of law on or
2 after the date the payment is due, and the person entitled
3 to receive the payment or the public agency may obtain
4 entry and docketing of the judgment WITHOUT NOTICE to the
5 person responsible to make the payment under Minnesota
6 Statutes, section 548.091. Interest begins to accrue on a
7 payment or installment of child support whenever the unpaid
8 amount due is greater than the current support due,
9 according to Minnesota Statutes, section 548.091,
10 subdivision 1a.

11 10. JUDGMENTS FOR UNPAID MAINTENANCE

12 A judgment for unpaid spousal maintenance may be entered
13 when the conditions of Minnesota Statutes, section 548.091,
14 are met. A copy of that section is available from any
15 district court clerk.

16 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
17 SUPPORT

18 A judgment for attorney fees and other collection costs
19 incurred in enforcing a child support order will be entered
20 against the person responsible to pay support when the
21 conditions of section 518.14, subdivision 2, are met. A
22 copy of section 518.14 and forms necessary to request or
23 contest these attorney fees and collection costs are
24 available from any district court clerk.

25 12. PARENTING TIME EXPEDITOR PROCESS

26 On request of either party or on its own motion, the court
27 may appoint a parenting time expeditor to resolve parenting
28 time disputes under Minnesota Statutes, section 518.1751.
29 A copy of that section and a description of the expeditor
30 process is available from any district court clerk.

31 13. PARENTING TIME REMEDIES AND PENALTIES

32 Remedies and penalties for the wrongful denial of parenting
33 time are available under Minnesota Statutes, section
34 518.175, subdivision 6. These include compensatory
35 parenting time; civil penalties; bond requirements;
36 contempt; and reversal of custody. A copy of that

1 subdivision and forms for requesting relief are available
2 from any district court clerk.

3 Sec. 4. Minnesota Statutes 2004, section 548.091,
4 subdivision 1a, is amended to read:

5 Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.]

6 (a) Any payment or installment of support required by a judgment
7 or decree of dissolution or legal separation, determination of
8 parentage, an order under chapter 518C, an order under section
9 256.87, or an order under section 260B.331 or 260C.331, that is
10 not paid or withheld from the obligor's income as required under
11 section 518.6111, or which is ordered as child support by
12 judgment, decree, or order by a court in any other state, is a
13 judgment by operation of law on and after the date it is due, is
14 entitled to full faith and credit in this state and any other
15 state, and shall be entered and docketed by the court
16 administrator on the filing of affidavits as provided in
17 subdivision 2a. Except as otherwise provided by paragraph (b),
18 interest accrues from the date the unpaid amount due is greater
19 than the current support due at the annual rate provided in
20 section 549.09, subdivision 1, plus two percent, not to exceed
21 an annual rate of 18 percent. A payment or installment of
22 support that becomes a judgment by operation of law between the
23 date on which a party served notice of a motion for modification
24 under section 518.64, subdivision 2, and the date of the court's
25 order on modification may be modified under that subdivision.

26 (b) Notwithstanding the provisions of section 549.09, upon
27 motion to the court and upon proof by the obligor of 36 12
28 consecutive months of complete and timely payments of both
29 current support and court-ordered paybacks of a child support
30 debt or arrearage, the court may order interest on the remaining
31 debt or arrearage to stop accruing. Timely payments are those
32 made in the month in which they are due. If, after that time,
33 the obligor fails to make complete and timely payments of both
34 current support and court-ordered paybacks of child support debt
35 or arrearage, the public authority or the obligee may move the
36 court for the reinstatement of interest as of the month in which

1 the obligor ceased making complete and timely payments.

2 The court shall provide copies of all orders issued under
3 this section to the public authority. The state court
4 administrator shall prepare and make available to the court and
5 the parties forms to be submitted by the parties in support of a
6 motion under this paragraph.

7 (c) Notwithstanding the provisions of section 549.09, upon
8 motion to the court, the court may order interest on a child
9 support debt or arrearage to stop accruing where the court finds
10 that the obligor is:

11 (1) unable to pay support because of a significant physical
12 or mental disability;

13 (2) a recipient of Supplemental Security Income (SSI),
14 Title II Older Americans Survivor's Disability Insurance
15 (OASDI), other disability benefits, or public assistance based
16 upon need; or

17 (3) institutionalized or incarcerated for at least 30 days
18 for an offense other than nonsupport of the child or children
19 involved, and is otherwise financially unable to pay support.

20 (d) If the conditions in paragraph (c) no longer exist,
21 upon motion to the court, the court may order interest accrual
22 to resume retroactively from the date of service of the motion
23 to resume the accrual of interest.

24 ARTICLE 5

25 FAMILY SUPPORTS

26 Section 1. Minnesota Statutes 2004, section 119A.43,
27 subdivision 2, is amended to read:

28 Subd. 2. [ESTABLISHMENT AND ADMINISTRATION.] A
29 transitional housing program is established to be administered
30 by the commissioner. The commissioner may make grants to
31 eligible recipients or enter into agreements with community
32 action agencies or other public or private nonprofit agencies to
33 make grants to eligible recipients to initiate, maintain, or
34 expand programs to provide transitional housing and support
35 services for persons in need of transitional housing, which may
36 include up to six months of follow-up support services for

1 persons who complete transitional housing as they stabilize in
2 permanent housing. The commissioner must ensure that money
3 appropriated to implement this section is distributed as soon as
4 practicable. The commissioner may make grants directly to
5 eligible recipients. The commissioner may use up to ten percent
6 of the appropriation available for this program for persons
7 needing assistance longer than 24 months.

8 Sec. 2. Minnesota Statutes 2004, section 144D.025, is
9 amended to read:

10 144D.025 [OPTIONAL REGISTRATION.]

11 An establishment that meets all the requirements of this
12 chapter except that fewer than 80 percent of the adult residents
13 are age 55 or older, or a supportive housing establishment
14 developed and funded in whole or in part with funds provided
15 specifically as part of the plan to end long-term homelessness
16 required under Laws 2003, chapter 128, article 15, section 9,
17 may, at its option, register as a housing with services
18 establishment.

19 Sec. 3. Minnesota Statutes 2004, section 256D.02,
20 subdivision 17, is amended to read:

21 Subd. 17. [PROFESSIONAL CERTIFICATION.] "Professional
22 certification" means:--~~(1) a statement about a person's illness,~~
23 ~~injury, or incapacity that is signed by a licensed-physician,~~
24 ~~psychological-practitioner,~~~~or-licensed-psychologist,~~~~qualified~~
25 ~~by-professional-training-and-experience-to-diagnose-and-certify~~
26 ~~the-person's-condition,~~~~or~~
27 ~~(2)-a-statement-about-an-incapacity-involving-a-spinal~~
28 ~~subluxation-condition-that-is-signed-by-a-licensed-chiropractor~~
29 ~~qualified-by-professional-training-and-experience-to-diagnose~~
30 ~~and-certify-the-condition~~ "qualified professional" as defined in
31 section 256J.08, subdivision 73a.

32 Sec. 4. Minnesota Statutes 2004, section 256D.051,
33 subdivision 6c, is amended to read:

34 Subd. 6c. [PROGRAM FUNDING.] ~~(a)~~ Within the limits of
35 available resources, the commissioner shall reimburse the actual
36 costs of county agencies and their employment and training

1 service providers for the provision of food stamp employment and
2 training services, including participant support services,
3 direct program services, and program administrative activities.
4 The cost of services for each county's food stamp employment and
5 training program shall not exceed the annual allocated amount.
6 No more than 15 percent of program funds may be used for
7 administrative activities. The county agency may expend county
8 funds in excess of the limits of this subdivision without state
9 reimbursement.

10 Program funds shall be allocated based on the county's
11 average number of food stamp cases as compared to the statewide
12 total number of such cases. The average number of cases shall
13 be based on counts of cases as of March 31, June 30, September
14 30, and December 31 of the previous calendar year. The
15 commissioner may reallocate unexpended money appropriated under
16 this section to those county agencies that demonstrate a need
17 for additional funds.

18 ~~(b)-This-subdivision-expires-effective-June-30-2005-~~

19 Sec. 5. Minnesota Statutes 2004, section 256I.04,
20 subdivision 2a, is amended to read:

21 Subd. 2a. [LICENSE REQUIRED.] A county agency may not
22 enter into an agreement with an establishment to provide group
23 residential housing unless:

24 (1) the establishment is licensed by the Department of
25 Health as a hotel and restaurant; a board and lodging
26 establishment; a residential care home; a boarding care home
27 before March 1, 1985; or a supervised living facility, and the
28 service provider for residents of the facility is licensed under
29 chapter 245A. However, an establishment licensed by the
30 Department of Health to provide lodging need not also be
31 licensed to provide board if meals are being supplied to
32 residents under a contract with a food vendor who is licensed by
33 the Department of Health;

34 (2) the residence is licensed by the commissioner of human
35 services under Minnesota Rules, parts 9555.5050 to 9555.6265, or
36 certified by a county human services agency prior to July 1,

1 1992, using the standards under Minnesota Rules, parts 9555.5050
2 to 9555.6265; or

3 (3) the establishment is registered under chapter 144D and
4 provides three meals a day, ~~except-that~~ or is an establishment
5 voluntarily registered under section 144D.025 ~~is-not-eligible~~
6 ~~for-an-agreement-to-provide-group-residential-housing as a~~
7 supportive housing establishment; or

8 (4) an establishment voluntarily registered under section
9 144D.025, other than a supportive housing establishment under
10 clause (3), is not eligible to provide group residential housing.

11 The requirements under clauses (1), (2), (3), and ~~(3)~~ (4)
12 do not apply to establishments exempt from state licensure
13 because they are located on Indian reservations and subject to
14 tribal health and safety requirements.

15 Sec. 6. Minnesota Statutes 2004, section 256I.05, is
16 amended by adding a subdivision to read:

17 Subd. 1g. [SUPPLEMENTARY SERVICE RATE FOR CERTAIN
18 FACILITIES.] On or after July 1, 2005, a county agency may
19 negotiate a supplementary service rate for recipients of
20 assistance under section 256I.04, subdivision 1, paragraph (b),
21 who relocate from a homeless shelter licensed and registered
22 prior to December 31, 1996, by the Minnesota Department of
23 Health under section 157.17, to a supportive housing
24 establishment developed and funded in whole or in part with
25 funds provided specifically as part of the plan to end long-term
26 homelessness required under Laws 2003, chapter 128, article 15,
27 section 9, not to exceed \$456.75.

28 Sec. 7. Minnesota Statutes 2004, section 256J.626,
29 subdivision 6, is amended to read:

30 Subd. 6. [BASE ALLOCATION TO COUNTIES AND TRIBES;
31 DEFINITIONS.] (a) For purposes of this section, the following
32 terms have the meanings given them:

33 (1) "2002 historic spending base" means the commissioner's
34 determination of the sum of the reimbursement related to fiscal
35 year 2002 of county or tribal agency expenditures for the base
36 programs listed in clause ~~(4)~~ (6), items (i) through (iv), and

1 earnings related to calendar year 2002 in the base program
2 listed in clause ~~(4)~~ (6), item (v), and the amount of spending
3 in fiscal year 2002 in the base program listed in
4 clause ~~(4)~~ (6), item (vi), issued to or on behalf of persons
5 residing in the county or tribal service delivery area.

6 (2) "Adjusted caseload factor" means a factor weighted:

7 (i) 47 percent on the MFIP cases in each county at four
8 points in time in the most recent 12-month period for which data
9 is available multiplied by the county's caseload difficulty
10 factor; and

11 (ii) 53 percent on the count of adults on MFIP in each
12 county and tribe at four points in time in the most recent
13 12-month period for which data is available multiplied by the
14 county or tribe's caseload difficulty factor.

15 (3) "Caseload difficulty factor" means a factor determined
16 by the commissioner for each county and tribe based upon the
17 self-support index described in section 256J.751, subdivision 2,
18 clause (7).

19 ~~(2)~~ (4) "Initial allocation" means the amount potentially
20 available to each county or tribe based on the formula in
21 paragraphs (b) through ~~(d)~~ (h).

22 ~~(3)~~ (5) "Final allocation" means the amount available to
23 each county or tribe based on the formula in paragraphs (b)
24 through ~~(d)~~ (h), after adjustment by subdivision 7.

25 ~~(4)~~ (6) "Base programs" means the:

26 (i) MFIP employment and training services under Minnesota
27 Statutes 2002, section 256J.62, subdivision 1, in effect June
28 30, 2002;

29 (ii) bilingual employment and training services to refugees
30 under Minnesota Statutes 2002, section 256J.62, subdivision 6,
31 in effect June 30, 2002;

32 (iii) work literacy language programs under Minnesota
33 Statutes 2002, section 256J.62, subdivision 7, in effect June
34 30, 2002;

35 (iv) supported work program authorized in Laws 2001, First
36 Special Session chapter 9, article 17, section 2, in effect June

1 30, 2002;

2 (v) administrative aid program under section 256J.76 in
3 effect December 31, 2002; and

4 (vi) emergency assistance program under Minnesota Statutes
5 2002, section 256J.48, in effect June 30, 2002.

6 ~~(b) Beginning July 1, 2003,~~ The commissioner shall:

7 (1) beginning July 1, 2003, determine the initial
8 allocation of funds available under this section according to
9 clause (2);

10 (2) allocate all of the funds available for the period
11 beginning July 1, 2003, and ending December 31, 2004, ~~shall be~~
12 ~~allocated~~ to each county or tribe in proportion to the county's
13 or tribe's share of the statewide 2002 historic spending base;

14 ~~(c)~~ (3) determine for calendar year 2005, ~~the commissioner~~
15 ~~shall determine~~ the initial allocation of funds to be made
16 available under this section in proportion to the county or
17 tribe's initial allocation for the period of July 1, 2003, to
18 December 31, 2004;

19 ~~(d) The formula under this subdivision sunsets December 31,~~
20 ~~2005.~~ (4) determine for calendar year 2006 the initial
21 allocation of funds to be made available under this section
22 based 90 percent on the proportion of the county or tribe's
23 share of the statewide 2002 historic spending base and ten
24 percent on the proportion of the county or tribe's share of the
25 adjusted caseload factor;

26 (5) determine for calendar year 2007 the initial allocation
27 of funds to be made available under this section based 70
28 percent on the proportion of the county or tribe's share of the
29 statewide 2002 historic spending base and 30 percent on the
30 proportion of the county or tribe's share of the adjusted
31 caseload factor; and

32 (6) determine for calendar year 2008 and subsequent years
33 the initial allocation of funds to be made available under this
34 section based 50 percent on the proportion of the county or
35 tribe's share of the statewide 2002 historic spending base and
36 50 percent on the proportion of the county or tribe's share of

1 the adjusted caseload factor.

2 ~~(e)~~ (c) With the commencement of a new or expanded tribal
3 TANF program or an agreement under section 256.01, subdivision
4 2, paragraph (g), in which some or all of the responsibilities
5 of particular counties under this section are transferred to a
6 tribe, the commissioner shall:

7 (1) in the case where all responsibilities under this
8 section are transferred to a tribal program, determine the
9 percentage of the county's current caseload that is transferring
10 to a tribal program and adjust the affected county's allocation
11 accordingly; and

12 (2) in the case where a portion of the responsibilities
13 under this section are transferred to a tribal program, the
14 commissioner shall consult with the affected county or counties
15 to determine an appropriate adjustment to the allocation.

16 ~~(f)~~ (d) Effective January 1, 2005, counties and tribes will
17 have their final allocations adjusted based on the performance
18 provisions of subdivision 7.

19 Sec. 8. Minnesota Statutes 2004, section 256J.626,
20 subdivision 7, is amended to read:

21 Subd. 7. [PERFORMANCE BASE FUNDS.] (a) Beginning calendar
22 year 2005, each county and tribe will be allocated 95 percent of
23 their initial calendar year allocation. Counties and tribes
24 will be allocated additional funds based on performance as
25 follows:

26 (1) for calendar year 2005, a county or tribe that achieves
27 a 30 percent rate or higher on the MFIP participation rate under
28 section 256J.751, subdivision 2, clause (8), as averaged across
29 the four quarterly measurements for the most recent year for
30 which the measurements are available, will receive an additional
31 allocation equal to 2.5 percent of its initial allocation; and

32 (2) for calendar year 2006, a county or tribe that achieves
33 a 40 percent rate or a five percentage point improvement over
34 the previous year's MFIP participation rate under section
35 256J.751, subdivision 2, clause (8), as averaged across the four
36 quarterly measurements for the most recent year for which the

1 measurements are available, will receive an additional
2 allocation equal to 2.5 percent of its initial allocation; and
3 (3) for calendar year 2007, a county or tribe that achieves
4 a 50 percent rate or a five percentage point improvement over
5 the previous year's MFIP participation rate under section
6 256J.751, subdivision 2, clause (8), as averaged across the four
7 quarterly measurements for the most recent year for which the
8 measurements are available, will receive an additional
9 allocation equal to 2.5 percent of its initial allocation; and

10 (4) for calendar year 2008 and yearly thereafter, a county
11 or tribe that achieves a 50 percent MFIP participation rate
12 under section 256J.751, subdivision 2, clause (8), as averaged
13 across the four quarterly measurements for the most recent year
14 for which the measurements are available, will receive an
15 additional allocation equal to 2.5 percent of its initial
16 allocation; and

17 (5) for calendar years 2005 and thereafter, a county or
18 tribe that performs above the top of its annualized range of
19 expected performance on the three-year self-support index under
20 section 256J.751, subdivision 2, clause (7), ~~in-both~~
21 ~~measurements-in-the-preceding-year~~ will receive an additional
22 allocation equal to five percent of its initial allocation; or

23 (6) for calendar years 2005 and thereafter, a county or
24 tribe that performs within its range of expected performance on
25 the annualized three-year self-support index under section
26 256J.751, subdivision 2, clause (7), ~~in-both-measurements-in-the~~
27 ~~preceding-year, or above the top of its range of expected~~
28 ~~performance-in-one-measurement-and-within-its-expected-range-of~~
29 ~~performance-in-the-other-measurement,~~ will receive an additional
30 allocation equal to 2.5 percent of its initial allocation.

31 (b) Performance-based funds for a federally approved tribal
32 TANF program in which the state and tribe have in place a
33 contract under section 256.01, addressing consolidated funding,
34 will be allocated as follows:

35 (1) for calendar year 2006 and yearly thereafter, a tribe
36 that achieves the participation rate approved in its federal

1 TANF plan using the average of four quarterly measurements for
2 the most recent year for which the measurements are available,
3 will receive an additional allocation equal to 2.5 percent of
4 its initial allocation; and

5 (2) for calendar years 2006 and thereafter, a tribe that
6 performs above the top of its annualized range of expected
7 performance on the three-year self-support index under section
8 256J.751, subdivision 2, clause (7), will receive an additional
9 allocation equal to five percent of its initial allocation; or

10 (3) for calendar years 2006 and thereafter, a tribe that
11 performs within its range of expected performance on the
12 annualized three-year self-support index under section 256J.751,
13 subdivision 2, clause (7), will receive an additional allocation
14 equal to 2.5 percent of its initial allocation.

15 ~~(b)~~ (c) Funds remaining unallocated after the
16 performance-based allocations in paragraph (a) are available to
17 the commissioner for innovation projects under subdivision 5.

18 ~~(c)~~ (d)(1) If available funds are insufficient to meet
19 county and tribal allocations under paragraph (a), the
20 commissioner may make available for allocation funds that are
21 unobligated and available from the innovation projects through
22 the end of the current biennium.

23 (2) If after the application of clause (1) funds remain
24 insufficient to meet county and tribal allocations under
25 paragraph (a), the commissioner must proportionally reduce the
26 allocation of each county and tribe with respect to their
27 maximum allocation available under paragraph (a).

28 Sec. 9. Minnesota Statutes 2004, section 256J.626,
29 subdivision 8, is amended to read:

30 Subd. 8. [REPORTING REQUIREMENT AND REIMBURSEMENT.] (a)
31 The commissioner shall specify requirements for reporting
32 according to section 256.01, subdivision 2, clause (17). Each
33 county or tribe shall be reimbursed for eligible expenditures up
34 to the limit of its allocation and subject to availability of
35 funds.

36 (b) Reimbursements for county administrative-related

1 expenditures determined through the income maintenance random
2 moment time study shall be reimbursed at a rate of 50 percent of
3 eligible expenditures.

4 (c) The commissioner of human services shall review county
5 and tribal agency expenditures of the MFIP consolidated fund as
6 appropriate and may reallocate unencumbered or unexpended money
7 appropriated under this section to those county and tribal
8 agencies that can demonstrate a need for additional money. as
9 follows:

10 (1) to the extent that particular county or tribal
11 allocations are reduced from the previous year's amount due to
12 the phase-in under subdivision 6, paragraph (b), clauses (4) to
13 (6), those tribes or counties would have first priority for
14 reallocated funds; and

15 (2) to the extent that unexpended funds are insufficient to
16 cover demonstrated need, funds will be prorated to those
17 counties and tribes in relation to demonstrated need.

18 Sec. 10. Minnesota Statutes 2004, section 256J.751,
19 subdivision 2, is amended to read:

20 Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner
21 shall report quarterly to all counties on each county's
22 performance on the following measures:

23 (1) percent of MFIP caseload working in paid employment;

24 (2) percent of MFIP caseload receiving only the food
25 portion of assistance;

26 (3) number of MFIP cases that have left assistance;

27 (4) ~~federal-participation-requirements-as-specified-in~~

28 ~~Title-1-of-Public-Law-104-193,~~

29 (5) median placement wage rate;

30 (6) (5) caseload by months of TANF assistance;

31 (7) (6) percent of MFIP and diversionary work program (DWP)

32 cases off cash assistance or working 30 or more hours per week

33 at one-year, two-year, and three-year follow-up points from a

34 baseline quarter. This measure is called the self-support

35 index. ~~Twice-annually,~~ The commissioner shall report quarterly

36 an expected range of performance for each county, county

1 grouping, and tribe on the self-support index. The expected
2 range shall be derived by a statistical methodology developed by
3 the commissioner in consultation with the counties and tribes.
4 The statistical methodology shall control differences across
5 counties in economic conditions and demographics of the MFIP and
6 DWP case load; and

7 ~~(8)~~ (7) the MFIP work participation rate, defined as the
8 participation requirements specified in title 1 of Public Law
9 104-193 applied to all MFIP cases except child only cases and
10 cases exempt under section 256J.56.

11 Sec. 11. Minnesota Statutes 2004, section 256J.751,
12 subdivision 5, is amended to read:

13 Subd. 5. [FAILURE TO MEET FEDERAL PERFORMANCE STANDARDS.]

14 (a) If sanctions occur for failure to meet the performance
15 standards specified in title 1 of Public Law 104-193 of the
16 Personal Responsibility and Work Opportunity Act of 1996, the
17 state shall pay 88 percent of the sanction. The remaining 12
18 percent of the sanction will be paid by the counties. The
19 county portion of the sanction will be distributed across all
20 counties in proportion to each county's percentage of the MFIP
21 average monthly caseload during the period for which the
22 sanction was applied.

23 (b) If a county fails to meet the performance standards
24 specified in title 1 of Public Law 104-193 of the Personal
25 Responsibility and Work Opportunity Act of 1996 for any year,
26 the commissioner shall work with counties to organize a joint
27 state-county technical assistance team to work with the county.
28 The commissioner shall coordinate any technical assistance with
29 other departments and agencies including the Departments of
30 Employment and Economic Development and Education as necessary
31 to achieve the purpose of this paragraph.

32 (c) For state performance measures, a low-performing county
33 is one that:

34 (1) performs below the bottom of their expected range for
35 the measure in subdivision 2, clause (7), in ~~both-measurements~~
36 during-the an annualized measurement reported in October of each

1 year; or

2 (2) performs below 40 percent for the measure in
3 subdivision 2, clause (8), as averaged across the four quarterly
4 measurements for the year, or the ten counties with the lowest
5 rates if more than ten are below 40 percent.

6 (d) Low-performing counties under paragraph (c) must engage
7 in corrective action planning as defined by the commissioner.
8 The commissioner may coordinate technical assistance as
9 specified in paragraph (b) for low-performing counties under
10 paragraph (c).

11 Sec. 12. [REPEALER.]

12 Minnesota Rules, part 9500.1206, subparts 20, 26d, and 27,
13 are repealed.

Article 1 CHILD WELFARE: ALTERNATIVE RESPONSE.....	page	1
Article 2 CHILD WELFARE: PERMANENCY.....	page	31
Article 3 CHILD CARE.....	page	69
Article 4 CHILD SUPPORT.....	page	72
Article 5 FAMILY SUPPORTS.....	page	87

APPENDIX
Repealed Minnesota Statutes for S1710-1

626.5551 ALTERNATIVE RESPONSE PROGRAMS FOR CHILD PROTECTION ASSESSMENTS OR INVESTIGATIONS.

Subdivision 1. Programs authorized. (a) A county may establish a program that uses alternative responses to reports of child maltreatment under section 626.556, as provided in this section.

(b) The alternative response program is a voluntary program on the part of the family, which may include a family assessment and services approach under which the local welfare agency assesses the risk of abuse and neglect and the service needs of the family and arranges for appropriate services, diversions, referral for services, or other response identified in the plan under subdivision 4.

(c) This section may not be used for reports of maltreatment in facilities required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B, or in a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10, or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

Subd. 2. Use of alternative response or investigation.

(a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment.

(b) The local welfare agency may conduct an investigation of any report using the traditional investigative model under section 626.556. However, the local welfare agency must use the traditional investigative model under section 626.556 to investigate reports involving substantial child endangerment. For purposes of this subdivision, substantial child endangerment includes when a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in section 626.556, subdivision 2, paragraph (a);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in section 626.556, subdivision 2, paragraph (c), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185; 609.19; or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221; 609.222; or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;

APPENDIX
Repealed Minnesota Statutes for S1710-1

(11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378; or

(12) use of minor in sexual performance under section 617.246.

(c) Nothing in this section gives a county any broader authority to intervene, assess, or investigate a family other than under section 626.556.

(d) In addition, in all cases the local welfare agency shall notify the appropriate law enforcement agency as provided in section 626.556, subdivision 3.

(e) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an investigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

(1) the local law enforcement agency, if the local law enforcement is involved, and notify the county attorney of the decision to terminate the investigation; or

(2) the county attorney, if the local law enforcement is not involved.

Subd. 3. **Documentation.** When a case in which an alternative response was used is closed, the local welfare agency shall document the outcome of the approach, including a description of the response and services provided and the removal or reduction of risk to the child, if it existed. Records maintained under this section must contain the documentation and must be retained for at least four years.

Subd. 4. **Plan.** The county community social service plan required under section 256E.09 must address the extent that the county will use the alternative response program authorized under this section, based on the availability of new federal funding that is earned and other available revenue sources to fund the additional cost to the county of using the program. To the extent the county uses the program, the county must include the program in the community social service plan and in the program evaluation under section 256E.10. The plan must address alternative responses and services that will be used for the program and protocols for determining the appropriate response to reports under section 626.556 and address how the protocols comply with the guidelines of the commissioner under subdivision 5.

Subd. 5. **Commissioner of human services to develop guidelines.** The commissioner of human services, in consultation with county representatives, may develop guidelines defining alternative responses and setting out procedures for family assessment and service delivery under this section. The commissioner may also develop guidelines for counties regarding the provisions of section 626.556 that continue to apply when using an alternative response under this section. The commissioner may also develop forms, best practice guidelines, and training to assist counties in implementing alternative responses under this section.

1 Senator moves to amend S.F. No. 1710 as follows:

2 Page 10, line 27, delete "a family assessment or
3 investigation"

4 Page 10, line 28, delete "related to"

5 Page 28, line 8, after "determination that" insert "child"

6 Page 28, line 10, after the period, insert "Child
7 protective services for a family are voluntary unless ordered by
8 the court."

9 Page 37, after line 29, insert:

10 "Sec. 6. Minnesota Statutes 2004, section 259.67,
11 subdivision 2, is amended to read:

12 Subd. 2. [ADOPTION ASSISTANCE AGREEMENT.] The placing
13 agency shall certify a child as eligible for adoption assistance
14 according to rules promulgated by the commissioner. The placing
15 agency shall not certify a child who remains under the
16 jurisdiction of the sending agency pursuant to section 260.851,
17 article 5 for state funded adoption assistance when Minnesota is
18 the receiving state. Not later than 30 days after a parent or
19 parents are found and approved for adoptive placement of a child
20 certified as eligible for adoption assistance, and before the
21 final decree of adoption is issued, a written agreement must be
22 entered into by the commissioner, the adoptive parent or
23 parents, and the placing agency. The written agreement must
24 be fully completed by the placing agency and in the form
25 prescribed by the commissioner and must set forth the
26 responsibilities of all parties, the anticipated duration of the
27 adoption assistance payments, and the payment terms. The
28 adoption assistance agreement shall be subject to the
29 commissioner's approval, which must be granted or denied not
30 later than 15 days after the agreement is entered.

31 The amount of adoption assistance is subject to the
32 availability of state and federal funds and shall be determined
33 through agreement with the adoptive parents. The agreement
34 shall take into consideration the circumstances of the adopting
35 parent or parents, the needs of the child being adopted and may
36 provide ongoing monthly assistance, supplemental maintenance

1 expenses related to the adopted person's special needs,
2 nonmedical expenses periodically necessary for purchase of
3 services, items, or equipment related to the special needs, and
4 medical expenses. The placing agency or the adoptive parent or
5 parents shall provide written documentation to support the need
6 for adoption assistance payments. The commissioner may require
7 periodic reevaluation of adoption assistance payments. The
8 amount of ongoing monthly adoption assistance granted may in no
9 case exceed that which would be allowable for the child under
10 foster family care and is subject to the availability of state
11 and federal funds.

12 Sec. 7. Minnesota Statutes 2004, section 259.67,
13 subdivision 4, is amended to read:

14 Subd. 4. [ELIGIBILITY CONDITIONS.] (a) The placing agency
15 shall use the AFDC requirements as specified in federal law as
16 of July 16, 1996, when determining the child's eligibility for
17 adoption assistance under title IV-E of the Social Security
18 Act. If the child does not qualify, the placing agency shall
19 certify a child as eligible for state funded adoption assistance
20 only if the following criteria are met:

21 (1) Due to the child's characteristics or circumstances it
22 would be difficult to provide the child an adoptive home without
23 adoption assistance.

24 (2)(i) A placement agency has made reasonable efforts to
25 place the child for adoption without adoption assistance, but
26 has been unsuccessful; or

27 (ii) the child's licensed foster parents desire to adopt
28 the child and it is determined by the placing agency that the
29 adoption is in the best interest of the child.

30 (3) The child has been a ward of the commissioner, a
31 Minnesota-licensed child-placing agency, or a tribal social
32 service agency of Minnesota recognized by the Secretary of the
33 Interior. The placing agency shall not certify a child who
34 remains under the jurisdiction of the sending agency pursuant to
35 section 260.851, article 5 for state funded adoption assistance
36 when Minnesota is the receiving state.

1 (b) For purposes of this subdivision, the characteristics
 2 or circumstances that may be considered in determining whether a
 3 child is a child with special needs under United States Code,
 4 title 42, chapter 7, subchapter IV, part E, or meets the
 5 requirements of paragraph (a), clause (1), are the following:

6 (1) The child is a member of a sibling group to be placed
 7 as one unit in which at least one sibling is older than 15
 8 months of age or is described in clause (2) or (3).

9 (2) The child has documented physical, mental, emotional,
 10 or behavioral disabilities.

11 (3) The child has a high risk of developing physical,
 12 mental, emotional, or behavioral disabilities.

13 (4) The child is adopted according to tribal law without a
 14 termination of parental rights or relinquishment, provided that
 15 the tribe has documented the valid reason why the child cannot
 16 or should not be returned to the home of the child's parent.

17 (c) When a child's eligibility for adoption assistance is
 18 based upon the high risk of developing physical, mental,
 19 emotional, or behavioral disabilities, payments shall not be
 20 made under the adoption assistance agreement unless and until
 21 the potential disability manifests itself as documented by an
 22 appropriate health care professional."

23 Page 38, line 28, after "adoptive parents" insert ",
 24 including race where such data is available"

25 Page 39, line 20, after "efforts" insert comma

26 Page 39, line 21, after "services" insert a comma

27 Page 39, line 22, reinstate "or"

28 Page 39, line 22, delete the new language

29 Page 39, lines 23 and 24, delete the new language

30 Page 39, lines 27 to 30, delete the new language

31 Page 39, line 30, before the period, insert "and when a
 32 child cannot be reunified with the parent or guardian from whom
 33 the child was removed, the court must ensure that the
 34 responsible social services agency makes reasonable efforts to
 35 finalize an alternative permanent plan for the child as provided
 36 in paragraph (e)"

1 Page 39, line 34, delete "or" and insert "and"

2 Page 39, line 35, strike "not" and insert "always"

3 Page 39, line 35, after "required" insert "except"

4 Page 40, line 36, after the period, insert "In cases
5 governed by the Indian Child Welfare Act of 1978, 25 U.S.C.

6 1901, the responsible social services agency must provide active
7 efforts as required under 25 U.S.C. 1911 (d)."

8 Page 40, line 36, strike "If a child is under the court's
9 delinquency"

10 Page 41, strike lines 1 to 4

11 Page 41, line 7, after "child" insert "in foster care"

12 Page 41, line 12, delete everything after "(e)"

13 Page 41, line 13, delete "stage of the case,"

14 Page 41, line 14, delete "reasonable efforts" and insert
15 "due diligence"

16 Page 41, line 21, after "care" insert "as required by
17 section 260C.212, subdivision 4"

18 Page 41, line 21, delete "and"

19 Page 41, after line 21, insert:

20 "(3) conduct a relative search as required under section
21 260C.212, subdivision 5; and"

22 Page 41, line 22, delete "(3)" and insert "(4) when the
23 child cannot return to the parent or guardian from whom the
24 child was removed, to plan for and" and after "permanent" insert
25 "alternative"

26 Page 41, line 24, delete everything after the first "child"

27 Page 41, line 25, delete everything before the period

28 Page 41, line 27, after "use" insert "culturally"

29 Page 41, line 33, after "other" insert "culturally"

30 Page 41, line 36, after "efforts" insert "as described in
31 paragraphs (a), (d), and (e)"

32 Page 42, line 6, after "placement" insert "of the child in
33 foster care"

34 Page 42, after line 6, insert:

35 "(2) it has made reasonable efforts to eliminate the need
36 for removal of the child from the child's home and to reunify

1 the child with the child's family at the earliest possible time"

2 Page 42, line 7, delete "(2)" and insert "(3)" and delete
3 "the" and insert "an alternative"

4 Page 42, line 8, delete "plan" and insert "home"

5 Page 42, line 9, delete "(3)" and insert "(4)"

6 Page 42, line 25, after "case" insert "when there is clear
7 and convincing evidence that the child is in need of protection
8 or services"

9 Page 42, line 25, strike everything after "may" and insert "
10 find the child in need of protection or services and order any
11 of the dispositions available under section 260C.201,
12 subdivision 1."

13 Page 43, line 27, after "or" insert "upon"

14 Page 52, line 15, delete "If, after"

15 Page 52, line 16, delete "reasonable attempts by"

16 Page 52, line 16, after "agency" insert "shall make
17 reasonable attempts"

18 Page 52, line 17, delete the comma, and insert ". If"

19 Page 52, line 25, delete ", and" and insert ". The parent
20 may ask the court to modify the plan to require different or
21 additional services requested by the parent, but which the
22 agency refused to provide."

23 Page 52, line 26, after "plan" insert "as presented by the
24 agency or may modify the plan to require services requested by
25 the parent. The court's approval shall be"

26 Page 54, line 13, after "visit" insert "in order to protect
27 the child's health, safety, or welfare"

28 Page 54, line 13, after "and" insert "may"

29 Page 63, line 36, after "item" insert ", following proper
30 notice that consent given under this provision is irrevocable
31 upon acceptance by the court,"

32 Page 64, line 35, after "section" insert ", following
33 proper notice that consent given under this provision is
34 irrevocable upon acceptance by the court,"

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

3 S.F. No. 1710: A bill for an act relating to human
4 services; implementing child protection, child care, and child
5 and family support provisions; amending Minnesota Statutes 2004,
6 sections 119A.43, subdivision 2; 119B.025, subdivision 1;
7 119B.03, subdivision 6; 119B.09, subdivisions 4, 9; 144D.025;
8 256.978, subdivision 2; 256D.02, subdivision 17; 256D.051,
9 subdivision 6c; 256I.04, subdivision 2a; 256I.05, by adding a
10 subdivision; 256J.626, subdivisions 6, 7, 8; 256J.751,
11 subdivisions 2, 5; 257.85, subdivisions 2, 3; 259.23,
12 subdivisions 1, 2; 259.41, subdivision 3; 259.75, subdivision 1;
13 259.79, subdivision 1; 259.85, subdivision 1; 260.012; 260C.001,
14 subdivision 3; 260C.007, subdivision 8; 260C.151, subdivision 6;
15 260C.178; 260C.201, subdivisions 1, 10, 11; 260C.312; 260C.317,
16 subdivision 3; 518.551, subdivision 5; 518.68, subdivision 2;
17 548.091, subdivision 1a; 626.556, subdivisions 1, 2, 3, 10, 10b,
18 10e, 10f, 10i, 11, 11c, by adding subdivisions; repealing
19 Minnesota Statutes 2004, sections 626.5551, subdivisions 1, 2,
20 3, 4, 5; Minnesota Rules, parts 9500.1206, subparts 20, 26d, 27;
21 9560.0220, subpart 6, item B; 9560.0230, subpart 2.

22 Reports the same back with the recommendation that the bill
23 be amended as follows:

24 Page 10, line 27, delete "a family assessment or
25 investigation"

26 Page 10, line 28, delete "related to"

27 Page 28, line 8, after "that" insert "child"

28 Page 28, line 10, after the period, insert "Child
29 protective services for a family are voluntary unless ordered by
30 the court."

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34 Subd. 2. [ADOPTION ASSISTANCE AGREEMENT.] The placing
35 agency shall certify a child as eligible for adoption assistance
36 according to rules promulgated by the commissioner. The placing
37 agency shall not certify a child who remains under the
38 jurisdiction of the sending agency pursuant to section 260.851,
39 article 5, for state funded adoption assistance when Minnesota
40 is the receiving state. Not later than 30 days after a parent
41 or parents are found and approved for adoptive placement of a
42 child certified as eligible for adoption assistance, and before
43 the final decree of adoption is issued, a written agreement must
44 be entered into by the commissioner, the adoptive parent or
45 parents, and the placing agency. The written agreement must
46 be fully completed by the placing agency and in the form

1 prescribed by the commissioner and must set forth the
2 responsibilities of all parties, the anticipated duration of the
3 adoption assistance payments, and the payment terms. The
4 adoption assistance agreement shall be subject to the
5 commissioner's approval, which must be granted or denied not
6 later than 15 days after the agreement is entered.

7 The amount of adoption assistance is subject to the
8 availability of state and federal funds and shall be determined
9 through agreement with the adoptive parents. The agreement
10 shall take into consideration the circumstances of the adopting
11 parent or parents, the needs of the child being adopted and may
12 provide ongoing monthly assistance, supplemental maintenance
13 expenses related to the adopted person's special needs,
14 nonmedical expenses periodically necessary for purchase of
15 services, items, or equipment related to the special needs, and
16 medical expenses. The placing agency or the adoptive parent or
17 parents shall provide written documentation to support the need
18 for adoption assistance payments. The commissioner may require
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20 amount of ongoing monthly adoption assistance granted may in no
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24 Sec. 7. Minnesota Statutes 2004, section 259.67,
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29 adoption assistance under title IV-E of the Social Security
30 Act. If the child does not qualify, the placing agency shall
31 certify a child as eligible for state funded adoption assistance
32 only if the following criteria are met:

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34 would be difficult to provide the child an adoptive home without
35 adoption assistance.

36 (2)(i) A placement agency has made reasonable efforts to

1 place the child for adoption without adoption assistance, but
2 has been unsuccessful; or

3 (ii) the child's licensed foster parents desire to adopt
4 the child and it is determined by the placing agency that the
5 adoption is in the best interest of the child.

6 (3) The child has been a ward of the commissioner, a
7 Minnesota-licensed child-placing agency, or a tribal social
8 service agency of Minnesota recognized by the Secretary of the
9 Interior. The placing agency shall not certify a child who
10 remains under the jurisdiction of the sending agency pursuant to
11 section 260.851, article 5, for state funded adoption assistance
12 when Minnesota is the receiving state.

13 (b) For purposes of this subdivision, the characteristics
14 or circumstances that may be considered in determining whether a
15 child is a child with special needs under United States Code,
16 title 42, chapter 7, subchapter IV, part E, or meets the
17 requirements of paragraph (a), clause (1), are the following:

18 (1) The child is a member of a sibling group to be placed
19 as one unit in which at least one sibling is older than 15
20 months of age or is described in clause (2) or (3).

21 (2) The child has documented physical, mental, emotional,
22 or behavioral disabilities.

23 (3) The child has a high risk of developing physical,
24 mental, emotional, or behavioral disabilities.

25 (4) The child is adopted according to tribal law without a
26 termination of parental rights or relinquishment, provided that
27 the tribe has documented the valid reason why the child cannot
28 or should not be returned to the home of the child's parent.

29 (c) When a child's eligibility for adoption assistance is
30 based upon the high risk of developing physical, mental,
31 emotional, or behavioral disabilities, payments shall not be
32 made under the adoption assistance agreement unless and until
33 the potential disability manifests itself as documented by an
34 appropriate health care professional."

35 Page 38, line 28, after "adoptive parents" insert ",
36 including race where such data is available"

1 Page 39, line 20, after "efforts" insert a comma

2 Page 39, line 21, after the first "services" insert a comma

3 Page 39, line 22, delete the new language and reinstate the
4 stricken "or"

5 Page 39, lines 23 and 24, delete the new language

6 Page 39, lines 27 to 30, delete the new language and insert
7 "and when a child cannot be reunified with the parent or
8 guardian from whom the child was removed, the court must ensure
9 that the responsible social services agency makes reasonable
10 efforts to finalize an alternative permanent plan for the child
11 as provided in paragraph (e)"

12 Page 39, line 34, delete "or" and insert "and"

13 Page 39, line 35, strike "not" and insert "always" and
14 after "required" insert "except"

15 Page 40, line 36, strike "If a child is under the court's
16 delinquency"

17 Page 41, strike lines 1 to 4 and insert "In cases governed
18 by the Indian Child Welfare Act of 1978, 25 U.S.C. 1901, the
19 responsible social services agency must provide active efforts
20 as required under 25 U.S.C. 1911 (d)."

21 Page 41, line 7, after "child" insert "in foster care"

22 Page 41, line 12, delete everything after "(e)"

23 Page 41, line 13, delete "stage of the case,"

24 Page 41, line 14, delete "reasonable efforts" and insert
25 "due diligence"

26 Page 41, line 21, after "care" insert "as required by
27 section 260C.212, subdivision 4" and delete "and" and insert:

28 "(3) conduct a relative search as required under section
29 260C.212, subdivision 5; and"

30 Page 41, line 22, delete "(3)" and insert "(4) when the
31 child cannot return to the parent or guardian from whom the
32 child was removed, to plan for and" and after "permanent" insert
33 "alternative"

34 Page 41, line 24, delete everything after the first "child"

35 Page 41, line 25, delete everything before the period

36 Page 41, line 27, after "use" insert "culturally"

1 Page 41, line 33, after "other" insert "culturally"

2 Page 41, line 36, after "efforts" insert "as described in
3 paragraphs (a), (d), and (e)"

4 Page 42, line 6, after "placement" insert "of the child in
5 foster care"

6 Page 42, after line 6, insert:

7 "(2) it has made reasonable efforts to eliminate the need
8 for removal of the child from the child's home and to reunify
9 the child with the child's family at the earliest possible time;"

10 Page 42, line 7, delete "(2)" and insert "(3)" and delete
11 "the" and insert "an alternative"

12 Page 42, line 8, delete "plan" and insert "home"

13 Page 42, line 9, delete "(3)" and insert "(4)"

14 Page 42, line 25, after "case" insert "when there is clear
15 and convincing evidence that the child is in need of protection
16 or services" and strike everything after "may" and insert "find
17 the child in need of protection or services and order any of the
18 dispositions available under section 260C.201, subdivision 1."

19 Page 43, line 27, after "or" insert "upon"

20 Page 52, line 15, delete "If, after"

21 Page 52, line 16, delete "reasonable attempts by" and after
22 "agency" insert "shall make reasonable attempts"

23 Page 52, line 17, delete the comma and insert ". If"

24 Page 52, line 25, delete ", and" and insert ". The parent
25 may ask the court to modify the plan to require different or
26 additional services requested by the parent, but which the
27 agency refused to provide."

28 Page 52, line 26, after "plan" insert "as presented by the
29 agency or may modify the plan to require services requested by
30 the parent. The court's approval shall be"

31 Page 54, line 13, after "visit" insert "in order to protect
32 the child's health, safety, or welfare" and after "and" insert
33 "may"

34 Page 63, line 36, after "item" insert ", following proper
35 notice that consent given under this provision is irrevocable
36 upon acceptance by the court,"

1 Page 64, line 35, after "section" insert "following
2 proper notice that consent given under this provision is
3 irrevocable upon acceptance by the court,"

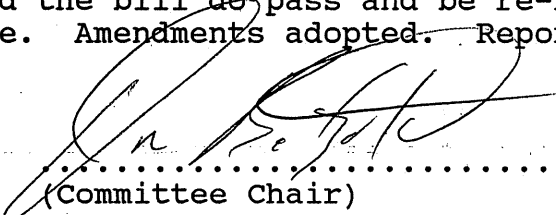
4 Renumber the sections in sequence

5 Amend the title as follows:

6 Page 1, line 12, after the first semicolon, insert "259.67,
7 subdivisions 2, 4;"

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

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.....
(Committee Chair)

April 7, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 1416 - Class Actions Certification

Author: Senator Julieanne E. Ortman

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

Date: April 7, 2005

S.F. No. 1416 allows immediate appeals of orders by trial judges that certify or refuse to certify classes for class actions. All other proceedings in the action are stayed while an appeal is being decided.

HW:cs

Senators Ortman, Michel and Gerlach introduced--

S.F. No. 1416: Referred to the Committee on Judiciary.

1 A bill for an act
2 relating to civil actions; providing for interlocutory
3 appeal on the question of class certification in a
4 civil action; specifying required damages in order to
5 be a member of a class; proposing coding for new law
6 in Minnesota Statutes, chapter 540.

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

8 Section 1. [540.19] [CLASS ACTIONS.]

9 Subdivision 1. [INTERLOCUTORY APPEAL.] A court's order
10 certifying a class or refusing to certify a class action is
11 appealable in the same manner as a final order to the Court of
12 Appeals. An appeal must be filed within 30 days of the order
13 certifying or refusing to certify the class. Pending appeal
14 under this subdivision, all discovery and other proceedings in
15 the district court are stayed during the pendency of the appeal
16 unless the Court of Appeals finds upon the motion of a party
17 that specific discovery is necessary to preserve evidence or
18 prevent undue prejudice to the party.

19 Subd. 2. [DAMAGE REQUIREMENT TO BE CLASS MEMBER.] In order
20 to be a member of a class, an individual must have suffered an
21 ascertainable loss of money or property, real or personal.

22 Sec. 2. [EFFECTIVE DATE; APPLICATION.]

23 Section 1 is effective August 1, 2005, and applies to
24 actions commenced on or after that date.

Senators Hann and LeClair introduced--

S.F. No. 631: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to civil actions; prohibiting actions against

3 certain persons for weight gain as a result of

4 consuming certain foods; proposing coding for new law

5 in Minnesota Statutes, chapter 604.

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

7 Section 1. [604.17] [ACTIONS ALLEGING WEIGHT GAIN OR

8 OBESITY FROM FOOD CONSUMPTION.]

9 Subdivision 1. [ACTIONS PROHIBITED.] An action may not be

10 brought against a manufacturer or seller of a food or a trade

11 association for a food to recover damages or obtain injunctive

12 relief for alleged injury resulting from consumption of food and

13 weight gain, obesity, or any health condition associated with

14 weight gain or obesity.

15 Subd. 2. [ACTIONS PERMITTED.] Subdivision 1 does not

16 prohibit an action:

17 (1) against a manufacturer or seller of a food that

18 knowingly and willfully violated a state law applicable to the

19 manufacturing, marketing, distribution, advertisement, labeling,

20 or sale of the food, and the violation was a proximate cause of

21 injury related to a person's weight gain, obesity, or any health

22 condition associated with a person's weight gain or obesity; or

23 (2) an action for breach of express contract or express

24 warranty in connection with the purchase of food.

25 Subd. 3. [PLEADINGS.] In an action described in

1 subdivision 2, the complaint must state with particularity each
2 and every state statute that was violated and the facts that
3 caused the alleged injuries.

4 Subd. 4. [DISCOVERY IN CERTAIN ACTIONS.] (a) In an action
5 described in subdivision 2, discovery and other proceedings must
6 be stayed during the pendency of a motion to dismiss unless the
7 court finds on motion of a party that particularized discovery
8 is necessary to preserve evidence or prevent undue prejudice to
9 that party.

10 (b) During the pendency of a stay of discovery under this
11 subdivision, unless otherwise ordered by the court, a party to
12 the action with actual notice of the allegations contained in
13 the complaint shall treat every tangible object or document in
14 that party's control or custody that is relevant to the
15 allegations as if the object or document was the subject of a
16 continuing request for production of documents from any opposing
17 party under the Rules of Civil Procedure. "Document" includes
18 any written or electronically recorded or stored compilation of
19 data.

20 (c) A party aggrieved by the failure of another party to
21 comply with this subdivision may apply to the court for an order
22 awarding appropriate sanctions.

23 Sec. 2. [EFFECTIVE DATE.]

24 Section 1 is effective August 1, 2005, and applies to
25 actions commenced on or after that date.

1 Senator moves to amend S.F. No. 631 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [604.17] [PERSONAL RESPONSIBILITY IN FOOD
4 CONSUMPTION ACT.]

5 Subdivision 1. [TITLE.] This act may be cited as the
6 Personal Responsibility in Food Consumption Act.

7 Subd. 2. [DEFINITIONS.] (a) For purposes of this section
8 the following terms have the meanings given.

9 (b) "Long-term consumption" means the cumulative effect of
10 the consumption of food or nonalcoholic beverages, and not the
11 effect of a single instance of consumption.

12 (c) "Party" means an individual, corporation, company,
13 association, firm, partnership, society, joint stock company, or
14 any other entity, including any governmental entity.

15 Subd. 3. [IMMUNITY FROM CIVIL LIABILITY.] A producer,
16 grower, manufacturer, packer, distributor, carrier, holder,
17 marketer, or seller of a food or nonalcoholic beverage intended
18 for human consumption, or an association of one or more of such
19 entities, shall not be subject to civil liability based on any
20 individual's or group of individuals' purchase or consumption of
21 food or nonalcoholic beverages in cases where liability arises
22 from weight gain, obesity, or a health condition associated with
23 weight gain or obesity and resulting from the individual's or
24 group of individuals' long-term purchase or consumption of a
25 food or nonalcoholic beverage.

26 Subd. 4. [ACTIONS PERMITTED.] Subdivision 3 does not apply
27 to a claim of weight gain or obesity that is based on:

28 (1) a material violation of an adulteration or misbranding
29 requirement prescribed by state or federal statute, rule, or
30 regulation and the claimed injury was proximately caused by the
31 violation; or

32 (2) any other material violation of federal or state law
33 applicable to the manufacturing, marketing, distribution,
34 advertising, labeling, or sale of food, if the violation is
35 knowing and willful, and the claimed injury was proximately
36 caused by the violation.

1 Sec. 2. [EFFECTIVE DATE.]
 2 Section 1 is effective the day following final enactment
 3 and applies to any action brought by any party on or after the
 4 effective date."

5 Delete the title and insert:

6 "A bill for an act relating to civil actions; prohibiting
 7 actions against certain persons for weight gain as a result of
 8 consuming certain foods; proposing coding for new law in
 9 Minnesota Statutes, chapter 604."

1 Senator moves to amend the SCS0631A-2 amendment to
2 S.F. No. 631 as follows:

3 Page 1, after line 8, insert:

4 "(b) "Food" means articles used for food or drink for human
5 consumption and articles used for components of any such
6 article. It does not include tobacco or tobacco products."

7 Page 1, line 9, delete "(b)" and insert "(c)"

8 Page 1, line 12, delete "(c)" and insert "(d)"

1 Senator moves to amend S.F. No. 631 as follows:
2 Page 1, after line 6, insert:

3 "Section 1. [157.30] [RETAIL FOOD ESTABLISHMENTS;
4 NUTRITIONAL INFORMATION.]

5 Subdivision 1. [DEFINITION.] As used in this section,
6 "retail food establishment" means any fixed or mobile
7 restaurant, coffee shop, cafeteria, short-order cafe,
8 luncheonette, grill, tearoom, sandwich shop, soda fountain,
9 tavern, bar, commissary, delicatessen, grocery store, or any
10 similar place that is part of a chain with 20 or more locations
11 in the state doing business under the same trade name, and in
12 which food or drink is prepared for retail sale or service on
13 the premises or elsewhere.

14 Subd. 2. [DISCLOSURES.] Notwithstanding any provision of
15 law to the contrary, a retail food establishment:

16 (1) shall list in a clear and conspicuous manner adjacent
17 to each food or beverage item on a standard printed menu, the
18 total number of calories, grams of saturated and trans fat,
19 grams of carbohydrates, and milligrams of sodium, per serving,
20 as usually prepared and offered for sale; and

21 (2) using a menu board system or similar signage shall list
22 adjacent to each food or beverage item on the board or sign, the
23 total number of calories per serving as usually prepared and
24 offered for sale. Information about saturated and trans fat,
25 carbohydrates, and sodium content shall be made available to
26 each customer upon request.

27 Subd. 3. [ADDITIONAL DISCLOSURES.] Nothing in this section
28 shall prohibit a retail food establishment from providing
29 additional nutritional information to its customers for each
30 food or beverage item listed on its menu.

31 Subd. 4. [NONAPPLICATION.] The provisions of this section
32 do not apply to any:

33 (1) item not listed on a standard printed menu, menu board
34 system, or similar signage, including, but not limited to,
35 condiments or other products placed on a table or counter for
36 general use; or

1 (2) daily specials, temporary menu items, or food or
2 beverage items from a salad bar or other self-service facility.

3 Subd. 5. [CIVIL PENALTIES.] A proprietor of a retail food
4 establishment who violates the provisions of this section shall
5 be subject to a penalty of not less than \$50 or more than \$100
6 for the first offense, and not less than \$250 or more than \$500
7 for the second or any subsequent offense."

8 Renumber the sections in sequence and correct the internal
9 references

10 Amend the title accordingly

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

3 S.F. No. 631: A bill for an act relating to civil actions;
4 prohibiting actions against certain persons for weight gain as a
5 result of consuming certain foods; proposing coding for new law
6 in Minnesota Statutes, chapter 604.

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. [604.17] [WEIGHT GAIN CIVIL LIABILITY.]

11 Subdivision 1. [DEFINITIONS.] (a) For purposes of this
12 section the following terms have the meanings given.

13 (b) "Food" means articles used for food or drink for human
14 consumption and articles used for components of any such
15 article. It does not include tobacco or tobacco products.

16 (c) "Long-term consumption" means the cumulative effect of
17 the consumption of food or nonalcoholic beverages, and not the
18 effect of a single instance of consumption.

19 (d) "Party" means an individual, corporation, company,
20 association, firm, partnership, society, joint stock company, or
21 any other entity, including any governmental entity.

22 Subd. 2. [IMMUNITY FROM CIVIL LIABILITY.] A producer,
23 grower, manufacturer, packer, distributor, carrier, holder,
24 marketer, or seller of a food or nonalcoholic beverage intended
25 for human consumption, or an association of one or more of such
26 entities, shall not be subject to civil liability based on any
27 individual's or group of individuals' purchase or consumption of
28 food or nonalcoholic beverages in cases where liability arises
29 from weight gain, obesity, or a health condition associated with
30 weight gain or obesity and resulting from the individual's or
31 group of individuals' long-term purchase or consumption of a
32 food or nonalcoholic beverage.

33 Subd. 3. [ACTIONS PERMITTED.] Subdivision 2 does not apply
34 to a claim of weight gain or obesity that is based on:

35 (1) a material violation of an adulteration or misbranding
36 requirement prescribed by state or federal statute, rule, or
37 regulation and the claimed injury was proximately caused by the
38 violation; or

1 (2) any other material violation of federal or state law
 2 applicable to the manufacturing, marketing, distribution,
 3 advertising, labeling, or sale of food, if the violation is
 4 knowing and willful, and the claimed injury was proximately
 5 caused by the violation."

6 And when so amended the bill do pass. Amendments adopted.
 7 Report adopted.

.....
 (Committee Chair)

April 7, 2005.....
 (Date of Committee recommendation)

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Two Unanswered Questions From The Minnesota Department of Human Services, Child Support Division

It is important to note:

The Minnesota DHS is assigned the task of supervising all 87 county child support enforcement offices to ensure county compliance with federal Law.

Question One-

- A: Are the due process rights of the non-custodial parent adequately protected under the county agency's procedures for accepting an Application for Support and Collections Services and Information on Child Support Enforcement (DHS-1958-ENG 6-02).
- B: What forum or procedure is available to a non-custodial parent who wants to contest the custodial parents application for IV-D services, including income withholding.

Federal law requires Minnesota to provide notice of the procedures available in which the noncustodial parent may contest IV-D income withholding.

SEC. 466 {42 USC 666 (19(4)(A)(ii) states:

(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies— (i) that the withholding has commenced; and (ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact (emphasis added).

Apparantly, the Minnesota DHS is not in compliance with this Federal statute and, therefore, Minnesota's state IV-D plan is subject to disapproval by the Secretary of DHHS. This could result in the State losing millions of federal dollars.

Question two-

Does the Minnesota DHS Child Support Division provide the local County Child Support Enforcement Offices with Data Privacy Notices required to be given to the non-custodial parent prior to collecting and using the non-custodial parents private data?

The following State statute and rule requires a data privacy notice prior to collecting and using private child support data.

1205.1300 DUTIES OF THE RESPONSIBLE AUTHORITY IN ADMINISTERING PRIVATE AND CONFIDENTIAL DATA. Subp. 3. states:

B. identify the purposes for the collection of and the intended uses of all private or confidential data that have been communicated to data subjects or should have been communicated to data subjects at the time of data collection, pursuant to Minnesota Statutes, section 13.04, subdivision 2 (emphasis added).

The Application for Support and Collections requests the applicant to provide private information on the non-custodial parent without a requirement that county agency provide the non-custodial parent with notice of the application. As required by Minn. Stat. §13.04, Subd. 2, the applicant is given a Tennessee Warning at the time of application but the other parent is not given the Tennessee Warning. This certainly points out the huge privacy and due process holes in the Minnesota Government Data Practices Act. These holes need immediate patching.

Minnesota DHS does not comply with data privacy notice requirements and, accordingly, all data collected in absence of this notice is rendered unusable for any government purpose.

It's important to note: The applicant for IV-D child support services receives the data privacy notice stating "the system" can and will share private data with 44 entities not only in the United States but also with other countries. Not only does the subject of the private data (non-custodial parent) not receive notice but, he or she has no opportunity to secure his/her right to their private data when they have done nothing wrong to have this right to privacy/notice taken away.

I would appreciate an answer to these questions today!

Sincerely,

Terry Nyblom
3610 Edgerton St.
Vadnais HTS, MN
(651) 484-3295

Minnesota Child Support Notice of Privacy Practices

This notice is found in the application for Child Support Enforcement.
DHS Form # 1958-ENG-6-02

You have privacy rights under the Minnesota Government Data Practices Act. These laws protect your privacy, but also let us give information about you to others if a law requires it.

Do I Have to Answer the Questions You Ask?

Generally, the law does not say you have to give us this information. However, we need your social security number in order to give you some kinds of financial help or child support enforcement.

With Whom May You Share the Information About Me? We may give information about you to the following agencies.

- U.S. Department of Agriculture
- U.S. Department of Health and Human Services
- U.S. Department of Labor
- United States Citizenship and Immigration Services
- Internal Revenue Service
- Social Security Administration
- Minnesota Department of Employment and Economic Development
- Minnesota Department of Education
- Minnesota Department of Human Rights
- Minnesota Department of Human Services
- Minnesota Department of Labor and Industry
- Minnesota Department of Natural Resources
- Minnesota Department of Public Safety
- Minnesota Department of Revenue
- Minnesota Department of Veterans Affairs
- Minnesota Historical Society
- American Indian tribes, if your family is in need of human services at a tribal reservation
- Higher Education Coordinating Board
- State hospitals or long-term care facilities
- State and federal auditors
- Court officials
- Anyone under contract with the Minnesota Department of Human Services or U.S. Department of Health and Human Services, or the county social services agency
- Local and state health departments
- County human services boards
- Child or adult protection teams
- People who investigate child or adult
- Other human services offices, including child support enforcement offices
- Fraud prevention and control units
- Employees or volunteers of any welfare agency who need the information to do their jobs
- County attorney, attorney general or other law enforcement officials
- Mental health centers
- Ombudsman for families
- County Advocates for Minnesota Managed Health Care Programs
- Guardian, conservator or person who has power of attorney for you
- Local collaborative agencies
- Community food shelves or surplus food programs
- Health care providers
- School Districts
- Schools and other institutions of higher education
- Coroner/medical examiner if you die and your death is investigated
- Hospitals if you, a friend, or relative has an emergency and we need to contact someone
- Others who may pay for your care
- Insurance companies to check health care benefits you or your children may get
- Managed care organizations about your health care or benefits
- Credit bureaus
- Creditors
- Collection Agencies, if you do not pay fees you owe to us for services
- Financial Institutions
- Anyone else to whom the law says we can give the information

You Have the Right to Information We Have About You.

S. F. 1710 Lourey

H.F. 1889 Wilkin

TITLE: Children and Family Services Policy Bill

This proposal has no fiscal implications but is substantive policy change and clarification. The policy changes are relatively non controversial, yet important to children, families and program services delivery. Many provisions were heard and approved by the House of Representatives in 2004 but did not meet Senate deadline.

Article 1 Child Welfare: Alternative Response

- Integrates a new approach for dealing with less serious cases that works with families to develop or restore a safe and nurturing home environment for the child. It preserves the investigative approach in existing law for more serious cases. An assessment and supports approach will be used for families in the child protection system that has less serious problems. In 2000, 20 Minnesota counties began a pilot project that provided workers the flexibility to offer a broad range of supportive services to families reported to the child protection system in cases where children were not in imminent danger. The project, called Alternative Response, was so successful that all 87 counties voluntarily implemented it as of January 2004.
- Clarifies the time frame for face to face contact with a child reported to be maltreated and with the child's primary care giver to five calendar days To assure the safety and well-being of children a timely contact with the child and care giver. This change aligns Minnesota with the clear and prompt timelines that are required under federal standards for initiating a response to a report of child maltreatment.
- Reduces the time frame to complete an investigation or family assessment from 90 days to 45 days and changes the time frame for creating protective services plans from 60 days to 30 days. This change assures that the intervention is applied at the point in time most likely to prevent subsequent maltreatment.

Article 2 – Child Welfare: Permanency

- Expands relative custody and adoption laws to include relatives gaining permanent legal custody of children under the order of a tribal court to participate in the relative custody program, minimize competing adoption proceedings in different court districts, bring the background check requirement for adoptive parents in line with foster care licensing

standards, clarify adoption record retention responsibilities and identify the families that are eligible for postadoption service grants.

- Amends juvenile court statutes to:
 - Achieve compliance with federal Title IV-E requirements for judicial determinations for reasonable efforts, agency responsibility, permanency planning and permanency hearings;
 - Clarify service and permanency requirements when a child is removed due to egregious harm;
 - Make the requirement for “compelling reasons” consistent throughout 260C;
 - Make review requirements consistent with juvenile court rules;
 - Change terms to be consistent with juvenile court rules and Title IV-E; and
 - Clarify requirements related to the agency’s duties to implement a case plan prior to adjudication and to the court’s authority to order the delivery of services under the plan once it is filed

- Brings state law into compliance with federal Title IV-E requirements for permanency hearings, allows a new disposition option called “trial home visit” that is allowable under federal law, clarifies the agency’s role and responsibilities for children ordered into long-term foster care, clarifies due process protections for the parent and child, makes consent to adoption irrevocable except as that is prohibited by ICWA and permits the Commissioner to identify and make an alternative adoptive placement without having to wait 12 months when the identified prospective adoptive home is not viable.

- Clarifies the requirements related to termination of parental rights, permits the court to order a trial home visit after a denial of a termination of rights petition when the child has been in placement 15 of the last 22 months and prohibits the agency from asking the court to order long-term foster care for a state ward until there have been exhaustive efforts to place the child for adoption for at least two years following termination.

Article 3 – Child Care

- Allows counties to have families fill out a streamlined Change Report Form rather than requiring a full re-determination if a family reports a change. A full re-determination of eligibility for child care will still be required every six months; however, a simplified process will be used when small changes occur during the interim;
- Expands the types of families who are included in the reallocation formula used to redistribute BSF funds among counties. The current formula includes families who are on the waiting list but does not include families whose cases have been closed due to a reduction in the county allocation. By modifying the reallocation formula to include these cases, funds could be redistributed more quickly to the counties with greatest need; and
- Revises current law to allow child care providers to be eligible for child care assistance for their own children during authorized activities.

Article 4 - Child Support

- Clarifies that the public authority can ask for location and asset information about program participants of third party contractors of employers, financial institutions, utility companies, etc. who hold, administer or distribute such information;
- Makes changes to the way other orders are considered in determining net income for guidelines support calculations;
- Improves and makes administrative the process for suspending and reinstating collection of child care child support amounts; and
- Changes current law to 12 months of consecutive payments, from 36 months, before the obligor may bring a motion to stop interest charging on overdue child support.

Article 5 - Family Supports

- Authorizes the use of up to 10% of Transitional Housing Program funding for more than 24 months in order to better serve long-term homeless currently assisted by transitional housing;
- Changes the housing with services statute to allow supportive housing participants, as defined in the Governor's Initiative to End Homelessness, to voluntarily register as housing with services participants;
- Allows registered supportive housing to contract to receive Group Residential Housing (GRH) payments so that eligible homeless adults will be able to use GRH to pay for permanent supportive housing and a GRH client to continue to receive a GRH service payment if relocating from a shelter to supportive housing;
- Continues allowing flexibility in the amount used per participant with Food Stamp Employment and Training (FSET) funds;
- Deletes obsolete language and uses more recent definitions of professionals qualified to determine a person's illness, injury or incapacity ; and
- Improves the MFIP Consolidated Fund formula by phasing-in an adjusted caseload factor that takes into consideration caseload difficulty.

Contact:

Anne Martineau 651-296-0310

1 Senator moves to amend the committee engrossment
2 (SCS0630CE1) of S.F. No. 630 as follows:

3 Page 1, line 16, strike "obligated" and insert "ordered"

4 Page 1, line 17, reinstate the stricken "maintenance or"

5 Page 9, line 6, delete "modified"

6 Page 20, delete lines 24 to 27, and insert:

7 "Subd. 2. [GROSS INCOME FOR DETERMINING CHILD SUPPORT.]

8 "Gross income for determining child support" means gross income
9 minus deductions for nonjoint children as allowed by section
10 518.717."

11 Page 21, line 18, delete "private school tuition,"

12 Page 22, delete lines 2 to 7, and insert:

13 "(1) the gross income of the parent calculated pursuant to
14 section 518.7123; plus

15 (2) the potential income of the parent, if any, as
16 determined in subdivision 19; minus

17 (3) spousal maintenance that any party has been ordered to
18 pay."

19 Page 22, delete lines 19 to 29

20 Page 22, line 30, delete "14" and insert "12"

21 Page 22, delete lines 34 to 36, and insert:

22 "Subd. 13. [OBLIGOR.] "Obligor" has the meaning provided
23 by section 518.54, subdivision 8."

24 Page 23, delete lines 1 to 6

25 Page 23, line 7, delete "16" and insert "14"

26 Page 23, line 9, delete "17" and insert "15"

27 Page 23, line 13, after the period, insert "For purposes of
28 section 518.722, the percentage of parenting time may be
29 calculated by calculating the number of overnights that a child
30 spends with a parent, or by using a method other than overnights
31 as the parent has significant time periods where the child is in
32 the parent's physical custody, but does not stay overnight."

33 Page 23, line 14, delete "18" and insert "16"

34 Page 23, line 21, delete "19" and insert "17"

35 Page 23, line 23, before "unemployed" insert "voluntarily"
36 and before "employed" insert "underemployed, or"

1 Page 24, delete lines 6 to 8, and insert:

2 "(c) A parent is not considered voluntarily unemployed or
3 underemployed upon a showing by the parent that:

4 (1) unemployment or underemployment is temporary and will
5 ultimately lead to an increase in income;

6 (2) the unemployment or underemployment represents a bona
7 fide career change that outweighs the adverse effect of that
8 parent's diminished income on the child; or

9 (3) the parent is unable to work full-time due to a
10 verified disability or due to incarceration."

11 Page 24, delete lines 17 to 21, and insert:

12 "(f) If a parent stays at home to care for a child who is
13 subject to the child support order, the court may consider the
14 following factors when determining whether the parent is
15 voluntarily unemployed or underemployed:

16 (1) the parties parenting and child care arrangements
17 before the child support action;

18 (2) the stay-at-home parent's employment history, recency
19 of employment, earnings, and the availability of jobs within the
20 community for an individuals with the parent's qualifications;

21 (3) the relationship between the employment-related
22 expenses, including, but not limited to, child care and
23 transportation costs required for the parent to be employed, and
24 the income the stay-at-home parent could receive from available
25 jobs within the community for an individual with the parent's
26 qualifications;

27 (4) the child's age and health, including whether the child
28 is physically or mentally disabled; and

29 (5) the availability of child care providers."

30 Page 24, line 22, delete "20" and insert "18"

31 Page 24, line 26, delete "21" and insert "19"

32 Page 24, line 30, delete "22" and insert "20"

33 Page 24, line 36, delete "23" and insert "21"

34 Page 25, delete lines 3 to 12, and insert:

35 "Subd. 22. [SPOUSAL MAINTENANCE.] "Spousal maintenance"

36 has the definition as provided in section 518.54, subdivision 3,

1 and includes the amount of any preexisting or concurrently
2 entered court ordered spousal maintenance."

3 Page 25, line 13, delete "25" and insert "23"

4 Page 25, line 28, delete "26" and insert "24"

5 Page 25, line 33, before "GROSS" insert "CALCULATION OF"

6 Page 26, line 4, delete "and alimony" and insert "alimony,
7 spousal maintenance payments, income from self-employment or
8 operation of a business, as determined under section 518.7125.
9 All salary, wages, commissions, or other compensation paid by
10 third parties shall be based upon Medicare gross income. No
11 deductions shall be allowed for contributions to pensions,
12 401-K, IRA, or other deferred compensation."

13 Page 26, delete line 5

14 Page 26, delete lines 32 to 36

15 Page 27, line 1, delete "(f)" and insert "(e)"

16 Page 27, line 5, delete "(g)" and insert "(f)"

17 Page 27, line 26, delete "518.726" and insert "518.712,
18 subdivision 9"

19 Page 27, delete lines 27 and 28

20 Page 27, line 29, delete "(3)" and insert "(2)" and delete "adjusted" and after "income" insert "for determining child
21 support"

23 Page 27, line 31, delete "modified"

24 Page 27, line 33, delete "(4)" and insert "(3)"

25 Page 28, line 1, delete "(5)" and insert "(4)"

26 Page 28, line 3, delete "(6)" and insert "(5)"

27 Page 28, line 6, delete "(7)" and insert "(6)" and delete
28 "time credit" and insert "expense adjustment"

29 Page 28, line 9, delete "(8)" and insert "(7)"

30 Page 28, line 11, delete "(9)" and insert "(8)"

31 Page 28, line 13, delete "(10)" and insert "(9)"

32 Page 28, line 17, delete "(11)" and insert "(10)"

33 Page 28, line 22, delete "(12)" and insert "(11)"

34 Page 28, line 25, delete "(13)" and insert "(12)"

35 Page 28, line 27, delete "(14)" and insert "(13)"

36 Page 28, line 32, delete "(15)" and insert "(14)"

1 Page 28, line 33, after "pay" insert "or the minimum
2 support obligation"

3 Page 28, line 35, delete "(16)" and insert "(15)"

4 Page 29, delete line 21, and insert:

5 "(2) the extraordinary financial needs and resources,"

6 Page 29, line 29, delete "and"

7 Page 29, line 30, before "needs" insert "extraordinary" and
8 before the period, insert "; and

9 (7) the obligor's total payments for court-ordered child
10 support exceed the limitations set forth in section 571.922"

11 Page 31, line 14, delete "modified"

12 Page 32, line 4, delete "or" and insert "for"

13 Page 32, line 6, delete "modified"

14 Page 32, line 8, after the period, insert "If the number of
15 nonjoint children to be used for the determination is greater
16 than two, the determination shall be made using the number two
17 instead of the greater number."

18 Page 37, delete lines 14 to 22, and insert:

19 "(2) if the joint child is receiving any form of medical
20 assistance under chapter 256B or MinnesotaCare under chapter
21 256L, the parent with whom the joint child does not reside shall
22 contribute a monthly amount toward the actual cost of medical
23 assistance under chapter 256B or MinnesotaCare under chapter
24 256L. The amount of the contribution of the noncustodial parent
25 is the amount the custodial parent would pay for the child's
26 premiums if the custodial parent's income meets the eligibility
27 requirements for public coverage. For purposes of determining
28 the premium amount, a custodial parent's household size is equal
29 to the parent plus the child who is the subject of the child
30 support order. The court may order the parent with whom the
31 child resides to apply for public coverage for the child."

32 Page 37, line 23, delete everything after "(g)"

33 Page 37, delete lines 24 to 29

34 Page 49, line 32, delete "12 years old or younger"

35 Page 51, delete lines 7 to 11

36 Pages 51 to 53, delete section 25

1 Page 53, line 4, delete "TIME CREDIT" and insert "EXPENSE
2 ADJUSTMENT"

3 Page 53, delete lines 5 to 7, and insert:

4 "(a) This section shall apply when the amount of parenting
5 time granted to an obligor is ten percent or greater. Every
6 child support order shall specify the total percent of parenting
7 time granted to each parent."

8 Page 53, lines 8 and 9, delete "time credit" and insert
9 "expense adjustment"

10 Page 53, line 15, delete "18" and insert "12"

11 Page 53, lines 19 and 20, delete "time credit" and insert
12 "expense adjustment"

13 Page 53, lines 21 and 23, delete "time credit" and insert
14 "expense adjustment"

15 Page 53, line 29, delete "the amount"

16 Page 53, line 30, delete "of" and delete everything after
17 "support"

18 Page 53, line 31, delete everything before the comma

19 Page 53, after line 31, insert:

20 "(1) multiply the combined basic support by 1.5;"

21 Page 53, line 32, delete "(1) after" and insert "(2)
22 prorate"

23 Page 53, line 35, delete "(2)" and insert "(3)"

24 Page 53, line 36, delete "time credit" and insert "expense
25 adjustment"

26 Page 54, line 2, delete "time credit" and insert "expense
27 adjustment"

28 Page 54, delete section 27

29 Page 54, delete lines 27 to 31, and insert:

30 "(1) calculate the obligor's income available for support
31 by subtracting a monthly self-support reserve equal to the
32 percent of the federal poverty guidelines used to determine the
33 MFIP transitional standard for one person from the obligor's
34 gross income;"

35 Page 54, line 34, delete "(13)" and insert "(15)"

36 Page 62, line 12, delete "of policy studies"

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 518.005, is
4 amended by adding a subdivision to read:

5 Subd. 6. [FILING FEE.] The initial pleading filed in all
6 proceedings for dissolution of marriage, legal separation, or
7 annulment or proceedings to establish child support obligations
8 shall be accompanied by a filing fee of \$..... The fee is in
9 addition to any other prescribed by law or rule.

10 Sec. 2. Minnesota Statutes 2004, section 518.54,
11 subdivision 7, is amended to read:

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

14 Sec. 3. Minnesota Statutes 2004, section 518.54,
15 subdivision 8, is amended to read:

16 Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to
17 pay ~~maintenance-or~~ child support. A person who is designated as
18 the sole physical custodian of a child is presumed not to be an
19 obligor for purposes of calculating current support ~~under~~
20 ~~section-518-551~~ unless the court makes specific written findings
21 to overcome this presumption. For purposes of ordering medical
22 support under section 518.719, a custodial parent may be an
23 obligor subject to a cost-of-living adjustment under section
24 518.641 and a payment agreement under section 518.553.

25 Sec. 4. Minnesota Statutes 2004, section 518.55,
26 subdivision 4, is amended to read:

27 Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public
28 authority or a party may request the district court to determine
29 a controlling order in situations in which more than one order
30 involving the same obligor and child exists. The court shall
31 presume that the latest order that involves the same obligor and
32 joint child is controlling, subject to contrary proof.

33 Sec. 5. Minnesota Statutes 2004, section 518.551,
34 subdivision 5, is amended to read:

35 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] {a} The
36 petitioner shall notify the public authority of all proceedings

1 for dissolution, legal separation, determination of parentage or
 2 for the custody of a child, if either party is receiving public
 3 assistance or applies for it subsequent to the commencement of
 4 the proceeding. The notice must contain the full names of the
 5 parties to the proceeding, their Social Security account
 6 numbers, and their birth dates. After receipt of the notice,
 7 the court shall set child support as provided in ~~this~~
 8 ~~subdivision~~ section 518.725. The court may order either or both
 9 parents owing a duty of support to a child of the marriage to
 10 pay an amount reasonable or necessary for the child's support,
 11 without regard to marital misconduct. The court shall approve a
 12 child support stipulation of the parties if each party is
 13 represented by independent counsel, unless the stipulation does
 14 not meet the conditions of paragraph ~~(i)~~ (b). In other cases
 15 the court shall determine and order child support in a specific
 16 dollar amount in accordance with the guidelines and the other
 17 factors set forth in ~~paragraph-(e)~~ section 518.714 and any
 18 departure therefrom. The court may also order the obligor to
 19 pay child support in the form of a percentage share of the
 20 obligor's net bonuses, commissions, or other forms of
 21 compensation, in addition to, or if the obligor receives no base
 22 pay, in lieu of, an order for a specific dollar amount.

23 ~~(b)-The-court-shall-derive-a-specific-dollar-amount-for~~
 24 ~~child-support-by-multiplying-the-obligor's-net-income-by-the~~
 25 ~~percentage-indicated-by-the-following-guidelines:~~

26 ~~Net-Income-Per-----Number-of-Children-~~
 27 ~~Month-of-Obligor-~~
 28 ~~-----1-----2-----3-----4-----5-----6-----7-or-~~
 29 ~~-----more-~~

30 ~~\$550-and-Below-----Order-based-on-the-ability-of-the-~~
 31 ~~-----obligor-to-provide-support--~~
 32 ~~-----at-these-income-levels,-or-at-higher--~~
 33 ~~-----levels,-if-the-obligor-has-~~
 34 ~~-----the-earning-ability--~~

35 ~~\$551---600---16%---19%---22%---25%---28%---30%---32%--~~
 36 ~~\$601---650---17%---21%---24%---27%---29%---32%---34%--~~

1	\$651	---	700	---	10%	---	22%	---	25%	---	28%	---	31%	---	34%	---	36%
2	\$701	---	750	---	19%	---	23%	---	27%	---	30%	---	33%	---	36%	---	38%
3	\$751	---	800	---	20%	---	24%	---	28%	---	31%	---	35%	---	38%	---	40%
4	\$801	---	850	---	21%	---	25%	---	29%	---	33%	---	36%	---	40%	---	42%
5	\$851	---	900	---	22%	---	27%	---	31%	---	34%	---	38%	---	41%	---	44%
6	\$901	---	950	---	23%	---	28%	---	32%	---	36%	---	40%	---	43%	---	46%
7	\$951	---	1000	---	24%	---	29%	---	34%	---	38%	---	41%	---	45%	---	48%
8	\$1001	---	5000	---	25%	---	30%	---	35%	---	39%	---	43%	---	47%	---	50%

9 or-the-amount-

10 in-effect-under

11 paragraph-(k)

12 Guidelines-for-support-for-an-obligor-with-a-monthly-income
 13 in-excess-of-the-income-limit-currently-in-effect-under
 14 paragraph-(k)-shall-be-the-same-dollar-amounts-as-provided-for
 15 in-the-guidelines-for-an-obligor-with-a-monthly-income-equal-to
 16 the-limit-in-effect.

17 Net-Income-defined-as:-

18 -----

19 -----Total-monthly-

20 -----income-less-----*(i)-Federal-Income-Tax-

21 -----*(ii)-State-Income-Tax-

22 -----(iii)-Social-Security

23 -----Deductions-

24 -----(iv)-Reasonable

25 -----Pension-Deductions

26 -----*Standard-

27 -----Deductions-apply------(v)-Union-Dues-

28 -----use-of-tax-tables------(vi)-Cost-of-Dependent-Health

29 -----recommended-----Insurance-Coverage--

30 -----(vii)-Cost-of-Individual-or-Group

31 -----Health/Hospitalization

32 -----Coverage-or-an-----

33 -----Amount-for-Actual-

34 -----Medical-Expenses---

35 -----(viii)-A-Child-Support-or--

36 -----Maintenance-Order-that-is

1 -----Currently-Being-Paid--
2 "Net-income"-does-not-include:
3 (1)-the-income-of-the-obligor's-spouse,-but-does-include
4 in-kind-payments-received-by-the-obligor-in-the-course-of
5 employment,-self-employment,-or-operation-of-a-business-if-the
6 payments-reduce-the-obligor's-living-expenses,-or
7 (2)-compensation-received-by-a-party-for-employment-in
8 excess-of-a-40-hour-work-week,-provided-that:
9 (i)-support-is-nonetheless-ordered-in-an-amount-at-least
10 equal-to-the-guidelines-amount-based-on-income-not-excluded
11 under-this-clause,-and
12 (ii)-the-party-demonstrates,-and-the-court-finds,-that:
13 (A)-the-excess-employment-began-after-the-filing-of-the
14 petition-for-dissolution,-
15 (B)-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 (C)-the-excess-employment-is-voluntary-and-not-a-condition
19 of-employment,-
20 (D)-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 (E)-the-party's-compensation-structure-has-not-been-changed
24 for-the-purpose-of-affecting-a-support-or-maintenance-obligation.
25 The-court-shall-review-the-work-related-and
26 education-related-child-care-costs-paid-and-shall-allocate-the
27 costs-to-each-parent-in-proportion-to-each-parent's-net-income,-
28 as-determined-under-this-subdivision,-after-the-transfer-of
29 child-support-and-spousal-maintenance,-unless-the-allocation
30 would-be-substantially-unfair-to-either-parent.--There-is-a
31 presumption-of-substantial-unfairness-if-after-the-sum-total-of
32 child-support,-spousal-maintenance,-and-child-care-costs-is
33 subtracted-from-the-obligor's-income,-the-income-is-at-or-below
34 100-percent-of-the-federal-poverty-guidelines.--The-cost-of
35 child-care-for-purposes-of-this-paragraph-is-75-percent-of-the
36 actual-cost-paid-for-child-care,-to-reflect-the-approximate

1 value-of-state-and-federal-tax-credits-available-to-the
2 obligee.--The-actual-cost-paid-for-child-care-is-the-total
3 amount-received-by-the-child-care-provider-for-the-child-or
4 children-of-the-obligor-from-the-obligee-or-any-public-agency.
5 The-court-shall-require-verification-of-employment-or-school
6 attendance-and-documentation-of-child-care-expenses-from-the
7 obligee-and-the-public-agency,-if-applicable.--If-child-care
8 expenses-fluctuate-during-the-year-because-of-seasonal
9 employment-or-school-attendance-of-the-obligee-or-extended
10 periods-of-parenting-time-with-the-obligor,-the-court-shall
11 determine-child-care-expenses-based-on-an-average-monthly-cost.
12 The-amount-allocated-for-child-care-expenses-is-considered-child
13 support-but-is-not-subject-to-a-cost-of-living-adjustment-under
14 section-518-641.--The-amount-allocated-for-child-care-expenses
15 terminates-when-either-party-notifies-the-public-authority-that
16 the-child-care-costs-have-ended-and-without-any-legal-action-on
17 the-part-of-either-party.--The-public-authority-shall-verify-the
18 information-received-under-this-provision-before-authorizing
19 termination.--The-termination-is-effective-as-of-the-date-of-the
20 notification.--In-other-cases-where-there-is-a-substantial
21 increase-or-decrease-in-child-care-expenses,-the-parties-may
22 modify-the-order-under-section-518-64.

23 The-court-may-allow-the-obligor-parent-to-care-for-the
24 child-while-the-obligee-parent-is-working,-as-provided-in
25 section-518-175,-subdivision-8,-but-this-is-not-a-reason-to
26 deviate-from-the-guidelines.

27 (c)-In-addition-to-the-child-support-guidelines,-the-court
28 shall-take-into-consideration-the-following-factors-in-setting
29 or-modifying-child-support-or-in-determining-whether-to-deviate
30 from-the-guidelines:

31 (1)-all-earnings,-income,-and-resources-of-the-parents,
32 including-real-and-personal-property,-but-excluding-income-from
33 excess-employment-of-the-obligor-or-obligee-that-meets-the
34 criteria-of-paragraph-(b),-clause-(2)(ii);

35 (2)-the-financial-needs-and-resources,-physical-and
36 emotional-condition,-and-educational-needs-of-the-child-or

1 children-to-be-supported;

2 (3)-the-standard-of-living-the-child-would-have-enjoyed-had
3 the-marriage-not-been-dissolved,-but-recognizing-that-the
4 parents-now-have-separate-households;

5 (4)-which-parent-receives-the-income-taxation-dependency
6 exemption-and-what-financial-benefit-the-parent-receives-from
7 it;

8 (5)-the-parents'-debts-as-provided-in-paragraph-(d);-and

9 (6)-the-obligor's-receipt-of-public-assistance-under-the
10 AFDC-program-formerly-codified-under-sections-256.72-to-256.82
11 or-256B.01-to-256B.40-and-chapter-256J-or-256K.

12 (d)-In-establishing-or-modifying-a-support-obligation,-the
13 court-may-consider-debts-owed-to-private-creditors,-but-only-if:

14 (1)-the-right-to-support-has-not-been-assigned-under
15 section-256.741;

16 (2)-the-court-determines-that-the-debt-was-reasonably
17 incurred-for-necessary-support-of-the-child-or-parent-or-for-the
18 necessary-generation-of-income.--If-the-debt-was-incurred-for
19 the-necessary-generation-of-income,-the-court-shall-consider
20 only-the-amount-of-debt-that-is-essential-to-the-continuing
21 generation-of-income;-and

22 (3)-the-party-requesting-a-departure-produces-a-sworn
23 schedule-of-the-debts,-with-supporting-documentation,-showing
24 goods-or-services-purchased,-the-recipient-of-them,-the-amount
25 of-the-original-debt,-the-outstanding-balance,-the-monthly
26 payment,-and-the-number-of-months-until-the-debt-will-be-fully
27 paid.

28 (e)-Any-schedule-prepared-under-paragraph-(d),-clause-(3);
29 shall-contain-a-statement-that-the-debt-will-be-fully-paid-after
30 the-number-of-months-shown-in-the-schedule,-barring-emergencies
31 beyond-the-party's-control.

32 (f)-Any-further-departure-below-the-guidelines-that-is
33 based-on-a-consideration-of-debts-owed-to-private-creditors
34 shall-not-exceed-18-months-in-duration,-after-which-the-support
35 shall-increase-automatically-to-the-level-ordered-by-the-court.
36 Nothing-in-this-section-shall-be-construed-to-prohibit-one-or

1 more-step-increases-in-support-to-reflect-debt-retirement-during
2 the-18-month-period-

3 (g)-If-payment-of-debt-is-ordered-pursuant-to-this-section,
4 the-payment-shall-be-ordered-to-be-in-the-nature-of-child
5 support-

6 (h)-Nothing-shall-preclude-the-court-from-receiving
7 evidence-on-the-above-factors-to-determine-if-the-guidelines
8 should-be-exceeded-or-modified-in-a-particular-case-

9 (i)-The-guidelines-in-this-subdivision-are-a-rebuttable
10 presumption-and-shall-be-used-in-all-cases-when-establishing-or
11 modifying-child-support---If-the-court-does-not-deviate-from-the
12 guidelines, the-court-shall-make-written-findings-concerning-the
13 amount-of-the-obligor's-income-used-as-the-basis-for-the
14 guidelines-calculation-and-any-other-significant-evidentiary
15 factors-affecting-the-determination-of-child-support---If-the
16 court-deviates-from-the-guidelines, the-court-shall-make-written
17 findings-giving-the-amount-of-support-calculated-under-the
18 guidelines, the-reasons-for-the-deviation, and-shall
19 specifically-address-the-criteria-in-paragraph-(e)-and-how-the
20 deviation-serves-the-best-interest-of-the-child---The-court-may
21 deviate-from-the-guidelines-if-both-parties-agree-and-the-court
22 makes-written-findings-that-it-is-in-the-best-interests-of-the
23 child, except-that-in-cases-where-child-support-payments-are
24 assigned-to-the-public-agency-under-section-256.741, the-court
25 may-deviate-downward-only-as-provided-in-paragraph-(j)---Nothing
26 in-this-paragraph-prohibits-the-court-from-deviating-in-other
27 cases---The-provisions-of-this-paragraph-apply-whether-or-not
28 the-parties-are-each-represented-by-independent-counsel-and-have
29 entered-into-a-written-agreement---The-court-shall-review
30 stipulations-presented-to-it-for-conformity-to-the-guidelines
31 and-the-court-is-not-required-to-conduct-a-hearing, but-the
32 parties-shall-provide-the-documentation-of-earnings-required
33 under-subdivision-5b-

34 (j)---If-the-child-support-payments-are-assigned-to-the
35 public-agency-under-section-256.741, the-court-may-not-deviate
36 downward-from-the-child-support-guidelines-unless-the-court

1 specifically-finds-that-the-failure-to-deviate-downward-would
2 impose-an-extreme-hardship-on-the-obligor-

3 (k)--The-dollar-amount-of-the-income-limit-for-application
4 of-the-guidelines-must-be-adjusted-on-July-1-of-every
5 even-numbered-year-to-reflect-cost-of-living-changes.--The
6 Supreme-Court-shall-select-the-index-for-the-adjustment-from-the
7 indices-listed-in-section-518.641.--The-state-court
8 administrator-shall-make-the-changes-in-the-dollar-amount
9 required-by-this-paragraph-available-to-courts-and-the-public-on
10 or-before-April-30-of-the-year-in-which-the-amount-is-to-change-

11 (l)--In-establishing-or-modifying-child-support,-if-a-child
12 receives-a-child's-insurance-benefit-under-United-States-Code,
13 title-42,-section-402,-because-the-obligor-is-entitled-to-old
14 age-or-disability-insurance-benefits,-the-amount-of-support
15 ordered-shall-be-offset-by-the-amount-of-the-child's-benefit.
16 The-court-shall-make-findings-regarding-the-obligor's-income
17 from-all-sources,-the-child-support-amount-calculated-under-this
18 section,-the-amount-of-the-child's-benefit,-and-the-obligor's
19 child-support-obligation.--Any-benefit-received-by-the-child-in
20 a-given-month-in-excess-of-the-child-support-obligation-shall
21 not-be-treated-as-an-arrearage-payment-or-a-future-payment-

22 Sec. 6. Minnesota Statutes 2004, section 518.551,
23 subdivision 5b, is amended to read:

24 Subd. 5b. [DETERMINATION OF INCOME.] (a) The-parties-shall
25 timely-serve-and-file-documentation-of-earnings-and-income.--When
26 there-is-a-prehearing-conference,-the-court-must-receive-the
27 documentation-of-income-at-least-ten-days-prior-to-the
28 prehearing-conference.--Documentation-of-earnings-and-income
29 also-includes,-but-is-not-limited-to,-pay-stubs-for-the-most
30 recent-three-months,-employer-statements,-or-statement-of
31 receipts-and-expenses-if-self-employed.--Documentation-of
32 earnings-and-income-also-includes-copies-of-each-parent's-most
33 recent-federal-tax-returns,-including-W-2-forms,-1099-forms,
34 unemployment-benefits-statements,-workers'-compensation
35 statements,-and-all-other-documents-evidencing-income-as
36 received-that-provide-verification-of-income-over-a-longer

1 peried In any case where the parties have joint children for
2 which a child support order must be determined, the parties
3 shall serve and file with their initial pleadings or motion
4 documents, a financial affidavit, disclosing all sources of
5 gross income and other information sufficient to calculate
6 modified gross income and adjusted gross income. The financial
7 affidavit shall include supporting documentation for all
8 adjusted gross income, including, but not limited to, pay stubs
9 for the most recent three months, employer statements, or
10 statements of receipts and expenses if self-employed.
11 Documentation of earnings and income also include copies of each
12 parent's most recent federal tax returns, including W-2 forms,
13 1099 forms, unemployment benefit statements, workers'
14 compensation statements, and all other documents evidencing
15 earnings or income as received that provide verification for the
16 financial affidavit.

17 (b) In addition to the requirements of paragraph (a), at
18 any time after an action seeking child support has been
19 commenced or when a child support order is in effect, a party or
20 the public authority may require the other party to give them a
21 copy of the party's most recent federal tax returns that were
22 filed with the Internal Revenue Service. The party shall
23 provide a copy of the tax returns within 30 days of receipt of
24 the request unless the request is not made in good faith. A
25 request under this paragraph may not be made more than once
26 every two years, in the absence of good cause.

27 (c) If a parent under the jurisdiction of the court does
28 ~~not appear-at-a-court-hearing-after-proper-notice-of-the-time~~
29 ~~and-place-of-the-hearing~~ serve and file the financial affidavit
30 with the parent's initial pleading, the court shall set income
31 for that parent based on credible evidence before the court or
32 in accordance with ~~paragraph-(d)~~ section 518.712, subdivision 19.
33 Credible evidence may include documentation of current or recent
34 income, testimony of the other parent concerning recent earnings
35 and income levels, and the parent's wage reports filed with the
36 Minnesota Department of Employment and Economic Development

1 under section 268.044.

2 ~~(d)-If-the-court-finds-that-a-parent-is-voluntarily~~
3 ~~unemployed-or-underemployed-or-was-voluntarily-unemployed-or~~
4 ~~underemployed-during-the-period-for-which-past-support-is-being~~
5 ~~sought,-support-shall-be-calculated-based-on-a-determination-of~~
6 ~~imputed-income.--A-parent-is-not-considered-voluntarily~~
7 ~~unemployed-or-underemployed-upon-a-showing-by-the-parent-that~~
8 ~~the-unemployment-or-underemployment:--(1)-is-temporary-and-will~~
9 ~~ultimately-lead-to-an-increase-in-income,-or-(2)-represents-a~~
10 ~~bona-fide-career-change-that-outweighs-the-adverse-effect-of~~
11 ~~that-parent's-diminished-income-on-the-child.--Imputed-income~~
12 ~~means-the-estimated-earning-ability-of-a-parent-based-on-the~~
13 ~~parent's-prior-earnings-history,-education,-and-job-skills,-and~~
14 ~~on-availability-of-jobs-within-the-community-for-an-individual~~
15 ~~with-the-parent's-qualifications.~~

16 ~~(e)-If-there-is-insufficient-information-to-determine~~
17 ~~actual-income-or-to-impute-income-pursuant-to-paragraph-(d),-the~~
18 ~~court-may-calculate-support-based-on-full-time-employment-of-40~~
19 ~~hours-per-week-at-150-percent-of-the-federal-minimum-wage-or-the~~
20 ~~Minnesota-minimum-wage,-whichever-is-higher.--If-a-parent-is-a~~
21 ~~recipient-of-public-assistance-under-section-256.741,-or-is~~
22 ~~physically-or-mentally-incapacitated,-it-shall-be-presumed-that~~
23 ~~the-parent-is-not-voluntarily-unemployed-or-underemployed.~~

24 ~~(f)-Income-from-self-employment-is-equal-to-gross-receipts~~
25 ~~minus-ordinary-and-necessary-expenses.--Ordinary-and-necessary~~
26 ~~expenses-do-not-include-amounts-allowed-by-the-Internal-Revenue~~
27 ~~Service-for-accelerated-depreciation-expenses-or-investment-tax~~
28 ~~credits-or-any-other-business-expenses-determined-by-the-court~~
29 ~~to-be-inappropriate-for-determining-income-for-purposes-of-child~~
30 ~~support.--The-person-seeking-to-deduct-an-expense,-including~~
31 ~~depreciation,-has-the-burden-of-proving,-if-challenged,-that-the~~
32 ~~expense-is-ordinary-and-necessary.--Net-income-under-this~~
33 ~~section-may-be-different-from-taxable-income.~~

34 Sec. 7. [518.6197] [CHILD SUPPORT DEBT/ARREARAGE
35 MANAGEMENT.]

36 In order to reduce and otherwise manage support debts and

1 arrearrages, the parties, including the public authority where
2 arrearrages have been assigned to the public authority, may
3 compromise unpaid support debts or arrearrages owed by one party
4 to another, whether or not docketed as a judgment. A party may
5 agree or disagree to compromise only those debts or arrearrages
6 owed to that party.

7 Sec. 8. Minnesota Statutes 2004, section 518.62, is
8 amended to read:

9 518.62 [TEMPORARY MAINTENANCE.]

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

20 Sec. 9. Minnesota Statutes 2004, section 518.64,
21 subdivision 2, is amended to read:

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

1 existing work-related or education-related child care expenses;
 2 (7) upon the emancipation of the child if there is still a child
 3 under the order. A child support obligation for two or more
 4 children that is not a support obligation in a specific amount
 5 per child continues in the full amount until modified or until
 6 the emancipation of the last child that the order was made.

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

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

15 (1) the application of the child support guidelines in
 16 section 518.551, subdivision 5, to the current circumstances of
 17 the parties results in a calculated court order that is at least
 18 20 percent and at least \$50 ~~\$75~~ per month higher or lower than
 19 the current support order;

20 (2) the medical support provisions of the order established
 21 under section ~~518.171~~ 518.719 are not enforceable by the public
 22 authority or the obligee;

23 (3) health coverage ordered under section ~~518.171~~ 518.719
 24 is not available to the child for whom the order is established
 25 by the parent ordered to provide; or

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

28 (c) A child support order is not presumptively modifiable
 29 solely because an obligor or obligee becomes responsible for the
 30 support of an additional nonjoint child, which is born after an
 31 existing order.

32 (d) On a motion for modification of maintenance, including
 33 a motion for the extension of the duration of a maintenance
 34 award, the court shall apply, in addition to all other relevant
 35 factors, the factors for an award of maintenance under section
 36 518.552 that exist at the time of the motion. On a motion for

1 modification of support, the court:

2 (1) shall apply section ~~518:5517-subdivision-5~~ 518.725, and
3 shall not consider the financial circumstances of each party's
4 spouse, if any; and

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

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

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

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

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

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

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

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

34 ~~(1) the party seeking modification was precluded from~~
35 ~~servng a motion by reason of a significant physical or mental~~
36 ~~disability, a material misrepresentation of another party, or~~

1 fraud-upon-the-court-and-that-the-party-seeking-modification,
2 when-no-longer-precluded,-promptly-served-a-motion,

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

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

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

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

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

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

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

3 (i) An enactment, amendment, or repeal of law does not
4 constitute a substantial change in the circumstances for
5 purposes of modifying a child support order.

6 (j) There may be no modification of an existing child
7 support order during the first year following the effective date
8 of sections 518.711 to 518.729 except as follows:

9 (1) there is at least a 20 percent change in the gross
10 income of the obligor;

11 (2) there is a change in the number of joint children for
12 whom the obligor is legally responsible and actually supporting;

13 (3) the child supported by the existing child support order
14 becomes disabled; or

15 (4) both parents consent to modification of the existing
16 order in compliance with the new income shares guidelines.

17 (k) On the first modification under the income shares
18 method of calculation, the modification of basic support may be
19 limited if the amount of the full variance would create hardship
20 for either the obligor or the obligee.

21 Paragraph (j) expires January 1, 2008.

22 Sec. 10. Minnesota Statutes 2004, section 518.64, is
23 amended by adding a subdivision to read:

24 Subd. 7. [CHILD CARE EXCEPTION.] The court may provide
25 that a reduction in the amount allocated for child care expenses
26 based on a substantial decrease in the expenses is effective as
27 of the date the expense is decreased.

28 Sec. 11. Minnesota Statutes 2004, section 518.64, is
29 amended by adding a subdivision to read:

30 Subd. 8. [CHILD SUPPORT DEBT AND ARREARAGE
31 MANAGEMENT.] The parties, including the public authority, may
32 compromise child support debt or arrearages owed by one party to
33 another, whether or not reduced to judgment, upon agreement of
34 the parties involved.

35 Sec. 12. Minnesota Statutes 2004, section 518.68,
36 subdivision 2, is amended to read:

1 Subd. 2. [CONTENTS.] The required notices must be
2 substantially as follows:

3 IMPORTANT NOTICE

4 1. PAYMENTS TO PUBLIC AGENCY

5 According to Minnesota Statutes, section 518.551,
6 subdivision 1, payments ordered for maintenance and support
7 must be paid to the public agency responsible for child
8 support enforcement as long as the person entitled to
9 receive the payments is receiving or has applied for public
10 assistance or has applied for support and maintenance
11 collection services. MAIL PAYMENTS TO:

12 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A
13 FELONY

14 A person may be charged with a felony who conceals a minor
15 child or takes, obtains, retains, or fails to return a
16 minor child from or to the child's parent (or person with
17 custodial or visitation rights), according to Minnesota
18 Statutes, section 609.26. A copy of that section is
19 available from any district court clerk.

20 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

21 A person who fails to pay court-ordered child support or
22 maintenance may be charged with a crime, which may include
23 misdemeanor, gross misdemeanor, or felony charges,
24 according to Minnesota Statutes, section 609.375. A copy
25 of that section is available from any district court clerk.

26 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

27 (a) Payment of support or spousal maintenance is to be as
28 ordered, and the giving of gifts or making purchases of
29 food, clothing, and the like will not fulfill the
30 obligation.

31 (b) Payment of support must be made as it becomes due, and
32 failure to secure or denial of parenting time is NOT an
33 excuse for nonpayment, but the aggrieved party must seek
34 relief through a proper motion filed with the court.

35 (c) Nonpayment of support is not grounds to deny parenting
36 time. The party entitled to receive support may apply for

1 support and collection services, file a contempt motion, or
2 obtain a judgment as provided in Minnesota Statutes,
3 section 548.091.

4 (d) The payment of support or spousal maintenance takes
5 priority over payment of debts and other obligations.

6 (e) A party who accepts additional obligations of support
7 does so with the full knowledge of the party's prior
8 obligation under this proceeding.

9 (f) Child support or maintenance is based on annual income,
10 and it is the responsibility of a person with seasonal
11 employment to budget income so that payments are made
12 throughout the year as ordered.

13 (g) If the obligor is laid off from employment or receives
14 a pay reduction, support may be reduced, but only if a
15 motion to reduce the support is served and filed with the
16 court. Any reduction will take effect only if ordered by
17 the court and may only relate back to the time that the
18 motion is filed. If a motion is not filed, the support
19 obligation will continue at the current level. The court
20 is not permitted to reduce support retroactively, except as
21 provided in Minnesota Statutes, section 518.64, subdivision
22 2, paragraph (c).

23 (h) Reasonable parenting time guidelines are contained in
24 Appendix B, which is available from the court administrator.

25 (i) The nonpayment of support may be enforced through the
26 denial of student grants; interception of state and federal
27 tax refunds; suspension of driver's, recreational, and
28 occupational licenses; referral to the department of
29 revenue or private collection agencies; seizure of assets,
30 including bank accounts and other assets held by financial
31 institutions; reporting to credit bureaus; interest
32 charging, income withholding, and contempt proceedings; and
33 other enforcement methods allowed by law.

34 (j) The public authority may suspend or resume collection
35 of the amount allocated for child care expenses if the
36 conditions of section 518.551, subdivision 5, paragraph

1 (b), are met.

2 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
3 SUBDIVISION 3

4 Unless otherwise provided by the Court:

5 (a) Each party has the right of access to, and to receive
6 copies of, school, medical, dental, religious training, and
7 other important records and information about the minor
8 children. Each party has the right of access to
9 information regarding health or dental insurance available
10 to the minor children. Presentation of a copy of this
11 order to the custodian of a record or other information
12 about the minor children constitutes sufficient
13 authorization for the release of the record or information
14 to the requesting party.

15 (b) Each party shall keep the other informed as to the name
16 and address of the school of attendance of the minor
17 children. Each party has the right to be informed by
18 school officials about the children's welfare, educational
19 progress and status, and to attend school and parent
20 teacher conferences. The school is not required to hold a
21 separate conference for each party.

22 (c) In case of an accident or serious illness of a minor
23 child, each party shall notify the other party of the
24 accident or illness, and the name of the health care
25 provider and the place of treatment.

26 (d) Each party has the right of reasonable access and
27 telephone contact with the minor children.

28 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

29 Child support and/or spousal maintenance may be withheld
30 from income, with or without notice to the person obligated
31 to pay, when the conditions of Minnesota Statutes, section
32 518.6111 have been met. A copy of those sections is
33 available from any district court clerk.

34 7. CHANGE OF ADDRESS OR RESIDENCE

35 Unless otherwise ordered, each party shall notify the other
36 party, the court, and the public authority responsible for

1 collection, if applicable, of the following information
 2 within ten days of any change: the residential and mailing
 3 address, telephone number, driver's license number, Social
 4 Security number, and name, address, and telephone number of
 5 the employer.

6 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

7 Child support and/or spousal maintenance may be adjusted
 8 every two years based upon a change in the cost of living
 9 (using Department of Labor Consumer Price Index,
 10 unless otherwise specified in this order) when the
 11 conditions of Minnesota Statutes, section 518.641, are met.
 12 Cost of living increases are compounded. A copy of
 13 Minnesota Statutes, section 518.641, and forms necessary to
 14 request or contest a cost of living increase are available
 15 from any district court clerk.

16 9. JUDGMENTS FOR UNPAID SUPPORT

17 If a person fails to make a child support payment, the
 18 payment owed becomes a judgment against the person
 19 responsible to make the payment by operation of law on or
 20 after the date the payment is due, and the person entitled
 21 to receive the payment or the public agency may obtain
 22 entry and docketing of the judgment WITHOUT NOTICE to the
 23 person responsible to make the payment under Minnesota
 24 Statutes, section 548.091. Interest begins to accrue on a
 25 payment or installment of child support whenever the unpaid
 26 amount due is greater than the current support due,
 27 according to Minnesota Statutes, section 548.091,
 28 subdivision 1a.

29 10. JUDGMENTS FOR UNPAID MAINTENANCE

30 A judgment for unpaid spousal maintenance may be entered
 31 when the conditions of Minnesota Statutes, section 548.091,
 32 are met. A copy of that section is available from any
 33 district court clerk.

34 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
 35 SUPPORT

36 A judgment for attorney fees and other collection costs

1 incurred in enforcing a child support order will be entered
2 against the person responsible to pay support when the
3 conditions of section 518.14, subdivision 2, are met. A
4 copy of section 518.14 and forms necessary to request or
5 contest these attorney fees and collection costs are
6 available from any district court clerk.

7 12. PARENTING TIME EXPEDITOR PROCESS

8 On request of either party or on its own motion, the court
9 may appoint a parenting time expeditor to resolve parenting
10 time disputes under Minnesota Statutes, section 518.1751.
11 A copy of that section and a description of the expeditor
12 process is available from any district court clerk.

13 13. PARENTING TIME REMEDIES AND PENALTIES

14 Remedies and penalties for the wrongful denial of parenting
15 time are available under Minnesota Statutes, section
16 518.175, subdivision 6. These include compensatory
17 parenting time; civil penalties; bond requirements;
18 contempt; and reversal of custody. A copy of that
19 subdivision and forms for requesting relief are available
20 from any district court clerk.

21 Sec. 13. [518.712] [DEFINITIONS.]

22 Subdivision 1. [SCOPE.] The definitions in this section
23 apply to sections 518.712 to 518.753.

24 Subd. 2. [ADJUSTED GROSS INCOME.] "Adjusted gross income"
25 means modified gross income minus deductions for the nonjoint
26 child as allowed by section 518.717 and plus Social Security or
27 veterans' benefits as allowed by section 518.718.

28 Subd. 3. [APPORTIONED VETERANS' BENEFITS.] "Apportioned
29 veterans' benefits" means the amount the Veterans Administration
30 deducts from the veteran's award and disburses to the child or
31 the child's representative payee. The apportionment of
32 veterans' benefits shall be that determined by the Veterans
33 Administration and governed by 38 Code of Federal Regulations,
34 sections 3.450 to 3.458.

35 Subd. 4. [ARREARS.] "Arrears" are amounts that accrue
36 pursuant to an obligor's failure to comply with a support

1 order. Past support and pregnancy and confinement expenses
2 contained in a support order are arrears if the court order does
3 not contain repayment terms. Arrears also arise by the
4 obligor's failure to comply with the terms of a court order for
5 repayment of past support or pregnancy and confinement
6 expenses. An obligor's failure to comply with the terms for
7 repayment of amounts owed for past support or pregnancy and
8 confinement turns the entire amount owed into arrears.

9 Subd. 5. [BASIC SUPPORT.] "Basic support" means the
10 support obligation determined by applying the parent's adjusted
11 gross income, or if there are two parents, their combined
12 adjusted gross income, to the guideline in the manner set out in
13 section 518.725.

14 Basic support includes the dollar amount ordered for a
15 child's housing, food, clothing, transportation, and education
16 costs, and other expenses relating to the child's care. Basic
17 support does not include monetary contributions for a child's
18 private school tuition, child care expenses, and medical and
19 dental expenses.

20 Subd. 6. [CHILD.] "Child" means an individual under 18
21 years of age, an individual under age 20 who is still attending
22 secondary school, or an individual who, by reason of physical or
23 mental condition, is incapable of self-support.

24 Subd. 7. [CHILD SUPPORT.] "Child support or support money"
25 means an amount for basic support, child care support, and
26 medical support pursuant to:

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

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

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

33 Subd. 8. [DEPOSIT ACCOUNT.] "Deposit account" means funds
34 deposited with a financial institution in the form of a savings
35 account, checking account, NOW account, or demand deposit
36 account.

1 Subd. 9. [GROSS INCOME.] "Gross income" means:
 2 (1) the gross income of the parent calculated pursuant to
 3 section 518.7123;
 4 (2) the potential income of the parent as determined in
 5 subdivision 19; or
 6 (3) a combination of gross income and potential income as
 7 calculated under clauses (1) and (2).

8 Subd. 10. [IV-D CASE.] "IV-D case" means a case where a
 9 party assigns rights to child support to the state because the
 10 party receives public assistance, as defined in section 256.741,
 11 or applies for child support services under title IV-D of the
 12 Social Security Act, United States Code, title 42, section
 13 654(4).

14 Subd. 11. [JOINT CHILD.] "Joint child" means the dependent
 15 child who is the son or daughter of both parents in the support
 16 proceeding. In those cases where support is sought from only
 17 one parent of a child, a joint child is the child for whom
 18 support is sought.

19 Subd. 12. [LOW-INCOME ADJUSTMENT.] "Low-income adjustment"
 20 means the child support guideline amount appropriate for a
 21 low-income obligor under section 518.723, determined by applying
 22 the lesser of:

23 (1) the parents' pro rata share of the basic support
 24 obligation; or

25 (2) the support obligation determined by applying the
 26 parents' single modified gross income to the guideline in the
 27 manner set out in sections 518.725.

28 Subd. 13. [MODIFIED GROSS INCOME.] "Modified gross income"
 29 means gross income plus or minus court-ordered spousal support.

30 Subd. 14. [NONJOINT CHILD.] "Nonjoint child" means the
 31 legal child of one, but not both of the parents subject to this
 32 determination. Specifically excluded from this definition are
 33 stepchildren.

34 Subd. 15. [OBLIGOR.] "Obligor" means a person obligated to
 35 pay child support. A person who is designated as the sole
 36 physical custodian of a child is presumed not to be an obligor

1 for purposes of calculating current support unless the court
2 makes specific written findings to overcome this presumption.
3 For purposes of ordering or enforcing medical support under
4 section 518.719, a custodial parent may be an obligor subject to
5 a cost-of-living adjustment under section 518.641 and a payment
6 agreement under section 518.553.

7 Subd. 16. [OBLIGEE.] "Obligee" means a person to whom
8 payments for child support are owed.

9 Subd. 17. [PARENTING TIME.] "Parenting time" means the
10 amount of time a child is scheduled to spend with the parent
11 according to a court order. Parenting time includes time with
12 the child whether it is designated as visitation, physical
13 custody, or parenting time.

14 Subd. 18. [PAYOR OF FUNDS.] "Payor of funds" means a
15 person or entity that provides funds to an obligor, including an
16 employer as defined under chapter 24, section 3401(d), of the
17 Internal Revenue Code, an independent contractor, payor of
18 workers' compensation benefits or unemployment insurance
19 benefits, or a financial institution as defined in section
20 13B.06.

21 Subd. 19. [POTENTIAL INCOME.] "Potential income" is income
22 determined under this subdivision.

23 (a) If a parent is unemployed, employed on a less than a
24 full-time basis, or there is no direct evidence of any income,
25 child support shall be calculated based on a determination of
26 potential income. For purposes of this determination, it is
27 rebuttably presumed that a parent can be gainfully employed on a
28 full-time basis.

29 (b) Determination of potential income shall be made
30 according to one of three methods, as appropriate:

31 (1) the parent's probable earnings level based on
32 employment potential, recent work history, and occupational
33 qualifications in light of prevailing job opportunities and
34 earnings levels in the community; or

35 (2) if a parent is receiving unemployment compensation or
36 workers' compensation, that parent's income may be calculated

1 using the actual amount of the unemployment compensation or
2 workers' compensation benefit received; or

3 (3) the amount of income a parent could earn working
4 full-time at 150 percent of the current federal or state minimum
5 wage, whichever is higher.

6 (c) This presumption does not apply to a parent who is
7 unable to work full-time due to a verified disability or to an
8 incarcerated obligor.

9 (d) As used in this section, "full-time" means 40 hours of
10 work in a week except in those industries, trades, or
11 professions in which most employers due to custom, practice, or
12 agreement utilize a normal work week of more or less than 40
13 hours in a week.

14 (e) If the parent of a joint child is a recipient of a
15 temporary assistance to a needy family (TANF) cash grant, no
16 potential income shall be imputed to that parent.

17 (f) If the court determines that a parent is unemployed or
18 underemployed because it is necessary to provide child care for
19 a joint child, the court may reduce the amount of potential
20 income by the reasonable value of child care expenses that are
21 saved.

22 Subd. 20. [PRIMARY PHYSICAL CUSTODY.] The parent having
23 "primary physical custody" means the parent who provides the
24 primary residence for a child and is responsible for the
25 majority of the day-to-day decisions concerning a child.

26 Subd. 21. [PUBLIC AUTHORITY.] "Public authority" means the
27 local unit of government, acting on behalf of the state, that is
28 responsible for child support enforcement or the Department of
29 Human Services, Child Support Enforcement Division.

30 Subd. 22. [SOCIAL SECURITY BENEFITS.] "Social Security
31 benefits" means the monthly amount the Social Security
32 Administration pays to a joint child or the child's
33 representative payee due solely to the disability or retirement
34 of either parent. Benefits paid to a parent due to the
35 disability of a child are excluded from this definition.

36 Subd. 23. [SPLIT CUSTODY.] "Split custody" means that each

1 parent in a two-parent calculation has primary physical custody
2 of at least one of the joint children.

3 Subd. 24. [SPOUSAL MAINTENANCE.] The amount of any
4 preexisting or concurrently entered court-ordered spousal
5 maintenance shall be deducted from the gross income of the
6 parent obligated to pay the spousal support whether the spousal
7 support is to be paid to the other parent or any other person.
8 The amount of any preexisting or concurrently entered
9 court-ordered spousal maintenance 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. 14. [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
28 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 (g) Excluded and not counted as income is the income of the
6 obligor's spouse and the obligee's spouse.

7 Sec. 15. [518.7125] [INCOME FROM SELF-EMPLOYMENT OR
8 OPERATION OF A BUSINESS.]

9 For income from self-employment, rent, royalties,
10 proprietorship of a business, or joint ownership of a
11 partnership or closely held corporation, gross income is defined
12 as gross receipts minus costs of goods sold minus ordinary and
13 necessary expenses required for self-employment or business
14 operation. Specifically excluded from ordinary and necessary
15 expenses are amounts allowable by the Internal Revenue Service
16 for the accelerated component of depreciation expenses,
17 investment tax credits, or any other business expenses
18 determined by the court to be inappropriate or excessive for
19 determining gross income for purposes of calculating child
20 support.

21 Sec. 16. [518.713] [COMPUTATION OF INDIVIDUAL CHILD
22 SUPPORT OBLIGATIONS.]

23 To determine the presumptive amount of support owed by a
24 parent, follow the procedure set forth in this section:

25 (1) determine the gross income of each parent using the
26 definition in section 518.726;

27 (2) determine the modified gross income of each parent
28 using the definition in section 518.712, subdivision 13;

29 (3) determine the adjusted gross income of each parent, and
30 if there are two parents, the combined adjusted gross income by
31 subtracting from the modified gross income, the credit, if any,
32 for any nonjoint children under section 518.717;

33 (4) if there are two parents, determine the percentage
34 contribution of each parent to the combined adjusted gross
35 income by dividing the combined adjusted gross income into each
36 parent's adjusted gross income;

- 1 (5) determine the basic child support obligation by
2 application of the guideline in section 518.725;
- 3 (6) determine each parent's share of the basic child
4 support obligation by multiplying the percentage figure from
5 clause (4) by the basic child support obligation in clause (5);
- 6 (7) determine the parenting time credit if any and
7 determine the basic child support obligation of the parents as
8 provided in section 518.722;
- 9 (8) apply the low-income adjustment, if applicable, as
10 provided in section 518.723;
- 11 (9) determine the cost for each parent for child care costs
12 as allowed by section 518.72;
- 13 (10) determining the cost for each parent for medical
14 expenses and health care coverage as allowed by section
15 518.719. If costs are not equal each month, annual costs shall
16 be averaged to determine a monthly cost;
- 17 (11) calculate the total costs owed by each parent to the
18 other by applying the parent's percentage of income as
19 determined in clause (4) to the actual out-of-pocket medical
20 costs incurred by the other parent. Add these amounts to each
21 parent's child support obligation;
- 22 (12) calculate the total child support obligation of each
23 parent by adding for each parent, the basic child support
24 obligation from clause (7) and the total costs from clause (11);
- 25 (13) determine the net child support obligation by
26 subtracting the smaller of the obligations from the larger;
- 27 (14) if Social Security benefits or veterans' benefits are
28 received by the obligee as a representative payee for a joint
29 child due to the obligor's disability or retirement, subtract
30 the amount of benefits from the obligor's net child support
31 obligation, if any;
- 32 (15) determine the portion of the calculated child support
33 obligation the obligor has the ability to pay as provided in
34 section 518.724; and
- 35 (16) the final child support order shall separately
36 designate the amount owed for basic support, child care support,

1 and medical support.

2 Sec. 17. [518.7131] [TEMPORARY SUPPORT.]

3 Temporary support may be awarded as provided in section
4 518.131.

5 Sec. 18. [518.714] [DEVIATIONS FROM CHILD SUPPORT
6 GUIDELINES.]

7 Subdivision 1. [GENERAL FACTORS.] Among other reasons,
8 deviation from the presumptive guideline amount is intended to
9 encourage prompt and regular payments of child support and to
10 prevent either parent or the joint children from living in
11 poverty. In addition to the child support guidelines, the court
12 must take into consideration the following factors in setting or
13 modifying child support or in determining whether to deviate
14 upward or downward from the extraordinary or diminished
15 guidelines:

16 (1) all earnings, income circumstances, and resources of
17 each parent, including real and personal property, but excluding
18 income from excess employment of the obligor or obligee that
19 meets the criteria of section 518.7123, paragraph (b), clause
20 (2);

21 (2) the financial extraordinary needs and resources,
22 physical and emotional condition, and educational needs of the
23 child to be supported;

24 (3) the standard of living the child would enjoy if the
25 parents were currently living together, but recognizing that the
26 parents now have separate households;

27 (4) which parent receives the income taxation dependency
28 exemption and the financial benefit the parent receives from it;

29 (5) the parents' debts as provided in subdivision 2; and

30 (6) the number and needs of other dependents of a parent.

31 Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In
32 establishing or modifying a support obligation, the court may
33 consider debts owed to private creditors, but only if:

34 (1) the right to support has not been assigned under
35 section 256.741;

36 (2) the court determines that the debt was reasonably

1 incurred for necessary support of the child or parent or for the
2 necessary generation of income. If the debt was incurred for
3 the necessary generation of income, the court may consider only
4 the amount of debt that is essential to the continuing
5 generation of income; and

6 (3) the party requesting a departure produces a sworn
7 schedule of the debts, with supporting documentation, showing
8 goods or services purchased, the recipient of them, the original
9 debt amount, the outstanding balance, the monthly payment, and
10 the number of months until the debt will be fully paid.

11 (b) A schedule prepared under paragraph (a), clause (3),
12 must contain a statement that the debt will be fully paid after
13 the number of months shown in the schedule, barring emergencies
14 beyond the party's control.

15 (c) Any further departure below the guidelines that is
16 based on a consideration of debts owed to private creditors must
17 not exceed 18 months in duration. After 18 months the support
18 must increase automatically to the level ordered by the court.
19 This section does not prohibit one or more step increases in
20 support to reflect debt retirement during the 18-month period.

21 (d) If payment of debt is ordered pursuant to this section,
22 the payment must be ordered to be in the nature of child support.

23 Subd. 3. [EVIDENCE.] The court may receive evidence on the
24 factors in this section to determine if the guidelines should be
25 exceeded or modified in a particular case.

26 Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the
27 child support payments are assigned to the public authority
28 under section 256.741, the court may not deviate downward from
29 the child support guidelines unless the court specifically finds
30 that the failure to deviate downward would impose an extreme
31 hardship on the obligor.

32 Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal
33 custody is not a reason for deviation from the guidelines.

34 Subd. 6. [SELF-SUPPORT LIMITATION.] If, after payment of
35 income and payroll taxes, the obligor can establish that they do
36 not have enough for the self-support reserve, a downward

1 deviation may be allowed.

2 Sec. 19. [518.715] [WRITTEN FINDINGS.]

3 Subdivision 1. [NO DEVIATION.] If the court does not
4 deviate from the guidelines, the court must make written
5 findings concerning the amount of the parties' income used as
6 the basis for the guidelines calculation and any other
7 significant evidentiary factors affecting the child support
8 determination.

9 Subd. 2. [DEVIATION.] (a) If the court deviates from the
10 guidelines, the court must make written findings giving the
11 amount of support calculated under the guidelines, the reasons
12 for the deviation, and must specifically address how the
13 deviation serves the best interests of the child.

14 (b) Determine each parent's gross modified income.

15 Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The
16 provisions of this section apply whether or not the parties are
17 each represented by independent counsel and have entered into a
18 written agreement. The court must review stipulations presented
19 to it for conformity to the guidelines. The court is not
20 required to conduct a hearing, but the parties must provide
21 sufficient documentation of gross income.

22 Sec. 20. [518.716] [GUIDELINES REVIEW.]

23 No later than 2006 and every four years after that, the
24 Department of Human Services must conduct a review of the child
25 support guidelines.

26 Sec. 21. [518.717] [NONJOINT CHILDREN.]

27 (a) When either or both parents of the joint child subject
28 to this determination are legally responsible for a nonjoint
29 child who resides in that parent's household, or a nonjoint
30 child to whom or on whose behalf a parent owes an ongoing child
31 support obligation under a court or administrative order, a
32 credit for this obligation shall be calculated under this
33 section.

34 (b) Determine the modified gross income for each parent by
35 subtracting from a parent's gross income the amount of any
36 spousal support a court orders that parent to pay, and adding to

1 a parent's gross income any spousal support the parent is
2 entitled to receive.

3 (c) Using the guideline as established in section 518.725,
4 determine the basic child support obligation or the nonjoint
5 child or children who actually reside in the parent's household,
6 by using the modified gross income of the parent for whom the
7 credit is being calculated, and using the number of nonjoint
8 children actually in the parent's immediate household.

9 (d) The credit for nonjoint children shall be 50 percent of
10 the guideline amount from paragraph (c), plus the amount of any
11 existing support order for other nonjoint children.

12 Sec. 22. [518.718] [SOCIAL SECURITY OR VETERANS' BENEFIT
13 PAYMENTS RECEIVED ON BEHALF OF THE CHILD.]

14 (a) The amount of the monthly Social Security benefits or
15 apportioned veterans' benefits received by the child or on
16 behalf of the child shall be added to the gross income of the
17 parent for whom the disability or retirement benefit was paid.

18 (b) The amount of the monthly survivors' and dependents'
19 educational assistance received by the child or on behalf of the
20 child shall be added to the gross income of the parent for whom
21 the disability or retirement benefit was paid.

22 (c) If the Social Security or apportioned veterans'
23 benefits are paid on behalf of the obligor, and are received by
24 the obligee as a representative payee for the child or by the
25 child attending school, then the amount of the benefits may also
26 be subtracted from the obligor's net child support obligation as
27 calculated pursuant to section 518.713.

28 (d) If the survivors' and dependents' educational
29 assistance is paid on behalf of the obligor, and is received by
30 the obligee as a representative payee for the child or by the
31 child attending school, then the amount of the assistance shall
32 also be subtracted from the obligor's net child support
33 obligation as calculated pursuant to section 518.713.

34 Sec. 23. [518.719] [MEDICAL SUPPORT.]

35 Subdivision 1. [DEFINITIONS.] The definitions in this
36 subdivision apply to sections 518.711 to 518.733.

1 (a) "Health care coverage" means health care benefits that
 2 are provided by a health plan. Health care coverage does not
 3 include any form of medical assistance under chapter 256B or
 4 MinnesotaCare under chapter 256L.

5 (b) "Health carrier" means a carrier as defined in sections
 6 62A.011, subdivision 2, and 62L.02, subdivision 16.

7 (c) "Health plan" means a plan meeting the definition under
 8 section 62A.011, subdivision 3, a group health plan governed
 9 under the federal Employee Retirement Income Security Act of
 10 1974 (ERISA), a self-insured plan under sections 43A.23 to
 11 43A.317 and 471.617, or a policy, contract, or certificate
 12 issued by a community-integrated service network licensed under
 13 chapter 62N. Health plan includes plans:

- 14 (1) provided on an individual and group basis;
- 15 (2) provided by an employer or union;
- 16 (3) purchased in the private market; and
- 17 (4) available to a person eligible to carry insurance for
 18 the joint child.

19 Health plan includes a plan providing for dependent-only dental
 20 or vision coverage and a plan provided through a party's spouse
 21 or parent.

22 (d) "Medical support" means providing health care coverage
 23 for a joint child by carrying health care coverage for the joint
 24 child or by contributing to the cost of health care coverage,
 25 public coverage, unreimbursed medical expenses, and uninsured
 26 medical expenses of the joint child.

27 (e) "National medical support notice" means an
 28 administrative notice issued by the public authority to enforce
 29 health insurance provisions of a support order in accordance
 30 with Code of Federal Regulations, title 45, section 303.32, in
 31 cases where the public authority provides support enforcement
 32 services.

33 (f) "Public coverage" means health care benefits provided
 34 by any form of medical assistance under chapter 256B or
 35 MinnesotaCare under chapter 256L.

36 (g) "Uninsured medical expenses" means a joint child's

1 reasonable and necessary health-related expenses if the joint
2 child is not covered by a health plan or public coverage when
3 the expenses are incurred.

4 (h) "Unreimbursed medical expenses" means a joint child's
5 reasonable and necessary health-related expenses if a joint
6 child is covered by a health plan or public coverage and the
7 plan or coverage does not pay for the total cost of the expenses
8 when the expenses are incurred. Unreimbursed medical expenses
9 do not include the cost of premiums. Unreimbursed medical
10 expenses include, but are not limited to, deductibles,
11 co-payments, and expenses for orthodontia, and prescription
12 eyeglasses and contact lenses but not over the counter
13 medications.

14 Subd. 2. [ORDER.] (a) A completed national medical support
15 notice issued by the public authority or a court order that
16 complies with this section is a qualified medical child support
17 order under the federal Employee Retirement Income Security Act
18 of 1974 (ERISA), United States Code, title 29, section 1169(a).

19 (b) Every order addressing child support must state:

20 (1) the names, last known addresses, and Social Security
21 numbers of the parents and the joint child that is a subject of
22 the order unless the court prohibits the inclusion of an address
23 or Social Security number and orders the parents to provide the
24 address and Social Security number to the administrator of the
25 health plan;

26 (2) whether appropriate health care coverage for the joint
27 child is available and, if so, state:

28 (i) which party must carry health care coverage;

29 (ii) the cost of premiums and how the cost is allocated
30 between the parties;

31 (iii) how unreimbursed expenses will be allocated and
32 collected by the parties; and

33 (iv) the circumstances, if any, under which the obligation
34 to provide health care coverage for the joint child will shift
35 from one party to the other;

36 (3) if appropriate health care coverage is not available

1 for the joint child, whether a contribution for medical support
2 is required; and

3 (4) whether the amount ordered for medical support is
4 subject to a cost-of-living adjustment under section 518.641.

5 Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE
6 COVERAGE.] (a) In determining whether a party has appropriate
7 health care coverage for the joint child, the court must
8 evaluate the health plan using the following factors:

9 (1) accessible coverage. Dependent health care coverage is
10 accessible if the covered joint child can obtain services from a
11 health plan provider with reasonable effort by the parent with
12 whom the joint child resides. Health care coverage is presumed
13 accessible if:

14 (i) primary care coverage is available within 30 minutes or
15 30 miles of the joint child's residence and specialty care
16 coverage is available within 60 minutes or 60 miles of the joint
17 child's residence;

18 (ii) the coverage is available through an employer and the
19 employee can be expected to remain employed for a reasonable
20 amount of time; and

21 (iii) no preexisting conditions exist to delay coverage
22 unduly;

23 (2) comprehensive coverage. Dependent health care coverage
24 is comprehensive if it includes, at a minimum, medical and
25 hospital coverage and provides for preventive, emergency, acute,
26 and chronic care. If both parties have health care coverage
27 that meets the minimum requirements, the court must determine
28 which health care coverage is more comprehensive by considering
29 whether the coverage includes:

- 30 (i) basic dental coverage;
- 31 (ii) orthodontia;
- 32 (iii) eyeglasses;
- 33 (iv) contact lenses;
- 34 (v) mental health services; or
- 35 (vi) substance abuse treatment;

36 (3) affordable coverage. Dependent health care coverage is

1 affordable if it is reasonable in cost; and

2 (4) the joint child's special medical needs, if any.

3 (b) If both parties have health care coverage available for
4 a joint child, and the court determines under paragraph (a),
5 clauses (1) and (2), that the available coverage is comparable
6 with regard to accessibility and comprehensiveness, the least
7 costly health care coverage is the presumed appropriate health
8 care coverage for the joint child.

9 Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a joint
10 child is presently enrolled in health care coverage, the court
11 must order that the parent who currently has the joint child
12 enrolled continue that enrollment unless the parties agree
13 otherwise or a party requests a change in coverage and the court
14 determines that other health care coverage is more appropriate.

15 (b) If a joint child is not presently enrolled in health
16 care coverage, upon motion of a party or the public authority,
17 the court must determine whether one or both parties have
18 appropriate health care coverage for the joint child and order
19 the party with appropriate health care coverage available to
20 carry the coverage for the joint child.

21 (c) If only one party has appropriate health care coverage
22 available, the court must order that party to carry the coverage
23 for the joint child.

24 (d) If both parties have appropriate health care coverage
25 available, the court must order the parent with whom the joint
26 child resides to carry the coverage for the joint child, unless:

27 (1) either party expresses a preference for coverage
28 available through the parent with whom the joint child does not
29 reside;

30 (2) the parent with whom the joint child does not reside is
31 already carrying dependent health care coverage for other
32 children and the cost of contributing to the premiums of the
33 other parent's coverage would cause the parent with whom the
34 joint child does not reside extreme hardship; or

35 (3) the parents agree to provide coverage and agree on the
36 allocation of costs.

1 (e) If the exception in paragraph (d), clause (1) or (2),
2 applies, the court must determine which party has the most
3 appropriate coverage available and order that party to carry
4 coverage for the joint child. If the court determines under
5 subdivision 3, paragraph (a), clauses (1) and (2), that the
6 parties' health care coverage for the joint child is comparable
7 with regard to accessibility and comprehensiveness, the court
8 must presume that the party with the least costly health care
9 coverage to carry coverage for the joint child.

10 (f) If neither party has appropriate health care coverage
11 available, the court must order the parents to:

12 (1) contribute toward the actual health care costs of the
13 joint children based on a pro rata share; or

14 (2) if the joint child is receiving any form of medical
15 assistance under chapter 256B or MinnesotaCare under chapter
16 256L, the parent with whom the joint child does not reside shall
17 contribute a monthly amount toward the actual cost of medical
18 assistance under chapter 256B or MinnesotaCare under chapter
19 256L determined by the court to be just and appropriate; the
20 contribution of the parent with whom the joint child resides is
21 the monthly contribution as determined by the eligibility
22 requirements for public coverage.

23 (g) If the court finds a pro rata apportionment unjust or
24 inappropriate under paragraph (f), the court shall:

25 (1) order the parties to contribute an amount of the cost
26 of health care as the court finds just and appropriate; and

27 (2) make findings regarding the factors considered, the
28 amount of each parent's share of the cost, and the reasons the
29 court did not order a pro rata apportionment.

30 A presumption of no less than \$50 per month must be applied
31 to the actual health care costs of the joint children or to the
32 cost of health care coverage.

33 (h) The commissioner of human services must publish a table
34 with the premium schedule for public coverage and update the
35 chart for changes to the schedule by July 1 of each year.

36 Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND

1 UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by
2 the parties and approved by the court, the court must order that
3 the cost of health care coverage and all unreimbursed and
4 uninsured medical expenses be divided between the obligor and
5 obligee based on their proportionate share of the parties'
6 combined monthly adjusted gross income.

7 (b) If a party owes a joint child support obligation for a
8 child and is ordered to carry health care coverage for the joint
9 child, and the other party is ordered to contribute to the
10 carrying party's cost for coverage, the carrying party's child
11 support payment must be reduced by the amount of the
12 contributing party's contribution.

13 (c) If a party owes a joint child support obligation for a
14 child and is ordered to contribute to the other party's cost for
15 carrying health care coverage for the joint child, the
16 contributing party's child support payment must be increased by
17 the amount of the contribution.

18 (d) If the party ordered to carry health care coverage for
19 the joint child already carries dependent health care coverage
20 for other dependents and would incur no additional premium costs
21 to add the joint child to the existing coverage, the court must
22 not order the other party to contribute to the premium costs for
23 coverage of the joint child.

24 (e) If a party ordered to carry health care coverage for
25 the joint child does not already carry dependent health care
26 coverage but has other dependents who may be added to the
27 ordered coverage, the full premium costs of the dependent health
28 care coverage must be allocated between the parties in
29 proportion to the party's share of the parties' combined income,
30 unless the parties agree otherwise.

31 (f) If a party ordered to carry health care coverage for
32 the joint child is required to enroll in a health plan so that
33 the joint child can be enrolled in dependent health care
34 coverage under the plan, the court must allocate the costs of
35 the dependent health care coverage between the parties. The
36 costs of the health care coverage for the party ordered to carry

1 the coverage for the joint child must not be allocated between
2 the parties.

3 Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER,
4 UNION, OR HEALTH CARRIER.] (a) The public authority must forward
5 a copy of the national medical support notice or court order for
6 health care coverage to the party's employer within two business
7 days after the date the party is entered into the work reporting
8 system under section 256.998.

9 (b) The public authority or a party seeking to enforce an
10 order for health care coverage must forward a copy of the
11 national medical support notice or court order to the obligor's
12 employer or union, or to the health carrier under the following
13 circumstances:

14 (1) the party ordered to carry health care coverage for the
15 joint child fails to provide written proof to the other party or
16 the public authority, within 30 days of the effective date of
17 the court order, that the party has applied for health care
18 coverage for the joint child;

19 (2) the party seeking to enforce the order or the public
20 authority gives written notice to the party ordered to carry
21 health care coverage for the joint child of its intent to
22 enforce medical support. The party seeking to enforce the order
23 or public authority must mail the written notice to the last
24 known address of the party ordered to carry health care coverage
25 for the joint child; and

26 (3) the party ordered to carry health care coverage for the
27 joint child fails, within 15 days after the date on which the
28 written notice under clause (2) was mailed, to provide written
29 proof to the other party or the public authority that the party
30 has applied for health care coverage for the joint child.

31 (c) The public authority is not required to forward a copy
32 of the national medical support notice or court order to the
33 obligor's employer or union, or to the health carrier, if the
34 court orders health care coverage for the joint child that is
35 not employer-based or union-based coverage.

36 Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer

1 or union must forward the national medical support notice or
2 court order to its health plan within 20 business days after the
3 date on the national medical support notice or after receipt of
4 the court order.

5 (b) Upon determination by an employer's or union's health
6 plan administrator that a joint child is eligible to be covered
7 under the health plan, the employer or union and health plan
8 must enroll the joint child as a beneficiary in the health plan,
9 and the employer must withhold any required premiums from the
10 income or wages of the party ordered to carry health care
11 coverage for the joint child.

12 (c) If enrollment of the party ordered to carry health care
13 coverage for a joint child is necessary to obtain dependent
14 health care coverage under the plan, and the party is not
15 enrolled in the health plan, the employer or union must enroll
16 the party in the plan.

17 (d) Enrollment of dependents and, if necessary, the party
18 ordered to carry health care coverage for the joint child must
19 be immediate and not dependent upon open enrollment periods.
20 Enrollment is not subject to the underwriting policies under
21 section 62A.048.

22 (e) Failure of the party ordered to carry health care
23 coverage for the joint child to execute any documents necessary
24 to enroll the dependent in the health plan does not affect the
25 obligation of the employer or union and health plan to enroll
26 the dependent in a plan. Information and authorization provided
27 by the public authority, or by a party or guardian, is valid for
28 the purposes of meeting enrollment requirements of the health
29 plan.

30 (f) An employer or union that is included under the federal
31 Employee Retirement Income Security Act of 1974 (ERISA), United
32 States Code, title 29, section 1169(a), may not deny enrollment
33 to the joint child or to the parent if necessary to enroll the
34 joint child based on exclusionary clauses described in section
35 62A.048.

36 (g) A new employer or union of a party who is ordered to

1 provide health care coverage for a joint child must enroll the
2 joint child in the party's health plan as required by a national
3 medical support notice or court order.

4 Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan
5 administrator receives a completed national medical support
6 notice or court order, the plan administrator must notify the
7 parties, and the public authority if the public authority
8 provides support enforcement services, within 40 business days
9 after the date of the notice or after receipt of the court
10 order, of the following:

11 (1) whether coverage is available to the joint child under
12 the terms of the health plan and, if not, the reason why
13 coverage is not available;

14 (2) whether the joint child is covered under the health
15 plan;

16 (3) the effective date of the joint child's coverage under
17 the health plan; and

18 (4) what steps, if any, are required to effectuate the
19 joint child's coverage under the health plan.

20 (b) If the employer or union offers more than one plan and
21 the national medical support notice or court order does not
22 specify the plan to be carried, the plan administrator must
23 notify the parents and the public authority if the public
24 authority provides support enforcement services. When there is
25 more than one option available under the plan, the public
26 authority, in consultation with the parent with whom the joint
27 child resides, must promptly select from available plan options.

28 (c) The plan administrator must provide the parents and
29 public authority, if the public authority provides support
30 enforcement services, with a notice of the joint child's
31 enrollment, description of the coverage, and any documents
32 necessary to effectuate coverage.

33 (d) The health plan must send copies of all correspondence
34 regarding the health care coverage to the parents.

35 (e) An insured joint child's parent's signature is a valid
36 authorization to a health plan for purposes of processing an

1 insurance reimbursement payment to the medical services provider
2 or to the parent, if medical services have been prepaid by that
3 parent.

4 Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or
5 union that willfully fails to comply with the order or notice is
6 liable for any uninsured medical expenses incurred by the
7 dependents while the dependents were eligible to be enrolled in
8 the health plan and for any other premium costs incurred because
9 the employer or union willfully failed to comply with the order
10 or notice.

11 (b) An employer or union that fails to comply with the
12 order or notice is subject to a contempt finding, a \$250 civil
13 penalty under section 518.615, and is subject to a civil penalty
14 of \$500 to be paid to the party entitled to reimbursement or the
15 public authority. Penalties paid to the public authority are
16 designated for child support enforcement services.

17 Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest
18 a joint child's enrollment in a health plan on the limited
19 grounds that the enrollment is improper due to mistake of fact
20 or that the enrollment meets the requirements of section 518.145.

21 (b) If the party chooses to contest the enrollment, the
22 party must do so no later than 15 days after the employer
23 notifies the party of the enrollment by doing the following:

24 (1) filing a motion in district court or according to
25 section 484.702 and the expedited child support process rules if
26 the public authority provides support enforcement services;

27 (2) serving the motion on the other party and public
28 authority if the public authority provides support enforcement
29 services; and

30 (3) securing a date for the matter to be heard no later
31 than 45 days after the notice of enrollment.

32 (c) The enrollment must remain in place while the party
33 contests the enrollment.

34 Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE;
35 COVERAGE OPTIONS.] (a) Unless a court order provides otherwise,
36 a child for whom a party is required to provide health care

1 coverage under this section must be covered as a dependent of
2 the party until the child is emancipated, until further order of
3 the court, or as consistent with the terms of the coverage.

4 (b) The health carrier, employer, or union may not
5 disenroll or eliminate coverage for the child unless:

6 (1) the health carrier, employer, or union is provided
7 satisfactory written evidence that the court order is no longer
8 in effect;

9 (2) the joint child is or will be enrolled in comparable
10 health care coverage through another health plan that will take
11 effect no later than the effective date of the disenrollment;

12 (3) the employee is no longer eligible for dependent
13 coverage; or

14 (4) the required premium has not been paid by or on behalf
15 of the joint child.

16 (c) The health plan must provide 30 days' written notice to
17 the joint child's parents, and the public authority if the
18 public authority provides support enforcement services, before
19 the health plan disenrolls or eliminates the joint child's
20 coverage.

21 (d) A joint 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 joint child is entitled to the
27 opportunity to elect continued coverage that is available under
28 the health plan. The employer or union must provide notice to
29 the parties and the public authority, if it provides support
30 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 parent with whom the joint child resides, must promptly
36 select coverage from the available options.

1 Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court
2 must require the parent with whom the joint child does not
3 reside to provide dependent health care coverage for the benefit
4 of the parent with whom the joint child resides if the parent is
5 ordered to provide dependent health care coverage for the
6 parties' joint child and adding the other parent to the coverage
7 results in no additional premium cost.

8 Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public
9 authority provides support enforcement services, the parties
10 must provide the public authority with the following information:

11 (1) information relating to dependent health care coverage
12 or public coverage available for the benefit of the joint child
13 for whom support is sought, including all information required
14 to be included in a medical support order under this section;

15 (2) verification that application for court-ordered health
16 care coverage was made within 30 days of the court's order; and

17 (3) the reason that a joint child is not enrolled in
18 court-ordered health care coverage, if a joint child is not
19 enrolled in coverage or subsequently loses coverage.

20 (b) Upon request from the public authority under section
21 256.978, an employer, union, or plan administrator, including an
22 employer subject to the federal Employee Retirement Income
23 Security Act of 1974 (ERISA), United States Code, title 29,
24 section 1169(a), must provide the public authority the following
25 information:

26 (1) information relating to dependent health care coverage
27 available to a party for the benefit of the joint child for whom
28 support is sought, including all information required to be
29 included in a medical support order under this section; and

30 (2) information that will enable the public authority to
31 determine whether a health plan is appropriate for a joint
32 child, including, but not limited to, all available plan
33 options, any geographic service restrictions, and the location
34 of service providers.

35 (c) The employer, union, or plan administrator must not
36 release information regarding one party to the other party. The

1 employer, union, or plan administrator must provide both parties
2 with insurance identification cards and all necessary written
3 information to enable the parties to utilize the insurance
4 benefits for the covered dependent.

5 (d) The public authority is authorized to release to a
6 party's employer, union, or health plan information necessary to
7 verify availability of dependent health care coverage, or to
8 establish, modify, or enforce medical support.

9 (e) An employee must disclose to an employer if medical
10 support is required to be withheld under this section and the
11 employer must begin withholding according to the terms of the
12 order and under section 518.6111. If an employee discloses an
13 obligation to obtain health care coverage and coverage is
14 available through the employer, the employer must make all
15 application processes known to the individual and enroll the
16 employee and dependent in the plan.

17 Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public
18 authority must take necessary steps to establish and enforce an
19 order for medical support if the joint child receives public
20 assistance or a party completes an application for services from
21 the public authority under section 518.551, subdivision 7.

22 Subd. 15. [ENFORCEMENT.] (a) Remedies available for
23 collecting and enforcing child support apply to medical support.

24 (b) For the purpose of enforcement, the following are
25 additional support:

26 (1) the costs of individual or group health or
27 hospitalization coverage;

28 (2) dental coverage;

29 (3) medical costs ordered by the court to be paid by either
30 party, including health and dental insurance premiums paid by
31 the obligee because of the obligor's failure to obtain coverage
32 as ordered; and

33 (4) liabilities established under this subdivision.

34 (c) A party who fails to carry court-ordered dependent
35 health care coverage is liable for the joint child's uninsured
36 medical expenses unless a court order provides otherwise. A

1 party's failure to carry court-ordered coverage, or to provide
2 other medical support as ordered, is a basis for modification of
3 a support order under section 518.64, subdivision 2.

4 (d) Payments by the health carrier or employer for services
5 rendered to the dependents that are directed to a party not owed
6 reimbursement must be endorsed over to and forwarded to the
7 vendor or appropriate party or the public authority. A party
8 retaining insurance reimbursement not owed to the party is
9 liable for the amount of the reimbursement.

10 Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party
11 owes no joint child support obligation for a child and is an
12 obligor ordered to contribute to the other party's cost for
13 carrying health care coverage for the joint child, the obligor
14 is subject to an offset under subdivision 5 or income
15 withholding under section 518.6111.

16 (b) If a party's court-ordered health care coverage for the
17 joint child terminates and the joint child is not enrolled in
18 other health care coverage or public coverage, and a
19 modification motion is not pending, the public authority may
20 remove the offset to a party's child support obligation or
21 terminate income withholding instituted against a party under
22 section 518.6111. The public authority must provide notice to
23 the parties of the action.

24 (c) A party may contest the public authority's action to
25 remove the offset to the child support obligation or terminate
26 income withholding if the party makes a written request for a
27 hearing within 30 days after receiving written notice. If a
28 party makes a timely request for a hearing, the public authority
29 must schedule a hearing and send written notice of the hearing
30 to the parties by mail to the parties' last known addresses at
31 least 14 days before the hearing. The hearing must be conducted
32 in district court or in the expedited child support process if
33 section 484.702 applies. The district court or child support
34 magistrate must determine whether removing the offset or
35 terminating income withholding is appropriate and, if
36 appropriate, the effective date for the removal or termination.

1 (d) If the party does not request a hearing, the district
2 court or child support magistrate must order the offset or
3 income withholding termination effective the first day of the
4 month following termination of the joint child's health care
5 coverage.

6 Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL
7 EXPENSES.] (a) A party must initiate a request for reimbursement
8 of unreimbursed and uninsured medical expenses within two years
9 of the date that the party incurred the unreimbursed or
10 uninsured medical expenses. The time period in this paragraph
11 does not apply if the location of the other party is unknown.

12 (b) A party seeking reimbursement of unreimbursed and
13 uninsured medical expenses must mail a written notice of intent
14 to collect the expenses and a copy of an affidavit of health
15 care expenses to the other party at the other party's last known
16 address.

17 (c) The written notice must include a statement that the
18 party has 30 days from the date the notice was mailed to (1) pay
19 in full; (2) enter a payment agreement; or (3) file a motion
20 requesting a hearing contesting the matter. If the public
21 authority provides support enforcement services, the written
22 notice also must include a statement that the requesting party
23 must submit the amount due to the public authority for
24 collection.

25 (d) The affidavit of health care expenses must itemize and
26 document the joint child's unreimbursed or uninsured medical
27 expenses and include copies of all bills, receipts, and
28 insurance company explanations of benefits.

29 (e) If the public authority provides support enforcement
30 services, the party seeking reimbursement must send to the
31 public authority a copy of the written notice, the original
32 affidavit, and copies of all bills, receipts, and insurance
33 company explanations of benefits.

34 (f) If the party does not respond to the request for
35 reimbursement within 30 days, the party seeking reimbursement or
36 public authority, if the public authority provides support

1 enforcement services, must commence an enforcement action
2 against the party under subdivision 18.

3 (g) The public authority must serve the other party with a
4 notice of intent to enforce unreimbursed and uninsured medical
5 expenses and file an affidavit of service by mail with the
6 district court administrator. The notice must state that,
7 unless the party (1) pays in full; (2) enters into a payment
8 agreement; or (3) files a motion contesting the matter within 14
9 days of service of the notice, the public authority will
10 commence enforcement of the expenses as medical support arrears
11 under subdivision 18.

12 (h) If the party files a timely motion for a hearing
13 contesting the requested reimbursement, the contesting party
14 must schedule a hearing in district court or in the expedited
15 child support process if section 484.702 applies. The
16 contesting party must provide the party seeking reimbursement
17 and the public authority, if the public authority provides
18 support enforcement services, with written notice of the hearing
19 at least 14 days before the hearing by mailing notice of the
20 hearing to the public authority and the party at the party's
21 last known address. The party seeking reimbursement must file
22 the original affidavit of health care expenses with the court at
23 least five days before the hearing. Based upon the evidence
24 presented, the district court or child support magistrate must
25 determine liability for the expenses and order that the liable
26 party is subject to enforcement of the expenses as medical
27 support arrears under subdivision 18.

28 Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT
29 ARREARS.] (a) If a party liable for unreimbursed and uninsured
30 medical expenses owes a child support obligation to the party
31 seeking reimbursement of the expenses, the expenses must be
32 collected as medical support arrears.

33 (b) If a party liable for unreimbursed and uninsured
34 medical expenses does not owe a child support obligation to the
35 party seeking reimbursement, and the party seeking reimbursement
36 owes the liable party basic support arrears, the liable party's

1 medical support arrears must be deducted from the amount of the
2 basic support arrears.

3 (c) If a liable party owes medical support arrears after
4 deducting the amount owed from the amount of the child support
5 arrears owed by the party seeking reimbursement, it must be
6 collected as follows:

7 (1) if the party seeking reimbursement owes a child support
8 obligation to the liable party, the child support obligation
9 must be reduced by 20 percent until the medical support arrears
10 are satisfied;

11 (2) if the party seeking reimbursement does not owe a child
12 support obligation to the liable party, the liable party's
13 income must be subject to income withholding under section
14 518.6111 for an amount required under section 518.553 until the
15 medical support arrears are satisfied; or

16 (3) if the party seeking reimbursement does not owe a child
17 support obligation, and income withholding under section
18 518.6111 is not available, payment of the medical support
19 arrears must be required under a payment agreement under section
20 518.553.

21 (d) If a liable party fails to enter into or comply with a
22 payment agreement, the party seeking reimbursement or the public
23 authority, if it provides support enforcement services, may
24 schedule a hearing to have a court order payment. The party
25 seeking reimbursement or the public authority must provide the
26 liable party with written notice of the hearing at least 14 days
27 before the hearing.

28 Sec. 24. [518.72] [CHILD CARE SUPPORT.]

29 Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed
30 to by the parties and approved by the court, the court must
31 order that work-related or education-related child care costs of
32 joint children 12 years old or younger be divided between the
33 obligor and obligee based on their proportionate share of the
34 parties' combined monthly adjusted gross income. Child care
35 costs shall be adjusted by the amount of the estimated federal
36 and state child care credit payable on behalf of a joint child.

1 The Department of Human Services shall develop tables to
2 calculate the applicable credit based upon the custodial
3 parent's adjusted gross income.

4 Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's
5 adjusted gross income meets the income eligibility requirements
6 for child care assistance under the basic sliding fee program
7 under chapter 119B, the court must order the obligor to pay the
8 lesser of the following amounts:

9 (1) the amount of the obligor's monthly co-payment for
10 child care assistance under the basic sliding fee schedule
11 established by the commissioner of education under chapter 119B,
12 based on an obligor's monthly adjusted gross income and the size
13 of the obligor's household provided that the obligee is actually
14 receiving child care assistance under the basic sliding fee
15 program. For purposes of this subdivision, the obligor's
16 household includes the obligor and the number of joint children
17 for whom child support is being ordered; or

18 (2) the amount of the obligor's child care obligation under
19 subdivision 1.

20 (b) The commissioner of human services must publish a table
21 with the child care assistance basic sliding fee amounts and
22 update the table for changes to the basic sliding fee schedule
23 by July 1 of each year.

24 Subd. 3. [DETERMINING COSTS.] (a) The court must require
25 verification of employment or school attendance and
26 documentation of child care expenses from the obligee and the
27 public authority, if applicable.

28 (b) If child care expenses fluctuate during the year
29 because of the obligee's seasonal employment or school
30 attendance or extended periods of parenting time with the
31 obligor, the court must determine child care expenses based on
32 an average monthly cost.

33 (c) The amount allocated for child care expenses is
34 considered child support but is not subject to a cost-of-living
35 adjustment under section 518.641.

36 (d) The court may allow the parent with whom the joint

1 child does not reside to care for the joint child while the
2 parent with whom the joint child resides is working or attending
3 school, as provided in section 518.175, subdivision 8. Allowing
4 the parent with whom the joint child does not reside to care for
5 the joint child under section 518.175, subdivision 8, is not a
6 reason to deviate from the guidelines.

7 (e) The court may limit child care expenses to the market
8 rates found for the city or county of residence of the obligee
9 as surveyed by the commissioner of human services for purposes
10 of chapter 119B provided that child care space is actually
11 available at the lesser rate.

12 Subd. 4. [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 with the other party.

21 The public authority will resume collecting child care expenses
22 when either party provides information that child care costs
23 have resumed.

24 (b) If the parties provide conflicting information to the
25 public authority regarding whether child care expenses are being
26 incurred, the public authority will continue or resume
27 collecting child care expenses. Either party, by motion to the
28 court, may challenge the suspension or resumption of the
29 collection of child care expenses. If the public authority
30 suspends collection activities for the amount allocated for
31 child care expenses, all other provisions of the court order
32 remain in effect.

33 (c) In cases where there is a substantial increase or
34 decrease in child care expenses, the parties may modify the
35 order under section 518.64.

36 Sec. 25. [518.721] [PARENTING TIME.]

1 (a) Each parent is presumptively entitled to receive 25
2 percent of the parenting time for each joint child.

3 (b) The amount of parenting time may be increased or
4 decreased by evidence:

5 (1) that the parties have agreed to a different amount of
6 parenting time;

7 (2) that circumstances exist which warrant either more or
8 less parenting time in the child's best interest;

9 (3) of the parent's past history of parenting time with the
10 child;

11 (4) that one parent has intentionally interfered with or
12 denied parenting time to the other parent;

13 (5) that a parent has not utilized parenting time that has
14 been previously awarded;

15 (6) that the age or developmental needs of the child would
16 warrant a lesser amount of parenting time; or

17 (7) that a child who is 14 years of age or older and has
18 expressed an uncoerced preference to increase or decrease the
19 amount of that child's parenting time with a parent.

20 (c) If there is a current court order providing for
21 parenting time or split custody, the percentage of overall
22 parenting time for each parent shall be calculated as follows:

23 (1) multiply the number of joint children by 365 to arrive
24 at a total number of child overnights. Add together the total
25 number of overnights the parent is allowed with each joint child
26 and divide the parenting time overnights by the total number of
27 child overnights;

28 (2) if the parents have court-ordered split custody
29 providing for parenting time, each parent shall be attributed
30 365 days for each joint child in the parent's physical custody;
31 and

32 (3) notwithstanding the calculation provided in paragraph
33 (c), clauses (1) and (2), the percentage of parenting time may
34 be determined using a method other than overnights if a parent
35 has significant time periods where the child is in the parent's
36 physical custody but does not stay overnight.

1 (d) If there is no court order providing for parenting
2 time, the parent having primary physical custody shall be
3 treated as having 100 percent of the parenting time.

4 Sec. 26. [518.722] [PARENTING TIME CREDIT.]

5 (a) This section shall apply when the overall parenting
6 time calculated pursuant to section 518.721 is ten percent or
7 greater for each parent.

8 (b) The obligor shall be entitled to a parenting time
9 credit calculated as follows:

10 (1) find the adjustment percentage corresponding to the
11 percentage of parenting time allowed to the obligor below:

	<u>Percentage Range of</u>	<u>Adjustment</u>
	<u>Parenting Time</u>	<u>Percentage</u>
14	<u>(i) less than 10 percent</u>	<u>no adjustment</u>
15	<u>(ii) 10 percent to 45 percent</u>	<u>18 percent</u>
16	<u>(iii) 45.1 percent to 50 percent</u>	<u>presume parenting</u>
17		<u>time is equal</u>

18 (2) multiply the adjustment percentage by the obligor's
19 basic child support obligation to arrive at the parenting time
20 credit.

21 (c) Subtract the parenting time credit from the obligor's
22 basic child support obligation. The result is the obligor's
23 obligation after parenting time credit.

24 (d) If the parenting time is equal, the expenses for the
25 children are equally shared, and the adjusted gross incomes of
26 the parents also are equal, no support shall be paid.

27 (e) If the parenting time is equal but the parents'
28 adjusted gross incomes are not equal, the parent having the
29 greater adjusted gross income shall be obligated for the amount
30 of basic child support needed to equalize the basic child
31 support to each parent, calculated as follows:

32 (1) after the basic child support obligation has been
33 prorated between the parents, subtract the lower amount from the
34 higher amount and divide the balance in half; and

35 (2) the resulting figure is the obligation after parenting
36 time credit for the parent with the greater adjusted gross

1 income.

2 (f) This parenting time credit reflects the presumption
3 that while exercising parenting time, a parent is responsible
4 for and incurs costs of caring for the child, including, but not
5 limited to, food, transportation, recreation, and household
6 expenses.

7 Sec. 27. [518.723] [LOW-INCOME ADJUSTMENT.]

8 (a) The low-income adjustment is a calculation to ensure
9 that parents who are at or near the federal poverty level have
10 sufficient income to support themselves after the payment of
11 child support.

12 (b) To determine if the low-income adjustment applies, find
13 each parent's single income obligation by referencing the
14 guideline in section 518.725 at the appropriate number of joint
15 children and each parent's individual modified gross income as
16 defined in section 518.712, subdivision 8.

17 (c) Compare the amounts obtained in paragraph (b) of this
18 section to the prorated basic child support obligation after
19 parenting time credit and apply the lower of the two figures to
20 the remaining calculation for each parent.

21 Sec. 28. [518.724] [ABILITY TO PAY; SELF-SUPPORT
22 ADJUSTMENT.]

23 It is a rebuttable presumption that a child support order
24 should not exceed the obligor's ability to pay. To determine
25 the amount of child support the obligor has the ability to pay,
26 follow the procedure set out in this section:

27 (1) calculate the obligor's income available for support by
28 subtracting a monthly self-support reserve of 120 percent of the
29 federal poverty guidelines for one person from the obligor's
30 modified gross income as defined in section 518.712, subdivision
31 13;

32 (2) compare the obligor's income available for support to
33 the amount of support calculated as per section 518.713, clauses
34 (1) to (13). The amount of child support that is presumed to be
35 correct as defined in section 518.713 is the lesser of these two
36 amounts;

1 (3) this section does not apply to an incarcerated obligor;

2 (4) if the obligor's child support is reduced under clause

3 (2), then the court must apply the reduction to the child

4 support obligation in the following order:

5 (i) medical support obligation;

6 (ii) child support obligation; and

7 (iii) basic support obligation; and

8 (5) [MINIMUM BASIC SUPPORT AMOUNT.] if the obligor's income
9 available for support is less than the self-support reserve,

10 then the court must order minimum support as follows:

11 (i) for one or two children, the obligor's basic support
12 obligation is \$50 per month;

13 (ii) for three or four children, the obligor's basic
14 support obligation is \$75 per month; and

15 (iii) for five or more children, the obligor's basic
16 support obligation is \$100 per month.

17 If the court orders the obligor to pay the minimum basic support
18 amount under this paragraph, the obligor is presumed unable to
19 pay child care support and medical support.

20 If the court finds the obligor receives no income and completely
21 lacks the ability to earn income, the minimum basic support
22 amount under this paragraph does not apply.

23 Sec. 29. [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, when
 10 establishing basic support, the court must order that basic
 11 support be divided between the parents based on their
 12 proportionate share of the parents' combined monthly income, as
 13 determined under section 518.713. Basic support must be
 14 computed using the following guideline:

Parents' Combined Adjusted Gross Income	Number of Children						
	One	Two	Three	Four	Five	Six	
\$0- \$799	\$50	\$50	\$75	\$75	\$100	\$100	
800- 899	80	129	149	173	201	233	
900- 999	90	145	167	194	226	262	
1,000- 1,099	116	161	186	216	251	291	
1,100- 1,199	145	205	237	275	320	370	
1,200- 1,299	177	254	294	341	396	459	
1,300- 1,399	212	309	356	414	480	557	
1,400- 1,499	251	368	425	493	573	664	
1,500- 1,599	292	433	500	580	673	780	
1,600- 1,699	337	502	580	673	781	905	
1,700- 1,799	385	577	666	773	897	1,040	
1,800- 1,899	436	657	758	880	1,021	1,183	
1,900- 1,999	490	742	856	994	1,152	1,336	
2,000- 2,099	516	832	960	1,114	1,292	1,498	
2,100- 2,199	528	851	981	1,139	1,320	1,531	
2,200- 2,299	538	867	1,000	1,160	1,346	1,561	
2,300- 2,399	546	881	1,016	1,179	1,367	1,586	
2,400- 2,499	554	893	1,029	1,195	1,385	1,608	
2,500- 2,599	560	903	1,040	1,208	1,400	1,625	
2,600- 2,699	570	920	1,060	1,230	1,426	1,655	

1	<u>2,700- 2,799</u>	<u>580</u>	<u>936</u>	<u>1,078</u>	<u>1,251</u>	<u>1,450</u>	<u>1,683</u>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>

17 the amount
 18 in effect
 19 under subd. 4

20 Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a)
 21 The basic support obligation for parents with a combined monthly
 22 income in excess of the income limit currently in effect under
 23 subdivision 1 must be the same dollar amount as provided for
 24 parties with a combined monthly income equal to the income limit
 25 in effect under subdivision 1.

26 (b) A court may order a basic support obligation in a child
 27 support order in an amount that exceeds the income limit in
 28 subdivision 1 if it finds that a child has a disability or other
 29 substantial, demonstrated need for the additional support and
 30 that the additional support will directly benefit the child.

31 (c) The dollar amount for the cap in subdivision 1 must be
 32 adjusted on July 1 of every even-numbered year to reflect
 33 cost-of-living changes. The Supreme Court must select the index
 34 for the adjustment from the indices listed in section 518.641,
 35 subdivision 1. The state court administrator must make the
 36 changes in the dollar amounts required by this paragraph
 37 available to courts and the public on or before April 30 of the

1 year in which the amount is to change.

2 Subd. 4. [MORE THAN SIX CHILDREN.] If a child support
3 proceeding involves more than six children, the court may derive
4 a support order without specifically following the guidelines.
5 However, the court must consider the basic principles
6 encompassed by the guidelines and must consider both parents'
7 needs, resources, and circumstances.

8 Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and
9 every four years after that, the commissioner of human services
10 shall conduct a review of the child support guidelines.

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 Sec. 30. [518.729] [WORKSHEET.]

1 The commissioner of human services must create and publish
2 a worksheet to assist in calculating child support under
3 sections 518.711 to 518.728. The worksheet must not impose
4 substantive requirements other than requirements contained in
5 sections 518.711 to 518.728. The commissioner must update the
6 worksheet by July 1 of each year. The commissioner must make an
7 interactive version of the worksheet available on the Department
8 of Human Services Web site.

9 Sec. 31. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT
10 GUIDELINES.]

11 The commissioner of human services shall contract with a
12 private provider of policy studies to conduct an economic
13 analysis of the child support guidelines contained in this act
14 to evaluate whether the guidelines fairly represent the cost of
15 raising children for the respective parental income levels,
16 excluding medical support, child care, and education costs.

17 The results of the study shall be completed by no later
18 than January 30, 2006. The private provider must have
19 experience in evaluating or establishing child support
20 guidelines, using the income shares approach, in other states.

21 Sec. 32. [REVISOR'S INSTRUCTION.]

22 The revisor of statutes shall renumber the provisions of
23 Minnesota Statutes listed in column A to the references listed
24 in column B. The revisor shall also make necessary
25 cross-reference changes in Minnesota Statutes and Minnesota
26 Rules consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>518.5513</u>	<u>518.741</u>
<u>518.553</u>	<u>518.743</u>
<u>518.57</u>	<u>518.745</u>
<u>518.575</u>	<u>518.747</u>
<u>518.585</u>	<u>518.749</u>
<u>518.5851</u>	<u>518.751</u>
<u>518.5852</u>	<u>518.752</u>
<u>518.5853</u>	<u>518.753</u>
<u>518.6111</u>	<u>518.755</u>

1	<u>518.612</u>	<u>518.757</u>
2	<u>518.614</u>	<u>518.759</u>
3	<u>518.615</u>	<u>518.761</u>
4	<u>518.616</u>	<u>518.763</u>
5	<u>518.617</u>	<u>518.765</u>
6	<u>518.618</u>	<u>518.767</u>
7	<u>518.6195</u>	<u>518.769</u>
8	<u>518.6196</u>	<u>518.770</u>
9	<u>518.641</u>	<u>518.771</u>
10	<u>518.642</u>	<u>518.773</u>

11 Sec. 33. [APPROPRIATIONS.]

12 \$..... is appropriated in fiscal year 2006 and \$.....
13 is appropriated in fiscal year 2007 from the general fund to the
14 commissioner of human services to fund implementation of this
15 act and to reimburse counties for their implementation costs.
16 The commissioner of human services shall distribute funds to the
17 counties for their costs of implementation based upon their
18 total county IV-D caseload. The appropriation base in fiscal
19 year 2008 for grants to counties shall be \$.....

20 \$..... is appropriated in fiscal year 2007 from the
21 general fund to the supreme court administrator to fund
22 implementation of this act. This is a onetime appropriation.

23 Sec. 34. [REPEALER.]

24 Minnesota Statutes 2004, sections 518.171; 518.54,
25 subdivisions 2, 4, and 4a; and 518.551, subdivisions 1, 5a, 5c,
26 and 5f, are repealed.

27 Sec. 35. [EFFECTIVE DATE.]

28 This act is effective January 1, 2007, and applies to
29 orders adopted or modified after that date.

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 appropriating money; amending Minnesota Statutes 2004, sections
35 518.005, by adding a subdivision; 518.54, subdivisions 7, 8;
36 518.55, subdivision 4; 518.551, subdivisions 5, 5b; 518.62;
37 518.64, subdivision 2, by adding subdivisions; 518.68,
38 subdivision 2; proposing coding for new law in Minnesota
39 Statutes, chapter 518; repealing Minnesota Statutes 2004,
40 sections 518.171; 518.54, subdivisions 2, 4, 4a; 518.551,
41 subdivisions 1, 5a, 5c, 5f."

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

3 S.F. No. 630: A bill for an act relating to civil law;
4 reforming and recodifying the law relating to marriage
5 dissolution, child custody, child support, maintenance, and
6 property division; changing a fee; making style and form
7 changes; appropriating money; amending Minnesota Statutes 2004,
8 sections 357.021, by adding a subdivision; 518.002; 518.003,
9 subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04;
10 518.05; 518.055; 518.06; 518.07; 518.09; 518.091, subdivision 1;
11 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1;
12 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6;
13 518.165; 518.166; 518.167, subdivisions 3, 4, 5; 518.168;
14 518.1705, subdivisions 2, 6, 7, 8, 9; 518.175; 518.1751,
15 subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.1752; 518.176; 518.177;
16 518.178; 518.179, subdivision 1; 518.18; 518.191, subdivision 1;
17 518.195, subdivisions 2, 3; 518.24; 518.25; 518.27; 518.54,
18 subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581;
19 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2;
20 518.641; 518.642; 518.646; 518.65; 518.68, subdivision 1;
21 519.11, subdivision 1; proposing coding for new law as Minnesota
22 Statutes, chapters 517A; 517B; 517C; repealing Minnesota
23 Statutes 2004, sections 518.111; 518.14, subdivision 2; 518.171;
24 518.24; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.55,
25 subdivision 4; 518.551; 518.5513; 518.553; 518.57; 518.575;
26 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111;
27 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196;
28 518.62; 518.64, subdivisions 4, 4a, 5; 518.68.

29 Reports the same back with the recommendation that the bill
30 be amended as follows:

31 Delete everything after the enacting clause and insert:

32 "Section 1. Minnesota Statutes 2004, section 518.005, is
33 amended by adding a subdivision to read:

34 Subd. 6. [FILING FEE.] The initial pleading filed in all
35 proceedings for dissolution of marriage, legal separation, or
36 annulment or proceedings to establish child support obligations
37 shall be accompanied by a filing fee of \$..... The fee is in
38 addition to any other prescribed by law or rule.

39 Sec. 2. Minnesota Statutes 2004, section 518.54,
40 subdivision 7, is amended to read:

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

43 Sec. 3. Minnesota Statutes 2004, section 518.54,
44 subdivision 8, is amended to read:

45 Subd. 8. [OBLIGOR.] "Obligor" means a person obligated
46 ordered to pay maintenance or child support. A person who is
47 designated as the sole physical custodian of a child is presumed
48 not to be an obligor for purposes of calculating current support
49 ~~under-section-518-551~~ unless the court makes specific written

1 findings to overcome this presumption. For purposes of ordering
2 medical support under section 518.719, a custodial parent may be
3 an obligor subject to a cost-of-living adjustment under section
4 518.641 and a payment agreement under section 518.553.

5 Sec. 4. Minnesota Statutes 2004, section 518.55,
6 subdivision 4, is amended to read:

7 Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public
8 authority or a party may request the district court to determine
9 a controlling order in situations in which more than one order
10 involving the same obligor and child exists. The court shall
11 presume that the latest order that involves the same obligor and
12 joint child is controlling, subject to contrary proof.

13 Sec. 5. Minnesota Statutes 2004, section 518.551,
14 subdivision 5, is amended to read:

15 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The
16 petitioner shall notify the public authority of all proceedings
17 for dissolution, legal separation, determination of parentage or
18 for the custody of a child, if either party is receiving public
19 assistance or applies for it subsequent to the commencement of
20 the proceeding. The notice must contain the full names of the
21 parties to the proceeding, their Social Security account
22 numbers, and their birth dates. After receipt of the notice,
23 the court shall set child support as provided in ~~this~~
24 subdivision section 518.725. The court may order either or both
25 parents owing a duty of support to a child of the marriage to
26 pay an amount reasonable or necessary for the child's support,
27 without regard to marital misconduct. The court shall approve a
28 child support stipulation of the parties if each party is
29 represented by independent counsel, unless the stipulation does
30 not meet the conditions of paragraph (i) (b). In other cases
31 the court shall determine and order child support in a specific
32 dollar amount in accordance with the guidelines and the other
33 factors set forth in ~~paragraph-(e)~~ section 518.714 and any
34 departure therefrom. The court may also order the obligor to
35 pay child support in the form of a percentage share of the
36 obligor's net bonuses, commissions, or other forms of

1 compensation, in addition to, or if the obligor receives no base
2 pay, in lieu of, an order for a specific dollar amount.

3 ~~(b)-The court shall derive a specific dollar amount for~~
4 ~~child support by multiplying the obligor's net income by the~~
5 ~~percentage indicated by the following guidelines:~~

6 ~~Net Income Per-----Number of Children-~~
7 ~~Month of Obligor-~~

8 ~~-----1-----2-----3-----4-----5-----6-----7-or-~~
9 ~~-----more-~~

10 ~~\$550 and Below-----Order based on the ability of the-~~
11 ~~-----obligor to provide support--~~

12 ~~-----at these income levels, or at higher--~~
13 ~~-----levels, if the obligor has-~~

14 ~~-----the earning ability.-~~

15 ~~\$551---600---16%---19%---22%---25%---28%---30%---32%--~~

16 ~~\$601---650---17%---21%---24%---27%---29%---32%---34%--~~

17 ~~\$651---700---18%---22%---25%---28%---31%---34%---36%--~~

18 ~~\$701---750---19%---23%---27%---30%---33%---36%---38%--~~

19 ~~\$751---800---20%---24%---28%---31%---35%---38%---40%--~~

20 ~~\$801---850---21%---25%---29%---33%---36%---40%---42%--~~

21 ~~\$851---900---22%---27%---31%---34%---38%---41%---44%--~~

22 ~~\$901---950---23%---28%---32%---36%---40%---43%---46%--~~

23 ~~\$951---1000---24%---29%---34%---38%---41%---45%---48%--~~

24 ~~\$1001---5000---25%---30%---35%---39%---43%---47%---50%--~~

25 ~~or the amount-~~

26 ~~in effect under~~

27 ~~paragraph (k)~~

28 ~~Guidelines for support for an obligor with a monthly income~~

29 ~~in excess of the income limit currently in effect under~~

30 ~~paragraph (k) shall be the same dollar amounts as provided for~~

31 ~~in the guidelines for an obligor with a monthly income equal to~~

32 ~~the limit in effect.~~

33 ~~Net Income defined as:-~~

34 ~~-----~~

35 ~~-----Total monthly-~~

36 ~~-----income less-----*(i)-Federal Income Tax-~~

1 -----*(ii)-State-Income-Tax-
 2 -----(iii)-Social-Security
 3 -----Deductions-
 4 -----(iv)-Reasonable
 5 -----Pension-Deductions
 6 -----*Standard-
 7 -----Deductions-apply------(v)-Union-Dues-
 8 -----use-of-tax-tables------(vi)-Cost-of-Dependent-Health
 9 -----recommended-----Insurance-Coverage--
 10 -----(vii)-Cost-of-Individual-or-Group
 11 -----Health/Hospitalization
 12 -----Coverage-or-an-----
 13 -----Amount-for-Actual-
 14 -----Medical-Expenses---
 15 -----(viii)-A-Child-Support-or--
 16 -----Maintenance-Order-that-is
 17 -----Currently-Being-Paid.--

18 "Net-income"-does-not-include:

19 (1)-the-income-of-the-obligor's-spouse, but does include
 20 in-kind payments received by the obligor in the course of
 21 employment, self-employment, or operation of a business if the
 22 payments reduce the obligor's living expenses, or

23 (2)-compensation received by a party for employment in
 24 excess of a 40-hour work week, provided that:

25 (i)-support is nonetheless ordered in an amount at least
 26 equal to the guidelines amount based on income not excluded
 27 under this clause, and

28 (ii)-the party demonstrates, and the court finds, that:

29 (A)-the excess employment began after the filing of the
 30 petition for dissolution;

31 (B)-the excess employment reflects an increase in the work
 32 schedule or hours worked over that of the two years immediately
 33 preceding the filing of the petition;

34 (C)-the excess employment is voluntary and not a condition
 35 of employment;

36 (D)-the excess employment is in the nature of additional;

1 part-time-or-overtime-employment-compensable-by-the-hour-or
2 fraction-of-an-hour, and

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

5 The court shall review the work-related and
6 education-related child-care costs paid and shall allocate the
7 costs to each parent in proportion to each parent's net income,
8 as determined under this subdivision, after the transfer of
9 child support and spousal maintenance, unless the allocation
10 would be substantially unfair to either parent. -- There is a
11 presumption of substantial unfairness if after the sum total of
12 child support, spousal maintenance, and child-care costs is
13 subtracted from the obligor's income, the income is at or below
14 100 percent of the federal poverty guidelines. -- The cost of
15 child care for purposes of this paragraph is 75 percent of the
16 actual cost paid for child care, to reflect the approximate
17 value of state and federal tax credits available to the
18 obligee. -- The actual cost paid for child care is the total
19 amount received by the child-care provider for the child or
20 children of the obligor from the obligee or any public agency.
21 The court shall require verification of employment or school
22 attendance and documentation of child-care expenses from the
23 obligee and the public agency, if applicable. -- If child-care
24 expenses fluctuate during the year because of seasonal
25 employment or school attendance of the obligee or extended
26 periods of parenting time with the obligor, the court shall
27 determine child-care expenses based on an average monthly cost.
28 The amount allocated for child-care expenses is considered child
29 support but is not subject to a cost-of-living adjustment under
30 section 518.641. -- The amount allocated for child-care expenses
31 terminates when either party notifies the public authority that
32 the child-care costs have ended and without any legal action on
33 the part of either party. -- The public authority shall verify the
34 information received under this provision before authorizing
35 termination. -- The termination is effective as of the date of the
36 notification. -- In other cases where there is a substantial

1 increase-or-decrease-in-child-care-expenses,-the-parties-may
2 modify-the-order-under-section-518.64-

3 The-court-may-allow-the-obligor-parent-to-care-for-the
4 child-while-the-obligee-parent-is-working,-as-provided-in
5 section-518.175,-subdivision-8,-but-this-is-not-a-reason-to
6 deviate-from-the-guidelines-

7 (e)-In-addition-to-the-child-support-guidelines,-the-court
8 shall-take-into-consideration-the-following-factors-in-setting
9 or-modifying-child-support-or-in-determining-whether-to-deviate
10 from-the-guidelines-

11 (1)-all-earnings,-income,-and-resources-of-the-parents,
12 including-real-and-personal-property,-but-excluding-income-from
13 excess-employment-of-the-obligor-or-obligee-that-meets-the
14 criteria-of-paragraph-(b),-clause-(2)(ii)-;

15 (2)-the-financial-needs-and-resources,-physical-and
16 emotional-condition,-and-educational-needs-of-the-child-or
17 children-to-be-supported-;

18 (3)-the-standard-of-living-the-child-would-have-enjoyed-had
19 the-marriage-not-been-dissolved,-but-recognizing-that-the
20 parents-now-have-separate-households-;

21 (4)-which-parent-receives-the-income-taxation-dependency
22 exemption-and-what-financial-benefit-the-parent-receives-from
23 it-;

24 (5)-the-parents'-debts-as-provided-in-paragraph-(d)-,-and

25 (6)-the-obligor's-receipt-of-public-assistance-under-the
26 AFDC-program-formerly-codified-under-sections-256.72-to-256.82
27 or-256B.01-to-256B.40-and-chapter-256J-or-256K-

28 (d)-In-establishing-or-modifying-a-support-obligation,-the
29 court-may-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-shall-consider
36 only-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-amount
5 of-the-original-debt,-the-outstanding-balance,-the-monthly
6 payment,-and-the-number-of-months-until-the-debt-will-be-fully
7 paid-

8 (e)-Any-schedule-prepared-under-paragraph-(d),-clause-(3),
9 shall-contain-a-statement-that-the-debt-will-be-fully-paid-after
10 the-number-of-months-shown-in-the-schedule,-barring-emergencies
11 beyond-the-party's-control-

12 (f)-Any-further-departure-below-the-guidelines-that-is
13 based-on-a-consideration-of-debts-owed-to-private-creditors
14 shall-not-exceed-18-months-in-duration,-after-which-the-support
15 shall-increase-automatically-to-the-level-ordered-by-the-court-
16 Nothing-in-this-section-shall-be-construed-to-prohibit-one-or
17 more-step-increases-in-support-to-reflect-debt-retirement-during
18 the-18-month-period-

19 (g)-If-payment-of-debt-is-ordered-pursuant-to-this-section,
20 the-payment-shall-be-ordered-to-be-in-the-nature-of-child
21 support-

22 (h)-Nothing-shall-preclude-the-court-from-receiving
23 evidence-on-the-above-factors-to-determine-if-the-guidelines
24 should-be-exceeded-or-modified-in-a-particular-case-

25 (i)-The-guidelines-in-this-subdivision-are-a-rebuttable
26 presumption-and-shall-be-used-in-all-cases-when-establishing-or
27 modifying-child-support.--If-the-court-does-not-deviate-from-the
28 guidelines,-the-court-shall-make-written-findings-concerning-the
29 amount-of-the-obligor's-income-used-as-the-basis-for-the
30 guidelines-calculation-and-any-other-significant-evidentiary
31 factors-affecting-the-determination-of-child-support.--If-the
32 court-deviates-from-the-guidelines,-the-court-shall-make-written
33 findings-giving-the-amount-of-support-calculated-under-the
34 guidelines,-the-reasons-for-the-deviation,-and-shall
35 specifically-address-the-criteria-in-paragraph-(e)-and-how-the
36 deviation-serves-the-best-interest-of-the-child.--The-court-may

1 deviate-from-the-guidelines-if-both-parties-agree-and-the-court
2 makes-written-findings-that-it-is-in-the-best-interests-of-the
3 child,-except-that-in-cases-where-child-support-payments-are
4 assigned-to-the-public-agency-under-section-256.741,-the-court
5 may-deviate-downward-only-as-provided-in-paragraph-(j).--Nothing
6 in-this-paragraph-prohibits-the-court-from-deviating-in-other
7 cases.--The-provisions-of-this-paragraph-apply-whether-or-not
8 the-parties-are-each-represented-by-independent-counsel-and-have
9 entered-into-a-written-agreement.--The-court-shall-review
10 stipulations-presented-to-it-for-conformity-to-the-guidelines
11 and-the-court-is-not-required-to-conduct-a-hearing,-but-the
12 parties-shall-provide-the-documentation-of-earnings-required
13 under-subdivision-5b.

14 (j)--If-the-child-support-payments-are-assigned-to-the
15 public-agency-under-section-256.741,-the-court-may-not-deviate
16 downward-from-the-child-support-guidelines-unless-the-court
17 specifically-finds-that-the-failure-to-deviate-downward-would
18 impose-an-extreme-hardship-on-the-obligor.

19 (k)--The-dollar-amount-of-the-income-limit-for-application
20 of-the-guidelines-must-be-adjusted-on-July-1-of-every
21 even-numbered-year-to-reflect-cost-of-living-changes.--The
22 Supreme-Court-shall-select-the-index-for-the-adjustment-from-the
23 indices-listed-in-section-518.641.--The-state-court
24 administrator-shall-make-the-changes-in-the-dollar-amount
25 required-by-this-paragraph-available-to-courts-and-the-public-on
26 or-before-April-30-of-the-year-in-which-the-amount-is-to-change.

27 (l)--In-establishing-or-modifying-child-support,-if-a-child
28 receives-a-child's-insurance-benefit-under-United-States-Code,
29 title-42,-section-402,-because-the-obligor-is-entitled-to-old
30 age-or-disability-insurance-benefits,-the-amount-of-support
31 ordered-shall-be-offset-by-the-amount-of-the-child's-benefit.
32 The-court-shall-make-findings-regarding-the-obligor's-income
33 from-all-sources,-the-child-support-amount-calculated-under-this
34 section,-the-amount-of-the-child's-benefit,-and-the-obligor's
35 child-support-obligation.--Any-benefit-received-by-the-child-in
36 a-given-month-in-excess-of-the-child-support-obligation-shall

1 ~~not-be-treated-as-an-arrearage-payment-or-a-future-payment-~~

2 Sec. 6. Minnesota Statutes 2004, section 518.551,
3 subdivision 5b, is amended to read:

4 Subd. 5b. [DETERMINATION OF INCOME.] (a) ~~The parties shall~~
5 ~~timely-serve-and-file-documentation-of-earnings-and-income.-When~~
6 ~~there-is-a-prehearing-conference,-the-court-must-receive-the~~
7 ~~documentation-of-income-at-least-ten-days-prior-to-the~~
8 ~~prehearing-conference.--Documentation-of-earnings-and-income~~
9 ~~also-includes,-but-is-not-limited-to,-pay-stubs-for-the-most~~
10 ~~recent-three-months,-employer-statements,-or-statement-of~~
11 ~~receipts-and-expenses-if-self-employed.--Documentation-of~~
12 ~~earnings-and-income-also-includes-copies-of-each-parent's-most~~
13 ~~recent-federal-tax-returns,-including-W-2-forms,-1099-forms,-~~
14 ~~unemployment-benefits-statements,-workers'-compensation~~
15 ~~statements,-and-all-other-documents-evidencing-income-as~~
16 ~~received-that-provide-verification-of-income-over-a-longer~~
17 period In any case where the parties have joint children for
18 which a child support order must be determined, the parties
19 shall serve and file with their initial pleadings or motion
20 documents, a financial affidavit, disclosing all sources of
21 gross income and other information sufficient to calculate gross
22 income and adjusted gross income. The financial affidavit shall
23 include supporting documentation for all adjusted gross income,
24 including, but not limited to, pay stubs for the most recent
25 three months, employer statements, or statements of receipts and
26 expenses if self-employed. Documentation of earnings and income
27 also include copies of each parent's most recent federal tax
28 returns, including W-2 forms, 1099 forms, unemployment benefit
29 statements, workers' compensation statements, and all other
30 documents evidencing earnings or income as received that provide
31 verification for the financial affidavit.

32 (b) In addition to the requirements of paragraph (a), at
33 any time after an action seeking child support has been
34 commenced or when a child support order is in effect, a party or
35 the public authority may require the other party to give them a
36 copy of the party's most recent federal tax returns that were

1 filed with the Internal Revenue Service. The party shall
2 provide a copy of the tax returns within 30 days of receipt of
3 the request unless the request is not made in good faith. A
4 request under this paragraph may not be made more than once
5 every two years, in the absence of good cause.

6 (c) If a parent under the jurisdiction of the court does
7 ~~not appear-at-a-court-hearing-after-proper-notice-of-the-time~~
8 ~~and-place-of-the-hearing~~ serve and file the financial affidavit
9 with the parent's initial pleading, the court shall set income
10 for that parent based on credible evidence before the court or
11 in accordance with ~~paragraph-(d)~~ section 518.712, subdivision 19.
12 Credible evidence may include documentation of current or recent
13 income, testimony of the other parent concerning recent earnings
14 and income levels, and the parent's wage reports filed with the
15 Minnesota Department of Employment and Economic Development
16 under section 268.044.

17 ~~(d)-If-the-court-finds-that-a-parent-is-voluntarily~~
18 ~~unemployed-or-underemployed-or-was-voluntarily-unemployed-or~~
19 ~~underemployed-during-the-period-for-which-past-support-is-being~~
20 ~~sought,-support-shall-be-calculated-based-on-a-determination-of~~
21 ~~imputed-income.--A-parent-is-not-considered-voluntarily~~
22 ~~unemployed-or-underemployed-upon-a-showing-by-the-parent-that~~
23 ~~the-unemployment-or-underemployment:--(1)-is-temporary-and-will~~
24 ~~ultimately-lead-to-an-increase-in-income,-or-(2)-represents-a~~
25 ~~bona-fide-career-change-that-outweighs-the-adverse-effect-of~~
26 ~~that-parent's-diminished-income-on-the-child.--Imputed-income~~
27 ~~means-the-estimated-earning-ability-of-a-parent-based-on-the~~
28 ~~parent's-prior-earnings-history,-education,-and-job-skills,-and~~
29 ~~on-availability-of-jobs-within-the-community-for-an-individual~~
30 ~~with-the-parent's-qualifications.-~~

31 ~~(e)-If-there-is-insufficient-information-to-determine~~
32 ~~actual-income-or-to-impute-income-pursuant-to-paragraph-(d),-the~~
33 ~~court-may-calculate-support-based-on-full-time-employment-of-40~~
34 ~~hours-per-week-at-150-percent-of-the-federal-minimum-wage-or-the~~
35 ~~Minnesota-minimum-wage,-whichever-is-higher.--If-a-parent-is-a~~
36 ~~recipient-of-public-assistance-under-section-256.741,-or-is~~

1 ~~physically-or-mentally-incapacitated,-it-shall-be-presumed-that~~
2 ~~the-parent-is-not-voluntarily-unemployed-or-underemployed-~~
3 ~~(f)-Income-from-self-employment-is-equal-to-gross-receipts~~
4 ~~minus-ordinary-and-necessary-expenses---Ordinary-and-necessary~~
5 ~~expenses-do-not-include-amounts-allowed-by-the-Internal-Revenue~~
6 ~~Service-for-accelerated-depreciation-expenses-or-investment-tax~~
7 ~~credits-or-any-other-business-expenses-determined-by-the-court~~
8 ~~to-be-inappropriate-for-determining-income-for-purposes-of-child~~
9 ~~support---The-person-seeking-to-deduct-an-expense,-including~~
10 ~~depreciation,-has-the-burden-of-proving,-if-challenged,-that-the~~
11 ~~expense-is-ordinary-and-necessary---Net-income-under-this~~
12 ~~section-may-be-different-from-taxable-income-~~

13 Sec. 7. [518.6197] [CHILD SUPPORT DEBT/ARREARAGE
14 MANAGEMENT.]

15 In order to reduce and otherwise manage support debts and
16 arrearages, the parties, including the public authority where
17 arrearages have been assigned to the public authority, may
18 compromise unpaid support debts or arrearages owed by one party
19 to another, whether or not docketed as a judgment. A party may
20 agree or disagree to compromise only those debts or arrearages
21 owed to that party.

22 Sec. 8. Minnesota Statutes 2004, section 518.62, is
23 amended to read:

24 518.62 [TEMPORARY MAINTENANCE.]

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

35 Sec. 9. Minnesota Statutes 2004, section 518.64,
36 subdivision 2, is amended to read:

1 Subd. 2. [MODIFICATION.] (a) The terms of an order
2 respecting maintenance or support may be modified upon a showing
3 of one or more of the following: (1) substantially increased or
4 decreased earnings-of-a-party gross income of an obligor or
5 obligee; (2) substantially increased or decreased need of a
6 party an obligor or obligee or the child or children that are
7 the subject of these proceedings; (3) receipt of assistance
8 under the AFDC program formerly codified under sections 256.72
9 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a
10 change in the cost of living for either party as measured by the
11 Federal Bureau of Labor Statistics, any of which makes the terms
12 unreasonable and unfair; (5) extraordinary medical expenses of
13 the child not provided for under section 518.171; ~~or~~ (6) the
14 addition of work-related or education-related child care
15 expenses of the obligee or a substantial increase or decrease in
16 existing work-related or education-related child care expenses;
17 (7) upon the emancipation of the child if there is still a child
18 under the order. A child support obligation for two or more
19 children that is not a support obligation in a specific amount
20 per child continues in the full amount until modified or until
21 the emancipation of the last child that the order was made.

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

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

30 (1) the application of the child support guidelines in
31 section 518.551, subdivision 5, to the current circumstances of
32 the parties results in a calculated court order that is at least
33 20 percent and at least \$50 \$75 per month higher or lower than
34 the current support order;

35 (2) the medical support provisions of the order established
36 under section ~~518.171~~ 518.719 are not enforceable by the public

1 authority or the obligee;

2 (3) health coverage ordered under section ~~518.171~~ 518.719
3 is not available to the child for whom the order is established
4 by the parent ordered to provide; or

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

7 (c) A child support order is not presumptively modifiable
8 solely because an obligor or obligee becomes responsible for the
9 support of an additional nonjoint child, which is born after an
10 existing order.

11 (d) On a motion for modification of maintenance, including
12 a motion for the extension of the duration of a maintenance
13 award, the court shall apply, in addition to all other relevant
14 factors, the factors for an award of maintenance under section
15 518.552 that exist at the time of the motion. On a motion for
16 modification of support, the court:

17 (1) shall apply section ~~518.551,--subdivision-5~~ 518.725, and
18 shall not consider the financial circumstances of each party's
19 spouse, if any; and

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

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

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

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

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

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

36 (vi) in the case of an obligor who is in arrears in child

1 support payments to the obligee, any net income from excess
2 employment must be used to pay the arrearages until the
3 arrearages are paid in full.

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

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

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

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

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

36 The court may provide that a reduction in the amount allocated

1 for child care expenses based on a substantial decrease in the
2 expenses is effective as of the date the expenses decreased.

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

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

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

18 (i) An enactment, amendment, or repeal of law does not
19 constitute a substantial change in the circumstances for
20 purposes of modifying a child support order.

21 (j) There may be no modification of an existing child
22 support order during the first year following the effective date
23 of sections 518.712 to 518.729 except as follows:

24 (1) there is at least a 20 percent change in the gross
25 income of the obligor;

26 (2) there is a change in the number of joint children for
27 whom the obligor is legally responsible and actually supporting;

28 (3) the child supported by the existing child support order
29 becomes disabled; or

30 (4) both parents consent to modification of the existing
31 order in compliance with the new income shares guidelines.

32 (k) On the first modification under the income shares
33 method of calculation, the modification of basic support may be
34 limited if the amount of the full variance would create hardship
35 for either the obligor or the obligee.

36 Paragraph (j) expires January 1, 2008.

1 Sec. 10. Minnesota Statutes 2004, section 518.64, is
2 amended by adding a subdivision to read:

3 Subd. 7. [CHILD CARE EXCEPTION.] The court may provide
4 that a reduction in the amount allocated for child care expenses
5 based on a substantial decrease in the expenses is effective as
6 of the date the expense is decreased.

7 Sec. 11. Minnesota Statutes 2004, section 518.64, is
8 amended by adding a subdivision to read:

9 Subd. 8. [CHILD SUPPORT DEBT AND ARREARAGE
10 MANAGEMENT.] The parties, including the public authority, may
11 compromise child support debt or arrearages owed by one party to
12 another, whether or not reduced to judgment, upon agreement of
13 the parties involved.

14 Sec. 12. Minnesota Statutes 2004, section 518.68,
15 subdivision 2, is amended to read:

16 Subd. 2. [CONTENTS.] The required notices must be
17 substantially as follows:

18 IMPORTANT NOTICE

19 1. PAYMENTS TO PUBLIC AGENCY

20 According to Minnesota Statutes, section 518.551,
21 subdivision 1, payments ordered for maintenance and support
22 must be paid to the public agency responsible for child
23 support enforcement as long as the person entitled to
24 receive the payments is receiving or has applied for public
25 assistance or has applied for support and maintenance
26 collection services. MAIL PAYMENTS TO:

27 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A
28 FELONY

29 A person may be charged with a felony who conceals a minor
30 child or takes, obtains, retains, or fails to return a
31 minor child from or to the child's parent (or person with
32 custodial or visitation rights), according to Minnesota
33 Statutes, section 609.26. A copy of that section is
34 available from any district court clerk.

35 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

36 A person who fails to pay court-ordered child support or

1 maintenance may be charged with a crime, which may include
2 misdemeanor, gross misdemeanor, or felony charges,
3 according to Minnesota Statutes, section 609.375. A copy
4 of that section is available from any district court clerk.

5 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

6 (a) Payment of support or spousal maintenance is to be as
7 ordered, and the giving of gifts or making purchases of
8 food, clothing, and the like will not fulfill the
9 obligation.

10 (b) Payment of support must be made as it becomes due, and
11 failure to secure or denial of parenting time is NOT an
12 excuse for nonpayment, but the aggrieved party must seek
13 relief through a proper motion filed with the court.

14 (c) Nonpayment of support is not grounds to deny parenting
15 time. The party entitled to receive support may apply for
16 support and collection services, file a contempt motion, or
17 obtain a judgment as provided in Minnesota Statutes,
18 section 548.091.

19 (d) The payment of support or spousal maintenance takes
20 priority over payment of debts and other obligations.

21 (e) A party who accepts additional obligations of support
22 does so with the full knowledge of the party's prior
23 obligation under this proceeding.

24 (f) Child support or maintenance is based on annual income,
25 and it is the responsibility of a person with seasonal
26 employment to budget income so that payments are made
27 throughout the year as ordered.

28 (g) If the obligor is laid off from employment or receives
29 a pay reduction, support may be reduced, but only if a
30 motion to reduce the support is served and filed with the
31 court. Any reduction will take effect only if ordered by
32 the court and may only relate back to the time that the
33 motion is filed. If a motion is not filed, the support
34 obligation will continue at the current level. The court
35 is not permitted to reduce support retroactively, except as
36 provided in Minnesota Statutes, section 518.64, subdivision

1 2, paragraph (c).

2 (h) Reasonable parenting time guidelines are contained in
3 Appendix B, which is available from the court administrator.

4 (i) The nonpayment of support may be enforced through the
5 denial of student grants; interception of state and federal
6 tax refunds; suspension of driver's, recreational, and
7 occupational licenses; referral to the department of
8 revenue or private collection agencies; seizure of assets,
9 including bank accounts and other assets held by financial
10 institutions; reporting to credit bureaus; interest
11 charging, income withholding, and contempt proceedings; and
12 other enforcement methods allowed by law.

13 (j) The public authority may suspend or resume collection
14 of the amount allocated for child care expenses if the
15 conditions of section 518.551, subdivision 5, paragraph
16 (b), are met.

17 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
18 SUBDIVISION 3

19 Unless otherwise provided by the Court:

20 (a) Each party has the right of access to, and to receive
21 copies of, school, medical, dental, religious training, and
22 other important records and information about the minor
23 children. Each party has the right of access to
24 information regarding health or dental insurance available
25 to the minor children. Presentation of a copy of this
26 order to the custodian of a record or other information
27 about the minor children constitutes sufficient
28 authorization for the release of the record or information
29 to the requesting party.

30 (b) Each party shall keep the other informed as to the name
31 and address of the school of attendance of the minor
32 children. Each party has the right to be informed by
33 school officials about the children's welfare, educational
34 progress and status, and to attend school and parent
35 teacher conferences. The school is not required to hold a
36 separate conference for each party.

1 (c) In case of an accident or serious illness of a minor
2 child, each party shall notify the other party of the
3 accident or illness, and the name of the health care
4 provider and the place of treatment.

5 (d) Each party has the right of reasonable access and
6 telephone contact with the minor children.

7 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

8 Child support and/or spousal maintenance may be withheld
9 from income, with or without notice to the person obligated
10 to pay, when the conditions of Minnesota Statutes, section
11 518.6111 have been met. A copy of those sections is
12 available from any district court clerk.

13 7. CHANGE OF ADDRESS OR RESIDENCE

14 Unless otherwise ordered, each party shall notify the other
15 party, the court, and the public authority responsible for
16 collection, if applicable, of the following information
17 within ten days of any change: the residential and mailing
18 address, telephone number, driver's license number, Social
19 Security number, and name, address, and telephone number of
20 the employer.

21 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

22 Child support and/or spousal maintenance may be adjusted
23 every two years based upon a change in the cost of living
24 (using Department of Labor Consumer Price Index,
25 unless otherwise specified in this order) when the
26 conditions of Minnesota Statutes, section 518.641, are met.
27 Cost of living increases are compounded. A copy of
28 Minnesota Statutes, section 518.641, and forms necessary to
29 request or contest a cost of living increase are available
30 from any district court clerk.

31 9. JUDGMENTS FOR UNPAID SUPPORT

32 If a person fails to make a child support payment, the
33 payment owed becomes a judgment against the person
34 responsible to make the payment by operation of law on or
35 after the date the payment is due, and the person entitled
36 to receive the payment or the public agency may obtain

1 entry and docketing of the judgment WITHOUT NOTICE to the
2 person responsible to make the payment under Minnesota
3 Statutes, section 548.091. Interest begins to accrue on a
4 payment or installment of child support whenever the unpaid
5 amount due is greater than the current support due,
6 according to Minnesota Statutes, section 548.091,
7 subdivision 1a.

8 10. JUDGMENTS FOR UNPAID MAINTENANCE

9 A judgment for unpaid spousal maintenance may be entered
10 when the conditions of Minnesota Statutes, section 548.091,
11 are met. A copy of that section is available from any
12 district court clerk.

13 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
14 SUPPORT

15 A judgment for attorney fees and other collection costs
16 incurred in enforcing a child support order will be entered
17 against the person responsible to pay support when the
18 conditions of section 518.14, subdivision 2, are met. A
19 copy of section 518.14 and forms necessary to request or
20 contest these attorney fees and collection costs are
21 available from any district court clerk.

22 12. PARENTING TIME EXPEDITOR PROCESS

23 On request of either party or on its own motion, the court
24 may appoint a parenting time expeditor to resolve parenting
25 time disputes under Minnesota Statutes, section 518.1751.
26 A copy of that section and a description of the expeditor
27 process is available from any district court clerk.

28 13. PARENTING TIME REMEDIES AND PENALTIES

29 Remedies and penalties for the wrongful denial of parenting
30 time are available under Minnesota Statutes, section
31 518.175, subdivision 6. These include compensatory
32 parenting time; civil penalties; bond requirements;
33 contempt; and reversal of custody. A copy of that
34 subdivision and forms for requesting relief are available
35 from any district court clerk.

36 Sec. 13. [518.712] [DEFINITIONS.]

1 Subdivision 1. [SCOPE.] The definitions in this section
2 apply to sections 518.712 to 518.753.

3 Subd. 2. [GROSS INCOME FOR DETERMINING CHILD SUPPORT.]
4 "Gross income for determining child support" means gross income
5 minus deductions for nonjoint children as allowed by section
6 518.717.

7 Subd. 3. [APPORTIONED VETERANS' BENEFITS.] "Apportioned
8 veterans' benefits" means the amount the Veterans Administration
9 deducts from the veteran's award and disburses to the child or
10 the child's representative payee. The apportionment of
11 veterans' benefits shall be that determined by the Veterans
12 Administration and governed by 38 Code of Federal Regulations,
13 sections 3.450 to 3.458.

14 Subd. 4. [ARREARS.] "Arrears" are amounts that accrue
15 pursuant to an obligor's failure to comply with a support
16 order. Past support and pregnancy and confinement expenses
17 contained in a support order are arrears if the court order does
18 not contain repayment terms. Arrears also arise by the
19 obligor's failure to comply with the terms of a court order for
20 repayment of past support or pregnancy and confinement
21 expenses. An obligor's failure to comply with the terms for
22 repayment of amounts owed for past support or pregnancy and
23 confinement turns the entire amount owed into arrears.

24 Subd. 5. [BASIC SUPPORT.] "Basic support" means the
25 support obligation determined by applying the parent's adjusted
26 gross income, or if there are two parents, their combined
27 adjusted gross income, to the guideline in the manner set out in
28 section 518.725.

29 Basic support includes the dollar amount ordered for a
30 child's housing, food, clothing, transportation, and education
31 costs, and other expenses relating to the child's care. Basic
32 support does not include monetary contributions for a child's
33 child care expenses, and medical and dental expenses.

34 Subd. 6. [CHILD.] "Child" means an individual under 18
35 years of age, an individual under age 20 who is still attending
36 secondary school, or an individual who, by reason of physical or

1 mental condition, is incapable of self-support.

2 Subd. 7. [CHILD SUPPORT.] "Child support or support money"
3 means an amount for basic support, child care support, and
4 medical support pursuant to:

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

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

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

11 Subd. 8. [DEPOSIT ACCOUNT.] "Deposit account" means funds
12 deposited with a financial institution in the form of a savings
13 account, checking account, NOW account, or demand deposit
14 account.

15 Subd. 9. [GROSS INCOME.] "Gross income" means:

16 (1) the gross income of the parent calculated pursuant to
17 section 518.7123; plus

18 (2) the potential income of the parent, if any, as
19 determined in subdivision 19; minus

20 (3) spousal maintenance that any party has been ordered to
21 pay.

22 Subd. 10. [IV-D CASE.] "IV-D case" means a case where a
23 party assigns rights to child support to the state because the
24 party receives public assistance, as defined in section 256.741,
25 or applies for child support services under title IV-D of the
26 Social Security Act, United States Code, title 42, section
27 654(4).

28 Subd. 11. [JOINT CHILD.] "Joint child" means the dependent
29 child who is the son or daughter of both parents in the support
30 proceeding. In those cases where support is sought from only
31 one parent of a child, a joint child is the child for whom
32 support is sought.

33 Subd. 12. [NONJOINT CHILD.] "Nonjoint child" means the
34 legal child of one, but not both of the parents subject to this
35 determination. Specifically excluded from this definition are
36 stepchildren.

1 Subd. 13. [OBLIGOR.] "Obligor" has the meaning provided by
2 section 518.54, subdivision 8.

3 Subd. 14. [OBLIGEE.] "Obligee" means a person to whom
4 payments for child support are owed.

5 Subd. 15. [PARENTING TIME.] "Parenting time" means the
6 amount of time a child is scheduled to spend with the parent
7 according to a court order. Parenting time includes time with
8 the child whether it is designated as visitation, physical
9 custody, or parenting time. For purposes of section 518.722,
10 the percentage of parenting time may be calculated by
11 calculating the number of overnights that a child spends with a
12 parent, or by using a method other than overnights as the parent
13 has significant time periods where the child is in the parent's
14 physical custody, but does not stay overnight.

15 Subd. 16. [PAYOR OF FUNDS.] "Payor of funds" means a
16 person or entity that provides funds to an obligor, including an
17 employer as defined under chapter 24, section 3401(d), of the
18 Internal Revenue Code, an independent contractor, payor of
19 workers' compensation benefits or unemployment insurance
20 benefits, or a financial institution as defined in section
21 13B.06.

22 Subd. 17. [POTENTIAL INCOME.] "Potential income" is income
23 determined under this subdivision.

24 (a) If a parent is voluntarily unemployed, underemployed,
25 or employed on a less than a full-time basis, or there is no
26 direct evidence of any income, child support shall be calculated
27 based on a determination of potential income. For purposes of
28 this determination, it is rebuttably presumed that a parent can
29 be gainfully employed on a full-time basis.

30 (b) Determination of potential income shall be made
31 according to one of three methods, as appropriate:

32 (1) the parent's probable earnings level based on
33 employment potential, recent work history, and occupational
34 qualifications in light of prevailing job opportunities and
35 earnings levels in the community; or

36 (2) if a parent is receiving unemployment compensation or

1 workers' compensation, that parent's income may be calculated
2 using the actual amount of the unemployment compensation or
3 workers' compensation benefit received; or

4 (3) the amount of income a parent could earn working
5 full-time at 150 percent of the current federal or state minimum
6 wage, whichever is higher.

7 (c) A parent is not considered voluntarily unemployed or
8 underemployed upon a showing by the parent that:

9 (1) unemployment or underemployment is temporary and will
10 ultimately lead to an increase in income;

11 (2) the unemployment or underemployment represents a bona
12 fide career change that outweighs the adverse effect of that
13 parent's diminished income on the child; or

14 (3) the parent is unable to work full-time due to a
15 verified disability or due to incarceration.

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 (e) If the parent of a joint child is a recipient of a
22 temporary assistance to a needy family (TANF) cash grant, no
23 potential income shall be imputed to that parent.

24 (f) If a parent stays at home to care for a child who is
25 subject to the child support order, the court may consider the
26 following factors when determining whether the parent is
27 voluntarily unemployed or underemployed:

28 (1) the parties' parenting and child care arrangements
29 before the child support action;

30 (2) the stay-at-home parent's employment history, recency
31 of employment, earnings, and the availability of jobs within the
32 community for an individual with the parent's qualifications;

33 (3) the relationship between the employment-related
34 expenses, including, but not limited to, child care and
35 transportation costs required for the parent to be employed, and
36 the income the stay-at-home parent could receive from available

1 jobs within the community for an individual with the parent's
2 qualifications;

3 (4) the child's age and health, including whether the child
4 is physically or mentally disabled; and

5 (5) the availability of child care providers.

6 Subd. 18. [PRIMARY PHYSICAL CUSTODY.] The parent having
7 "primary physical custody" means the parent who provides the
8 primary residence for a child and is responsible for the
9 majority of the day-to-day decisions concerning a child.

10 Subd. 19. [PUBLIC AUTHORITY.] "Public authority" means the
11 local unit of government, acting on behalf of the state, that is
12 responsible for child support enforcement or the Department of
13 Human Services, Child Support Enforcement Division.

14 Subd. 20. [SOCIAL SECURITY BENEFITS.] "Social Security
15 benefits" means the monthly amount the Social Security
16 Administration pays to a joint child or the child's
17 representative payee due solely to the disability or retirement
18 of either parent. Benefits paid to a parent due to the
19 disability of a child are excluded from this definition.

20 Subd. 21. [SPLIT CUSTODY.] "Split custody" means that each
21 parent in a two-parent calculation has primary physical custody
22 of at least one of the joint children.

23 Subd. 22. [SPOUSAL MAINTENANCE.] "Spousal maintenance" has
24 the definition as provided in section 518.54, subdivision 3, and
25 includes the amount of any preexisting or concurrently entered
26 court ordered spousal maintenance.

27 Subd. 23. [SUPPORT ORDER.] (a) "Support order" means a
28 judgment, decree, or order, whether temporary, final, or subject
29 to modification, issued by a court or administrative agency of
30 competent jurisdiction that:

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

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

1 reimbursement; and

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

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

6 Subd. 24. [SURVIVORS' AND DEPENDENTS' EDUCATIONAL
7 ASSISTANCE.] "Survivors' and dependents' educational assistance"
8 are funds disbursed by the Veterans Administration under 38
9 United States Code, chapter 35, to the child or the child's
10 representative payee.

11 Sec. 14. [518.7123] [CALCULATION OF GROSS INCOME.]

12 (a) Except as excluded below, gross income includes income
13 from any source, including, but not limited to, salaries, wages,
14 commissions, advances, bonuses, dividends, severance pay,
15 pensions, interest, honoraria, trust income, annuities, return
16 on capital, Social Security benefits, workers' compensation
17 benefits, unemployment insurance benefits, disability insurance
18 benefits, gifts, prizes, including lottery winnings, alimony,
19 spousal maintenance payments, income from self-employment or
20 operation of a business, as determined under section 518.7125.
21 All salary, wages, commissions, or other compensation paid by
22 third parties shall be based upon Medicare gross income. No
23 deductions shall be allowed for contributions to pensions,
24 401-K, IRA, or other deferred compensation.

25 (b) Excluded and not counted in gross income is
26 compensation received by a party for employment in excess of a
27 40-hour work week, provided that:

28 (1) child support is nonetheless ordered in an amount at
29 least equal to the guideline amount based on gross income not
30 excluded under this clause; and

31 (2) the party demonstrates, and the court finds, that:

32 (i) the excess employment began after the filing of the
33 petition for dissolution;

34 (ii) the excess employment reflects an increase in the work
35 schedule or hours worked over that of the two years immediately
36 preceding the filing of the petition;

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

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

6 (v) the party's compensation structure has not been changed
7 for the purpose of affecting a support or maintenance obligation.

8 (c) Expense reimbursements or in-kind payments received by
9 a parent in the course of employment, self-employment, or
10 operation of a business shall be counted as income if they
11 reduce personal living expenses.

12 (d) Gross income may be calculated on either an annual or
13 monthly basis. Weekly income shall be translated to monthly
14 income by multiplying the weekly income by 4.33.

15 (e) Excluded and not counted as income is any child support
16 payment. It is a rebuttable presumption that adoption
17 assistance payments, guardianship assistance payments, and
18 foster care subsidies are excluded and not counted as income.

19 (f) Excluded and not counted as income is the income of the
20 obligor's spouse and the obligee's spouse.

21 Sec. 15. [518.7125] [INCOME FROM SELF-EMPLOYMENT OR
22 OPERATION OF A BUSINESS.]

23 For income from self-employment, rent, royalties,
24 proprietorship of a business, or joint ownership of a
25 partnership or closely held corporation, gross income is defined
26 as gross receipts minus costs of goods sold minus ordinary and
27 necessary expenses required for self-employment or business
28 operation. Specifically excluded from ordinary and necessary
29 expenses are amounts allowable by the Internal Revenue Service
30 for the accelerated component of depreciation expenses,
31 investment tax credits, or any other business expenses
32 determined by the court to be inappropriate or excessive for
33 determining gross income for purposes of calculating child
34 support.

35 Sec. 16. [518.713] [COMPUTATION OF INDIVIDUAL CHILD
36 SUPPORT OBLIGATIONS.]

1 To determine the presumptive amount of support owed by a
2 parent, follow the procedure set forth in this section:

3 (1) determine the gross income of each parent using the
4 definition in section 518.712, subdivision 9;

5 (2) determine the gross income for determining child
6 support of each parent, and if there are two parents, the
7 combined adjusted gross income by subtracting from the gross
8 income, the credit, if any, for any nonjoint children under
9 section 518.717;

10 (3) if there are two parents, determine the percentage
11 contribution of each parent to the combined adjusted gross
12 income by dividing the combined adjusted gross income into each
13 parent's adjusted gross income;

14 (4) determine the basic child support obligation by
15 application of the guideline in section 518.725;

16 (5) determine each parent's share of the basic child
17 support obligation by multiplying the percentage figure from
18 clause (3) by the basic child support obligation in clause (4);

19 (6) determine the parenting expense adjustment if any and
20 determine the basic child support obligation of the parents as
21 provided in section 518.722;

22 (7) apply the low-income adjustment, if applicable, as
23 provided in section 518.723;

24 (8) determine the cost for each parent for child care costs
25 as allowed by section 518.72;

26 (9) determining the cost for each parent for medical
27 expenses and health care coverage as allowed by section
28 518.719. If costs are not equal each month, annual costs shall
29 be averaged to determine a monthly cost;

30 (10) calculate the total costs owed by each parent to the
31 other by applying the parent's percentage of income as
32 determined in clause (3) to the actual out-of-pocket medical
33 costs incurred by the other parent. Add these amounts to each
34 parent's child support obligation;

35 (11) calculate the total child support obligation of each
36 parent by adding for each parent, the basic child support

1 obligation from clause (6) and the total costs from clause (10);

2 (12) determine the net child support obligation by
3 subtracting the smaller of the obligations from the larger;

4 (13) if Social Security benefits or veterans' benefits are
5 received by the obligee as a representative payee for a joint
6 child due to the obligor's disability or retirement, subtract
7 the amount of benefits from the obligor's net child support
8 obligation, if any;

9 (14) determine the portion of the calculated child support
10 obligation the obligor has the ability to pay or the minimum
11 support obligation as provided in section 518.724; and

12 (15) the final child support order shall separately
13 designate the amount owed for basic support, child care support,
14 and medical support.

15 Sec. 17. [518.7131] [TEMPORARY SUPPORT.]

16 Temporary support may be awarded as provided in section
17 518.131.

18 Sec. 18. [518.714] [DEVIATIONS FROM CHILD SUPPORT
19 GUIDELINES.]

20 Subdivision 1. [GENERAL FACTORS.] Among other reasons,
21 deviation from the presumptive guideline amount is intended to
22 encourage prompt and regular payments of child support and to
23 prevent either parent or the joint children from living in
24 poverty. In addition to the child support guidelines, the court
25 must take into consideration the following factors in setting or
26 modifying child support or in determining whether to deviate
27 upward or downward from the extraordinary or diminished
28 guidelines:

29 (1) all earnings, income circumstances, and resources of
30 each parent, including real and personal property, but excluding
31 income from excess employment of the obligor or obligee that
32 meets the criteria of section 518.7123, paragraph (b), clause
33 (2);

34 (2) the extraordinary financial needs and resources,
35 physical and emotional condition, and educational needs of the
36 child to be supported;

1 (3) the standard of living the child would enjoy if the
2 parents were currently living together, but recognizing that the
3 parents now have separate households;

4 (4) which parent receives the income taxation dependency
5 exemption and the financial benefit the parent receives from it;

6 (5) the parents' debts as provided in subdivision 2; and

7 (6) the obligor's total payments for court-ordered child
8 support exceed the limitations set forth in section 571.922.

9 Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In
10 establishing or modifying a support obligation, the court may
11 consider debts owed to private creditors, but only if:

12 (1) the right to support has not been assigned under
13 section 256.741;

14 (2) the court determines that the debt was reasonably
15 incurred for necessary support of the child or parent or for the
16 necessary generation of income. If the debt was incurred for
17 the necessary generation of income, the court may consider only
18 the amount of debt that is essential to the continuing
19 generation of income; and

20 (3) the party requesting a departure produces a sworn
21 schedule of the debts, with supporting documentation, showing
22 goods or services purchased, the recipient of them, the original
23 debt amount, the outstanding balance, the monthly payment, and
24 the number of months until the debt will be fully paid.

25 (b) A schedule prepared under paragraph (a), clause (3),
26 must contain a statement that the debt will be fully paid after
27 the number of months shown in the schedule, barring emergencies
28 beyond the party's control.

29 (c) Any further departure below the guidelines that is
30 based on a consideration of debts owed to private creditors must
31 not exceed 18 months in duration. After 18 months the support
32 must increase automatically to the level ordered by the court.
33 This section does not prohibit one or more step increases in
34 support to reflect debt retirement during the 18-month period.

35 (d) If payment of debt is ordered pursuant to this section,
36 the payment must be ordered to be in the nature of child support.

1 Subd. 3. [EVIDENCE.] The court may receive evidence on the
2 factors in this section to determine if the guidelines should be
3 exceeded or modified in a particular case.

4 Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the
5 child support payments are assigned to the public authority
6 under section 256.741, the court may not deviate downward from
7 the child support guidelines unless the court specifically finds
8 that the failure to deviate downward would impose an extreme
9 hardship on the obligor.

10 Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal
11 custody is not a reason for deviation from the guidelines.

12 Subd. 6. [SELF-SUPPORT LIMITATION.] If, after payment of
13 income and payroll taxes, the obligor can establish that they do
14 not have enough for the self-support reserve, a downward
15 deviation may be allowed.

16 Sec. 19. [518.715] [WRITTEN FINDINGS.]

17 Subdivision 1. [NO DEVIATION.] If the court does not
18 deviate from the guidelines, the court must make written
19 findings concerning the amount of the parties' income used as
20 the basis for the guidelines calculation and any other
21 significant evidentiary factors affecting the child support
22 determination.

23 Subd. 2. [DEVIATION.] (a) If the court deviates from the
24 guidelines, the court must make written findings giving the
25 amount of support calculated under the guidelines, the reasons
26 for the deviation, must specifically address how the deviation
27 serves the best interests of the child; and

28 (b) Determine each parent's gross income.

29 Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The
30 provisions of this section apply whether or not the parties are
31 each represented by independent counsel and have entered into a
32 written agreement. The court must review stipulations presented
33 to it for conformity to the guidelines. The court is not
34 required to conduct a hearing, but the parties must provide
35 sufficient documentation of gross income.

36 Sec. 20. [518.716] [GUIDELINES REVIEW.]

1 No later than 2006 and every four years after that, the
2 Department of Human Services must conduct a review of the child
3 support guidelines.

4 Sec. 21. [518.717] [NONJOINT CHILDREN.]

5 (a) When either or both parents of the joint child subject
6 to this determination are legally responsible for a nonjoint
7 child who resides in that parent's household, or a nonjoint
8 child to whom or on whose behalf a parent owes an ongoing child
9 support obligation under a court or administrative order, a
10 credit for this obligation shall be calculated under this
11 section.

12 (b) Determine the modified gross income for each parent by
13 subtracting from a parent's gross income the amount of any
14 spousal support a court orders that parent to pay, and adding to
15 a parent's gross income any spousal support the parent is
16 entitled to receive.

17 (c) Using the guideline as established in section 518.725,
18 determine the basic child support obligation for the nonjoint
19 child or children who actually reside in the parent's household,
20 by using the gross income of the parent for whom the credit is
21 being calculated, and using the number of nonjoint children
22 actually in the parent's immediate household. If the number of
23 nonjoint children to be used for the determination is greater
24 than two, the determination shall be made using the number two
25 instead of the greater number.

26 (d) The credit for nonjoint children shall be 50 percent of
27 the guideline amount from paragraph (c), plus the amount of any
28 existing support order for other nonjoint children.

29 Sec. 22. [518.718] [SOCIAL SECURITY OR VETERANS' BENEFIT
30 PAYMENTS RECEIVED ON BEHALF OF THE CHILD.]

31 (a) The amount of the monthly Social Security benefits or
32 apportioned veterans' benefits received by the child or on
33 behalf of the child shall be added to the gross income of the
34 parent for whom the disability or retirement benefit was paid.

35 (b) The amount of the monthly survivors' and dependents'
36 educational assistance received by the child or on behalf of the

1 child shall be added to the gross income of the parent for whom
2 the disability or retirement benefit was paid.

3 (c) If the Social Security or apportioned veterans'
4 benefits are paid on behalf of the obligor, and are received by
5 the obligee as a representative payee for the child or by the
6 child attending school, then the amount of the benefits may also
7 be subtracted from the obligor's net child support obligation as
8 calculated pursuant to section 518.713.

9 (d) If the survivors' and dependents' educational
10 assistance is paid on behalf of the obligor, and is received by
11 the obligee as a representative payee for the child or by the
12 child attending school, then the amount of the assistance shall
13 also be subtracted from the obligor's net child support
14 obligation as calculated pursuant to section 518.713.

15 Sec. 23. [518.719] [MEDICAL SUPPORT.]

16 Subdivision 1. [DEFINITIONS.] The definitions in this
17 subdivision apply to sections 518.712 to 518.773.

18 (a) "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 (b) "Health carrier" means a carrier as defined in sections
23 62A.011, subdivision 2, and 62L.02, subdivision 16.

24 (c) "Health plan" means a plan meeting the definition under
25 section 62A.011, subdivision 3, a group health plan governed
26 under the federal Employee Retirement Income Security Act of
27 1974 (ERISA), a self-insured plan under sections 43A.23 to
28 43A.317 and 471.617, or a policy, contract, or certificate
29 issued by a community-integrated service network licensed under
30 chapter 62N. Health plan includes plans:

31 (1) provided on an individual and group basis;

32 (2) provided by an employer or union;

33 (3) purchased in the private market; and

34 (4) available to a person eligible to carry insurance for
35 the joint child.

36 Health plan includes a plan providing for dependent-only dental

1 or vision coverage and a plan provided through a party's spouse
2 or parent.

3 (d) "Medical support" means providing health care coverage
4 for a joint child by carrying health care coverage for the joint
5 child or by contributing to the cost of health care coverage,
6 public coverage, unreimbursed medical expenses, and uninsured
7 medical expenses of the joint child.

8 (e) "National medical support notice" means an
9 administrative notice issued by the public authority to enforce
10 health insurance provisions of a support order in accordance
11 with Code of Federal Regulations, title 45, section 303.32, in
12 cases where the public authority provides support enforcement
13 services.

14 (f) "Public coverage" means health care benefits provided
15 by any form of medical assistance under chapter 256B or
16 MinnesotaCare under chapter 256L.

17 (g) "Uninsured medical expenses" means a joint child's
18 reasonable and necessary health-related expenses if the joint
19 child is not covered by a health plan or public coverage when
20 the expenses are incurred.

21 (h) "Unreimbursed medical expenses" means a joint child's
22 reasonable and necessary health-related expenses if a joint
23 child is covered by a health plan or public coverage and the
24 plan or coverage does not pay for the total cost of the expenses
25 when the expenses are incurred. Unreimbursed medical expenses
26 do not include the cost of premiums. Unreimbursed medical
27 expenses include, but are not limited to, deductibles,
28 co-payments, and expenses for orthodontia, and prescription
29 eyeglasses and contact lenses but not over-the-counter
30 medications.

31 Subd. 2. [ORDER.] (a) A completed national medical support
32 notice issued by the public authority or a court order that
33 complies with this section is a qualified medical child support
34 order under the federal Employee Retirement Income Security Act
35 of 1974 (ERISA), United States Code, title 29, section 1169(a).

36 (b) Every order addressing child support must state:

1 (1) the names, last known addresses, and Social Security
2 numbers of the parents and the joint child that is a subject of
3 the order unless the court prohibits the inclusion of an address
4 or Social Security number and orders the parents to provide the
5 address and Social Security number to the administrator of the
6 health plan;

7 (2) whether appropriate health care coverage for the joint
8 child is available and, if so, state:

9 (i) which party must carry health care coverage;

10 (ii) the cost of premiums and how the cost is allocated
11 between the parties;

12 (iii) how unreimbursed expenses will be allocated and
13 collected by the parties; and

14 (iv) the circumstances, if any, under which the obligation
15 to provide health care coverage for the joint child will shift
16 from one party to the other;

17 (3) if appropriate health care coverage is not available
18 for the joint child, whether a contribution for medical support
19 is required; and

20 (4) whether the amount ordered for medical support is
21 subject to a cost-of-living adjustment under section 518.641.

22 Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE
23 COVERAGE.] (a) In determining whether a party has appropriate
24 health care coverage for the joint child, the court must
25 evaluate the health plan using the following factors:

26 (1) accessible coverage. Dependent health care coverage is
27 accessible if the covered joint child can obtain services from a
28 health plan provider with reasonable effort by the parent with
29 whom the joint child resides. Health care coverage is presumed
30 accessible if:

31 (i) primary care coverage is available within 30 minutes or
32 30 miles of the joint child's residence and specialty care
33 coverage is available within 60 minutes or 60 miles of the joint
34 child's residence;

35 (ii) the coverage is available through an employer and the
36 employee can be expected to remain employed for a reasonable

1 amount of time; and

2 (iii) no preexisting conditions exist to delay coverage
3 unduly;

4 (2) comprehensive coverage. Dependent health care coverage
5 is comprehensive if it includes, at a minimum, medical and
6 hospital coverage and provides for preventive, emergency, acute,
7 and chronic care. If both parties have health care coverage
8 that meets the minimum requirements, the court must determine
9 which health care coverage is more comprehensive by considering
10 whether the coverage includes:

11 (i) basic dental coverage;
12 (ii) orthodontia;
13 (iii) eyeglasses;
14 (iv) contact lenses;
15 (v) mental health services; or
16 (vi) substance abuse treatment;

17 (3) affordable coverage. Dependent health care coverage is
18 affordable if it is reasonable in cost; and

19 (4) the joint child's special medical needs, if any.

20 (b) If both parties have health care coverage available for
21 a joint child, and the court determines under paragraph (a),
22 clauses (1) and (2), that the available coverage is comparable
23 with regard to accessibility and comprehensiveness, the least
24 costly health care coverage is the presumed appropriate health
25 care coverage for the joint child.

26 Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a joint
27 child is presently enrolled in health care coverage, the court
28 must order that the parent who currently has the joint child
29 enrolled continue that enrollment unless the parties agree
30 otherwise or a party requests a change in coverage and the court
31 determines that other health care coverage is more appropriate.

32 (b) If a joint child is not presently enrolled in health
33 care coverage, upon motion of a party or the public authority,
34 the court must determine whether one or both parties have
35 appropriate health care coverage for the joint child and order
36 the party with appropriate health care coverage available to

1 carry the coverage for the joint child.

2 (c) If only one party has appropriate health care coverage
3 available, the court must order that party to carry the coverage
4 for the joint child.

5 (d) If both parties have appropriate health care coverage
6 available, the court must order the parent with whom the joint
7 child resides to carry the coverage for the joint child, unless:

8 (1) either party expresses a preference for coverage
9 available through the parent with whom the joint child does not
10 reside;

11 (2) the parent with whom the joint child does not reside is
12 already carrying dependent health care coverage for other
13 children and the cost of contributing to the premiums of the
14 other parent's coverage would cause the parent with whom the
15 joint child does not reside extreme hardship; or

16 (3) the parents agree to provide coverage and agree on the
17 allocation of costs.

18 (e) If the exception in paragraph (d), clause (1) or (2),
19 applies, the court must determine which party has the most
20 appropriate coverage available and order that party to carry
21 coverage for the joint child. If the court determines under
22 subdivision 3, paragraph (a), clauses (1) and (2), that the
23 parties' health care coverage for the joint child is comparable
24 with regard to accessibility and comprehensiveness, the court
25 must presume that the party with the least costly health care
26 coverage to carry coverage for the joint child.

27 (f) If neither party has appropriate health care coverage
28 available, the court must order the parents to:

29 (1) contribute toward the actual health care costs of the
30 joint children based on a pro rata share; or

31 (2) if the joint child is receiving any form of medical
32 assistance under chapter 256B or MinnesotaCare under chapter
33 256L, the parent with whom the joint child does not reside shall
34 contribute a monthly amount toward the actual cost of medical
35 assistance under chapter 256B or MinnesotaCare under chapter
36 256L. The amount of the contribution of the noncustodial parent

1 is the amount the custodial parent would pay for the child's
2 premiums if the custodial parent's income meets the eligibility
3 requirements for public coverage. For purposes of determining
4 the premium amount, a custodial parent's household size is equal
5 to the parent plus the child who is the subject of the child
6 support order. The court may order the parent with whom the
7 child resides to apply for public coverage for the child.

8 (g) A presumption of no less than \$50 per month must be
9 applied to the actual health care costs of the joint children or
10 to the cost of health care coverage.

11 (h) The commissioner of human services must publish a table
12 with the premium schedule for public coverage and update the
13 chart for changes to the schedule by July 1 of each year.

14 Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND
15 UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by
16 the parties and approved by the court, the court must order that
17 the cost of health care coverage and all unreimbursed and
18 uninsured medical expenses be divided between the obligor and
19 obligee based on their proportionate share of the parties'
20 combined monthly adjusted gross income.

21 (b) If a party owes a joint child support obligation for a
22 child and is ordered to carry health care coverage for the joint
23 child, and the other party is ordered to contribute to the
24 carrying party's cost for coverage, the carrying party's child
25 support payment must be reduced by the amount of the
26 contributing party's contribution.

27 (c) If a party owes a joint child support obligation for a
28 child and is ordered to contribute to the other party's cost for
29 carrying health care coverage for the joint child, the
30 contributing party's child support payment must be increased by
31 the amount of the contribution.

32 (d) If the party ordered to carry health care coverage for
33 the joint child already carries dependent health care coverage
34 for other dependents and would incur no additional premium costs
35 to add the joint child to the existing coverage, the court must
36 not order the other party to contribute to the premium costs for

1 coverage of the joint child.

2 (e) If a party ordered to carry health care coverage for
3 the joint child does not already carry dependent health care
4 coverage but has other dependents who may be added to the
5 ordered coverage, the full premium costs of the dependent health
6 care coverage must be allocated between the parties in
7 proportion to the party's share of the parties' combined income,
8 unless the parties agree otherwise.

9 (f) If a party ordered to carry health care coverage for
10 the joint child is required to enroll in a health plan so that
11 the joint child can be enrolled in dependent health care
12 coverage under the plan, the court must allocate the costs of
13 the dependent health care coverage between the parties. The
14 costs of the health care coverage for the party ordered to carry
15 the coverage for the joint child must not be allocated between
16 the parties.

17 Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER,
18 UNION, OR HEALTH CARRIER.] (a) The public authority must forward
19 a copy of the national medical support notice or court order for
20 health care coverage to the party's employer within two business
21 days after the date the party is entered into the work reporting
22 system under section 256.998.

23 (b) The public authority or a party seeking to enforce an
24 order for health care coverage must forward a copy of the
25 national medical support notice or court order to the obligor's
26 employer or union, or to the health carrier under the following
27 circumstances:

28 (1) the party ordered to carry health care coverage for the
29 joint child fails to provide written proof to the other party or
30 the public authority, within 30 days of the effective date of
31 the court order, that the party has applied for health care
32 coverage for the joint child;

33 (2) the party seeking to enforce the order or the public
34 authority gives written notice to the party ordered to carry
35 health care coverage for the joint child of its intent to
36 enforce medical support. The party seeking to enforce the order

1 or public authority must mail the written notice to the last
2 known address of the party ordered to carry health care coverage
3 for the joint child; and

4 (3) the party ordered to carry health care coverage for the
5 joint child fails, within 15 days after the date on which the
6 written notice under clause (2) was mailed, to provide written
7 proof to the other party or the public authority that the party
8 has applied for health care coverage for the joint child.

9 (c) The public authority is not required to forward a copy
10 of the national medical support notice or court order to the
11 obligor's employer or union, or to the health carrier, if the
12 court orders health care coverage for the joint child that is
13 not employer-based or union-based coverage.

14 Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer
15 or union must forward the national medical support notice or
16 court order to its health plan within 20 business days after the
17 date on the national medical support notice or after receipt of
18 the court order.

19 (b) Upon determination by an employer's or union's health
20 plan administrator that a joint child is eligible to be covered
21 under the health plan, the employer or union and health plan
22 must enroll the joint child as a beneficiary in the health plan,
23 and the employer must withhold any required premiums from the
24 income or wages of the party ordered to carry health care
25 coverage for the joint child.

26 (c) If enrollment of the party ordered to carry health care
27 coverage for a joint child is necessary to obtain dependent
28 health care coverage under the plan, and the party is not
29 enrolled in the health plan, the employer or union must enroll
30 the party in the plan.

31 (d) Enrollment of dependents and, if necessary, the party
32 ordered to carry health care coverage for the joint child must
33 be immediate and not dependent upon open enrollment periods.
34 Enrollment is not subject to the underwriting policies under
35 section 62A.048.

36 (e) Failure of the party ordered to carry health care

1 coverage for the joint child to execute any documents necessary
2 to enroll the dependent in the health plan does not affect the
3 obligation of the employer or union and health plan to enroll
4 the dependent in a plan. Information and authorization provided
5 by the public authority, or by a party or guardian, is valid for
6 the purposes of meeting enrollment requirements of the health
7 plan.

8 (f) An employer or union that is included under the federal
9 Employee Retirement Income Security Act of 1974 (ERISA), United
10 States Code, title 29, section 1169(a), may not deny enrollment
11 to the joint child or to the parent if necessary to enroll the
12 joint child based on exclusionary clauses described in section
13 62A.048.

14 (g) A new employer or union of a party who is ordered to
15 provide health care coverage for a joint child must enroll the
16 joint child in the party's health plan as required by a national
17 medical support notice or court order.

18 Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan
19 administrator receives a completed national medical support
20 notice or court order, the plan administrator must notify the
21 parties, and the public authority if the public authority
22 provides support enforcement services, within 40 business days
23 after the date of the notice or after receipt of the court
24 order, of the following:

25 (1) whether coverage is available to the joint child under
26 the terms of the health plan and, if not, the reason why
27 coverage is not available;

28 (2) whether the joint child is covered under the health
29 plan;

30 (3) the effective date of the joint child's coverage under
31 the health plan; and

32 (4) what steps, if any, are required to effectuate the
33 joint child's coverage under the health plan.

34 (b) If the employer or union offers more than one plan and
35 the national medical support notice or court order does not
36 specify the plan to be carried, the plan administrator must

1 notify the parents and the public authority if the public
2 authority provides support enforcement services. When there is
3 more than one option available under the plan, the public
4 authority, in consultation with the parent with whom the joint
5 child resides, must promptly select from available plan options.

6 (c) The plan administrator must provide the parents and
7 public authority, if the public authority provides support
8 enforcement services, with a notice of the joint child's
9 enrollment, description of the coverage, and any documents
10 necessary to effectuate coverage.

11 (d) The health plan must send copies of all correspondence
12 regarding the health care coverage to the parents.

13 (e) An insured joint child's parent's signature is a valid
14 authorization to a health plan for purposes of processing an
15 insurance reimbursement payment to the medical services provider
16 or to the parent, if medical services have been prepaid by that
17 parent.

18 Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or
19 union that willfully fails to comply with the order or notice is
20 liable for any uninsured medical expenses incurred by the
21 dependents while the dependents were eligible to be enrolled in
22 the health plan and for any other premium costs incurred because
23 the employer or union willfully failed to comply with the order
24 or notice.

25 (b) An employer or union that fails to comply with the
26 order or notice is subject to a contempt finding, a \$250 civil
27 penalty under section 518.615, and is subject to a civil penalty
28 of \$500 to be paid to the party entitled to reimbursement or the
29 public authority. Penalties paid to the public authority are
30 designated for child support enforcement services.

31 Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest
32 a joint child's enrollment in a health plan on the limited
33 grounds that the enrollment is improper due to mistake of fact
34 or that the enrollment meets the requirements of section 518.145.

35 (b) If the party chooses to contest the enrollment, the
36 party must do so no later than 15 days after the employer

1 notifies the party of the enrollment by doing the following:

2 (1) filing a motion in district court or according to
3 section 484.702 and the expedited child support process rules if
4 the public authority provides support enforcement services;

5 (2) serving the motion on the other party and public
6 authority if the public authority provides support enforcement
7 services; and

8 (3) securing a date for the matter to be heard no later
9 than 45 days after the notice of enrollment.

10 (c) The enrollment must remain in place while the party
11 contests the enrollment.

12 Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE;
13 COVERAGE OPTIONS.] (a) Unless a court order provides otherwise,
14 a child for whom a party is required to provide health care
15 coverage under this section must be covered as a dependent of
16 the party until the child is emancipated, until further order of
17 the court, or as consistent with the terms of the coverage.

18 (b) The health carrier, employer, or union may not
19 disenroll or eliminate coverage for the child unless:

20 (1) the health carrier, employer, or union is provided
21 satisfactory written evidence that the court order is no longer
22 in effect;

23 (2) the joint child is or will be enrolled in comparable
24 health care coverage through another health plan that will take
25 effect no later than the effective date of the disenrollment;

26 (3) the employee is no longer eligible for dependent
27 coverage; or

28 (4) the required premium has not been paid by or on behalf
29 of the joint child.

30 (c) The health plan must provide 30 days' written notice to
31 the joint child's parents, and the public authority if the
32 public authority provides support enforcement services, before
33 the health plan disenrolls or eliminates the joint child's
34 coverage.

35 (d) A joint child enrolled in health care coverage under a
36 qualified medical child support order, including a national

1 medical support notice, under this section is a dependent and a
2 qualified beneficiary under the Consolidated Omnibus Budget and
3 Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon
4 expiration of the order, the joint child is entitled to the
5 opportunity to elect continued coverage that is available under
6 the health plan. The employer or union must provide notice to
7 the parties and the public authority, if it provides support
8 services, within ten days of the termination date.

9 (e) If the public authority provides support enforcement
10 services and a plan administrator reports to the public
11 authority that there is more than one coverage option available
12 under the health plan, the public authority, in consultation
13 with the parent with whom the joint child resides, must promptly
14 select coverage from the available options.

15 Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court
16 must require the parent with whom the joint child does not
17 reside to provide dependent health care coverage for the benefit
18 of the parent with whom the joint child resides if the parent is
19 ordered to provide dependent health care coverage for the
20 parties' joint child and adding the other parent to the coverage
21 results in no additional premium cost.

22 Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public
23 authority provides support enforcement services, the parties
24 must provide the public authority with the following information:

25 (1) information relating to dependent health care coverage
26 or public coverage available for the benefit of the joint child
27 for whom support is sought, including all information required
28 to be included in a medical support order under this section;

29 (2) verification that application for court-ordered health
30 care coverage was made within 30 days of the court's order; and

31 (3) the reason that a joint child is not enrolled in
32 court-ordered health care coverage, if a joint child is not
33 enrolled in coverage or subsequently loses coverage.

34 (b) Upon request from the public authority under section
35 256.978, an employer, union, or plan administrator, including an
36 employer subject to the federal Employee Retirement Income

1 Security Act of 1974 (ERISA), United States Code, title 29,
2 section 1169(a), must provide the public authority the following
3 information:

4 (1) information relating to dependent health care coverage
5 available to a party for the benefit of the joint child for whom
6 support is sought, including all information required to be
7 included in a medical support order under this section; and

8 (2) information that will enable the public authority to
9 determine whether a health plan is appropriate for a joint
10 child, including, but not limited to, all available plan
11 options, any geographic service restrictions, and the location
12 of service providers.

13 (c) The employer, union, or plan administrator must not
14 release information regarding one party to the other party. The
15 employer, union, or plan administrator must provide both parties
16 with insurance identification cards and all necessary written
17 information to enable the parties to utilize the insurance
18 benefits for the covered dependent.

19 (d) The public authority is authorized to release to a
20 party's employer, union, or health plan information necessary to
21 verify availability of dependent health care coverage, or to
22 establish, modify, or enforce medical support.

23 (e) An employee must disclose to an employer if medical
24 support is required to be withheld under this section and the
25 employer must begin withholding according to the terms of the
26 order and under section 518.6111. If an employee discloses an
27 obligation to obtain health care coverage and coverage is
28 available through the employer, the employer must make all
29 application processes known to the individual and enroll the
30 employee and dependent in the plan.

31 Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public
32 authority must take necessary steps to establish and enforce an
33 order for medical support if the joint child receives public
34 assistance or a party completes an application for services from
35 the public authority under section 518.551, subdivision 7.

36 Subd. 15. [ENFORCEMENT.] (a) Remedies available for

1 collecting and enforcing child support apply to medical support.

2 (b) For the purpose of enforcement, the following are
3 additional support:

4 (1) the costs of individual or group health or
5 hospitalization coverage;

6 (2) dental coverage;

7 (3) medical costs ordered by the court to be paid by either
8 party, including health and dental insurance premiums paid by
9 the obligee because of the obligor's failure to obtain coverage
10 as ordered; and

11 (4) liabilities established under this subdivision.

12 (c) A party who fails to carry court-ordered dependent
13 health care coverage is liable for the joint child's uninsured
14 medical expenses unless a court order provides otherwise. A
15 party's failure to carry court-ordered coverage, or to provide
16 other medical support as ordered, is a basis for modification of
17 a support order under section 518.64, subdivision 2.

18 (d) Payments by the health carrier or employer for services
19 rendered to the dependents that are directed to a party not owed
20 reimbursement must be endorsed over to and forwarded to the
21 vendor or appropriate party or the public authority. A party
22 retaining insurance reimbursement not owed to the party is
23 liable for the amount of the reimbursement.

24 Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party
25 owes no joint child support obligation for a child and is an
26 obligor ordered to contribute to the other party's cost for
27 carrying health care coverage for the joint child, the obligor
28 is subject to an offset under subdivision 5 or income
29 withholding under section 518.6111.

30 (b) If a party's court-ordered health care coverage for the
31 joint child terminates and the joint child is not enrolled in
32 other health care coverage or public coverage, and a
33 modification motion is not pending, the public authority may
34 remove the offset to a party's child support obligation or
35 terminate income withholding instituted against a party under
36 section 518.6111. The public authority must provide notice to

1 the parties of the action.

2 (c) A party may contest the public authority's action to
3 remove the offset to the child support obligation or terminate
4 income withholding if the party makes a written request for a
5 hearing within 30 days after receiving written notice. If a
6 party makes a timely request for a hearing, the public authority
7 must schedule a hearing and send written notice of the hearing
8 to the parties by mail to the parties' last known addresses at
9 least 14 days before the hearing. The hearing must be conducted
10 in district court or in the expedited child support process if
11 section 484.702 applies. The district court or child support
12 magistrate must determine whether removing the offset or
13 terminating income withholding is appropriate and, if
14 appropriate, the effective date for the removal or termination.

15 (d) If the party does not request a hearing, the district
16 court or child support magistrate must order the offset or
17 income withholding termination effective the first day of the
18 month following termination of the joint child's health care
19 coverage.

20 Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL
21 EXPENSES.] (a) A party must initiate a request for reimbursement
22 of unreimbursed and uninsured medical expenses within two years
23 of the date that the party incurred the unreimbursed or
24 uninsured medical expenses. The time period in this paragraph
25 does not apply if the location of the other party is unknown.

26 (b) A party seeking reimbursement of unreimbursed and
27 uninsured medical expenses must mail a written notice of intent
28 to collect the expenses and a copy of an affidavit of health
29 care expenses to the other party at the other party's last known
30 address.

31 (c) The written notice must include a statement that the
32 party has 30 days from the date the notice was mailed to (1) pay
33 in full; (2) enter a payment agreement; or (3) file a motion
34 requesting a hearing contesting the matter. If the public
35 authority provides support enforcement services, the written
36 notice also must include a statement that the requesting party

1 must submit the amount due to the public authority for
2 collection.

3 (d) The affidavit of health care expenses must itemize and
4 document the joint child's unreimbursed or uninsured medical
5 expenses and include copies of all bills, receipts, and
6 insurance company explanations of benefits.

7 (e) If the public authority provides support enforcement
8 services, the party seeking reimbursement must send to the
9 public authority a copy of the written notice, the original
10 affidavit, and copies of all bills, receipts, and insurance
11 company explanations of benefits.

12 (f) If the party does not respond to the request for
13 reimbursement within 30 days, the party seeking reimbursement or
14 public authority, if the public authority provides support
15 enforcement services, must commence an enforcement action
16 against the party under subdivision 18.

17 (g) The public authority must serve the other party with a
18 notice of intent to enforce unreimbursed and uninsured medical
19 expenses and file an affidavit of service by mail with the
20 district court administrator. The notice must state that,
21 unless the party (1) pays in full; (2) enters into a payment
22 agreement; or (3) files a motion contesting the matter within 14
23 days of service of the notice, the public authority will
24 commence enforcement of the expenses as medical support arrears
25 under subdivision 18.

26 (h) If the party files a timely motion for a hearing
27 contesting the requested reimbursement, the contesting party
28 must schedule a hearing in district court or in the expedited
29 child support process if section 484.702 applies. The
30 contesting party must provide the party seeking reimbursement
31 and the public authority, if the public authority provides
32 support enforcement services, with written notice of the hearing
33 at least 14 days before the hearing by mailing notice of the
34 hearing to the public authority and the party at the party's
35 last known address. The party seeking reimbursement must file
36 the original affidavit of health care expenses with the court at

1 least five days before the hearing. Based upon the evidence
2 presented, the district court or child support magistrate must
3 determine liability for the expenses and order that the liable
4 party is subject to enforcement of the expenses as medical
5 support arrears under subdivision 18.

6 Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT
7 ARREARS.] (a) If a party liable for unreimbursed and uninsured
8 medical expenses owes a child support obligation to the party
9 seeking reimbursement of the expenses, the expenses must be
10 collected as medical support arrears.

11 (b) If a party liable for unreimbursed and uninsured
12 medical expenses does not owe a child support obligation to the
13 party seeking reimbursement, and the party seeking reimbursement
14 owes the liable party basic support arrears, the liable party's
15 medical support arrears must be deducted from the amount of the
16 basic support arrears.

17 (c) If a liable party owes medical support arrears after
18 deducting the amount owed from the amount of the child support
19 arrears owed by the party seeking reimbursement, it must be
20 collected as follows:

21 (1) if the party seeking reimbursement owes a child support
22 obligation to the liable party, the child support obligation
23 must be reduced by 20 percent until the medical support arrears
24 are satisfied;

25 (2) if the party seeking reimbursement does not owe a child
26 support obligation to the liable party, the liable party's
27 income must be subject to income withholding under section
28 518.6111 for an amount required under section 518.553 until the
29 medical support arrears are satisfied; or

30 (3) if the party seeking reimbursement does not owe a child
31 support obligation, and income withholding under section
32 518.6111 is not available, payment of the medical support
33 arrears must be required under a payment agreement under section
34 518.553.

35 (d) If a liable party fails to enter into or comply with a
36 payment agreement, the party seeking reimbursement or the public

1 authority, if it provides support enforcement services, may
2 schedule a hearing to have a court order payment. The party
3 seeking reimbursement or the public authority must provide the
4 liable party with written notice of the hearing at least 14 days
5 before the hearing.

6 Sec. 24. [518.72] [CHILD CARE SUPPORT.]

7 Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed
8 to by the parties and approved by the court, the court must
9 order that work-related or education-related child care costs of
10 joint children be divided between the obligor and obligee based
11 on their proportionate share of the parties' combined monthly
12 adjusted gross income. Child care costs shall be adjusted by
13 the amount of the estimated federal and state child care credit
14 payable on behalf of a joint child. The Department of Human
15 Services shall develop tables to calculate the applicable credit
16 based upon the custodial parent's adjusted gross income.

17 Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's
18 adjusted gross income meets the income eligibility requirements
19 for child care assistance under the basic sliding fee program
20 under chapter 119B, the court must order the obligor to pay the
21 lesser of the following amounts:

22 (1) the amount of the obligor's monthly co-payment for
23 child care assistance under the basic sliding fee schedule
24 established by the commissioner of education under chapter 119B,
25 based on an obligor's monthly adjusted gross income and the size
26 of the obligor's household provided that the obligee is actually
27 receiving child care assistance under the basic sliding fee
28 program. For purposes of this subdivision, the obligor's
29 household includes the obligor and the number of joint children
30 for whom child support is being ordered; or

31 (2) the amount of the obligor's child care obligation under
32 subdivision 1.

33 (b) The commissioner of human services must publish a table
34 with the child care assistance basic sliding fee amounts and
35 update the table for changes to the basic sliding fee schedule
36 by July 1 of each year.

1 Subd. 3. [DETERMINING COSTS.] (a) The court must require
2 verification of employment or school attendance and
3 documentation of child care expenses from the obligee and the
4 public authority, if applicable.

5 (b) If child care expenses fluctuate during the year
6 because of the obligee's seasonal employment or school
7 attendance or extended periods of parenting time with the
8 obligor, the court must determine child care expenses based on
9 an average monthly cost.

10 (c) The amount allocated for child care expenses is
11 considered child support but is not subject to a cost-of-living
12 adjustment under section 518.641.

13 (d) The court may allow the parent with whom the joint
14 child does not reside to care for the joint child while the
15 parent with whom the joint child resides is working or attending
16 school, as provided in section 518.175, subdivision 8. Allowing
17 the parent with whom the joint child does not reside to care for
18 the joint child under section 518.175, subdivision 8, is not a
19 reason to deviate from the guidelines.

20 Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order
21 provides for child care expenses and the public authority
22 provides child support enforcement services, the public
23 authority must suspend collecting the amount allocated for child
24 care expenses when:

25 (1) either party informs the public authority that no child
26 care costs are being incurred; and

27 (2) the public authority verifies the accuracy of the
28 information with the other party.

29 The public authority will resume collecting child care expenses
30 when either party provides information that child care costs
31 have resumed.

32 (b) If the parties provide conflicting information to the
33 public authority regarding whether child care expenses are being
34 incurred, the public authority will continue or resume
35 collecting child care expenses. Either party, by motion to the
36 court, may challenge the suspension or resumption of the

1 collection of child care expenses. If the public authority
 2 suspends collection activities for the amount allocated for
 3 child care expenses, all other provisions of the court order
 4 remain in effect.

5 (c) In cases where there is a substantial increase or
 6 decrease in child care expenses, the parties may modify the
 7 order under section 518.64.

8 Sec. 25. [518.722] [PARENTING EXPENSE ADJUSTMENT.]

9 (a) This section shall apply when the amount of parenting
 10 time granted to an obligor is ten percent or greater. Every
 11 child support order shall specify the total percent of parenting
 12 time granted to each parent.

13 (b) The obligor shall be entitled to a parenting expense
 14 adjustment calculated as follows:

15 (1) find the adjustment percentage corresponding to the
 16 percentage of parenting time allowed to the obligor below:

	<u>Percentage Range of</u>	<u>Adjustment</u>
	<u>Parenting Time</u>	<u>Percentage</u>
19	<u>(i) less than 10 percent</u>	<u>no adjustment</u>
20	<u>(ii) 10 percent to 45 percent</u>	<u>12 percent</u>
21	<u>(iii) 45.1 percent to 50 percent</u>	<u>presume parenting</u>
22		<u>time is equal</u>

23 (2) multiply the adjustment percentage by the obligor's
 24 basic child support obligation to arrive at the parenting
 25 expense adjustment.

26 (c) Subtract the parenting expense adjustment from the
 27 obligor's basic child support obligation. The result is the
 28 obligor's obligation after parenting expense adjustment.

29 (d) If the parenting time is equal, the expenses for the
 30 children are equally shared, and the adjusted gross incomes of
 31 the parents also are equal, no support shall be paid.

32 (e) If the parenting time is equal but the parents'
 33 adjusted gross incomes are not equal, the parent having the
 34 greater adjusted gross income shall be obligated for basic child
 35 support, calculated as follows:

36 (1) multiply the combined basic support by 1.5;

1 (2) prorate the basic child support obligation between the
2 parents, subtract the lower amount from the higher amount and
3 divide the balance in half; and

4 (3) the resulting figure is the obligation after parenting
5 expense adjustment for the parent with the greater adjusted
6 gross income.

7 (f) This parenting expense adjustment reflects the
8 presumption that while exercising parenting time, a parent is
9 responsible for and incurs costs of caring for the child,
10 including, but not limited to, food, transportation, recreation,
11 and household expenses.

12 Sec. 26. [518.724] [ABILITY TO PAY; SELF-SUPPORT
13 ADJUSTMENT.]

14 It is a rebuttable presumption that a child support order
15 should not exceed the obligor's ability to pay. To determine
16 the amount of child support the obligor has the ability to pay,
17 follow the procedure set out in this section:

18 (1) calculate the obligor's income available for support by
19 subtracting a monthly self-support reserve equal to the percent
20 of the federal poverty guidelines used to determine the MFIP
21 transitional standard for one person from the obligor's gross
22 income;

23 (2) compare the obligor's income available for support to
24 the amount of support calculated as per section 518.713, clauses
25 (1) to (15). The amount of child support that is presumed to be
26 correct as defined in section 518.713 is the lesser of these two
27 amounts;

28 (3) this section does not apply to an incarcerated obligor;

29 (4) if the obligor's child support is reduced under clause
30 (2), then the court must apply the reduction to the child
31 support obligation in the following order:

32 (i) medical support obligation;

33 (ii) child support obligation; and

34 (iii) basic support obligation; and

35 (5) [MINIMUM BASIC SUPPORT AMOUNT.] if the obligor's income
36 available for support is less than the self-support reserve,

1 then the court must order minimum support as follows:

2 (i) for one or two children, the obligor's basic support
3 obligation is \$50 per month;

4 (ii) for three or four children, the obligor's basic
5 support obligation is \$75 per month; and

6 (iii) for five or more children, the obligor's basic
7 support obligation is \$100 per month.

8 If the court orders the obligor to pay the minimum basic support
9 amount under this paragraph, the obligor is presumed unable to
10 pay child care support and medical support.

11 If the court finds the obligor receives no income and completely
12 lacks the ability to earn income, the minimum basic support
13 amount under this paragraph does not apply.

14 Sec. 27. [518.725] [GUIDELINE USED IN CHILD SUPPORT
15 DETERMINATIONS.]

16 Subdivision 1. [DETERMINATION OF SUPPORT OBLIGATION.] (a)
17 The guideline in this section is a rebuttable presumption and
18 shall be used in any judicial or administrative proceeding to
19 establish or modify a support obligation under chapter 518.

20 (b) The basic child support obligation shall be determined
21 by referencing the guideline for the appropriate number of joint
22 children and the combined adjusted gross income of the parents.

23 (c) If a child is not in the custody of either parent and a
24 support order is sought against one or both parents, the basic
25 child support obligation shall be determined by referencing the
26 guideline for the appropriate number of joint children, and the
27 parent's individual adjusted gross income, not the combined
28 adjusted gross income of the parents.

29 (d) For combined adjusted gross incomes exceeding \$15,000
30 per month, the presumed basic child support obligations shall be
31 as for parents with combined adjusted gross income of \$15,000
32 per month. A basic child support obligation in excess of this
33 level may be demonstrated for those reasons set forth in section
34 518.714.

35 Subd. 2. [BASIC SUPPORT; GUIDELINE.] Unless otherwise
36 agreed to by the parents and approved by the court, when

1 establishing basic support, the court must order that basic
 2 support be divided between the parents based on their
 3 proportionate share of the parents' combined monthly income, as
 4 determined under section 518.713. Basic support must be
 5 computed using the following guideline:

Parents' Combined Adjusted Gross Income	Number of Children					
	One	Two	Three	Four	Five	Six
\$0- \$799	\$50	\$50	\$75	\$75	\$100	\$100
800- 899	80	129	149	173	201	233
900- 999	90	145	167	194	226	262
1,000- 1,099	116	161	186	216	251	291
1,100- 1,199	145	205	237	275	320	370
1,200- 1,299	177	254	294	341	396	459
1,300- 1,399	212	309	356	414	480	557
1,400- 1,499	251	368	425	493	573	664
1,500- 1,599	292	433	500	580	673	780
1,600- 1,699	337	502	580	673	781	905
1,700- 1,799	385	577	666	773	897	1,040
1,800- 1,899	436	657	758	880	1,021	1,183
1,900- 1,999	490	742	856	994	1,152	1,336
2,000- 2,099	516	832	960	1,114	1,292	1,498
2,100- 2,199	528	851	981	1,139	1,320	1,531
2,200- 2,299	538	867	1,000	1,160	1,346	1,561
2,300- 2,399	546	881	1,016	1,179	1,367	1,586
2,400- 2,499	554	893	1,029	1,195	1,385	1,608
2,500- 2,599	560	903	1,040	1,208	1,400	1,625
2,600- 2,699	570	920	1,060	1,230	1,426	1,655
2,700- 2,799	580	936	1,078	1,251	1,450	1,683
2,800- 2,899	589	950	1,094	1,270	1,472	1,707
2,900- 2,999	596	963	1,109	1,287	1,492	1,730
3,000- 3,099	603	975	1,122	1,302	1,509	1,749
3,100- 3,199	613	991	1,141	1,324	1,535	1,779
3,200- 3,299	623	1,007	1,158	1,344	1,558	1,807
3,300- 3,399	632	1,021	1,175	1,363	1,581	1,833
3,400- 3,499	640	1,034	1,190	1,380	1,601	1,857
3,500- 3,599	648	1,047	1,204	1,397	1,621	1,880

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>

8 the amount
9 in effect
10 under subd. 4

11 Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a)

12 The basic support obligation for parents with a combined monthly
13 income in excess of the income limit currently in effect under
14 subdivision 1 must be the same dollar amount as provided for
15 parties with a combined monthly income equal to the income limit
16 in effect under subdivision 1.

17 (b) A court may order a basic support obligation in a child
18 support order in an amount that exceeds the income limit in
19 subdivision 1 if it finds that a child has a disability or other
20 substantial, demonstrated need for the additional support and
21 that the additional support will directly benefit the child.

22 (c) The dollar amount for the cap in subdivision 1 must be
23 adjusted on July 1 of every even-numbered year to reflect
24 cost-of-living changes. The Supreme Court must select the index
25 for the adjustment from the indices listed in section 518.641,
26 subdivision 1. The state court administrator must make the
27 changes in the dollar amounts required by this paragraph
28 available to courts and the public on or before April 30 of the
29 year in which the amount is to change.

30 Subd. 4. [MORE THAN SIX CHILDREN.] If a child support
31 proceeding involves more than six children, the court may derive
32 a support order without specifically following the guidelines.
33 However, the court must consider the basic principles
34 encompassed by the guidelines and must consider both parents'
35 needs, resources, and circumstances.

36 Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and
37 every four years after that, the commissioner of human services

1 shall conduct a review of the child support guidelines.

2 Subd. 6. [FINDINGS; DEVIATION.] The guidelines in this
3 section are a rebuttable presumption and shall be used in all
4 cases when establishing or modifying child support. If the
5 court does not deviate from the guidelines, the court shall make
6 written findings concerning the amount of the obligor's income
7 used as the basis for the guidelines calculation and any other
8 significant evidentiary factors affecting the determination of
9 child support. If the court deviates from the guidelines, the
10 court shall make written findings giving the amount of support
11 calculated under the guidelines, the reasons for the deviation,
12 and shall specifically address the criteria in section 518.714
13 and how the deviation serves the best interest of the child.
14 The court may deviate from the guidelines if both parties agree
15 and the court makes written findings that it is in the best
16 interests of the child, except that in cases where child support
17 payments are assigned to the public agency under section
18 256.741, the court may deviate downward only as provided in
19 subdivision 7 of that section. Nothing in this paragraph
20 prohibits the court from deviating in other cases. The
21 provisions of this paragraph apply whether or not the parties
22 are each represented by independent counsel and have entered
23 into a written agreement. The court shall review stipulations
24 presented to it for conformity to the guidelines and the court
25 is not required to conduct a hearing, but the parties shall
26 provide the required documentation of earnings.

27 Sec. 28. [518.729] [WORKSHEET.]

28 The commissioner of human services must create and publish
29 a worksheet to assist in calculating child support under
30 sections 518.712 to 518.729. The worksheet must not impose
31 substantive requirements other than requirements contained in
32 sections 518.712 to 518.729. The commissioner must update the
33 worksheet by July 1 of each year. The commissioner must make an
34 interactive version of the worksheet available on the Department
35 of Human Services Web site.

36 Sec. 29. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT

1 GUIDELINES.]

2 The commissioner of human services shall contract with a
3 private provider to conduct an economic analysis of the child
4 support guidelines contained in this act to evaluate whether the
5 guidelines fairly represent the cost of raising children for the
6 respective parental income levels, excluding medical support,
7 child care, and education costs.

8 The results of the study shall be completed by no later
9 than January 30, 2006. The private provider must have
10 experience in evaluating or establishing child support
11 guidelines, using the income shares approach, in other states.

12 Sec. 30. [REVISOR'S INSTRUCTION.]

13 The revisor of statutes shall renumber the provisions of
14 Minnesota Statutes listed in column A to the references listed
15 in column B. The revisor shall also make necessary
16 cross-reference changes in Minnesota Statutes and Minnesota
17 Rules consistent with the renumbering.

	<u>Column A</u>	<u>Column B</u>
18		
19	<u>518.5513</u>	<u>518.741</u>
20	<u>518.553</u>	<u>518.743</u>
21	<u>518.57</u>	<u>518.745</u>
22	<u>518.575</u>	<u>518.747</u>
23	<u>518.585</u>	<u>518.749</u>
24	<u>518.5851</u>	<u>518.751</u>
25	<u>518.5852</u>	<u>518.752</u>
26	<u>518.5853</u>	<u>518.753</u>
27	<u>518.6111</u>	<u>518.755</u>
28	<u>518.612</u>	<u>518.757</u>
29	<u>518.614</u>	<u>518.759</u>
30	<u>518.615</u>	<u>518.761</u>
31	<u>518.616</u>	<u>518.763</u>
32	<u>518.617</u>	<u>518.765</u>
33	<u>518.618</u>	<u>518.767</u>
34	<u>518.6195</u>	<u>518.769</u>
35	<u>518.6196</u>	<u>518.770</u>
36	<u>518.641</u>	<u>518.771</u>

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
6 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.

6 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

6 (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
i 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 support₇;

27 (2) child care₇ support;

28 (3) medical support₇, including expenses for confinement and
29 pregnancy, arrearages, or reimbursement₇; 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,
6 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.]

6 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,
6 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.]

6 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>
<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>
<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>
<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>
<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>
<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>
<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>
<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>
<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
6 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
6 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-518-553~~ 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~~ 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.

<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."