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State of Minnesota

**S.F. No. 1210 - Foreign Judgments Life Span and Interest
Clarification and Payment Regulation**

Author: Senator Ann H. Rest

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

Date: February 24, 2005

S.F. No. 1210 relates to judgments from other states and countries that are being enforced in Minnesota.

Section 1 provides that Minnesota interest rates and assumptions about life spans be used in calculations unless the creditor provides an affidavit describing the foreign state's rules.

Section 2 provides that all foreign judgments be paid in United States dollars.

HW:cs



Senators Rest, Betzold, and Limmer introduced--

S.F. No. 1210: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to courts; clarifying the life span and
3 interest rate of foreign judgments; providing for the
4 docketing and payment in United States dollars of
5 judgments on foreign-money claims; amending Minnesota
6 Statutes 2004, sections 548.27; 548.46.

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

8 Section 1. Minnesota Statutes 2004, section 548.27, is
9 amended to read:

10 548.27 [FILING AND STATUS OF FOREIGN JUDGMENTS.]

11 (a) A certified copy of any foreign judgment may be filed
12 in the office of the court administrator of any district court
13 of this state. Subject to paragraph (b), the court
14 administrator shall treat the foreign judgment in the same
15 manner as a judgment of any district court or the Supreme Court
16 of this state, and upon the filing of a certified copy of a
17 foreign judgment in the office of the court administrator of
18 district court of a county, it may not be filed in another
19 district court in the state. A judgment so filed has the same
20 effect and is subject to the same procedures, defenses and
21 proceedings for reopening, vacating, or staying as a judgment of
22 a district court or the Supreme Court of this state, and may be
23 enforced or satisfied in like manner.

24 (b) If the creditor wants the foreign state's life span or
25 interest rate applied to the judgment, the creditor or
26 creditor's attorney must file an affidavit attesting to the

1 foreign state's life span or interest rate, and a subsequent
 2 affidavit each time the interest rate or life span changes.
 3 Absent such an affidavit, Minnesota's life span and interest
 4 rate shall be applied to the judgment.

5 Sec. 2. Minnesota Statutes 2004, section 548.46, is
 6 amended to read:

7 548.46 [JUDGMENTS AND AWARDS ON FOREIGN-MONEY CLAIMS; TIMES
 8 OF MONEY CONVERSION; FORM OF JUDGMENT.]

9 (a) Except as provided in subsection paragraph (c), a
 10 judgment or award on a foreign-money claim must be stated in an
 11 amount of the money of the claim.

12 (b) A judgment or award on a foreign-money claim is payable
 13 ~~in-that-foreign-money-or,-at-the-option-of-the-debtor,~~ in the
 14 amount of United States dollars which will purchase that foreign
 15 money on the conversion date at a bank-offered spot rate.

16 (c) Assessed costs must be entered in United States dollars.

17 ~~(d) Each-payment-in-United-States-dollars-must-be-accepted~~
 18 ~~and-credited-on-a-judgment-or-award-on-a-foreign-money-claim-in~~
 19 ~~the-amount-of-the-foreign-money-that-could-be-purchased-by-the~~
 20 ~~dollars-at-a-bank-offered-spot-rate-of-exchange-at-or-near-the~~
 21 ~~close-of-business-on-the-conversion-date-for-that-payment.~~

22 (e) A judgment or award made in an action or distribution
 23 proceeding on both (i) a defense, set-off, recoupment, or
 24 counterclaim and (ii) the adverse party's claim, must be netted
 25 by converting the money of the smaller into the money of the
 26 larger, and by subtracting the smaller from the larger, and
 27 specify the rates of exchange used.

28 ~~(f)~~ (e) A judgment substantially in the following form
 29 complies with subsection paragraph (a):

30 IT IS ADJUDGED AND ORDERED, that defendant (insert name)
 31 pay to plaintiff (insert name) the sum of (insert amount in the
 32 foreign money) plus interest on that sum at the rate of (insert
 33 rate--see section 548.48) percent a year ~~or,-at-the-option-of~~
 34 ~~the-judgment-debtor,~~ the number of United States dollars which
 35 will purchase the (insert name of foreign money) with interest
 36 due, at a bank-offered spot rate at or near the close of

1 business on the banking day next before the day of payment,
2 together with assessed costs of (insert amount) United States
3 dollars.

4 ~~(g)~~ (f) If a contract claim is of the type covered by
5 section 548.44, ~~subsection~~ paragraph (a) or (b), the judgment or
6 award must be entered for the amount of money stated to measure
7 the obligation to be paid in the money specified for payment or,
8 at the option of the debtor, the number of United States dollars
9 which will purchase the computed amount of the money of payment
10 on the conversion date at a bank-offered spot rate.

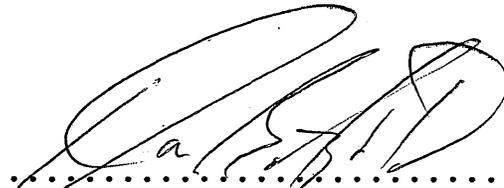
11 ~~(h)-A~~ (g) On a foreign-money claim, the judgment must be
12 docketed ~~and-indexed in foreign-money-in-the-same-manner,~~ United
13 States dollars, and has the same effect as a lien, as other
14 judgments. It may be discharged by payment.

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

3 S.F. No. 1210: A bill for an act relating to courts;
4 clarifying the life span and interest rate of foreign judgments;
5 providing for the docketing and payment in United States dollars
6 of judgments on foreign-money claims; amending Minnesota
7 Statutes 2004, sections 548.27; 548.46.

8 Reports the same back with the recommendation that the bill
9 do pass and be placed on the Consent Calendar. Report adopted.

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16


.....
(Committee Chair)

March 3, 2005.....
(Date of Committee recommendation)

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S.F. No. 1231 - Sign and Flag Displays

Author: Senator Don Betzold

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

Date: February 25, 2005

S.F. No. 1231 relates to the display of United States and Minnesota flags.

Section 1, subdivision 1, establishes a right to display a flag that supersedes contrary provisions of deeds, local government rules, leases, and other possible sources of limitation. The subdivision also provides a definition of "homeowners association document."

Section 1, subdivision 2, provides exceptions for display rules related to health, safety, location, and reasonable size regulation. The subdivision also preserves rules that relate to the condition of flags and the methods of attachment.

Section 1, subdivision 3, makes subdivision 1 applicable without regard to the time that a conflicting rule was adopted.

Section 1, subdivision 4, allows the recovery of attorney fees in legal disputes about flag display.

Sections 2 to 4 insert references to section 1 into the common interest ownership laws.

HW:cs



1 that restrict:

2 (1) the size of the flag to be displayed to a size
3 customarily used on residential property; or

4 (2) the installation of the flag to a portion of the
5 residential property to which the person who displays the flag
6 has exclusive use.

7 (c) This section does not prohibit a requirement that the
8 flag be displayed in a legal manner under Minnesota or local
9 law, that the flag be in good condition and not altered or
10 defaced, or that the flag not be affixed in a permanent manner
11 to rental property or in a way that causes more than
12 inconsequential damage to rental property. The tenant is liable
13 for costs to repair damage.

14 Subd. 3. [APPLICABILITY.] (a) This section applies to all
15 limitations described in subdivision 1 and not excepted in
16 subdivision 2, regardless of whether adopted before, on, or
17 after the effective date of this section.

18 (b) Provisions that violate this section are void and
19 unenforceable to the extent of the violation.

20 Subd. 4. [RECOVERY OF ATTORNEY FEES.] If an owner or
21 tenant of residential property is denied the right provided by
22 this section, the owner or tenant is entitled to recover, from
23 the party who denied the right, reasonable attorney fees and
24 expenses if the owner or tenant prevails in enforcing the right.

25 Sec. 2. Minnesota Statutes 2004, section 515.07, is
26 amended to read:

27 515.07 [COMPLIANCE WITH COVENANTS, BYLAWS, AND RULES.]

28 Each apartment owner shall comply strictly with the bylaws
29 and with the administrative rules adopted pursuant thereto, as
30 either of the same may be lawfully amended from time to time,
31 and with the covenants, conditions, and restrictions set forth
32 in the declaration or in the owner's deed to the apartment.

33 Failure to comply with any of the same shall be ground for an
34 action to recover sums due, for damages or injunctive relief or
35 both maintainable by the manager or board of directors on behalf
36 of the association of apartment owners or, in a proper case, by

1 an aggrieved apartment owner. This chapter is subject to
2 section 500.215.

3 Sec. 3. Minnesota Statutes 2004, section 515B.2-103, is
4 amended to read:

5 515B.2-103 [CONSTRUCTION AND VALIDITY OF DECLARATION AND
6 BYLAWS.]

7 (a) All provisions of the declaration and bylaws are
8 severable.

9 (b) The rule against perpetuities may not be applied to
10 defeat any provision of the declaration or this chapter, or any
11 instrument executed pursuant to the declaration or this chapter.

12 (c) In the event of a conflict between the provisions of
13 the declaration and the bylaws, the declaration prevails except
14 to the extent that the declaration is inconsistent with this
15 chapter.

16 (d) The declaration and bylaws must comply with section
17 500.215.

18 Sec. 4. Minnesota Statutes 2004, section 515B.3-102, is
19 amended to read:

20 515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

21 (a) Except as provided in ~~subsection~~ subsections (b) and
22 (c), and subject to the provisions of the declaration or bylaws,
23 the association shall have the power to:

24 (1) adopt, amend and revoke rules and regulations not
25 inconsistent with the articles of incorporation, bylaws and
26 declaration, as follows: (i) regulating the use of the common
27 elements; (ii) regulating the use of the units, and conduct of
28 unit occupants, which may jeopardize the health, safety or
29 welfare of other occupants, which involves noise or other
30 disturbing activity, or which may damage the common elements or
31 other units; (iii) regulating or prohibiting animals; (iv)
32 regulating changes in the appearance of the common elements and
33 conduct which may damage the common interest community; (v)
34 regulating the exterior appearance of the common interest
35 community, including, for example, balconies and patios, window
36 treatments, and signs and other displays, regardless of whether

1 inside a unit; (vi) implementing the articles of incorporation,
2 declaration and bylaws, and exercising the powers granted by
3 this section; and (vii) otherwise facilitating the operation of
4 the common interest community;

5 (2) adopt and amend budgets for revenues, expenditures and
6 reserves, and levy and collect assessments for common expenses
7 from unit owners;

8 (3) hire and discharge managing agents and other employees,
9 agents, and independent contractors;

10 (4) institute, defend, or intervene in litigation or
11 administrative proceedings (i) in its own name on behalf of
12 itself or two or more unit owners on matters affecting the
13 common elements or other matters affecting the common interest
14 community or, (ii) with the consent of the owners of the
15 affected units on matters affecting only those units;

16 (5) make contracts and incur liabilities;

17 (6) regulate the use, maintenance, repair, replacement and
18 modification of the common elements and the units;

19 (7) cause improvements to be made as a part of the common
20 elements, and, in the case of a cooperative, the units;

21 (8) acquire, hold, encumber, and convey in its own name any
22 right, title, or interest to real estate or personal property,
23 but (i) common elements in a condominium or planned community
24 may be conveyed or subjected to a security interest only
25 pursuant to section 515B.3-112, or (ii) part of a cooperative
26 may be conveyed, or all or part of a cooperative may be
27 subjected to a security interest, only pursuant to section
28 515B.3-112;

29 (9) grant public utility easements through, over or under
30 the common elements, and, subject to approval by resolution of
31 unit owners other than declarant or its affiliates at a meeting
32 duly called, grant other public or private easements, leases and
33 licenses through, over or under the common elements;

34 (10) impose and receive any payments, fees, or charges for
35 the use, rental, or operation of the common elements, other than
36 limited common elements, and for services provided to unit

1 owners;

2 (11) impose charges for late payment of assessments and,
3 after notice and an opportunity to be heard, levy reasonable
4 fines for violations of the declaration, bylaws, and rules and
5 regulations of the association;

6 (12) impose reasonable charges for the review, preparation
7 and recordation of amendments to the declaration, resale
8 certificates required by section 515B.4-107, statements of
9 unpaid assessments, or furnishing copies of association records;

10 (13) provide for the indemnification of its officers and
11 directors, and maintain directors' and officers' liability
12 insurance;

13 (14) provide for reasonable procedures governing the
14 conduct of meetings and election of directors;

15 (15) exercise any other powers conferred by law, or by the
16 declaration, articles of incorporation or bylaws; and

17 (16) exercise any other powers necessary and proper for the
18 governance and operation of the association.

19 (b) Notwithstanding subsection (a) the declaration or
20 bylaws may not impose limitations on the power of the
21 association to deal with the declarant which are more
22 restrictive than the limitations imposed on the power of the
23 association to deal with other persons.

24 (c) Notwithstanding subsection (a), powers exercised under
25 this section must comply with section 500.215.

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

3 S.F. No. 1231: A bill for an act relating to real
4 property; regulating sign and flag display; amending Minnesota
5 Statutes 2004, sections 515.07; 515B.2-103; 515B.3-102;
6 proposing coding for new law in Minnesota Statutes, chapter 500.

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

9 Page 1, line 9, delete everything after "(a)" and insert
10 "Any provision of any deed restriction, subdivision regulation,
11 restrictive covenant, local ordinance, contract, rental
12 agreement or regulation, or homeowners association document that
13 limits the right of an owner or tenant of residential property
14 to display the flag of the United States and the flag of the
15 State of Minnesota is void and unenforceable."

16 Page 1, delete lines 10 to 14

17 Page 1, line 25, delete "reasonable"

18 Page 2, line 3, delete "or"

19 Page 2, line 4, after "installation" insert "and display"

20 Page 2, line 6, after "use" insert "; or

21 (3) illuminating the flag"

22 Page 2, line 11, delete "to rental property"

23 Page 2, line 14, delete "(a)"

24 Page 2, delete lines 18 and 19

25 Page 2, line 24, after the period, insert "If a flag is
26 installed or displayed in violation of enforceable restrictions
27 or limitations, the party enforcing the restrictions or
28 limitations is entitled to recover, from the party displaying
29 the flag, reasonable attorney fees and expenses if the enforcing
30 party prevails in enforcing the restrictions or limitations."

31 And when so amended the bill do pass. Amendments adopted.
32 Report adopted.

33
34 (Committee Chair)

35
36 March 3, 2005.....
37 (Date of Committee recommendation)

1 seeking a dissolution of a marriage or a legal separation, in
 2 the manner in which other fees are collected, a marital
 3 dissolution fee in the amount of \$31 from:

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

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

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

13 Sec. 2. [517A.36] [MAINTENANCE PAYMENT ENFORCEMENT.]

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

19 (b) The enforcement requirements and procedures in sections
 20 517C.04; 517C.10, subdivisions 1, 2, and 5; 517C.12, subdivision
 21 4; 517C.13; 517C.22; 517C.23; 517C.27; 517C.28; 517C.30;
 22 517C.63; 517C.73; 517C.80; and 517C.84, do not apply to a
 23 maintenance obligation whether or not the obligation is or was
 24 combined with a child support obligation.

25 Sec. 3. Minnesota Statutes 2004, section 518.002, is
 26 amended to read:

27 518.002 [MEANING OF DIVORCE.]

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

31 Sec. 4. Minnesota Statutes 2004, section 518.003,
 32 subdivision 1, is amended to read:

33 Subdivision 1. [SCOPE.] ~~For-the-purposes-of~~ The
 34 definitions in this section apply to this chapter,--the-following
 35 ~~terms-have-the-meanings-provided-in-this-section-unless-the~~
 36 ~~context-clearly-requires-otherwise.~~

1 Sec. 5. Minnesota Statutes 2004, section 518.005, is
2 amended to read:

3 518.005 [RULES GOVERNING PROCEEDINGS.]

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

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

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

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

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

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

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

36 Subd. 6. [REQUIRED NOTICE.] Every court order or judgment

1 and decree that provides for child support, spousal maintenance,
 2 custody, or parenting time must contain the notices required by
 3 section 517C.99.

4 Sec. 6. Minnesota Statutes 2004, section 518.01, is
 5 amended to read:

6 518.01 [VOID MARRIAGES.]

7 ~~All-marriages-which-are~~ A marriage prohibited by section
 8 ~~517.03 shall-be-absolutely~~ is void, without any decree of
 9 dissolution or other legal proceedings; except if a person whose
 10 husband or wife has been absent for four successive years,
 11 without being known to the person to be living during that time,
 12 marries during the lifetime of the absent husband or wife,
 13 the subsequent marriage ~~shall-be~~ is void only from the time that
 14 its nullity is duly adjudged. If the absentee is declared dead
 15 in accordance with section 576.142, the subsequent
 16 marriage ~~shall~~ is not be void.

17 Sec. 7. Minnesota Statutes 2004, section 518.02, is
 18 amended to read:

19 518.02 [VOIDABLE MARRIAGES.]

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

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

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

33 ~~(c)~~ (3) a party was under the age for marriage established
 34 by section 517.02, except as otherwise provided by section
 35 517A.10.

36 Sec. 8. Minnesota Statutes 2004, section 518.03, is

1 amended to read:

2 518.03 [ACTION TO ANNUL; DECREE.]

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

7 The provisions of ~~sections-518-54-to-518-66~~ this chapter
8 and chapters 517B and 517C relating to property rights of the
9 spouses, maintenance, support, and custody of children on
10 dissolution of marriage are applicable to proceedings for
11 annulment.

12 Sec. 9. Minnesota Statutes 2004, section 518.04, is
13 amended to read:

14 518.04 [INSUFFICIENT GROUNDS FOR ANNULMENT.]

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

23 Sec. 10. Minnesota Statutes 2004, section 518.05, is
24 amended to read:

25 518.05 [ANNULMENT; WHEN TO BRING.]

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

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

35 ~~{b}-for-the-reason-set-forth-in~~ (2) under section 518.02,
36 clause ~~{b}~~ (2), by either party no later than one year after the

1 petitioner obtained knowledge of the described condition;
 2 ~~(c)-for-the-reason-set-forth-in~~ (3) under section 518.02,
 3 clause ~~(c)~~ (3), by the underaged party, or the party's parent or
 4 guardian, before the time the underaged party reaches the age at
 5 which the party could have married without satisfying the
 6 omitted requirement.

7 Sec. 11. Minnesota Statutes 2004, section 518.055, is
 8 amended to read:

9 518.055 [PUTATIVE SPOUSE.]

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

24 Sec. 12. Minnesota Statutes 2004, section 518.06, is
 25 amended to read:

26 518.06 [DISSOLUTION OF MARRIAGE; LEGAL SEPARATION; GROUNDS;
 27 UNCONTESTED LEGAL SEPARATION.]

28 Subdivision 1. [MEANING AND EFFECT OF DECREES; GROUNDS.] A
 29 dissolution of marriage is the termination of the marital
 30 relationship between a husband and wife. A decree of
 31 dissolution completely terminates the marital status of both
 32 parties. A legal separation is a court determination of the
 33 rights and responsibilities of a husband and wife arising out of
 34 the marital relationship. A decree of legal separation does not
 35 terminate the marital status of the parties. A dissolution of a
 36 marriage ~~shall~~ must be granted by ~~a county or district court~~

1 when if the court finds that there has been an irretrievable
2 breakdown of the marriage relationship.

3 A ~~decree-of~~ legal separation ~~shall~~ must be granted when
4 if the court finds that one or both parties need a legal
5 separation.

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

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

15 Sec. 13. Minnesota Statutes 2004, section 518.07, is
16 amended to read:

17 518.07 [RESIDENCE OF PARTIES.]

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

25 Sec. 14. Minnesota Statutes 2004, section 518.09, is
26 amended to read:

27 518.09 [PROCEEDING; HOW AND WHERE BROUGHT; VENUE.]

28 A proceeding for dissolution or legal separation may be
29 brought by either or both spouses and ~~shall-be~~ is commenced by
30 personal service of the summons and petition venued in the
31 county where either spouse resides. No summons is required if a
32 joint petition is filed. If neither party resides in the state
33 and jurisdiction is based on the domicile of either
34 spouse party, the proceeding may be brought in the county where
35 either party is domiciled. If neither party resides or is
36 domiciled in this state and jurisdiction is premised upon one of

1 the parties being a member of the armed services stationed in
 2 this state for not less than 180 days immediately preceding the
 3 commencement of the proceeding, the proceeding may be brought in
 4 the county where the member is stationed. This venue ~~shall be~~
 5 is subject to the court's ~~power of the court~~ to change the place
 6 of hearing by consent of the parties, ~~or when~~ if it appears to
 7 the court that an impartial hearing cannot be had in the county
 8 where the proceedings are pending, or ~~when~~ if the convenience of
 9 the parties or the ends of justice would be promoted by the
 10 change. ~~No summons shall be required if a joint petition is~~
 11 ~~filed.~~

12 Sec. 15. Minnesota Statutes 2004, section 518.091,
 13 subdivision 1, is amended to read:

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

16 NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE
 17 RESOLUTION PROVISIONS

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

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

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

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

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

33 (4) PARTIES TO A MARRIAGE DISSOLUTION PROCEEDING ARE
 34 ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO
 35 MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES
 36 MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE

1 DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR
 2 ABOUT RESOURCES IN YOUR AREA. IN SOME COUNTIES, IF YOU CANNOT
 3 PAY FOR MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION, ~~IN-SOME~~
 4 ~~COUNTIES~~, ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT
 5 PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC
 6 ABUSE OR THREATS OF ABUSE AS DEFINED IN MINNESOTA STATUTES,
 7 CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL
 8 NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

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

14 Sec. 16. Minnesota Statutes 2004, section 518.10, is
 15 amended to read:

16 518.10 [REQUISITES OF PETITION.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 Sec. 17. Minnesota Statutes 2004, section 518.11, is
31 amended to read:

32 518.11 [SERVICE; ALTERNATE SERVICE; PUBLICATION.]

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

36 (b) When Service is made out of this state and within the

1 United States, ~~it~~ may be proved by the affidavit of the person
2 making the same service. When Service is made without
3 outside of the United States it may be proved by the affidavit
4 of the person making the same service, taken before and
5 certified:

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

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

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

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

35 If the petitioner seeks disposition of real estate located
36 ~~within-the-state-of~~ in Minnesota, the court ~~shall~~ must order

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

10 Sec. 18. Minnesota Statutes 2004, section 518.12, is
11 amended to read:

12 518.12 [TIME FOR ANSWERING.]

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

22 Sec. 19. Minnesota Statutes 2004, section 518.13, is
23 amended to read:

24 518.13 [FAILURE TO ANSWER; FINDINGS; HEARING.]

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

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

35 A finding of irretrievable breakdown under this subdivision
36 is a determination that there is no reasonable prospect of

1 reconciliation. The finding must be supported by evidence that
2 (i) the parties have lived separate and apart for a period of
3 not less than 180 days immediately preceding the commencement of
4 the proceeding, or (ii) there is serious marital discord
5 adversely affecting the attitude of one or both of the parties
6 toward the marriage.

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

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

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

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

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

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

1 Sec. 20. Minnesota Statutes 2004, section 518.131, is
2 amended to read:

3 518.131 [TEMPORARY ORDERS AND RESTRAINING ORDERS.]

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

11 (a) (1) temporary custody and parenting time regarding the
12 minor children of the parties;

13 (b) (2) temporary maintenance of either spouse;

14 ~~(c) Temporary child support for the children of the~~
15 ~~parties;~~

16 (d) (3) temporary costs and reasonable attorney fees;

17 ~~(e) Award the~~ (4) temporary use and possession, exclusive
18 or otherwise, of the family home, furniture, household goods,
19 automobiles, and other property of the parties;

20 (f) (5) restrain one or both parties from transferring,
21 encumbering, concealing, or disposing of property except in the
22 usual course of business or for the necessities of life, and to
23 account to the court for all such transfers, encumbrances,
24 dispositions, and expenditures made after the order is served or
25 communicated to the party restrained in open court;

26 (g) (6) restrain one or both parties from harassing,
27 vilifying, mistreating, molesting, disturbing the peace, or
28 restraining the liberty of the other party or the children of
29 the parties;

30 (h) (7) restrain one or both parties from removing any
31 minor child of the parties from the jurisdiction of the court;

32 (i) (8) exclude a party from the family home of the parties
33 or from the home of the other party; and

34 (j) (9) require one or both of the parties to perform or to
35 not perform ~~such~~ additional acts as that will facilitate the
36 just and speedy disposition of the proceeding, or ~~will~~ protect

1 the parties or their children from physical or emotional harm.

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

4 ~~(a)~~ (1) deny parenting time to a parent unless the court
5 finds that the parenting time is likely to cause physical or
6 emotional harm to the child;

7 ~~(b)~~ (2) exclude a party from the family home of the parties
8 unless the court finds that physical or emotional harm to one of
9 the parties or to the children of the parties is likely to
10 result, or that the exclusion is reasonable in the
11 circumstances; or

12 ~~(c)~~ (3) vacate or modify an order granted under section
13 518B.01, subdivision 6, paragraph (a), clause (1), restraining
14 an abusing party from committing acts of domestic abuse, except
15 that the court may hear a motion for modification of an order
16 for protection concurrently with a proceeding for dissolution of
17 marriage upon notice of motion and motion. The notice required
18 by court rule ~~shall~~ must not be waived. If the proceedings are
19 consolidated and the motion to modify is granted, a separate
20 order for modification of an order for protection ~~shall~~ must be
21 issued.

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

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

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

34 Subd. 4. [HEARING ON RESTRAINING ORDER; DURATION.] A
35 restraining orders-~~shall~~ order must be personally served upon
36 the party to be restrained ~~and-shall-be-accompanied~~ along with a

1 notice of the time and place of a hearing for a temporary order
2 for disposition of the matters contained in the restraining
3 order ~~at-a-hearing-for-a-temporary-order~~. When If a restraining
4 order has been issued, a hearing on the temporary order ~~shall~~
5 must be held at the earliest practicable date. The restrained
6 party may upon written notice to the other party advance the
7 hearing date to a time earlier than that noticed by the other
8 party. The restraining order ~~shall-continue~~ continues in full
9 force and effect only until the hearing time noticed, unless the
10 court, for good cause and upon notice extends the time for
11 hearing.

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

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

24 Subd. 7. [GUIDING FACTORS.] The court ~~shall~~ must be guided
25 by the factors set forth in sections ~~518.551-(concerning-child~~
26 ~~support)~~, 518.552 (concerning maintenance), ~~518.17-to-518.175~~
27 517B.17, 517B.18, and 517B.25 (concerning custody and parenting
28 time), and 518.14 (concerning costs and attorney fees) in making
29 temporary orders and restraining orders.

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

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

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

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

10 Subd. 10. [MISDEMEANOR.] In addition to being punishable
11 by contempt, a violation of a provision of a temporary order or
12 restraining order granting the relief authorized in subdivision
13 1, clause ~~(g)~~ (6), ~~(h)~~ (7), or ~~(i)~~ (8), is a misdemeanor.

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

17 Sec. 21. Minnesota Statutes 2004, section 518.14,
18 subdivision 1, is amended to read:

19 Subdivision 1. [GENERAL.] (a) Except as provided in
20 subdivision 2, in a proceeding under this chapter or chapter
21 517B or 517C, the court ~~shall~~ must award attorney fees, costs,
22 and disbursements in an amount necessary to enable a party to
23 carry on or contest the proceeding, provided if it finds that:

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

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

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

32 (b) Nothing in this section precludes the court from
33 awarding, in its discretion, additional fees, costs, and
34 disbursements against a party who unreasonably contributes to
35 the length or expense of the proceeding. Fees, costs, and
36 disbursements provided for in this section may be awarded at any

1 point in the proceeding, including a modification proceeding
2 under sections 518.18 and 518.64. The court may adjudge costs
3 and disbursements against either party. The court may authorize
4 the collection of money awarded by execution, ~~or~~ out of property
5 sequestered, or in any other manner within the power of the
6 court. An award of attorney's fees made by the court during the
7 pendency of the proceeding or in the final judgment survives the
8 proceeding and if not paid by the party directed to pay ~~the same~~
9 them may be enforced ~~as above provided~~ in the manner provided in
10 this paragraph or by a separate civil action brought in the
11 attorney's own name. If the proceeding is dismissed or
12 abandoned prior to determination and award of attorney's fees,
13 the court may nevertheless award attorney's fees upon the
14 attorney's motion. The award ~~shall also survive~~ survives the
15 proceeding and may be enforced in the ~~same manner as last above~~
16 provided in this paragraph.

17 Sec. 22. Minnesota Statutes 2004, section 518.148, is
18 amended to read:

19 518.148 [CERTIFICATION OF DISSOLUTION.]

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

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

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

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

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

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

1 (5) the date of the judgment and decree; and
2 (6) the Social Security number of the parties to the
3 dissolution and the Social Security number of any living minor
4 or dependent children identified in the judgment and decree.

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

8 Sec. 23. Minnesota Statutes 2004, section 518.191,
9 subdivision 1, is amended to read:

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

19 Sec. 24. Minnesota Statutes 2004, section 518.195,
20 subdivision 2, is amended to read:

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

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

- 26 (i) the demographic data required in section 518.10;
27 (ii) verifying the qualifications set forth in subdivision
28 1;
29 (iii) listing each party's nonmarital property;
30 (iv) setting forth how the marital assets and debts will be
31 apportioned;
32 (v) verifying both parties' income and preserving their
33 rights to spousal maintenance; and
34 (vi) certifying that there has been no domestic abuse of
35 one party by the other; and

36 (2) viewing any introductory and summary process

1 educational videotapes, if then available from the court, and
2 certifying that they watched any such tapes within the 30 days
3 preceding the filing of the joint declaration.

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

8 Sec. 25. Minnesota Statutes 2004, section 518.195,
9 subdivision 3, is amended to read:

10 Subd. 3. [FORMS.] The state court administrator ~~shall~~ must
11 develop simplified forms and instructions for the summary
12 process. District court administrators ~~shall~~ must make the
13 forms for the summary process available upon request and ~~shall~~
14 must accept joint declarations for filing ~~on-and-after-July-17~~
15 ~~1997~~.

16 Sec. 26. Minnesota Statutes 2004, section 518.24, is
17 amended to read:

18 518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

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

35 Sec. 27. Minnesota Statutes 2004, section 518.25, is
36 amended to read:

1 518.25 [REMARRIAGE; REVOCATION.]

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

9 Sec. 28. Minnesota Statutes 2004, section 518.27, is
 10 amended to read:

11 518.27 [NAME OF PARTY.]

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

23 Sec. 29. Minnesota Statutes 2004, section 518.54,
 24 subdivision 1, is amended to read:

25 Subdivision 1. [~~TERMS SCOPE.~~] ~~For the purposes of sections~~
 26 ~~518.54 to 518.66, the terms defined~~ The definitions in this
 27 section ~~shall have the meanings respectively ascribed to~~
 28 them apply to sections 517A.31 to 517A.41.

29 Sec. 30. Minnesota Statutes 2004, section 518.54,
 30 subdivision 5, is amended to read:

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

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

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

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

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

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

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

32 or

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

34 Sec. 31. Minnesota Statutes 2004, section 518.54,
 35 subdivision 6, is amended to read:

36 Subd. 6. [INCOME.] "Income" means any form of periodic

1 payment to an individual including, but not limited to, wages,
2 salaries, payments to an independent contractor, workers'
3 compensation, unemployment benefits, and annuity, military and
4 or naval retirement, pension and or disability payments.
5 "Income" does not include benefits received under Title IV-A of
6 the Social Security Act and or chapter 256J ~~are-not-income-under~~
7 ~~this-section.~~

8 Sec. 32. Minnesota Statutes 2004, section 518.54,
9 subdivision 7, is amended to read:

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

12 Sec. 33. Minnesota Statutes 2004, section 518.54,
13 subdivision 8, is amended to read:

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

20 Sec. 34. Minnesota Statutes 2004, section 518.55, is
21 amended to read:

22 518.55 [MAINTENANCE OR SUPPORT MONEY.]

23 Subdivision 1. [CONTENTS OF ORDER.] Every award of
24 maintenance or support money in a judgment of dissolution or
25 legal separation ~~shall~~ must clearly designate whether ~~the-same~~
26 it is maintenance or support money, or what part of the award is
27 maintenance and what part is support money. An award of
28 payments from future income or earnings of the parent with whom
29 the child resides is presumed to be maintenance and an award of
30 payments from the future income or earnings of the parent with
31 whom the child does not reside is presumed to be support money,
32 unless otherwise designated by the court. In a judgment of
33 dissolution or legal separation the court may determine, as one
34 of the issues of the case, whether or not either spouse is
35 entitled to an award of maintenance notwithstanding that no
36 award is then made, or it may reserve jurisdiction of the issue

1 of maintenance for determination at a later date.

2 Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] Every
3 obligor ~~shall~~ must notify the obligee and the public authority
4 responsible for collection, if applicable, of a change of
5 address or residence within 60 days of the address or residence
6 change. Every order for ~~support-or~~ maintenance must contain a
7 conspicuous notice complying with section ~~518.687-subdivision~~
8 2 517C.99. The court may waive or modify the requirements of
9 this subdivision by order if necessary to protect the obligor
10 from contact by the obligee.

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

15 Sec. 35. Minnesota Statutes 2004, section 518.552, is
16 amended to read:

17 518.552 [MAINTENANCE.]

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

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

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

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

1 the home.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 Sec. 36. Minnesota Statutes 2004, section 518.58, is
20 amended to read:

21 518.58 [DIVISION OF MARITAL PROPERTY.]

22 Subdivision 1. [GENERAL.] Upon a dissolution of a
23 marriage, an annulment, or in a proceeding for disposition of
24 property following a dissolution of marriage by a court which
25 lacked personal jurisdiction over the absent spouse or lacked
26 jurisdiction to dispose of the property and which has since
27 acquired jurisdiction, the court ~~shall~~ must make a just and
28 equitable division of the marital property of the parties
29 without regard to marital misconduct, after making findings
30 regarding the division of the property. The court ~~shall~~ must
31 base its findings on all relevant factors including the length
32 of the marriage, any prior marriage of a party, the age, health,
33 station, occupation, amount and sources of income, vocational
34 skills, employability, estate, liabilities, needs, opportunity
35 for future acquisition of capital assets, and income of each
36 party. The court ~~shall~~ must also consider the contribution of

1 each in the acquisition, preservation, depreciation, or
2 appreciation in the amount or value of the marital property, as
3 well as the contribution of a spouse as a homemaker. It shall
4 be is conclusively presumed that each spouse made a substantial
5 contribution to the acquisition of income and property while
6 they were living together as husband and wife. The court may
7 also award to either spouse the household goods and furniture of
8 the parties, whether or not acquired during the marriage. The
9 court shall must value marital assets for purposes of division
10 between the parties as of the day of the initially scheduled
11 prehearing settlement conference, unless a different date is
12 agreed upon by the parties, or ~~unless~~ the court makes specific
13 findings that another date of valuation is fair and equitable.
14 If there is a substantial change in value of an asset between
15 the date of valuation and the final distribution, the court may
16 adjust the valuation of that asset as necessary to effect an
17 equitable distribution.

18 Subd. 1a. [TRANSFER, ENCUMBRANCE, CONCEALMENT, OR
19 DISPOSITION OF MARITAL ASSETS.] In contemplation of commencing
20 or during the pendency of a marriage dissolution, separation, or
21 annulment proceeding, ~~or-in-contemplation-of-commencing-a~~
22 ~~marriage-dissolution, separation, or annulment proceeding,~~ each
23 party owes a fiduciary duty to the other for any profit or loss
24 derived by the party, without the consent of the other, from a
25 transaction or from any use by the party of the marital assets.
26 If the court finds that a party to a marriage, without consent
27 of the other party, has in contemplation of commencing, or
28 during the pendency of, the current dissolution, separation, or
29 annulment proceeding, transferred, encumbered, concealed, or
30 disposed of marital assets except in the usual course of
31 business or for the necessities of life, the court shall must
32 compensate the other party by placing both parties in the same
33 position that they would have been in had the transfer,
34 encumbrance, concealment, or disposal not occurred. The burden
35 of proof under this subdivision is on the party claiming that
36 the other party transferred, encumbered, concealed, or disposed

1 of marital assets in contemplation of commencing or during the
2 pendency of the current dissolution, separation, or annulment
3 proceeding, without consent of the claiming party, and that the
4 transfer, encumbrance, concealment, or disposal was not in the
5 usual course of business or for the necessities of life. In
6 compensating a party under this section, the court, in dividing
7 the marital property, may impute the entire value of an asset
8 and a fair return on the asset to the party who transferred,
9 encumbered, concealed, or disposed of it. Use of a power of
10 attorney, or the absence of a restraining order against the
11 transfer, encumbrance, concealment, or disposal of marital
12 property is not available as a defense under this subdivision.

13 Subd. 2. [AWARD OF NONMARITAL PROPERTY.] If the court
14 finds that either spouse's resources or property, including the
15 spouse's portion of the marital property as defined in section
16 518.54, subdivision 5, are so inadequate as to work an unfair
17 hardship, considering all relevant circumstances, the court may,
18 in addition to the marital property, apportion up to one-half of
19 the property otherwise excluded under section 518.54,
20 subdivision 5, clauses ~~(a)~~ (1) to ~~(d)~~ (4), to prevent the unfair
21 hardship. If the court apportions property other than marital
22 property, it ~~shall~~ must make findings in support of the
23 apportionment. The findings ~~shall~~ must be based on all relevant
24 factors including the length of the marriage, any prior marriage
25 of a party, the age, health, station, occupation, amount and
26 sources of income, vocational skills, employability, estate,
27 liabilities, needs, and opportunity for future acquisition of
28 capital assets and income of each party.

29 Subd. 3. [SALE OR DISTRIBUTION WHILE PROCEEDING PENDING.]
30 (a) If the court finds that it is necessary to preserve the
31 marital assets of the parties, the court may order the sale of
32 the homestead of the parties or the sale of other marital
33 assets, as the individual circumstances may require, during the
34 pendency of a proceeding for a dissolution of marriage or an
35 annulment. If the court orders a sale, it may further provide
36 for the disposition of the funds received from the sale during

1 the pendency of the proceeding. If liquid or readily liquidated
2 marital property other than property representing vested pension
3 benefits or rights is available, the court, so far as possible,
4 ~~shall~~ must divide the property representing vested pension
5 benefits or rights by the disposition of an equivalent amount of
6 the liquid or readily liquidated property.

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

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

15 (1) is payable only to the extent of the amount of the
16 pension plan benefit payable under the terms of the plan;

17 (2) is not payable for a period that exceeds the time that
18 pension plan benefits are payable to the pension plan benefit
19 recipient;

20 (3) is not payable in a lump sum amount from pension plan
21 assets attributable in any fashion to a spouse with the status
22 of an active member, deferred retiree, or benefit recipient of a
23 pension plan;

24 (4) if the former spouse to whom the payments are to be
25 made dies prior to the end of the specified payment period with
26 the right to any remaining payments accruing to an estate or to
27 more than one survivor, is payable only to a trustee on behalf
28 of the estate or the group of survivors for subsequent
29 apportionment by the trustee; and

30 (5) in the case of public pension plan benefits or rights,
31 may not commence until the public plan member submits a valid
32 application for a public pension plan benefit and the benefit
33 becomes payable.

34 (b) The An individual retirement account plans plan
35 established under chapter 354B may provide in its plan document,
36 if published and made generally available, for an alternative

1 marital property division or distribution of individual
2 retirement account plan assets. If an alternative division or
3 distribution procedure is provided, it applies in place of
4 paragraph (a), clause (5).

5 Sec. 37. Minnesota Statutes 2004, section 518.581, is
6 amended to read:

7 518.581 [SURVIVING SPOUSE BENEFIT.]

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

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

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

25 (1) pay more than the equivalent of one surviving spouse
26 benefit, regardless of the number of spouses or former spouses
27 who may be sharing in a portion of the total benefit;

28 (2) pay surviving spouse benefits under circumstances where
29 the plan member does not have a right to elect surviving spouse
30 benefits;

31 (3) pay surviving spouse benefits to a former spouse if the
32 former spouse would not be eligible for benefits under the terms
33 of the plan; or

34 (4) order pay survivor benefits which, when combined with
35 the annuity or benefit payable to the pension plan member,
36 exceed the actuarial equivalent value of the normal retirement

1 annuity form, determined under the plan documents of the pension
2 plan then in effect and the actuarial assumptions then in effect
3 for calculating optional annuity forms by the pension plan or
4 for calculating the funding requirements of the pension plan if
5 no optional annuity forms are provided by the pension plan.

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

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

16 (1) a copy of the court order, including a withholding
17 order, determining the former spouse's rights;

18 (2) the name and last known address of the employee; and

19 (3) the name and address of the former spouse.

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

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

30 (a) "Current or former employee" or "employee" means an
31 individual who has an interest in a pension plan.

32 (b) "Surviving spouse benefit" means (1) a benefit a
33 surviving spouse may be eligible for under the laws and bylaws
34 of the pension plan if the employee dies before retirement, or
35 (2) a benefit selected for or available to a surviving spouse
36 under the laws and bylaws of the pension plan upon the death of

1 the employee after retirement.

2 Sec. 38. Minnesota Statutes 2004, section 518.582, is
3 amended to read:

4 518.582 [PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.]

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

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

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

17 (2) as specified by the court.

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

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

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

29 Sec. 39. Minnesota Statutes 2004, section 518.62, is
30 amended to read:

31 518.62 [TEMPORARY ORDER; MAINTENANCE; HOMESTEAD.]

32 Temporary maintenance ~~and-temporary-support~~ may be awarded
33 as provided in section 518.131. The court may also award to
34 either party to the proceeding, having due regard to all the
35 circumstances and the party awarded the custody of the children,
36 the right to the exclusive use of the household goods and

1 furniture of the parties pending the proceeding and the right to
 2 the use of the homestead of the parties, exclusive or otherwise,
 3 pending the proceeding. The court may order either party to
 4 remove from the homestead of the parties upon proper application
 5 to the court for an order pending the proceeding.

6 Sec. 40. Minnesota Statutes 2004, section 518.64,
 7 subdivision 1, is amended to read:

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

19 (b) The court may:

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

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

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

30 Sec. 41. Minnesota Statutes 2004, section 518.64,
 31 subdivision 2, is amended to read:

32 Subd. 2. [MODIFICATION.] (a) The terms of an order
 33 respecting maintenance or support may be modified upon a showing
 34 of one or more of the following: (1) substantially increased or
 35 decreased earnings of a party; (2) substantially increased or
 36 decreased need of a party or the child or children that are the

1 subject-of-these-proceedings; (3) receipt of assistance under
 2 the AFDC program formerly codified under sections 256.72 to
 3 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a
 4 change in the cost of living for either party as measured by the
 5 Federal Bureau of Statistics, any of which makes the terms
 6 unreasonable and unfair; (5) extraordinary medical expenses of
 7 the child not provided for under section 518.171; or (6) the
 8 addition of work-related or education-related child care
 9 expenses of the obligee or a substantial increase or decrease in
 10 existing work-related or education-related child care expenses.

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

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

19 ~~(1) the application of the child support guidelines in~~
 20 ~~section 518.551, subdivision 5, to the current circumstances of~~
 21 ~~the parties results in a calculated court order that is at least~~
 22 ~~20 percent and at least \$50 per month higher or lower than the~~
 23 ~~current support order;~~

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

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

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

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

1 motion. ~~On a motion for modification of support, the court:~~

2 ~~(1) shall apply section 518.551, subdivision 5, and shall~~
 3 ~~not consider the financial circumstances of each party's spouse,~~
 4 ~~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 ~~arrears are paid in full.~~

25 ~~(d) (c) 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 ~~servicing 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) (d) Except for an award of the right of occupancy of
25 the homestead, ~~provided in~~ under section 518.63, all divisions
26 of real and personal property provided by section 518.58 ~~shall~~
27 ~~be~~ are final, and may be revoked or modified only ~~where~~ if the
28 court finds the existence of conditions that justify reopening a
29 judgment under the laws of this state, including motions under
30 section 518.145, subdivision 2. The court may impose a lien or
31 charge on the divided property at any time while the property,
32 or subsequently acquired property, is owned by the parties or
33 either of them, for the payment of maintenance or support money,
34 or may sequester the property ~~as is provided by~~ under section
35 518.24.

36 (f) (e) The court need not hold an evidentiary hearing on a

1 motion for modification of maintenance or support.

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

4 Sec. 42. Minnesota Statutes 2004, section 518.641, is
5 amended to read:

6 518.641 [COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE ~~OR-CHILD~~
7 SUPPORT ORDER.]

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

24 (b) The adjustment becomes effective on the first of May of
25 the year in which it is made, for cases in which payment is made
26 to the public authority. For cases in which payment is not made
27 to the public authority, application for an adjustment may be
28 made in any month but no application for an adjustment may be
29 made sooner than two years after the date of the dissolution
30 decree. A court may waive the requirement of the cost-of-living
31 clause if it expressly finds that the obligor's occupation or
32 income, or both, does not provide for a cost-of-living
33 adjustment or that the order for maintenance ~~or-child-support~~
34 has a provision such as a step increase that has the effect of a
35 cost-of-living clause. The court may waive a cost-of-living
36 adjustment in a maintenance order if the parties so agree in

1 writing. ~~The commissioner of human services may promulgate~~
 2 ~~rules for child support adjustments under this section in~~
 3 ~~accordance with the rulemaking provisions of chapter 14.~~ Notice
 4 of this statute must comply with section 518.68, subdivision 2.

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

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

21 (1) file a motion contesting the cost-of-living adjustment
 22 with the court administrator; and

23 (2) serve the motion by first-class mail on the public
 24 authority and the obligee.

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

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

33 (1) file a motion contesting the cost-of-living adjustment
 34 with the court administrator; and

35 (2) serve the motion by first-class mail on the obligee.

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

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

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

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

16 Sec. 43. Minnesota Statutes 2004, section 518.642, is
17 amended to read:

18 518.642 [OVERPAYMENTS.]

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

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

26 (2) if an overpayment exists after the reduction of any
27 arrearage or debt, reduce the amount of the ~~child-support~~
28 maintenance remitted to the obligee by an amount no greater than
29 20 percent of the current monthly ~~support-or~~ maintenance
30 obligation and remit this amount to the obligor until the
31 overpayment is reduced to zero.

32 Sec. 44. Minnesota Statutes 2004, section 518.646, is
33 amended to read:

34 518.646 [NOTICE OF ORDER.]

35 ~~Whenever-these-laws-require~~ If a law requires service of a
36 court's order on an employer, union, or payor of funds, service

1 of a verified notice of order may be made in lieu thereof of the
2 order. The verified notice ~~shall~~ must contain the title of the
3 action, the name of the court, the court file number, the date
4 of the court order, and ~~shall recite~~ the operative provisions of
5 the order.

6 Sec. 45. Minnesota Statutes 2004, section 518.65, is
7 amended to read:

8 518.65 [PROPERTY; SALE, PARTITION.]

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

15 Sec. 46. Minnesota Statutes 2004, section 518.68,
16 subdivision 1, is amended to read:

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

28 Sec. 47. [REVISOR'S INSTRUCTION.]

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

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

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

1	<u>518.55, subd. 1</u>	<u>517A.32, subd. 4</u>
2	<u>518.55, subd. 3</u>	<u>517A.32, subd. 5</u>
3	<u>518.552, subd. 1</u>	<u>517A.32, subd. 1</u>
4	<u>518.552, subd. 2</u>	<u>517A.32, subd. 2</u>
5	<u>518.552, subd. 3</u>	<u>517A.32, subd. 3</u>
6	<u>518.552, subd. 4</u>	<u>517A.32, subd. 6</u>
7	<u>518.552, subd. 5</u>	<u>517A.32, subd. 7</u>
8	<u>518.58</u>	<u>517A.37</u>
9	<u>518.581</u>	<u>517A.39</u>
10	<u>518.582</u>	<u>517A.40</u>
11	<u>518.63</u>	<u>517A.41</u>
12	<u>518.64, subd. 1</u>	<u>517A.34, subd. 1</u>
13	<u>518.64, subd. 2</u>	<u>517A.34, subd. 2</u>
14	<u>518.64, subd. 3</u>	<u>517A.32, subd. 8</u>
15	<u>518.641, subd. 1</u>	<u>517A.33, subd. 1</u>
16	<u>518.641, subd. 2</u>	<u>517A.33, subd. 2</u>
17	<u>518.641, subd. 2a</u>	<u>517A.33, subd. 3</u>
18	<u>518.641, subd. 3</u>	<u>517A.43, subd. 4</u>
19	<u>518.642</u>	<u>517A.35</u>
20	<u>518.646</u>	<u>517A.05</u>
21	<u>518.65</u>	<u>517A.38</u>

22 Sec. 48. [REPEALER.]

23 Minnesota Statutes 2004, sections 518.14, subdivision 2;
24 518.24; 518.55, subdivision 4; 518.62; 518.64, subdivisions 4,
25 4a, and 5; and 518.68, are repealed.

26 ARTICLE 2

27 CUSTODY, PARENTING TIME, AND VISITATION

28 GENERAL

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

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

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

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

36 (b) A party seeking a temporary custody order must submit

1 with moving papers an affidavit setting forth facts supporting
2 the requested order. The party must give notice and a copy of
3 the affidavit to other parties to the proceeding, who may file
4 opposing affidavits.

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

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

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

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

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

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

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

21 (2) their physical custody and residence.

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

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

29 (1) the wishes of the child's parent or parents as to
30 custody;

31 (2) the reasonable preference of the child, if the court
32 deems the child to be of sufficient age to express a preference;

33 (3) the child's primary caretaker;

34 (4) the intimacy of the relationship between each parent
35 and the child;

36 (5) the interaction and interrelationship of the child with

1 a parent or parents, siblings, and any other person who may
2 significantly affect the child's best interests;

3 (6) the child's adjustment to home, school, and community;

4 (7) the length of time the child has lived in a stable,
5 satisfactory environment and the desirability of maintaining
6 continuity;

7 (8) the permanence, as a family unit, of the existing or
8 proposed home;

9 (9) the mental and physical health of all individuals
10 involved; except that a disability, as defined in section
11 363.01, of a parent or the child is not determinative of the
12 custody of the child, unless the proposed custodial arrangement
13 is not in the best interest of the child;

14 (10) the capacity and disposition of the parties to give
15 the child love, affection, and guidance, and to continue
16 educating and raising the child in the child's culture and
17 religion or creed, if any;

18 (11) the child's cultural background;

19 (12) the effect on the child of the actions of an abuser,
20 if related to domestic abuse, as defined in section 518B.01,
21 that has occurred between the parents or between a parent and
22 another individual, whether or not the individual alleged to
23 have committed domestic abuse is or ever was a family or
24 household member of the parent;

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

29 (14) evidence of a violation of section 609.507.

30 Subd. 4. [BEST INTERESTS DETERMINATION.] The court must
31 make detailed findings on each of the factors in subdivision 3
32 and explain how the factors led to its conclusion and to the
33 determination of the best interests of the child. In
34 determining the best interests of a child, the court may not use
35 one factor in subdivision 3 to the exclusion of all others. The
36 primary caretaker factor may not be used as a presumption in

1 determining the best interests of the child. The court shall
2 not consider conduct of a parent that does not affect the
3 parent's relationship to the child.

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

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

9 (1) the ability of the parents to cooperate in the rearing
10 of their child;

11 (2) methods for resolving disputes regarding any major
12 decision concerning the life of the child, and the parents'
13 willingness to use those methods;

14 (3) whether it would be detrimental to the child if one
15 parent were to have sole authority over the child's upbringing;
16 and

17 (4) whether domestic abuse, as defined in section 518B.01,
18 has occurred between the parents.

19 Subd. 2. [PRESUMPTIONS; FINDINGS.] (a) The court must use
20 a rebuttable presumption that, upon request of either or both
21 parents, joint legal custody is in the best interests of the
22 child. However, the court must use a rebuttable presumption
23 that joint legal or physical custody is not in the best
24 interests of the child if domestic abuse, as defined in section
25 518B.01, has occurred between the parents.

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

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

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

36 Subdivision 1. [ACCESS; LIMITATIONS.] (a) Whether sole or

1 joint legal custody is ordered, the court must grant the rights
2 in clauses (1) to (5) to each of the parties, unless specific
3 findings are made under section 517C.99, subdivision 1. Each
4 party:

5 (1) has the right of access to, and to receive copies of, a
6 minor child's school, medical, dental, religious training, and
7 other important records and information;

8 (2) has the right of access to information regarding health
9 or dental insurance available to a minor child;

10 (3) must keep the other party informed as to the name and
11 address of the school a minor child attends;

12 (4) must notify the other party of any accident or serious
13 illness of a minor child and the name of the health care
14 provider and place of treatment; and

15 (5) has the right to reasonable access and telephone
16 contact with a minor child.

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

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

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

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

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

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

36 (c) "Physical custody and residence" means the routine

1 daily care and control and the residence of the child.

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

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

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

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

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

20 518.155 [CUSTODY DETERMINATIONS AND PARENTING TIME
21 JURISDICTION.]

22 Notwithstanding any law to the contrary, a court in which a
23 proceeding for dissolution, legal separation, or child custody
24 has been commenced ~~shall~~ must not issue, revise, modify or amend
25 any order, pursuant to ~~sections-518-131, 518-165, 518-168,~~
26 ~~518-177, 518-175-or-518-187-which~~ section 517B.03, 517B.08,
27 517B.16, 517B.21, or 517B.25, that affects the custody of a
28 minor child or the parenting time of a parent unless the court
29 has jurisdiction over the matter ~~pursuant-to-the-provisions-of~~
30 under chapter 518D.

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

33 518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

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

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

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

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

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

18 Subdivision 1. [IMPLEMENTATION; ADMINISTRATION.] By
19 ~~January 17, 1998,~~ The chief judge of each judicial district or a
20 designee ~~shall~~ must implement one or more parent education
21 programs within the judicial district for the purpose of
22 educating parents about the impact that divorce, the
23 restructuring of families, and judicial proceedings have upon
24 children and families; methods for preventing parenting time
25 conflicts; and dispute resolution options. The chief judge of
26 each judicial district or a designee may require that children
27 attend a separate education program designed to deal with the
28 impact of divorce upon children as part of the parent education
29 program. Each parent education program must enable persons to
30 have timely and reasonable access to education sessions.

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

33 Subd. 2. [MINIMUM STANDARDS; PLAN.] The Minnesota Supreme
34 Court should promulgate minimum standards for the implementation
35 and administration of a parent education program. The chief
36 judge of each judicial district or a designee ~~shall~~ must submit

1 a plan to the Minnesota conference of chief judges for their
2 approval that is designed to implement and administer a parent
3 education program in the judicial district. The plan must be
4 consistent with the minimum standards promulgated by the
5 Minnesota Supreme Court.

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

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

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

36 Subd. 5. [CONFIDENTIALITY.] Unless all parties agree in

1 writing, statements made by a party during participation in a
 2 parent education program are inadmissible as evidence for any
 3 purpose, including impeachment. No record may be made regarding
 4 a party's participation in a parent education program, except a
 5 record of attendance at and completion of the program as
 6 required under this section. Instructors ~~shall~~ must not
 7 disclose information regarding an individual participant
 8 obtained as a result of participation in a parent education
 9 program. Parent education instructors may not be subpoenaed or
 10 called as witnesses in court proceedings.

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

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

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

23 518.165 [GUARDIANS FOR MINOR CHILDREN.]

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

31 Subd. 2. [REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.] The
 32 court must appoint a guardian ad litem in all proceedings for
 33 child custody or for marriage dissolution or legal separation in
 34 which custody or parenting time with a minor child is an issue,
 35 if the court has reason to believe that the minor child is a
 36 victim of domestic child abuse or neglect, as those terms are

1 defined in sections 260C.007 and 626.556, respectively, ~~the~~
2 ~~court shall appoint a guardian ad litem.~~ The guardian ad
3 litem shall must represent the interests of the child and advise
4 the court with respect to custody, support, and parenting time.
5 If the child is represented by a guardian ad litem in any other
6 pending proceeding, the court may appoint that guardian to
7 represent the child in the custody or parenting time
8 proceeding. No guardian ad litem need be appointed if the
9 alleged domestic child abuse or neglect is before the court on a
10 juvenile dependency and neglect petition. Nothing in this
11 subdivision requires the court to appoint a guardian ad litem in
12 any proceeding for child custody, marriage dissolution, or legal
13 separation in which an allegation of domestic child abuse or
14 neglect has not been made.

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

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

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

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

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

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

1 Subd. 3. [FEES.] (a) A guardian ad litem appointed under
2 either subdivision 1 or 2 may be appointed either as a volunteer
3 or on a fee basis. If a guardian ad litem is appointed on a fee
4 basis, the court ~~shall~~ must enter an order for costs, fees, and
5 disbursements in favor of the child's guardian ad litem. The
6 order may be made against either or both parties, except that
7 any part of the costs, fees, or disbursements which the court
8 finds the parties are incapable of paying ~~shall~~ must be borne by
9 the state courts. The costs of court-appointed counsel to the
10 guardian ad litem ~~shall~~ must be paid by the county in which the
11 proceeding is being held if a party is incapable of paying for
12 them. Until the recommendations of the task force created in
13 Laws 1999, chapter 216, article 7, section 42, are implemented,
14 the costs of court-appointed counsel to a guardian ad litem in
15 the Eighth Judicial District ~~shall~~ must be paid by the state
16 courts if a party is incapable of paying for them. In no event
17 may the court order that costs, fees, or disbursements be paid
18 by a party receiving public assistance or legal assistance or by
19 a party whose annual income falls below the poverty line as
20 established under United States Code, title 42, section 9902(2).

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

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

32 518.166 [INTERVIEWS; RECOMMENDATIONS.]

33 The court may interview the child in chambers to ascertain
34 the child's reasonable preference as-to-custodian regarding with
35 which parent the child would reside, if the court deems the
36 child to be of sufficient age to express preference. The

1 court ~~shall~~ must permit counsel to be present at the interview
2 and ~~shall~~ must permit counsel to propound reasonable questions
3 to the child either directly or through the court. The
4 court ~~shall~~ must cause a record of the interview to be made and
5 to be made part of the record in the case unless waived by the
6 parties.

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

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

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

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

36 Subd. 4. [~~USE-AT DISCOVERY; HEARING.~~] The investigator and

1 any person the investigator has consulted is subject to other
2 pretrial discovery in accordance with the requirements of the
3 Minnesota Rules of Civil Procedure. Mediation proceedings are
4 not subject to discovery without written consent of both
5 parties. A party to the proceeding may cross-examine at the
6 hearing the investigator and any person whom the investigator
7 has consulted for cross-examination. A party may not waive the
8 right of cross-examination before the hearing. The
9 investigator's report may be received in evidence at the hearing.

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

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

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

25 518.168 [HEARINGS.]

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

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

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

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

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

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

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

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

14 (3) a method of dispute resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Subd. 8. [ALLOCATION OF CERTAIN EXPENSES.] (a) Parents
24 creating a parenting plan are subject to the requirements of the
25 child support guidelines under ~~section-518-551~~ sections 517C.12
26 to 517C.18.

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

30 Sec. 26. Minnesota Statutes 2004, section 518.1705,
31 subdivision 9, is amended to read:

32 Subd. 9. [MODIFICATION OF PARENTING PLANS.] (a) Parents
33 may modify the schedule of the time each parent spends with the
34 child or the decision-making provisions of a parenting plan by
35 agreement. To be enforceable, modifications must be confirmed
36 by court order. A motion to modify decision-making provisions

1 or the time each parent spends with the child may be made only
2 within the time limits provided by section 518.18.

3 (b) The parties may agree, but the court must not require
4 them, to apply the best interests standard in section 518.17 or
5 257.025, as applicable, for deciding a motion for modification
6 that would change the child's primary residence, ~~provided that~~
7 if:

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

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

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

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

17 518.175 [PARENTING TIME.]

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

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

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

1 denial of parenting time.

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

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

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

19 Subd. 1a. [DOMESTIC ABUSE; SUPERVISED PARENTING TIME.] (a)
20 If a parent requests supervised parenting time under subdivision
21 1 or 5 and an order for protection under chapter 518B or a
22 similar law of another state is in effect against the other
23 parent to protect the child or the parent with whom the child
24 resides ~~or-the-child~~, the judge or judicial officer must
25 consider the order for protection in making a decision regarding
26 parenting time.

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

33 Subd. 2. [RIGHTS OF CHILDREN AND PARENTS.] Upon the
34 request of either parent, the court may inform any child of the
35 parties, if eight years of age or older, or otherwise of an age
36 of suitable comprehension, of the rights of the child and each

1 parent under the order or decree or any substantial amendment
2 thereof of it. The parent with whom the child resides ~~shall~~
3 must present the child for parenting time with the other parent,
4 at ~~such~~ the times as the court directs.

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

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

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

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

26 (b) If a parent makes specific allegations that parenting
27 time by the other parent places the parent or child in danger of
28 harm, the court ~~shall~~ must hold a hearing at the earliest
29 possible time to determine the need to modify the order granting
30 parenting time. Consistent with subdivision ~~1a~~ 2, the court may
31 require a third party, including the local social services
32 agency, to supervise the parenting time or may restrict a
33 parent's parenting time if necessary to protect the other parent
34 or child from harm. If there is an existing order for
35 protection governing the parties, the court ~~shall~~ must consider
36 the use of an independent, neutral exchange location for

1 parenting time.

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

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

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

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

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

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

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

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

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

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

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

35 A civil penalty imposed under this paragraph must be
36 deposited in the county general fund and must be used to fund

1 the costs of a parenting time expeditor program in a county with
2 this program. In other counties, the civil penalty must be
3 deposited in the state general fund.

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

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

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

19 (1) the ability of the parents to cooperate;

20 (2) methods for resolving disputes regarding the care of
21 the child, and the parents' willingness to use those methods;
22 and

23 (3) whether domestic abuse, as defined in section 518B.01,
24 has occurred between the parties.

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

27 Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a
28 parenting time expeditor is to resolve parenting time disputes
29 by enforcing, interpreting, clarifying, and addressing
30 circumstances not specifically addressed by an existing
31 parenting time order and, if appropriate, to make a
32 determination as to whether the existing parenting time order
33 has been violated. A parenting time expeditor may be appointed
34 to resolve a onetime parenting time dispute or to provide
35 ongoing parenting time dispute resolution services. A parenting
36 time expeditor must attempt to resolve a parenting time dispute

1 by facilitating negotiations between the parties to promote
 2 settlement. If it becomes apparent that the dispute cannot be
 3 resolved by an agreement of the parties, the parenting time
 4 expeditor must make a decision resolving the dispute.

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

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

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

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

32 (b) If the parties cannot agree on a parenting time
 33 expeditor, the court ~~shall~~ must ~~provide to the parties~~ them with
 34 a copy of the court administrator's roster of parenting time
 35 expeditors and require the parties to exchange the names of
 36 three potential parenting time expeditors by a specific date.

1 If after exchanging names the parties are unable to agree upon a
2 parenting time expeditor, the court ~~shall~~ must select the
3 ~~parenting-time~~ expeditor and, in its discretion, may appoint one
4 expeditor or a team of two ~~expeditors~~. In the selection process
5 the court must give consideration to the financial circumstances
6 of the parties and the fees of those being considered
7 as ~~parenting-time~~ expeditors. Preference must be given to
8 persons who agree to volunteer their services or who will charge
9 a variable fee for services based on the ability of the parties
10 to pay for them.

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

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

23 Subd. 2a. [FEES.] ~~Prior-to~~ Before appointing the parenting
24 time expeditor, the court ~~shall~~ must give the parties notice
25 that the expeditor's fees ~~of-the-expeditor~~ will be apportioned
26 among the parties. In its order appointing the expeditor, the
27 court ~~shall~~ must apportion the expeditor's fees ~~of-the-expeditor~~
28 among the parties, with each party bearing the portion of fees
29 that the court determines is just and equitable under the
30 circumstances. If a party files a pro se motion regarding a
31 parenting time dispute and there is not a an existing court
32 order ~~that-provides-for-apportionment-of~~ apportioning the fees
33 of an expeditor, the court administrator may require the party
34 requesting the appointment of an expeditor to pay the
35 expeditor's fees ~~of-the-expeditor~~ in advance. Neither party may
36 be required to submit a dispute to a ~~visitation~~ an expeditor if

1 the party cannot afford to pay for the fees of-an-expeditor and
 2 an affordable expeditor is not available, unless the other party
 3 agrees to pay the fees. After fees are incurred, a party may by
 4 motion request that the fees be reapportioned on equitable
 5 grounds. The court may consider the resources of the parties,
 6 the nature of the dispute, and whether a party acted in bad
 7 faith. The court may consider information from the expeditor in
 8 determining bad faith.

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

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

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

33 Subd. 2c. [TRAINING AND CONTINUING EDUCATION
 34 REQUIREMENTS.] To qualify for listing on a court administrator's
 35 roster of parenting time expeditors, an individual ~~shall~~ must
 36 complete a minimum of 40 hours of family mediation training that

1 has been certified by the Minnesota Supreme Court, ~~which.~~ The
2 training must include certified training in domestic abuse
3 issues as required under Rule 114 of the Minnesota General Rules
4 of Practice for the District Courts. To ~~maintain-one's~~
5 ~~listing~~ remain listed on a court administrator's roster of
6 parenting time expeditors, an individual ~~shall~~ must annually
7 attend three hours of continuing education about alternative
8 dispute resolution subjects.

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

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

23 (b) If the parties do not reach an agreement, the expeditor
24 ~~shall~~ must make a decision resolving the dispute as soon as
25 possible, but not later than five days after receiving all
26 information necessary to make a decision and after the final
27 meeting or conference with the parties. The expeditor is
28 authorized to award compensatory parenting time under section
29 518.175, subdivision 6, and may recommend to the court that the
30 noncomplying party pay attorney's fees, court costs, and other
31 costs under section 518.175, subdivision 6, paragraph (d), if
32 the parenting time order has been violated. The expeditor ~~shall~~
33 ~~not-lose~~ retains the authority to make a decision if
34 circumstances beyond the expeditor's control make it
35 impracticable to meet the five-day timelines.

36 (c) Unless the parties mutually agree, the parenting time

1 expeditor shall must not make a decision that is inconsistent
 2 with an existing parenting time order, but may make decisions
 3 interpreting or clarifying a parenting time order, including the
 4 development of a specific schedule when the existing court order
 5 grants "reasonable parenting time."

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

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

19 518.1752 [GRANDPARENT AND OTHERS; VISITATION.]

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

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

28 518.176 [JUDICIAL SUPERVISION.]

29 ~~Subdivision 1:--{LIMITS ON PARENT'S AUTHORITY, HEARING--}~~
 30 ~~Except as otherwise agreed by the parties in writing at the time~~
 31 ~~of the custody order,~~ (a) The parent with whom the child resides
 32 may determine the child's upbringing, including education,
 33 health care, and religious training, unless:

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

36 (2) upon motion by the other parent, the court after

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

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

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

17 518.177 [~~NOTIFICATION REGARDING DEPRIVATION OF PARENTAL~~
 18 ~~RIGHTS-LAW REQUIRED NOTICE.~~]

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

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

25 518.178 [PARENTING TIME AND SUPPORT REVIEW HEARING.]

26 Upon motion of either party, the court ~~shall~~ must conduct a
 27 hearing to review compliance with the parenting time and child
 28 support provisions ~~set forth~~ in a decree of dissolution or legal
 29 separation or an order that establishes child custody, parenting
 30 time, and support rights and obligations of parents. The state
 31 court administrator ~~shall~~ must prepare, and each court
 32 administrator ~~shall~~ must make available, simplified pro se forms
 33 for reviewing parenting time and child support disputes. The
 34 court may impose any parenting time enforcement remedy available
 35 under ~~sections 518.175 and 518.175~~ this section or section
 36 517B.26, and any support enforcement remedy available under

1 section 518.551.

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

4 Subdivision 1. [SEEKING CUSTODY OR PARENTING TIME.] (a)
5 Notwithstanding any contrary provision in section 518.17 or
6 518.175, if a person seeking child custody or parenting time who
7 has been convicted of a crime described in subdivision 27—the
8 ~~person-seeking-custody-or-parenting-time~~ has the burden to prove
9 that custody or parenting time by that person is in the best
10 interests of the child if:

11 (1) the conviction occurred within the preceding five
12 years;

13 (2) the person is currently incarcerated, on probation, or
14 under supervised release for the offense; or

15 (3) the victim of the crime was a family or household
16 member as defined in section 518B.01, subdivision 2.

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

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

26 518.18 [MODIFICATION OF ORDER.]

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

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

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

1 (2) in accordance with paragraph (c).

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

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

27 (1) the court finds that a change in the custody
28 arrangement or primary residence is in the best interests of the
29 child and the parties previously agreed, in a writing approved
30 by a court, to apply the best interests standard in section
31 518.17 or 257.025, as applicable; and, with respect to
32 agreements approved by a court on or after April 28, 2000, both
33 parties were represented by counsel when the agreement was
34 approved or the court found the parties were fully informed, the
35 agreement was voluntary, and the parties were aware of its
36 implications;

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

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

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

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

11 ~~(e)~~ (f) In deciding whether to modify a prior joint custody
12 order, the court ~~shall~~ must apply the standards set forth in
13 paragraph (d) unless: (1) the parties agree in writing to the
14 application of a different standard; or (2) the party seeking
15 the modification is asking the court for permission to move the
16 residence of the child to another state.

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

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

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

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

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

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

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

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

3 518.612 [INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY
4 ORDER.]

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

7 ~~(1)-interference-with-parenting-time,-or~~

8 ~~(2)-without-the-permission-of-the-court-or-the-other~~

9 ~~parent,-removing-a-child-from-this-state-~~

10 ~~Interference-with-parenting-time-or-taking-a-child-from~~

11 ~~this-state-without-permission-of-the-court-or-the-other-parent~~

12 ~~is-not-a-defense-to-nonpayment-of-support.--If-a-party-fails-to~~

13 ~~make-support-payments,-interferes-with-parenting-time,-or~~

14 ~~removes-a-child-from-the-state-without-permission-of-the-court~~

15 ~~or-the-other-parent,-the-other-party-may-petition-the-court-for~~

16 ~~an-appropriate-order-~~

17 (a) An obligor may not assert as a defense to failure to

18 pay child support that the obligee interfered with parenting

19 time or removed the child from the state without permission of

20 the obligor or the court.

21 (b) An obligee may not assert as a defense to interference

22 with parenting time or removing the child from the state without

23 permission of the obligor or the court that the obligor failed

24 to pay child support.

25 (c) A party may petition the court for an appropriate order

26 if the other party:

27 (1) fails to make support payments;

28 (2) interferes with parenting time; or

29 (3) removes a child from this state without permission of

30 the court or the other parent.

31 Sec. 41. Minnesota Statutes 2004, section 518.619, is

32 amended to read:

33 518.619 [CUSTODY OR VISITATION PARENTING TIME; MEDIATION

34 SERVICES.]

35 Subdivision 1. [MEDIATION PROCEEDING.] Except as provided

36 in subdivision 2, if it appears on the face of the petition or

1 other application for an order or modification of an order
2 for the child custody ~~of-a-child~~ that custody or parenting time
3 is contested, or that any issue pertinent to a custody or
4 parenting time determination, including parenting time rights,
5 is unresolved, the matter may be set for mediation of the
6 contested issue ~~prior-to~~ before, concurrent with, or subsequent
7 ~~to-the~~ after setting of the matter for hearing. The purpose of
8 the mediation proceeding is to reduce acrimony ~~which~~ that may
9 exist between the parties and to develop an agreement that is
10 supportive of the child's best interests. The mediator ~~shall~~
11 must use best efforts to effect a settlement of the custody or
12 parenting time dispute, but ~~shall-have~~ has no coercive authority.

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

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

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

30 (a) (1) knowledge of the court system and the procedures
31 used in contested child custody matters;

32 (b) (2) knowledge of other resources in the community to
33 which the parties to contested child custody matters can be
34 referred for assistance;

35 (c) (3) knowledge of child development, clinical issues
36 relating to children, the effects of marriage dissolution on

1 children, and child custody research; and

2 ~~(d)~~ (4) a minimum of 40 hours of certified mediation
3 training.

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

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

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

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

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

1	<u>518.167</u>	<u>517B.15</u>
2	<u>518.168</u>	<u>517B.16</u>
3	<u>518.1705</u>	<u>517B.28</u>
4	<u>518.175, subd. 1</u>	<u>517B.25, subd. 1</u>
5	<u>518.175, subd. 1a</u>	<u>517B.25, subd. 2</u>
6	<u>518.175, subd. 2</u>	<u>517B.25, subd. 3</u>
7	<u>518.175, subd. 3</u>	<u>517B.25, subd. 4</u>
8	<u>518.175, subd. 5</u>	<u>517B.25, subd. 6</u>

ARTICLE 3

CHILD SUPPORT

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

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

Sec. 2. [517C.02] [DEFINITIONS.]

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

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

(1) child support;

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

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

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

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

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

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

Subd. 5. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending

1 secondary school, or an individual who, by reason of physical or
2 mental condition, is incapable of self-support.

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

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

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

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

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

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

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

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

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

35 Subd. 12. [PAYOR OF FUNDS.] "Payor of funds" means a
36 person or entity that provides funds to an obligor, including an

1 employer as defined under chapter 24, section 3401(d), of the
2 Internal Revenue Code, an independent contractor, payor of
3 workers' compensation benefits or unemployment insurance
4 benefits, or a financial institution as defined in section
5 13B.06.

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

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

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

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

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

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

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

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

31 Subd. 17. [IV-D CASE.] "IV-D case" means a case where a
32 party assigns rights to child support to the state because the
33 party receives public assistance, as defined in section 256.741,
34 or applies for child support services under title IV-D of the
35 Social Security Act, United States Code, title 42, section
36 654(4).

1 Sec. 3. [517C.04] [CHILD SUPPORT ORDERS.]

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

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

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

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

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

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

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

33 Subd. 6. [PREFERENCE FOR STATIC PAYMENT.] There is a
34 presumption in favor of ordering child support so that an
35 obligor makes the same monthly payments throughout the year, as
36 opposed to payment amounts that fluctuate by season or month.

1 If the obligor is seasonally employed, it is generally the
2 obligor's responsibility to budget income accordingly.

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

5 (1) all parties agree; or

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

8 Subd. 8. [CHILD SUPPORT TO BE DISTINGUISHED FROM
9 MAINTENANCE.] In a judgment of dissolution or legal separation,
10 the court must clearly distinguish between payments ordered for
11 maintenance and payments ordered for child support. An award of
12 payments from future income or earnings of the parent with whom
13 the child resides is presumed to be maintenance and an award of
14 payments from the future income or earnings of the other parent
15 is presumed to be child support, unless otherwise designated by
16 the court.

17 Subd. 9. [OTHER CUSTODIANS.] If a child resides with a
18 person other than a parent and the court approves of the custody
19 arrangement, the court may order child support payments to be
20 made to the custodian regardless of whether the person has legal
21 custody.

22 Subd. 10. [EITHER PARENT LIABLE; MARITAL MISCONDUCT
23 IRRELEVANT.] The court may order either or both parents owing a
24 duty of support to a child to pay an amount reasonable or
25 necessary for the child's support, without regard to marital
26 misconduct.

27 Sec. 4. [517C.05] [TEMPORARY ORDERS.]

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

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

1 (1) it is amended;

2 (2) it is vacated;

3 (3) the main action is dismissed; or

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

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

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

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

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

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

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

21 Sec. 5. [517C.06] [DETERMINATION OF CONTROLLING ORDER.]

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

25 Sec. 6. [517C.07] [ATTORNEY FEES; COSTS AND
26 DISBURSEMENTS.]

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

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

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

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

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

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

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

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

19 Sec. 7. [517C.10] [EXCHANGE OF INFORMATION.]

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

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

34 Subd. 2. [EXCHANGE OF TAX RETURNS.] At any time after a
35 party commences an action seeking child support or when a child
36 support order is in effect, a party or the public authority may

1 require the other party to give them a copy of the other party's
2 most recent federal tax returns that were filed with the
3 Internal Revenue Service. The party must provide a copy of the
4 tax returns within 30 days of receiving the request unless the
5 request is not made in good faith. A party may not make a
6 request under this subdivision more than once every two years,
7 in the absence of good cause.

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

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

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

31 Sec. 8. [517C.11] [PRIVACY PROTECTION; PERSONAL
32 PROTECTION.]

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

1 section 517C.10.

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

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

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

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

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

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

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

29 Sec. 9. [517C.12] [INCOME.]

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

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

35 (1) wages;

36 (2) salaries;

1 (3) payments to an independent contractor;

2 (4) workers' compensation;

3 (5) unemployment insurance benefits;

4 (6) annuity;

5 (7) military and naval retirement;

6 (8) pension and disability payments; and

7 (9) in-kind payments received by the obligor in the course

8 of employment, self-employment, or operation of a business if

9 the payments reduce the obligor's living expenses.

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

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

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

32 Subd. 6. [OVERTIME.] (a) Income does not include
33 compensation received by a party for employment in excess of a
34 40-hour work week if:

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

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

3 (3) 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 (4) the party's compensation structure has not been changed
7 for the purpose of affecting a child support obligation.

8 (b) The court may presume that a party with seasonal or
9 intermittent income who works periods in excess of a 40-hour
10 work week, but who works a substantially normal number of hours
11 over the course of a year, is working within the normal range of
12 hours worked.

13 Subd. 7. [INCOME OF A SPOUSE OR OTHER HOUSEHOLD
14 MEMBER.] (a) Income must not include the income of a party's
15 spouse or other household member. The court must not consider
16 the income or resources provided by a spouse or other household
17 member when determining all the earnings, income, and resources
18 of a parent under sections 517C.25 to 517C.29.

19 (b) Notwithstanding paragraph (a), the court may issue an
20 order permitting discovery of a spouse's or other household
21 member's income information if there is probable cause to
22 believe the spouse or other household member is being used to
23 shelter income from a party. If the court finds that income was
24 improperly or unfairly sheltered, it may impute income to the
25 party or otherwise adjust the support amount in a just and
26 proper manner. However, the court may not under any
27 circumstances consider income or resources properly attributable
28 to a spouse or other household member when setting support.

29 Subd. 8. [PRIOR CHILD SUPPORT OR MAINTENANCE ORDERS.] The
30 amount of a child support or maintenance order, not including
31 orders for child support or maintenance debts or arrears, must
32 be deducted from income.

33 Subd. 9. [LEGALLY DEPENDENT CHILD.] (a) For purposes of
34 this subdivision, a "legally dependent child" means a child:

35 (1) whose primary residence is with a parent eligible for a
36 deduction from income under this subdivision;

- 1 (2) whom the parent has the legal duty to support;
2 (3) who is not a subject of the current child support
3 action;
4 (4) for whom the parent is not ordered to pay child
5 support; and
6 (5) for whom no other person has court-ordered sole
7 physical custody.

8 (b) The court must deduct an amount from a parent's income
9 for a legally dependent child. The amount deducted from income
10 for each legally dependent child must be computed using the
11 following method:

- 12 (1) determine 120 percent of the federal poverty guidelines
13 for a family size equal to two parents plus each legally
14 dependent child;
15 (2) divide the amount determined under clause (1) by the
16 family size determined under clause (1);
17 (3) multiply the amount calculated under clause (2) by the
18 number of legally dependent children; and
19 (4) divide the amount calculated under clause (3) by two to
20 determine the deduction amount for one parent. The amount
21 determined for one parent must be divided by 12 to determine the
22 amount of the deduction from a parent's monthly income.

23 (c) The commissioner of human services must publish a table
24 listing the amount of the deduction for each legally dependent
25 child by family size and must update the table for changes to
26 the federal poverty guidelines by July 1 of each year.

27 Sec. 10. [517C.13] [IMPUTED INCOME.]

28 Subdivision 1. [NONAPPEARANCE OF A PARENT.] If a parent
29 under the jurisdiction of the court does not appear at a court
30 hearing after proper notice of the time and place of the
31 hearing, the court must set income for that parent based on
32 credible evidence before the court or in accordance with
33 subdivision 3. Credible evidence may include documentation of
34 current or recent income, testimony of the other parent
35 concerning recent earnings and income levels, and the parent's
36 wage reports filed with the Minnesota Department of Employment

1 and Economic Development under section 268.044.

2 Subd. 2. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a)
3 The principles of income imputation apply equally to both
4 parents.

5 (b) If the court finds that a parent is voluntarily
6 unemployed or underemployed or was voluntarily unemployed or
7 underemployed during the period for which past support is being
8 sought, a court must calculate support based on a determination
9 of imputed income.

10 (c) A parent is not considered voluntarily unemployed or
11 underemployed upon a showing by the parent that:

12 (1) the unemployment or underemployment is temporary and
13 will ultimately lead to an increase in income;

14 (2) the unemployment or underemployment represents a bona
15 fide career change that outweighs the adverse effect of that
16 parent's diminished income on the child;

17 (3) the parent is a recipient of public assistance under
18 section 256.741; or

19 (4) the parent is physically or mentally incapacitated.

20 (d) Imputed income means the estimated earning ability of a
21 parent based on the parent's prior earnings history, education,
22 and job skills, and on availability of jobs within the community
23 for an individual with the parent's qualifications.

24 Subd. 3. [INSUFFICIENT INFORMATION.] If there is
25 insufficient information to determine actual income or to impute
26 income pursuant to subdivision 1 or 2, the court may calculate
27 support based on full-time employment of 40 hours per week at
28 150 percent of the federal minimum wage or the Minnesota minimum
29 wage, whichever is higher.

30 Sec. 11. [517C.14] [PRESUMPTIVE CHILD SUPPORT ORDER;
31 GENERAL.]

32 Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in
33 sections 517C.12 to 517C.18 are a rebuttable presumption and
34 must be used in all cases when establishing or modifying child
35 support.

36 Subd. 2. [CHILD'S INSURANCE BENEFIT.] In establishing or

1 modifying child support, if a child receives a child's insurance
 2 benefit under United States Code, title 42, section 402, because
 3 the obligor is entitled to old age or disability insurance
 4 benefits, the amount of support ordered must be offset by the
 5 amount of the child's benefit. The court must make findings
 6 regarding the obligor's income from all sources, the child
 7 support amount calculated under this chapter, the amount of the
 8 child's benefit, and the obligor's child support obligation. A
 9 benefit received by the child in a given month in excess of the
 10 child support obligation must not be treated as a payment of
 11 arrears or a future payment.

12 Sec. 12. [517C.15] [BASIC SUPPORT.]

13 Subdivision 1. [BASIC SUPPORT; SCHEDULE.] (a) Unless
 14 otherwise agreed to by the parents and approved by the court,
 15 the court must order that basic support be divided between the
 16 parents based on their proportionate share of the parents'
 17 combined monthly income, as determined under section 517C.12.

18 (b) For parents with a combined monthly income less than or
 19 equal to 100 percent of the federal poverty guidelines amount
 20 for two people, the commissioner of human services must
 21 determine the amounts in this paragraph by taking two times the
 22 minimum basic support amount under section 517C.18, subdivision
 23 2, divided by 100 percent of the federal poverty guidelines
 24 amount for two people. For all other parents, basic support
 25 must be computed using the following schedule, prepared based on
 26 2001 United States Department of Agriculture expenditure data:

27 Parents' 28 Combined 29 Monthly Income	30 Number of Children						
	31 One	32 Two	33 Three	34 Four	35 Five	36 Six	
37 \$0- \$199	\$10	\$16	\$19	\$22	\$25	\$29	
200- 299	20	32	37	43	50	58	
300- 399	30	48	56	65	75	87	
400- 499	40	64	74	86	100	116	
500- 599	50	81	93	108	126	146	
600- 699	60	97	112	130	151	175	
700- 799	70	113	130	151	176	204	
800- 899	80	129	149	173	201	233	

1	<u>900- 999</u>	<u>90</u>	<u>145</u>	<u>167</u>	<u>194</u>	<u>226</u>	<u>262</u>
2	<u>1,000- 1,099</u>	<u>116</u>	<u>161</u>	<u>186</u>	<u>216</u>	<u>251</u>	<u>291</u>
3	<u>1,100- 1,199</u>	<u>145</u>	<u>205</u>	<u>237</u>	<u>275</u>	<u>320</u>	<u>370</u>
4	<u>1,200- 1,299</u>	<u>177</u>	<u>254</u>	<u>294</u>	<u>341</u>	<u>396</u>	<u>459</u>
5	<u>1,300- 1,399</u>	<u>212</u>	<u>309</u>	<u>356</u>	<u>414</u>	<u>480</u>	<u>557</u>
6	<u>1,400- 1,499</u>	<u>251</u>	<u>368</u>	<u>425</u>	<u>493</u>	<u>573</u>	<u>664</u>
7	<u>1,500- 1,599</u>	<u>292</u>	<u>433</u>	<u>500</u>	<u>580</u>	<u>673</u>	<u>780</u>
8	<u>1,600- 1,699</u>	<u>337</u>	<u>502</u>	<u>580</u>	<u>673</u>	<u>781</u>	<u>905</u>
9	<u>1,700- 1,799</u>	<u>385</u>	<u>577</u>	<u>666</u>	<u>773</u>	<u>897</u>	<u>1,040</u>
10	<u>1,800- 1,899</u>	<u>436</u>	<u>657</u>	<u>758</u>	<u>880</u>	<u>1,021</u>	<u>1,183</u>
11	<u>1,900- 1,999</u>	<u>490</u>	<u>742</u>	<u>856</u>	<u>994</u>	<u>1,152</u>	<u>1,336</u>
12	<u>2,000- 2,099</u>	<u>516</u>	<u>832</u>	<u>960</u>	<u>1,114</u>	<u>1,292</u>	<u>1,498</u>
13	<u>2,100- 2,199</u>	<u>528</u>	<u>851</u>	<u>981</u>	<u>1,139</u>	<u>1,320</u>	<u>1,531</u>
14	<u>2,200- 2,299</u>	<u>538</u>	<u>867</u>	<u>1,000</u>	<u>1,160</u>	<u>1,346</u>	<u>1,561</u>
15	<u>2,300- 2,399</u>	<u>546</u>	<u>881</u>	<u>1,016</u>	<u>1,179</u>	<u>1,367</u>	<u>1,586</u>
16	<u>2,400- 2,499</u>	<u>554</u>	<u>893</u>	<u>1,029</u>	<u>1,195</u>	<u>1,385</u>	<u>1,608</u>
17	<u>2,500- 2,599</u>	<u>560</u>	<u>903</u>	<u>1,040</u>	<u>1,208</u>	<u>1,400</u>	<u>1,625</u>
18	<u>2,600- 2,699</u>	<u>570</u>	<u>920</u>	<u>1,060</u>	<u>1,230</u>	<u>1,426</u>	<u>1,655</u>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<u>the amount</u>						
36	<u>in effect</u>						
37	<u>under subd. 4</u>						

1 (c) The commissioner of human services must compute and
2 publish a schedule of basic support amounts calculated using the
3 percentages in paragraph (b). The schedule must show basic
4 support amounts for combined monthly income increments of not
5 more than \$100. The commissioner must determine the percentages
6 for each income increment by interpolating between the
7 percentages in paragraph (b). The commissioner may disregard a
8 fractional part of a dollar unless it amounts to 50 cents or
9 more, in which case the commissioner may increase the amount by
10 \$1.

11 Subd. 2. [PARENTING TIME ADJUSTMENT.] (a) This subdivision
12 applies unless the parenting time of the parents is
13 substantially equal or the obligor is responsible for providing
14 overnight parenting time less than 15 percent of the days in the
15 year. Parenting time is substantially equal if each parent
16 provides overnight care for the child at least 45 percent of the
17 days in the year.

18 (b) A noncustodial parent is presumed to be entitled to at
19 least 30 percent overnight parenting time per year for purposes
20 of the parenting time adjustment under this subdivision.

21 (c) The court shall reduce the basic support amount
22 allocated to the obligor by 17.5 percent, to reflect the
23 obligor's expenditures for food, transportation, and
24 miscellaneous costs during parenting time.

25 (d) If this subdivision applies, the court must not make
26 any other adjustment in the basic support obligation of the
27 obligor or deviate from the child support guidelines based on
28 the amount of parenting time granted to the obligor.

29 (e) If, after receiving an adjustment in the basic support
30 obligation under this subdivision, an obligor actually provides
31 less than 15 percent overnight parenting time in any one-year
32 period, the failure to provide that parenting time is grounds
33 for modification of the child support order under section
34 517C.28 to eliminate the parenting time adjustment under this
35 subdivision. It is an affirmative defense to modification of a

1 child support order under this paragraph if the obligor
2 establishes that the failure to provide parenting time was due
3 to circumstances beyond the obligor's control, including, but
4 not limited to, physical or mental disability or health,
5 military service, or imprisonment of the obligor.

6 (f) An obligor is not entitled to a parenting time
7 adjustment under this subdivision if the court orders less than
8 15 percent of overnight parenting time to the obligor.

9 Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a)
10 The basic support obligation for parents with a combined monthly
11 income in excess of the income limit currently in effect under
12 subdivision 1 must be the same dollar amount as provided for
13 parties with a combined monthly income equal to the income limit
14 in effect under subdivision 1.

15 (b) A court may order a basic support obligation in a child
16 support order in an amount that exceeds the income limit in
17 subdivision 1 if it finds that a child has a disability or other
18 substantial, demonstrated need for the additional support and
19 that the additional support will directly benefit the child.

20 (c) The dollar amount for the cap in subdivision 1 must be
21 adjusted on July 1 of every even-numbered year to reflect
22 cost-of-living changes. The Supreme Court must select the index
23 for the adjustment from the indices listed in section 517C.31.
24 The state court administrator must make the changes in the
25 dollar amounts required by this paragraph available to courts
26 and the public on or before April 30 of the year in which the
27 amount is to change.

28 Subd. 4. [MORE THAN SIX CHILDREN.] If a child support
29 proceeding involves more than six children, the court may derive
30 a support order without specifically following the guidelines.
31 However, the court must consider the basic principles
32 encompassed by the guidelines and must consider both parents'
33 needs, resources, and circumstances.

34 Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and
35 every four years after that, the commissioner of human services
36 shall conduct a review of the child support guidelines.

1 Sec. 13. [517C.16] [CHILD CARE SUPPORT.]

2 Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed
3 to by the parties and approved by the court, the court must
4 order that the child care costs be divided between the obligor
5 and obligee based on their proportionate share of the parties'
6 combined monthly income, as determined under section 517C.12,
7 provided that the obligee is actually receiving child care
8 assistance under the basic sliding fee program. For purposes of
9 this subdivision, "child care costs" means 75 percent of the
10 actual child care costs to reflect the approximate value of
11 state and federal tax credits available to the obligee.

12 Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's income
13 as determined under section 517C.12 meets the income eligibility
14 requirements for child care assistance under the basic sliding
15 fee program under chapter 119B, the court must order the obligor
16 to pay the lesser of the following amounts:

17 (1) the amount of the obligor's monthly co-payment for
18 child care assistance under the basic sliding fee schedule
19 established by the commissioner of education under chapter 119B,
20 based on an obligor's monthly gross income as determined under
21 section 517C.12 and the size of the obligor's household. For
22 purposes of this subdivision, the obligor's household includes
23 the obligor and the number of children for whom child support is
24 being ordered; or

25 (2) the amount of the obligor's child care obligation under
26 subdivision 1.

27 (b) The commissioner of human services must publish a table
28 with the child care assistance basic sliding fee amounts and
29 update the table for changes to the basic sliding fee schedule
30 by July 1 of each year.

31 Subd. 3. [DETERMINING COSTS.] (a) The court must require
32 verification of employment or school attendance and
33 documentation of child care expenses from the obligee and the
34 public authority, if applicable.

35 (b) If child care expenses fluctuate during the year
36 because of the obligee's seasonal employment or school

1 attendance or extended periods of parenting time with the
2 obligor, the court must determine child care expenses based on
3 an average monthly cost.

4 (c) The amount allocated for child care expenses is
5 considered child support but is not subject to a cost-of-living
6 adjustment under section 517C.31.

7 (d) The court may allow the parent with whom the child does
8 not reside to care for the child while the parent with whom the
9 child resides is working or attending school, as provided in
10 section 517B.25, subdivision 8. Allowing the parent with whom
11 the child does not reside to care for the child under section
12 517B.25, subdivision 8, is not a reason to deviate from the
13 guidelines.

14 (e) The court may limit child care expenses to the market
15 rates found for the city or county of residence of the obligee
16 as surveyed by the commissioner of human services for purposes
17 of chapter 119B.

18 Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order
19 provides for child care expenses and the public authority
20 provides child support enforcement services, the public
21 authority must suspend collecting the amount allocated for child
22 care expenses when:

23 (1) either party informs the public authority that no child
24 care costs are being incurred; and

25 (2) the public authority verifies the accuracy of the
26 information.

27 The public authority will resume collecting child care expenses
28 when either party provides information that child care costs
29 have resumed.

30 (b) If the parties provide conflicting information to the
31 public authority regarding whether child care expenses are being
32 incurred, the public authority will continue or resume
33 collecting child care expenses. Either party, by motion to the
34 court, may challenge the suspension or resumption of the
35 collection of child care expenses. If the public authority
36 suspends collection activities for the amount allocated for

1 child care expenses, all other provisions of the court order
2 remain in effect.

3 (c) In cases where there is a substantial increase or
4 decrease in child care expenses, the parties may modify the
5 order under section 517C.31.

6 Sec. 14. [517C.17] [MEDICAL SUPPORT.]

7 Subdivision 1. [DEFINITIONS.] The definitions in this
8 subdivision apply to this chapter.

9 (a) "Health care coverage" means health care benefits that
10 are provided by a health plan. Health care coverage does not
11 include any form of medical assistance under chapter 256B or
12 MinnesotaCare under chapter 256L.

13 (b) "Health carrier" means a carrier as defined in sections
14 62A.011, subdivision 2, and 62L.02, subdivision 16.

15 (c) "Health plan" means a plan meeting the definition under
16 section 62A.011, subdivision 3, a group health plan governed
17 under the federal Employee Retirement Income Security Act of
18 1974 (ERISA), a self-insured plan under sections 43A.23 to
19 43A.317 and 471.617, or a policy, contract, or certificate
20 issued by a community-integrated service network licensed under
21 chapter 62N. Health plan includes plans: (1) provided on an
22 individual and group basis; (2) provided by an employer or
23 union; (3) purchased in the private market; and (4) available to
24 a person eligible to carry insurance for the child. Health plan
25 includes a plan providing for dependent-only dental or vision
26 coverage and a plan provided through a party's spouse or parent.

27 (d) "Medical support" means providing health care coverage
28 for a child by carrying health care coverage for the child or by
29 contributing to the cost of health care coverage, public
30 coverage, unreimbursed medical expenses, and uninsured medical
31 expenses of the child.

32 (e) "National medical support notice" means an
33 administrative notice issued by the public authority to enforce
34 health insurance provisions of a support order in accordance
35 with Code of Federal Regulations, title 45, section 303.32, in
36 cases where the public authority provides support enforcement

1 services.

2 (f) "Public coverage" means health care benefits provided
3 by any form of medical assistance under chapter 256B or
4 MinnesotaCare under chapter 256L.

5 (g) "Uninsured medical expenses" means a child's reasonable
6 and necessary health-related expenses if the child is not
7 covered by a health plan or public coverage when the expenses
8 are incurred.

9 (h) "Unreimbursed medical expenses" means a child's
10 reasonable and necessary health-related expenses if a child is
11 covered by a health plan or public coverage and the plan or
12 coverage does not pay for the total cost of the expenses when
13 the expenses are incurred. Unreimbursed medical expenses do not
14 include the cost of premiums. Unreimbursed medical expenses
15 include, but are not limited to, deductibles, co-payments, and
16 expenses for orthodontia, and prescription eyeglasses and
17 contact lenses.

18 Subd. 2. [ORDER.] (a) A completed national medical support
19 notice issued by the public authority or a court order that
20 complies with this section is a qualified medical child support
21 order under the federal Employee Retirement Income Security Act
22 of 1974 (ERISA), United States Code, title 29, section 1169(a).

23 (b) Every order addressing child support must state:

24 (1) the names, last known addresses, and Social Security
25 numbers of the parents and the child that is a subject of the
26 order unless the court prohibits the inclusion of an address or
27 Social Security number and orders the parents to provide the
28 address and Social Security number to the administrator of the
29 health plan;

30 (2) whether appropriate health care coverage for the child
31 is available and, if so, state:

32 (i) which party must carry health care coverage;

33 (ii) the cost of premiums and how the cost is allocated
34 between the parties;

35 (iii) how unreimbursed expenses will be allocated and
36 collected by the parties; and

1 (iv) the circumstances, if any, under which the obligation
2 to provide health care coverage for the child will shift from
3 one party to the other;

4 (3) if appropriate health care coverage is not available
5 for the child, whether a contribution for medical support is
6 required; and

7 (4) whether the amount ordered for medical support is
8 subject to a cost-of-living adjustment under section 517C.31.

9 Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE

10 COVERAGE.] (a) In determining whether a party has appropriate
11 health care coverage for the child, the court must evaluate the
12 health plan using the following factors:

13 (1) accessible coverage. Dependent health care coverage is
14 accessible if the covered child can obtain services from a
15 health plan provider with reasonable effort by the parent with
16 whom the child resides. Health care coverage is presumed
17 accessible if:

18 (i) primary care coverage is available within 30 minutes or
19 30 miles of the child's residence and specialty care coverage is
20 available within 60 minutes or 60 miles of the child's
21 residence;

22 (ii) the coverage is available through an employer and the
23 employee can be expected to remain employed for a reasonable
24 amount of time; and

25 (iii) no preexisting conditions exist to delay coverage
26 unduly;

27 (2) comprehensive coverage. Dependent health care coverage
28 is comprehensive if it includes, at a minimum, medical and
29 hospital coverage and provides for preventive, emergency, acute,
30 and chronic care. If both parties have health care coverage
31 that meets the minimum requirements, the court must determine
32 which health care coverage is more comprehensive by considering
33 whether the coverage includes:

34 (i) basic dental coverage;

35 (ii) orthodontia;

36 (iii) eyeglasses;

1 (iv) contact lenses;

2 (v) mental health services; or

3 (vi) substance abuse treatment;

4 (3) affordable coverage. Dependent health care coverage is
5 affordable if it is reasonable in cost; and

6 (4) the child's special medical needs, if any.

7 (b) If both parties have health care coverage available for
8 a child, and the court determines under paragraph (a), clauses
9 (1) and (2), that the available coverage is comparable with
10 regard to accessibility and comprehensiveness, the least costly
11 health care coverage is the appropriate health care coverage for
12 the child.

13 Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child
14 is presently enrolled in health care coverage, the court must
15 order that the parent who currently has the child enrolled
16 continue that enrollment unless the parties agree otherwise or a
17 party requests a change in coverage and the court determines
18 that other health care coverage is more appropriate.

19 (b) If a child is not presently enrolled in health care
20 coverage, upon motion of a party or the public authority, the
21 court must determine whether one or both parties have
22 appropriate health care coverage for the child and order the
23 party with appropriate health care coverage available to carry
24 the coverage for the child.

25 (c) If only one party has appropriate health care coverage
26 available, the court must order that party to carry the coverage
27 for the child.

28 (d) If both parties have appropriate health care coverage
29 available, the court must order the parent with whom the child
30 resides to carry the coverage for the child, unless:

31 (1) either party expresses a preference for coverage
32 available through the parent with whom the child does not
33 reside;

34 (2) the parent with whom the child does not reside is
35 already carrying dependent health care coverage for other
36 children and the cost of contributing to the premiums of the

1 other parent's coverage would cause the parent with whom the
2 child does not reside extreme hardship; or

3 (3) the parents agree to provide coverage and agree on the
4 allocation of costs.

5 (e) If the exception in paragraph (d), clause (1) or (2),
6 applies, the court must determine which party has the most
7 appropriate coverage available and order that party to carry
8 coverage for the child. If the court determines under
9 subdivision 3, paragraph (a), clauses (1) and (2), that the
10 parties' health care coverage for the child is comparable with
11 regard to accessibility and comprehensiveness, the court must
12 order the party with the least costly health care coverage to
13 carry coverage for the child.

14 (f) If neither party has appropriate health care coverage
15 available, the court must order the parents to:

16 (1) contribute toward the actual health care costs of the
17 children based on a pro rata share; or

18 (2) if the child is receiving any form of medical
19 assistance under chapter 256B or MinnesotaCare under chapter
20 256L, the parent with whom the child does not reside shall
21 contribute a monthly amount toward the actual cost of medical
22 assistance under chapter 256B or MinnesotaCare under chapter
23 256L determined by the court to be just and appropriate; the
24 contribution of the parent with whom the child resides is the
25 monthly contribution as determined by the eligibility
26 requirements for public coverage.

27 (g) If the court finds a pro rata apportionment unjust or
28 inappropriate under paragraph (f), the court shall:

29 (1) order the parties to contribute an amount of the cost
30 of health care as the court finds just and appropriate; and

31 (2) make findings regarding the factors considered, the
32 amount of each parent's share of the cost, and the reasons the
33 court did not order a pro rata apportionment.

34 A presumption of no less than \$50 per month must be applied
35 to the actual health care costs of the children or to the cost
36 of health care coverage.

1 (h) The commissioner of human services must publish a table
2 with the premium schedule for public coverage and update the
3 chart for changes to the schedule by July 1 of each year.

4 Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND
5 UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by
6 the parties and approved by the court, the court must order that
7 the cost of health care coverage and all unreimbursed and
8 uninsured medical expenses be divided between the obligor and
9 obligee based on their proportionate share of the parties'
10 combined monthly income, as determined under section 517C.12.

11 (b) If a party owes a child support obligation for a child
12 and is ordered to carry health care coverage for the child, and
13 the other party is ordered to contribute to the carrying party's
14 cost for coverage, the carrying party's child support payment
15 must be reduced by the amount of the contributing party's
16 contribution.

17 (c) If a party owes a child support obligation for a child
18 and is ordered to contribute to the other party's cost for
19 carrying health care coverage for the child, the contributing
20 party's child support payment must be increased by the amount of
21 the contribution.

22 (d) If the party ordered to carry health care coverage for
23 the child already carries dependent health care coverage for
24 other dependents and would incur no additional premium costs to
25 add the child to the existing coverage, the court must not order
26 the other party to contribute to the premium costs for coverage
27 of the child.

28 (e) If a party ordered to carry health care coverage for
29 the child does not already carry dependent health care coverage
30 but has other dependents who may be added to the ordered
31 coverage, the full premium costs of the dependent health care
32 coverage must be allocated between the parties in proportion to
33 the party's share of the parties' combined income, unless the
34 parties agree otherwise.

35 (f) If a party ordered to carry health care coverage for
36 the child is required to enroll in a health plan so that the

1 child can be enrolled in dependent health care coverage under
2 the plan, the court must allocate the costs of the dependent
3 health care coverage between the parties. The costs of the
4 health care coverage for the party ordered to carry the coverage
5 for the child must not be allocated between the parties.

6 Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER,
7 UNION, OR HEALTH CARRIER.] (a) The public authority must forward
8 a copy of the national medical support notice or court order for
9 health care coverage to the party's employer within two business
10 days after the date the party is entered into the work reporting
11 system under section 256.998.

12 (b) The public authority or a party seeking to enforce an
13 order for health care coverage must forward a copy of the
14 national medical support notice or court order to the obligor's
15 employer or union, or to the health carrier under the following
16 circumstances:

17 (1) the party ordered to carry health care coverage for the
18 child fails to provide written proof to the other party or the
19 public authority, within 30 days of the effective date of the
20 court order, that the party has applied for health care coverage
21 for the child;

22 (2) the party seeking to enforce the order or the public
23 authority gives written notice to the party ordered to carry
24 health care coverage for the child of its intent to enforce
25 medical support. The party seeking to enforce the order or
26 public authority must mail the written notice to the last known
27 address of the party ordered to carry health care coverage for
28 the child; and

29 (3) the party ordered to carry health care coverage for the
30 child fails, within 15 days after the date on which the written
31 notice under clause (2) was mailed, to provide written proof to
32 the other party or the public authority that the party has
33 applied for health care coverage for the child.

34 (c) The public authority is not required to forward a copy
35 of the national medical support notice or court order to the
36 obligor's employer or union, or to the health carrier, if the

1 court orders health care coverage for the child that is not
2 employer-based or union-based coverage.

3 Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer
4 or union must forward the national medical support notice or
5 court order to its health plan within 20 business days after the
6 date on the national medical support notice or after receipt of
7 the court order.

8 (b) Upon determination by an employer's or union's health
9 plan administrator that a child is eligible to be covered under
10 the health plan, the employer or union and health plan must
11 enroll the child as a beneficiary in the health plan, and the
12 employer must withhold any required premiums from the income or
13 wages of the party ordered to carry health care coverage for the
14 child.

15 (c) If enrollment of the party ordered to carry health care
16 coverage for a child is necessary to obtain dependent health
17 care coverage under the plan, and the party is not enrolled in
18 the health plan, the employer or union must enroll the party in
19 the plan.

20 (d) Enrollment of dependents and, if necessary, the party
21 ordered to carry health care coverage for the child must be
22 immediate and not dependent upon open enrollment periods.
23 Enrollment is not subject to the underwriting policies under
24 section 62A.048.

25 (e) Failure of the party ordered to carry health care
26 coverage for the child to execute any documents necessary to
27 enroll the dependent in the health plan does not affect the
28 obligation of the employer or union and health plan to enroll
29 the dependent in a plan. Information and authorization provided
30 by the public authority, or by a party or guardian, is valid for
31 the purposes of meeting enrollment requirements of the health
32 plan.

33 (f) An employer or union that is included under the federal
34 Employee Retirement Income Security Act of 1974 (ERISA), United
35 States Code, title 29, section 1169(a), may not deny enrollment
36 to the child or to the parent if necessary to enroll the child

1 based on exclusionary clauses described in section 62A.048.

2 (g) A new employer or union of a party who is ordered to
3 provide health care coverage for a child must enroll the child
4 in the party's health plan as required by a national medical
5 support notice or court order.

6 Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan
7 administrator receives a completed national medical support
8 notice or court order, the plan administrator must notify the
9 parties, and the public authority if the public authority
10 provides support enforcement services, within 40 business days
11 after the date of the notice or after receipt of the court
12 order, of the following:

13 (1) whether coverage is available to the child under the
14 terms of the health plan and, if not, the reason why coverage is
15 not available;

16 (2) whether the child is covered under the health plan;

17 (3) the effective date of the child's coverage under the
18 health plan; and

19 (4) what steps, if any, are required to effectuate the
20 child's coverage under the health plan.

21 (b) If the employer or union offers more than one plan and
22 the national medical support notice or court order does not
23 specify the plan to be carried, the plan administrator must
24 notify the parents and the public authority if the public
25 authority provides support enforcement services. When there is
26 more than one option available under the plan, the public
27 authority, in consultation with the parent with whom the child
28 resides, must promptly select from available plan options.

29 (c) The plan administrator must provide the parents and
30 public authority, if the public authority provides support
31 enforcement services, with a notice of the child's enrollment,
32 description of the coverage, and any documents necessary to
33 effectuate coverage.

34 (d) The health plan must send copies of all correspondence
35 regarding the health care coverage to the parents.

36 (e) An insured child's parent's signature is a valid

1 authorization to a health plan for purposes of processing an
2 insurance reimbursement payment to the medical services provider
3 or to the parent, if medical services have been prepaid by that
4 parent.

5 Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or
6 union that willfully fails to comply with the order or notice is
7 liable for any uninsured medical expenses incurred by the
8 dependents while the dependents were eligible to be enrolled in
9 the health plan and for any other premium costs incurred because
10 the employer or union willfully failed to comply with the order
11 or notice.

12 (b) An employer or union that fails to comply with the
13 order or notice is subject to a contempt finding, a \$250 civil
14 penalty under section 517C.57, and is subject to a civil penalty
15 of \$500 to be paid to the party entitled to reimbursement or the
16 public authority. Penalties paid to the public authority are
17 designated for child support enforcement services.

18 Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest
19 a child's enrollment in a health plan on the limited grounds
20 that the enrollment is improper due to mistake of fact or that
21 the enrollment meets the requirements of section 517C.26.

22 (b) If the party chooses to contest the enrollment, the
23 party must do so no later than 15 days after the employer
24 notifies the party of the enrollment by doing the following:

25 (1) filing a motion in district court or according to
26 section 484.702 and the expedited child support process rules if
27 the public authority provides support enforcement services;

28 (2) serving the motion on the other party and public
29 authority if the public authority provides support enforcement
30 services; and

31 (3) securing a date for the matter to be heard no later
32 than 45 days after the notice of enrollment.

33 (c) The enrollment must remain in place while the party
34 contests the enrollment.

35 Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE;
36 COVERAGE OPTIONS.] (a) Unless a court order provides otherwise,

1 a child for whom a party is required to provide health care
2 coverage under this section must be covered as a dependent of
3 the party until the child is emancipated, until further order of
4 the court, or as consistent with the terms of the coverage.

5 (b) The health carrier, employer, or union may not
6 disenroll or eliminate coverage for the child unless:

7 (1) the health carrier, employer, or union is provided
8 satisfactory written evidence that the court order is no longer
9 in effect;

10 (2) the child is or will be enrolled in comparable health
11 care coverage through another health plan that will take effect
12 no later than the effective date of the disenrollment;

13 (3) the employee is no longer eligible for dependent
14 coverage; or

15 (4) the required premium has not been paid by or on behalf
16 of the child.

17 (c) The health plan must provide 30 days' written notice to
18 the child's parents, and the public authority if the public
19 authority provides support enforcement services, before the
20 health plan disenrolls or eliminates the child's 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. 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 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 child does not reside to
3 provide dependent health care coverage for the benefit of the
4 parent with whom the child resides if the parent is ordered to
5 provide dependent health care coverage for the parties' child
6 and adding the other parent to the coverage results in no
7 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 child for
13 whom support is sought, including all information required to be
14 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 child is not enrolled in
18 court-ordered health care coverage, if a child is not enrolled
19 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 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 child,
32 including, but not limited to, all available plan options, any
33 geographic service restrictions, and the location of service
34 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 517C.52. 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 child receives public
20 assistance or a party completes an application for services from
21 the public authority under section 517C.38, subdivision 2.

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 child's uninsured medical
36 expenses unless a court order provides otherwise. A party's

1 failure to carry court-ordered coverage, or to provide other
2 medical support as ordered, is a basis for modification of a
3 support order under section 517C.28.

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 child support obligation for a child and is an obligor
12 ordered to contribute to the other party's cost for carrying
13 health care coverage for the child, the obligor is subject to an
14 offset under subdivision 5 or income withholding under section
15 517C.52.

16 (b) If a party's court-ordered health care coverage for the
17 child terminates and the child is not enrolled in other health
18 care coverage or public coverage, and a modification motion is
19 not pending, the public authority may remove the offset to a
20 party's child support obligation or terminate income withholding
21 instituted against a party under section 517C.52. The public
22 authority must provide notice to the parties of the action.

23 (c) A party may contest the public authority's action to
24 remove the offset to the child support obligation or terminate
25 income withholding if the party makes a written request for a
26 hearing within 30 days after receiving written notice. If a
27 party makes a timely request for a hearing, the public authority
28 must schedule a hearing and send written notice of the hearing
29 to the parties by mail to the parties' last known addresses at
30 least 14 days before the hearing. The hearing must be conducted
31 in district court or in the expedited child support process if
32 section 484.702 applies. The district court or child support
33 magistrate must determine whether removing the offset or
34 terminating income withholding is appropriate and, if
35 appropriate, the effective date for the removal or termination.

36 (d) If the party does not request a hearing, the district

1 court or child support magistrate must order the offset or
2 income withholding termination effective the first day of the
3 month following termination of the child's health care coverage.

4 Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL
5 EXPENSES.] (a) A party must initiate a request for reimbursement
6 of unreimbursed and uninsured medical expenses within two years
7 of the date that the party incurred the unreimbursed or
8 uninsured medical expenses. The time period in this paragraph
9 does not apply if the location of the other party is unknown.

10 (b) A party seeking reimbursement of unreimbursed and
11 uninsured medical expenses must mail a written notice of intent
12 to collect the expenses and a copy of an affidavit of health
13 care expenses to the other party at the other party's last known
14 address.

15 (c) The written notice must include a statement that the
16 party has 30 days from the date the notice was mailed to (1) pay
17 in full; (2) enter a payment agreement; or (3) file a motion
18 requesting a hearing contesting the matter. If the public
19 authority provides support enforcement services, the written
20 notice also must include a statement that the requesting party
21 must submit the amount due to the public authority for
22 collection.

23 (d) The affidavit of health care expenses must itemize and
24 document the child's unreimbursed or uninsured medical expenses
25 and include copies of all bills, receipts, and insurance company
26 explanations of benefits.

27 (e) If the public authority provides support enforcement
28 services, the party seeking reimbursement must send to the
29 public authority a copy of the written notice, the original
30 affidavit, and copies of all bills, receipts, and insurance
31 company explanations of benefits.

32 (f) If the party does not respond to the request for
33 reimbursement within 30 days, the party seeking reimbursement or
34 public authority, if the public authority provides support
35 enforcement services, must commence an enforcement action
36 against the party under subdivision 18.

1 (g) The public authority must serve the other party with a
2 notice of intent to enforce unreimbursed and uninsured medical
3 expenses and file an affidavit of service by mail with the
4 district court administrator. The notice must state that,
5 unless the party (1) pays in full; (2) enters into a payment
6 agreement; or (3) files a motion contesting the matter within 14
7 days of service of the notice, the public authority will
8 commence enforcement of the expenses as medical support arrears
9 under subdivision 18.

10 (h) If the party files a timely motion for a hearing
11 contesting the requested reimbursement, the contesting party
12 must schedule a hearing in district court or in the expedited
13 child support process if section 484.702 applies. The
14 contesting party must provide the party seeking reimbursement
15 and the public authority, if the public authority provides
16 support enforcement services, with written notice of the hearing
17 at least 14 days before the hearing by mailing notice of the
18 hearing to the public authority and the party at the party's
19 last known address. The party seeking reimbursement must file
20 the original affidavit of health care expenses with the court at
21 least five days before the hearing. Based upon the evidence
22 presented, the district court or child support magistrate must
23 determine liability for the expenses and order that the liable
24 party is subject to enforcement of the expenses as medical
25 support arrears under subdivision 18.

26 Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT
27 ARREARS.] (a) If a party liable for unreimbursed and uninsured
28 medical expenses owes a child support obligation to the party
29 seeking reimbursement of the expenses, the expenses must be
30 collected as medical support arrears.

31 (b) If a party liable for unreimbursed and uninsured
32 medical expenses does not owe a child support obligation to the
33 party seeking reimbursement, and the party seeking reimbursement
34 owes the liable party basic support arrears, the liable party's
35 medical support arrears must be deducted from the amount of the
36 basic support arrears.

1 (c) If a liable party owes medical support arrears after
2 deducting the amount owed from the amount of the child support
3 arrears owed by the party seeking reimbursement, it must be
4 collected as follows:

5 (1) if the party seeking reimbursement owes a child support
6 obligation to the liable party, the child support obligation
7 must be reduced by 20 percent until the medical support arrears
8 are satisfied;

9 (2) if the party seeking reimbursement does not owe a child
10 support obligation to the liable party, the liable party's
11 income must be subject to income withholding under section
12 517C.52 for an amount required under section 517C.71 until the
13 medical support arrears are satisfied; or

14 (3) if the party seeking reimbursement does not owe a child
15 support obligation, and income withholding under section 517C.52
16 is not available, payment of the medical support arrears must be
17 required under a payment agreement under section 517C.71.

18 (d) If a liable party fails to enter into or comply with a
19 payment 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 Sec. 15. [517C.18] [SELF-SUPPORT ADJUSTMENT.]

26 Subdivision 1. [ADJUSTMENT.] (a) If the sum of the
27 obligor's basic support, child care support, and medical support
28 obligation leaves the obligor with remaining income in an amount
29 less than 120 percent of the federal poverty guidelines for one
30 person, the court must reduce the obligor's child support
31 obligation by an amount equal to the lesser of: (1) the
32 difference between the obligor's remaining income and 120
33 percent of the federal poverty guidelines amount; or (2) the
34 obligor's total child support obligation. If the self-support
35 adjustment results in an order amount less than \$50 per month
36 for one or two children or \$75 per month for three or more

1 children, the court must order basic support under subdivision 2.

2 (b) The court must apply the reduction to the obligor's
3 child support obligation in the following order:

4 (1) medical support obligation;

5 (2) child care support obligation; and

6 (3) basic support obligation.

7 Subd. 2. [MINIMUM BASIC SUPPORT AMOUNT.] (a) If the
8 reduction under subdivision 1 equals the sum of the obligor's
9 basic support, child care support, and medical support
10 obligation, the court must order support as follows:

11 (1) for one or two children, the obligor's basic support
12 obligation is \$50 per month; or

13 (2) for three or more children, the obligor's basic support
14 obligation is \$75 per month.

15 (b) If the court orders the obligor to pay the minimum
16 basic support amount under this subdivision, the obligor is
17 presumed unable to pay child care support and medical support.

18 (c) If the court finds that an obligor receives no income
19 and completely lacks the ability to earn income, the minimum
20 basic support amount under this subdivision does not apply.

21 Sec. 16. [517C.19] [WORKSHEET.]

22 The commissioner of human services must create and publish
23 a worksheet to assist in calculating child support under
24 sections 517C.12 to 517C.18. The worksheet must not impose
25 substantive requirements other than requirements contained in
26 sections 517C.12 to 517C.18. The commissioner must update the
27 worksheet by July 1 of each year. The commissioner must make an
28 interactive version of the worksheet available on the department
29 of human services Web site.

30 Sec. 17. [517C.20] [DEVIATIONS.]

31 Subdivision 1. [GENERAL FACTORS.] Among other reasons,
32 deviation from the presumptive guideline amount is intended to
33 encourage prompt and regular payments of child support and to
34 ameliorate the impoverishment of either the child or obligor.
35 In addition to the child support guidelines, the court must take
36 into consideration the following factors in setting or modifying

1 child support or in determining whether to deviate upward or
2 downward from the guidelines:

3 (1) all earnings, income, and resources of the parents,
4 including real and personal property, but excluding income from
5 excess employment of the obligor or obligee that meets the
6 criteria of section 517C.12, subdivision 6;

7 (2) the financial needs and resources, physical and
8 emotional condition, and educational needs of the child to be
9 supported;

10 (3) the standard of living the child would enjoy if the
11 parents were currently living together, but recognizing that the
12 parents now have separate households;

13 (4) which parent receives the income taxation dependency
14 exemption and the financial benefit the parent receives from it;

15 (5) the parents' debts as provided in subdivision 2; and

16 (6) each parent's eligibility for or receipt of public
17 assistance as defined under section 256.741, subdivision 1. A
18 court may deviate upward from the amount of child support under
19 the guidelines if a parent does not receive the public
20 assistance that the parent is eligible to receive.

21 Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In
22 establishing or modifying a support obligation, the court may
23 consider debts owed to private creditors, but only if:

24 (1) the right to support has not been assigned under
25 section 256.741;

26 (2) the court determines that the debt was reasonably
27 incurred for necessary support of the child or parent or for the
28 necessary generation of income. If the debt was incurred for
29 the necessary generation of income, the court may consider only
30 the amount of debt that is essential to the continuing
31 generation of income; and

32 (3) the party requesting a departure produces a sworn
33 schedule of the debts, with supporting documentation, showing
34 goods or services purchased, the recipient of them, the original
35 debt amount, the outstanding balance, the monthly payment, and
36 the number of months until the debt will be fully paid.

1 (b) A schedule prepared under paragraph (a), clause (3),
2 must contain a statement that the debt will be fully paid after
3 the number of months shown in the schedule, barring emergencies
4 beyond the party's control.

5 (c) Any further departure below the guidelines that is
6 based on a consideration of debts owed to private creditors must
7 not exceed 18 months in duration. After 18 months the support
8 must increase automatically to the level ordered by the court.
9 This section does not prohibit one or more step increases in
10 support to reflect debt retirement during the 18-month period.

11 (d) If payment of debt is ordered pursuant to this section,
12 the payment must be ordered to be in the nature of child support.

13 Subd. 3. [EVIDENCE.] The court may receive evidence on the
14 factors in this section to determine if the guidelines should be
15 exceeded or modified in a particular case.

16 Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the
17 child support payments are assigned to the public authority
18 under section 256.741, the court may not deviate downward from
19 the child support guidelines unless the court specifically finds
20 that the failure to deviate downward would impose an extreme
21 hardship on the obligor.

22 Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal
23 custody is not a reason for departure from the guidelines.

24 Sec. 18. [517C.21] [WRITTEN FINDINGS.]

25 Subdivision 1. [NO DEVIATION.] If the court does not
26 deviate from the guidelines, the court must make written
27 findings concerning the amount of the parties' income used as
28 the basis for the guidelines calculation and any other
29 significant evidentiary factors affecting the child support
30 determination.

31 Subd. 2. [DEVIATION.] (a) If the court deviates from the
32 guidelines, the court must make written findings giving the
33 amount of support calculated under the guidelines, the reasons
34 for the deviation, and must specifically address the criteria in
35 section 517C.20 and how the deviation serves the best interests
36 of the child.

1 (b) The court may deviate from the guidelines if both
2 parties agree and the court makes written findings that it is in
3 the best interests of the child, except that in cases where
4 child support payments are assigned to the public authority
5 under section 256.741, the court may deviate downward only as
6 provided in section 517C.20, subdivision 4. Nothing in this
7 section prohibits the court from deviating in other cases.

8 Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The
9 provisions of this section apply whether or not the parties are
10 each represented by independent counsel and have entered into a
11 written agreement. The court must review stipulations presented
12 to it for conformity to the guidelines. The court is not
13 required to conduct a hearing, but the parties must provide the
14 documentation of earnings required under section 517C.10.

15 Sec. 19. [517C.22] [GUIDELINES REVIEW.]

16 No later than 2006 and every four years after that, the
17 Department of Human Services must conduct a review of the child
18 support guidelines.

19 Sec. 20. [517C.23] [EDUCATION TRUST FUND.]

20 The parties may agree to designate a sum of money above
21 court-ordered child support as a trust fund for the costs of
22 postsecondary education.

23 Sec. 21. [517C.25] [MODIFICATION; GENERAL.]

24 Subdivision 1. [AUTHORITY.] After a child support order is
25 established, the court may, on motion of a party or the public
26 authority, modify the order respecting the amount and payment of
27 support. The court may make an order respecting any matters it
28 had authority to address in the original proceeding, except as
29 otherwise provided in section 517C.29. A party or the public
30 authority also may make a motion for contempt of court if the
31 obligor is in arrears in support payments.

32 Subd. 2. [GUIDELINES REMAIN APPLICABLE.] On a motion for
33 modification of support, the guidelines in this chapter remain
34 applicable.

35 Subd. 3. [EVIDENTIARY HEARING NOT REQUIRED.] The court
36 need not hold an evidentiary hearing on a motion for child

1 support modification.

2 Subd. 4. [FORM.] The state court administrator must
3 prepare and make available to courts, obligors, and obligees a
4 form to be submitted in support of a motion for a child support
5 modification or for contempt of court.

6 Sec. 22. [517C.26] [REOPENING AN ORDER.]

7 Subdivision 1. [FACTORS.] Upon a party's motion, the court
8 may rescind a child support order or judgment and may order a
9 new trial or grant other relief as may be just for the following
10 reasons:

11 (1) mistake, inadvertence, surprise, or excusable neglect;

12 (2) newly discovered evidence that could not have been
13 discovered by due diligence in time to move for a new trial
14 under the Minnesota Rules of Civil Procedure;

15 (3) fraud, whether denominated intrinsic or extrinsic,
16 misrepresentation, or other misconduct of an adverse party;

17 (4) the judgment or order is void;

18 (5) the judgment has been satisfied, released, or
19 discharged;

20 (6) the judgment is based on a prior order that has been
21 reversed or otherwise vacated; or

22 (7) it is no longer equitable that the order should have
23 prospective application.

24 Subd. 2. [PROCEDURE; EFFECT.] A party's motion must be
25 made within a reasonable time, and, for a reason under
26 subdivision 1, clause (1), (2), or (3), not more than one year
27 after the judgment and decree, order, or proceeding was entered
28 or taken. A motion under this section does not affect the
29 finality of an order or suspend its operation. This section
30 does not limit the power of a court to entertain an independent
31 action to relieve a party from an order or proceeding or to
32 grant relief to a party not actually personally notified as
33 provided in the Minnesota Rules of Civil Procedure, or to set
34 aside a judgment for fraud upon the court.

35 Sec. 23. [517C.27] [CHANGE IN CUSTODY OR PARENTING TIME.]

36 Subdivision 1. [OFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT

1 SUSPENDED.] If an obligee has been granted sole physical custody
2 of a child, the child subsequently lives with the obligor, and
3 temporary sole physical custody has been approved by the court
4 or by a court-appointed referee, the court may suspend the
5 obligor's child support obligation pending the final custody
6 determination. The court's order denying the suspension of
7 child support must include a written explanation of the reasons
8 why continuation of the child support obligation would be in the
9 best interests of the child.

10 Subd. 2. [UNOFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT
11 OBLIGATION SATISFIED.] The court may conclude that an obligor
12 has satisfied a child support obligation by providing a home,
13 care, and support for the child while the child is living with
14 the obligor, if the court finds that the child was integrated
15 into the family of the obligor with the consent of the obligee
16 and child support payments were not assigned to the public
17 authority.

18 Subd. 3. [30-DAY CHANGE; CHILD SUPPORT REDUCED.] A support
19 order issued under this chapter may provide that, during any
20 period of time of 30 consecutive days or longer that the child
21 is residing with the obligor, the support amount otherwise due
22 under the order may be reduced.

23 Sec. 24. [517C.28] [SUBSTANTIAL CHANGE IN CIRCUMSTANCES,
24 EARNINGS, OR NEEDS.]

25 Subdivision 1. [FACTORS.] (a) A court may modify the terms
26 of a child support order upon a showing of one or more of the
27 following:

28 (1) substantially increased or decreased earnings of an
29 obligor or obligee;

30 (2) substantially increased or decreased need of an obligor
31 or obligee or the child that is the subject of these
32 proceedings;

33 (3) receipt of assistance under the AFDC program formerly
34 codified under sections 256.72 to 256.87 or 256B.01 to 256B.40
35 or chapter 256J or 256K;

36 (4) a change in the cost of living for either party, as

1 measured by the federal Bureau of Labor Statistics, that makes
2 the terms unreasonable and unfair;

3 (5) extraordinary medical expenses of the child not
4 provided for under section 517C.17;

5 (6) the addition of the obligee's work-related or
6 education-related child care expenses or a substantial increase
7 or decrease in existing work-related or education-related child
8 care expenses; or

9 (7) upon the emancipation of a child if there is still a
10 child under the order. A child support obligation for two or
11 more children that is not a support obligation in a specific
12 amount per child continues in the full amount until modified or
13 until the emancipation of the last child for whose benefit the
14 order was made.

15 (b) Implementation of this chapter is not a basis for
16 modification unless the requirements under this section are met.

17 Subd. 2. [PRESUMPTIONS.] It is presumed that there has
18 been a substantial change in circumstances under subdivision 1
19 and the terms of a current support order are rebuttably presumed
20 to be unreasonable and unfair if:

21 (1) when applied to the parties' current circumstances, the
22 presumptive child support amount derived under this chapter is
23 at least 20 percent and at least \$75 per month higher or lower
24 than the current support order;

25 (2) the medical support provisions of the order established
26 under section 517C.17 are not enforceable by the public
27 authority or the obligee;

28 (3) health insurance coverage ordered under section 517C.17
29 is not available to the child for whom the order is established
30 by the parent ordered to provide it; or

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

33 Sec. 25. [517C.29] [MODIFICATION EFFECTIVE DATE.]

34 Subdivision 1. [DATE OF MOTION DETERMINATIVE.] A court may
35 make a modification of support, including interest that accrued
36 pursuant to section 548.091, effective no sooner than the date

1 of service of notice of the motion for modification on the
2 responding parties.

3 Subd. 2. [RETROACTIVE MODIFICATION PERMITTED ONLY IN
4 LIMITED CIRCUMSTANCES.] Notwithstanding subdivision 1, a court
5 may apply a modification to an earlier period if the court makes
6 express findings that:

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

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

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

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

29 Subd. 3. [CHILD CARE EXCEPTION.] The court may provide
30 that a reduction in the amount allocated for child care expenses
31 based on a substantial decrease in the expenses is effective as
32 of the date the expenses decreased.

33 Subd. 4. [CHILD SUPPORT DEBT AND ARREARAGE
34 MANAGEMENT.] The parties, including the public authority, may
35 compromise child support debts or arrearages owed by one party
36 to another, whether or not reduced to judgment, upon agreement

1 of the parties involved.

2 Sec. 26. [517C.30] [TERMINATION OF CHILD SUPPORT.]

3 Subdivision 1. [DEATH OF OBLIGOR.] Unless otherwise agreed
4 in writing or expressly provided in the order, provisions for a
5 child's support are not terminated by the death of a parent
6 obligated to support the child. When a parent obligated to pay
7 support dies, the amount of support may be modified, revoked, or
8 commuted to a lump-sum payment, to the extent just and
9 appropriate in the circumstances.

10 Subd. 2. [AUTOMATIC TERMINATION.] (a) Unless a court order
11 provides otherwise, a child support obligation in a specific
12 amount per child terminates automatically and without any action
13 by the obligor to reduce, modify, or terminate the order upon
14 the child's emancipation.

15 (b) A child support obligation for two or more children
16 that is not a support obligation in a specific amount per child
17 continues in the full amount until the emancipation of the last
18 child for whose benefit the order was made, or until further
19 order of the court.

20 (c) The obligor may request a modification of the obligor's
21 child support order upon a child's emancipation if there are
22 still minor children under the order. The court must determine
23 the child support obligation based on the parties' income at the
24 time the modification is sought.

25 Sec. 27. [517C.31] [COST-OF-LIVING ADJUSTMENTS.]

26 Subdivision 1. [GENERAL.] An order establishing,
27 modifying, or enforcing child support must provide for a
28 biennial adjustment in the amount to be paid based on a change
29 in the cost of living. Cost-of-living adjustments are
30 compounded.

31 Subd. 2. [WAIVER.] A court may waive the requirement of
32 the cost-of-living clause if it expressly finds that the
33 obligor's occupation or income, or both, does not provide for
34 cost-of-living adjustment or that the order for child support
35 has a provision such as a step increase that has the effect of a
36 cost-of-living clause.

1 Subd. 3. [INDEX; AMOUNT.] (a) The court must specify the
2 cost-of-living index to be applied in an order that provides for
3 a cost-of-living adjustment. The court may use the Consumer
4 Price Index for all urban consumers, Minneapolis-St. Paul
5 (CPI-U), the Consumer Price Index for wage earners and clerical,
6 Minneapolis-St. Paul (CPI-W), or another cost-of-living index
7 published by the Department of Labor and Industry that the court
8 specifically finds is more appropriate.

9 (b) The court may increase the amount by more than the
10 cost-of-living adjustment by agreement of the parties or by
11 making further findings.

12 Subd. 4. [EFFECTIVE DATE.] If payment is made to the
13 public authority, an adjustment is effective on May 1 of the
14 year it is made. If payment is not made to the public
15 authority, an adjustment may be made in any month but no
16 adjustment may be made sooner than two years after the date of
17 the dissolution decree. A support order must specify the
18 effective date of cost-of-living adjustments.

19 Subd. 5. [NOTICE.] A cost-of-living adjustment may not be
20 made unless:

21 (1) the support order requires it; and

22 (2) the obligee or public authority notifies the obligor of
23 the adjustment by mail at the obligor's last known address at
24 least 20 days before the effective date of the adjustment. The
25 notice must inform the obligor of the effective date of the
26 adjustment, the right to contest the adjustment, and the
27 procedures to contest the adjustment.

28 Subd. 6. [PROCEDURE FOR CONTESTING ADJUSTMENT.] (a) To
29 contest a cost-of-living adjustment initiated by the public
30 authority or an obligee who has applied for or is receiving
31 child support collection services from the public authority,
32 other than income withholding-only services, the obligor must:

33 (1) file a motion contesting the cost-of-living adjustment
34 with the court administrator; and

35 (2) serve the motion by first class mail on the public
36 authority and the obligee.

1 The obligor must file and serve the motion before the effective
2 date of the adjustment. The hearing must take place in the
3 expedited child support process under section 484.702.

4 (b) To contest a cost-of-living adjustment initiated by an
5 obligee who is not receiving child support collection services
6 from the public authority, or for an obligee who receives income
7 withholding-only services from the public authority, the obligor
8 must:

9 (1) file a motion contesting the cost-of-living adjustment
10 with the court administrator; and

11 (2) serve the motion by first class mail on the obligee.

12 The obligor must file and serve the motion before the effective
13 date of the adjustment. The hearing must take place in district
14 court.

15 (c) Upon receipt of a motion contesting the cost-of-living
16 adjustment, the public authority or court must stay the
17 cost-of-living adjustment pending further order of the court.

18 Subd. 7. [HEARING.] (a) At a hearing under this section,
19 if the obligor establishes an insufficient increase in income to
20 fulfill the adjusted child support obligation, the district
21 court or child support magistrate may direct that all or part of
22 the adjustment not take effect.

23 (b) At a hearing under this section, if the obligor does
24 not establish an insufficient increase in income, the adjustment
25 must take effect as of the date originally specified in the
26 support order.

27 Subd. 8. [FORM.] The state court administrator must
28 prepare and make available to the court and obligors a pro se
29 motion form to be submitted in support of a request for a
30 hearing under this section.

31 Subd. 9. [RULES.] The commissioner of human services may
32 promulgate rules for child support adjustments under this
33 section in accordance with the rulemaking provisions of chapter
34 14.

35 Sec. 28. [517C.35] [ASSIGNMENT.]

36 Subdivision 1. [GENERAL.] The court must direct that all

1 payments ordered for support be made to the public authority if
2 the obligee is receiving or has applied for public assistance.
3 Amounts received by the public authority greater than the amount
4 granted to the obligee must be remitted to the obligee pursuant
5 to federal requirements.

6 Subd. 2. [JUDGMENTS.] The court administrator must enter
7 and docket a judgment obtained by operation of law under section
8 548.091, subdivision 1, in the name of the public authority to
9 the extent that the obligation has been assigned. When arrears
10 are reduced to judgment and section 548.091 is not applicable,
11 the court must grant judgment in favor of, and in the name of,
12 the public authority to the extent that the arrears are
13 assigned. The public authority must file notice of an
14 assignment with the court administrator, who must enter the
15 notice in the docket. The public authority may then enforce a
16 judgment entered before the assignment of rights as if the
17 judgment were granted to it, and in its name, to the extent that
18 the arrears in that judgment are assigned.

19 Subd. 3. [PROPERTY LIEN.] The court may make any child
20 support order a lien or charge upon the obligor's property,
21 either at the time of the entry of the judgment or by subsequent
22 order upon proper application.

23 Sec. 29. [517C.36] [PARTY STATUS.]

24 Subdivision 1. [OBLIGEE RECEIVES PUBLIC ASSISTANCE; PUBLIC
25 AUTHORITY IS A PARTY.] The public authority is joined as a party
26 and is a real party in interest if the obligee is receiving, or
27 subsequently applies for, public assistance and rights are
28 assigned under section 256.741, subdivision 2.

29 Subd. 2. [NO PUBLIC ASSISTANCE; APPLICATION FOR SERVICES.]
30 If the obligee is not receiving public assistance, but has
31 applied for child support collection services, the public
32 authority has a pecuniary interest, as well as an interest in
33 the welfare of a child. The public authority may intervene as a
34 matter of right in those cases to ensure that child support
35 orders are obtained, enforced, and provide for an appropriate
36 and accurate level of child, medical, and child care support.

1 If the public authority participates in a case where the action
2 taken by the public authority requires the use of an attorney's
3 services, the public authority must be represented by an
4 attorney consistent with the provisions in section 517C.37.

5 Sec. 30. [517C.37] [ROLE OF PUBLIC AUTHORITY.]

6 Subdivision 1. [PUBLIC AUTHORITY DOES NOT REPRESENT
7 OBLIGOR OR OBLIGEE.] The provision of services under the child
8 support enforcement program that includes services by an
9 attorney or an attorney's representative employed by, under
10 contract to, or representing the public authority does not
11 create an attorney-client relationship with any party other than
12 the public authority. Attorneys employed by or under contract
13 with the public authority have an affirmative duty to inform
14 applicants and recipients of services under the child support
15 enforcement program that no attorney-client relationship exists
16 between the attorney and the applicant or recipient. This
17 section applies to all legal services provided by the child
18 support enforcement program.

19 Subd. 2. [WRITTEN NOTICE.] The public authority must
20 provide written notice to an applicant or recipient of services
21 that:

22 (1) no attorney-client relationship exists between the
23 attorney and the applicant or recipient;

24 (2) the rights of the individual as a subject of data are
25 controlled by section 13.04, subdivision 2; and

26 (3) the individual has a right to have an attorney
27 represent the individual.

28 Subd. 3. [POWER TO REPRESENT OTHER PUBLIC
29 AUTHORITIES.] The public authority may act on behalf of a public
30 authority from another jurisdiction. This includes the
31 authority to represent the legal interests of, or execute
32 documents on behalf of, the other public authority in connection
33 with the establishment, enforcement, and collection of child
34 support and collection on judgments.

35 Sec. 31. [517C.38] [SERVICE FEES.]

36 Subdivision 1. [OBLIGOR FEE.] When the public authority

1 provides child support collection services either to a public
2 assistance recipient or to a party who does not receive public
3 assistance, the public authority may upon written notice to the
4 obligor charge a monthly collection fee equivalent to the full
5 monthly cost to the county of providing collection services, in
6 addition to the amount of the child support ordered by the
7 court. The public authority must deposit the fee in the county
8 general fund. The service fee assessed is limited to ten
9 percent of the monthly court-ordered child support and must not
10 be assessed to obligors who are current in payment of the
11 monthly court-ordered child support.

12 Subd. 2. [OBLIGEE FEE.] A \$25 application fee must be paid
13 by the person who applies for child support and maintenance
14 collection services, except persons who are receiving public
15 assistance as defined in section 256.741, persons who transfer
16 from public assistance to nonpublic assistance status, and minor
17 parents and parents enrolled in a public secondary school, area
18 learning center, or alternative learning program approved by the
19 commissioner of education.

20 Subd. 3. [TAX INTERCEPT FEES.] Fees assessed by state and
21 federal tax agencies for collection of overdue support owed to
22 or on behalf of a person not receiving public assistance must be
23 imposed on the person for whom these services are provided. The
24 public authority upon written notice to the obligee must assess
25 a fee of \$25 to the person not receiving public assistance for
26 each successful federal tax interception. The public authority
27 must withhold the fee before the release of the funds received
28 from each interception and must deposit the fee in the general
29 fund.

30 Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] The limitations of
31 this section on the assessment of fees do not apply to the
32 extent they are inconsistent with the requirements of federal
33 law for receiving funds for the programs under Title IV-A and
34 Title IV-D of the Social Security Act, United States Code, title
35 42, sections 601 to 613 and 651 to 662.

36 Sec. 32. [517C.39] [PUBLIC AUTHORITY PROCEDURES FOR CHILD

1 SUPPORT AND PARENTAGE ORDERS.]

2 The public authority may use the provisions of sections
3 517C.40 to 517C.44 when support rights are assigned under
4 section 256.741, subdivision 2, or when the public authority is
5 providing services under an application for child support
6 collection services.

7 Sec. 33. [517C.40] [NONATTORNEY EMPLOYEE DUTIES.]

8 Subdivision 1. [DUTIES PERFORMED UNDER SUPERVISION OF
9 COUNTY ATTORNEY.] (a) The county attorney must review and
10 approve as to form and content all pleadings and other legal
11 documents prepared by nonattorney employees of the public
12 authority for use in the expedited child support process.

13 (b) Under the direction of, and in consultation with, the
14 county attorney, nonattorney employees of the public authority
15 may perform the following legal duties:

16 (1) meet and confer with parties by mail, telephone,
17 electronic, or other means regarding legal issues;

18 (2) explain to parties the purpose, procedure, and function
19 of the expedited child support process and the role and
20 authority of nonattorney employees of the public authority
21 regarding legal issues;

22 (3) prepare pleadings, including, but not limited to,
23 summonses and complaints, notices, motions, subpoenas, orders to
24 show cause, proposed orders, administrative orders, and
25 stipulations and agreements;

26 (4) issue administrative subpoenas;

27 (5) prepare judicial notices;

28 (6) negotiate settlement agreements;

29 (7) attend and participate as a witness in hearings and
30 other proceedings and, if requested by the child support
31 magistrate, present evidence, agreements and stipulations of the
32 parties, and any other information deemed appropriate by the
33 magistrate;

34 (8) participate in other activities and perform other
35 duties delegated by the county attorney; and

36 (9) exercise other powers and perform other duties as

1 permitted by statute or court rule.

2 Subd. 2. [DUTIES PERFORMED WITHOUT DIRECTION FROM COUNTY
3 ATTORNEY.] Nonattorney employees of the public authority may
4 perform the following duties without direction from the county
5 attorney:

6 (1) gather information on behalf of the public authority;

7 (2) prepare financial worksheets;

8 (3) obtain income information from the Department of

9 Employment and Economic Development and other sources;

10 (4) serve documents on parties;

11 (5) file documents with the court;

12 (6) meet and confer with parties by mail, telephone,

13 electronic, or other means regarding nonlegal issues;

14 (7) explain to parties the purpose, procedure, and function

15 of the expedited child support process and the role and

16 authority of nonattorney employees of the public authority

17 regarding nonlegal issues; and

18 (8) perform other routine nonlegal duties as assigned.

19 Subd. 3. [PRACTICE OF LAW.] Performance of the duties
20 prescribed in subdivisions 1 and 2 by nonattorney employees of
21 the public authority does not constitute the unauthorized
22 practice of law for purposes of section 481.02.

23 Sec. 34. [517C.41] [PLEADINGS; CASE INFORMATION SHEET.]

24 Subdivision 1. [PLEADINGS.] In cases involving
25 establishment or modification of a child support order, the
26 initiating party must include the following information, if
27 known, in the pleadings:

28 (1) the parties' names, addresses, and dates of birth;

29 (2) Social Security numbers of the parties and the parties'

30 minor children. This information is considered private

31 information and is available only to the parties, the court, and

32 the public authority;

33 (3) number of members in each party's household and

34 dependents of the parties;

35 (4) the parties' other support obligations;

36 (5) names and addresses of the parties' employers;

- 1 (6) the parties' income as defined in section 517C.12;
- 2 (7) amounts and sources of the parties' other earnings and
- 3 income;
- 4 (8) the parties' health insurance coverage;
- 5 (9) types and amounts of public assistance the parties
- 6 receive, including Minnesota family investment program, child
- 7 care assistance, medical assistance, MinnesotaCare, title IV-E
- 8 foster care, or other forms of assistance as defined in section
- 9 256.741, subdivision 1; and
- 10 (10) any other information relevant to the determination of
- 11 child support under this chapter.

12 Subd. 2. [CASE INFORMATION SHEET.] For all matters

13 scheduled in the expedited process, the nonattorney employee of

14 the public authority must file with the court and serve on the

15 parties the following information:

- 16 (1) income information available to the public authority
- 17 from the Department of Employment and Economic Development;
- 18 (2) a statement of the monthly amount of child support,
- 19 child care, medical support, and arrears currently being charged
- 20 the parties in Minnesota IV-D cases;
- 21 (3) a statement of the types and amount of any public
- 22 assistance, as defined in section 256.741, subdivision 1,
- 23 received by the parties; and
- 24 (4) any other information relevant to determining support
- 25 that is known to the public authority and that the parties have
- 26 not otherwise provided.

27 Subd. 3. [FILING INFORMATION.] The public authority must

28 file the case information with the district court or child

29 support magistrate at least five days before a hearing involving

30 child support, medical support, or child care reimbursement

31 issues.

32 Sec. 35. [517C.42] [NONCONTESTED MATTERS.]

33 Under the direction of the county attorney and based on

34 agreement of the parties, nonattorney employees of the public

35 authority may prepare a stipulation, findings of fact,

36 conclusions of law, and proposed order. The county attorney

1 must approve and sign the documents as to form and content
2 before the nonattorney employees submit the documents to the
3 district court or child support magistrate for approval.

4 Sec. 36. [517C.43] [ADMINISTRATIVE AUTHORITY; PARENTAGE;
5 SUPPORT.]

6 Subdivision 1. [POWERS.] The public authority may take the
7 following actions relating to establishing paternity or to
8 establishing, modifying, or enforcing support orders, without
9 the necessity of obtaining an order from a judicial or
10 administrative tribunal:

11 (1) recognize and enforce orders of child support agencies
12 of other states;

13 (2) upon request for genetic testing by a child, parent, or
14 an alleged parent, and using the procedure in subdivision 2,
15 order the child, parent, or alleged parent to submit to blood or
16 genetic testing for the purpose of establishing paternity;

17 (3) subpoena financial or other information needed to
18 establish, modify, or enforce a child support order and sanction
19 a party for failure to respond to a subpoena;

20 (4) upon notice to the obligor, obligee, and the
21 appropriate court, direct the obligor or other payor to change
22 the payee to the central collections unit under section 517C.50;

23 (5) order income withholding of child support under section
24 517C.52 and sanction an employer or payor of funds under section
25 393.07, subdivision 9a, for failing to comply with an income
26 withholding notice;

27 (6) secure assets to satisfy a support debt or arrears by:

28 (i) intercepting or seizing periodic or lump-sum payments
29 from state or local agencies, including unemployment insurance
30 benefits, workers' compensation payments, judgments,
31 settlements, lotteries, and other lump-sum payments;

32 (ii) attaching and seizing the obligor's assets held in
33 financial institutions or public or private retirement funds;

34 and

35 (iii) imposing liens in accordance with section 548.091,
36 and, in appropriate cases, forcing the sale of property and the

1 distribution of proceeds;

2 (7) for the purpose of securing overdue support, increase
3 the amount of the monthly support payments by an additional
4 amount equal to 20 percent of the monthly support payment to
5 include amounts for debts or arrears; and

6 (8) subpoena an employer or payor of funds to provide
7 promptly information on the employment, compensation, and
8 benefits of an individual employed by that employer as an
9 employee or contractor, and sanction an employer or payor of
10 funds under section 393.07, subdivision 9a, for failure to
11 respond to the subpoena as provided by law.

12 Subd. 2. [GENETIC TESTING.] (a) A child, parent, or
13 alleged parent who requests genetic testing must support the
14 request with a sworn statement that:

15 (1) alleges paternity and sets forth facts establishing a
16 reasonable possibility of the requisite sexual contact between
17 the parties; or

18 (2) denies paternity and sets forth facts establishing a
19 reasonable possibility of the nonexistence of sexual contact
20 between the alleged parties.

21 (b) The order for genetic tests may be served anywhere
22 within the state and served outside the state in the same manner
23 as prescribed by law for service of subpoenas issued by the
24 district court of this state.

25 (c) If the child, parent, or alleged parent fails to comply
26 with the genetic testing order, the public authority may seek to
27 enforce that order in district court through a motion to compel
28 testing.

29 (d) No results obtained through genetic testing done in
30 response to an order issued under this section may be used in a
31 criminal proceeding.

32 Subd. 3. [SUBPOENAS.] (a) Subpoenas may be served anywhere
33 within the state and served outside the state in the same manner
34 as prescribed by law for service of process of subpoenas issued
35 by the district court of this state. When a subpoena under this
36 subdivision is served on a third-party record keeper, written

1 notice of the subpoena must be mailed to the person who is the
2 subject of the subpoenaed material at the person's last known
3 address within three days of the day the subpoena is served.
4 This notice provision does not apply if there is reasonable
5 cause to believe the giving of the notice may lead to
6 interference with the production of the subpoenaed documents.

7 (b) A person served with a subpoena may make a written
8 objection to the public authority or court before the time
9 specified in the subpoena for compliance. The public authority
10 or the court may cancel or modify the subpoena, if appropriate.
11 The public authority must pay the reasonable costs of producing
12 the documents, if requested.

13 (c) Subpoenas are enforceable in the same manner as
14 subpoenas of the district court. Upon motion of the county
15 attorney, the court may issue an order directing the production
16 of the records. A person who fails to comply with the court
17 order may be subject to civil or criminal contempt of court.

18 Subd. 4. [DUE PROCESS.] The administrative actions under
19 this section are subject to due process safeguards, including
20 requirements for notice, opportunity to contest the action, and
21 opportunity to appeal the order to a judge, judicial officer, or
22 child support magistrate.

23 Sec. 37. [517C.44] [SHARING OF INFORMATION; DATA.]

24 Subdivision 1. [GENERAL.] The public authority may share
25 available and relevant information on the parties in order to
26 perform its duties under sections 517C.40 to 517C.43 or under
27 Supreme Court rules governing the expedited child support
28 hearing process under section 484.702, subject to the
29 limitations of subdivision 3 and sections 256.87, subdivision 8,
30 and 257.70.

31 Subd. 2. [DATA DISCLOSED TO AN ATTORNEY OF THE PUBLIC
32 AUTHORITY.] (a) Data disclosed by an applicant for, or recipient
33 of, child support services to an attorney employed by, or under
34 contract with, the public authority is private data on an
35 individual. However, the data may be disclosed under sections
36 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and

1 517C.11, subdivision 3, in order to obtain, modify, or enforce
2 child support, medical support, and parentage determinations.

3 (b) An attorney employed by, or under contract with, the
4 public authority may disclose additional information received
5 from an applicant for, or recipient of, services for other
6 purposes with the consent of the individual applicant for, or
7 recipient of, child support services.

8 Subd. 3. [PROHIBITED DISCLOSURE.] In all proceedings under
9 this chapter and chapter 517A in which public assistance is
10 assigned under section 256.741, or the public authority provides
11 services to a party or parties to the proceedings,
12 notwithstanding statutory or other authorization for the public
13 authority to release private data on the location of a party to
14 the action, the public authority may not release information on
15 the location of one party to the other party if:

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

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

21 Sec. 38. [517C.45] [SUFFICIENCY OF NOTICE.]

22 Automated child support notices sent by the public
23 authority which do not require service are sufficient notice
24 when issued and mailed by first class mail to the person's last
25 known address.

26 Sec. 39. [517C.50] [CHILD SUPPORT PAYMENT CENTER; CENTRAL
27 COLLECTIONS UNIT.]

28 Subdivision 1. [CREATION.] (a) The commissioner of human
29 services must create and maintain a central collections unit to
30 receive, process, and disburse payments, and to maintain a
31 record of payments in all cases when:

32 (1) the public authority is a party;

33 (2) the public authority provides child support enforcement
34 services to a party; or

35 (3) payment is collected through income withholding.

36 (b) The commissioner may contract for services to carry out

1 these provisions if the commissioner first meets and negotiates
2 with the affected exclusive representatives.

3 Subd. 2. [CREDITOR COLLECTIONS.] The central collections
4 unit under this section is not a third party under chapters 550,
5 552, and 571 for purposes of creditor collection efforts against
6 child support and maintenance order obligors or obligees, and is
7 not subject to creditor levy, attachment, or garnishment.

8 Subd. 3. [CREDIT FOR PAYMENT.] Payments made to the public
9 authority that are not collected through income withholding must
10 be credited as of the date the payment is received by the
11 central collections unit.

12 Sec. 40. [517C.51] [MANDATORY PAYMENT OF OBLIGATIONS TO
13 CENTRAL COLLECTIONS UNIT.]

14 Subdivision 1. [GENERAL.] All payments described in
15 section 517C.50 must be made to the central collections unit.

16 Subd. 2. [LOCAL PAYMENT; TRANSMITTAL.] Each local child
17 support agency must provide a location within the agency to
18 receive payments. When the local agency receives a payment, it
19 must transmit the funds to the central collections unit within
20 one working day of receipt of the payment.

21 Subd. 3. [INCENTIVES.] Notwithstanding a rule to the
22 contrary, incentives must be paid to the county providing
23 services and maintaining the case to which the payment is
24 applied. Incentive payments awarded for the collection of child
25 support must be based solely upon payments processed by the
26 central collections unit. Incentive payments received by the
27 county under this subdivision must be used for county child
28 support collection efforts.

29 Subd. 4. [ELECTRONIC FUNDS TRANSFER.] The central
30 collections unit is authorized to engage in the electronic
31 transfer of funds for the receipt and disbursement of funds.

32 Subd. 5. [REQUIRED CONTENT OF ORDER.] A tribunal issuing
33 an order that establishes or modifies a payment must issue an
34 income withholding order in conformity with section 517C.52.
35 The automatic income withholding order must include the
36 obligor's name, Social Security number, and date of birth and

1 the name and address of the obligor's employer. The street
2 mailing address and the electronic mail address for the central
3 collections unit must be included in each automatic income
4 withholding order issued by a tribunal.

5 Subd. 6. [TRANSMITTAL OF ORDER TO THE PUBLIC AUTHORITY BY
6 THE TRIBUNAL.] The tribunal must transmit a copy of the order
7 establishing or modifying the payment, and a copy of the
8 automatic income withholding order, to the local child support
9 agency within two working days of the approval of the order by
10 the judge or child support magistrate or other person or entity
11 authorized to sign the automatic withholding order.

12 Subd. 7. [TRANSMITTAL OF FUNDS FROM OBLIGOR OR PAYOR OF
13 FUNDS TO CENTRAL COLLECTIONS UNIT.] The obligor or other payor
14 of funds must identify the obligor on the check or remittance by
15 name, payor number, and Social Security number, and must comply
16 with section 517C.52.

17 Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT
18 FUNDS.] A notice may be directed to a person or entity
19 submitting a check drawn on insufficient funds stating that
20 future payments must be made by cash or certified funds. The
21 central collections unit and the public authority may refuse a
22 check from a person or entity that has been given notice that
23 payments must be in cash or certified funds.

24 Subd. 9. [ADMISSIBILITY OF PAYMENT RECORDS.] A copy of the
25 record of payments maintained by the central collections unit is
26 admissible evidence in all tribunals as proof of payments made
27 through the central collections unit without the need of
28 testimony to prove authenticity.

29 Subd. 10. [TRANSITION PROVISIONS.] (a) The commissioner of
30 human services must develop a plan for the implementation of the
31 central collections unit. The plan must require that payments
32 be redirected to the central collections unit. Payments may be
33 redirected in groups according to county of origin, county of
34 payment, method of payment, type of case, or any other
35 distinguishing factor designated by the commissioner.

36 (b) Notice that payments must be made to the central

1 collections unit must be provided to the obligor and to the
2 payor of funds within 30 days before payments are redirected to
3 the central collections unit. After the notice has been
4 provided to the obligor or payor of funds, mailed payments
5 received by the local child support agency must be forwarded to
6 the central collections unit. A notice must be sent to the
7 obligor or payor of funds stating that payment application may
8 be delayed and must provide directions to submit future payments
9 to the central collections unit.

10 Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The
11 commissioner of human services may establish a revolving account
12 to cover funds issued in error due to insufficient funds or
13 other reasons. The commissioner must deposit appropriations for
14 this purpose and all recoupments against payments from the
15 account in the collections unit's recoupment account. The
16 recoupments are appropriated to the commissioner. An unexpended
17 balance in the account does not cancel, but is available until
18 expended.

19 Subd. 12. [UNCLAIMED SUPPORT FUNDS.] (a) If the public
20 authority cannot disburse support payments to an obligee because
21 the obligee cannot be located, the public authority must
22 continue its efforts to locate the obligee for one year from the
23 date it determines that it cannot locate the obligee.

24 (b) If the public authority is unable to locate the obligee
25 after one year, the public authority must mail a written notice
26 to the obligee at the obligee's last known address giving the
27 obligee 60 days to contact the public authority.

28 (c) If the obligee does not contact the public authority
29 within 60 days from the date of notice, the public authority
30 must:

31 (1) close the nonpublic assistance portion of the case;
32 (2) disburse unclaimed support funds to pay public
33 assistance arrears. If public assistance arrears remain after
34 disbursing the unclaimed support funds, the public authority may
35 continue to enforce and collect child support until all public
36 assistance arrears have been paid. If there are not public

1 assistance arrears, or unclaimed support funds remain after the
2 public assistance arrears have been paid, the public authority
3 must return the remaining unclaimed support funds to the
4 obligor; and

5 (3) when all public assistance arrears have been paid to
6 the public authority, mail a written notice of termination of
7 income withholding and case closure to the obligor at the
8 obligor's last known address. The notice must indicate that the
9 obligor's support obligation will remain in effect until further
10 order of the court and that the obligor may contact the public
11 authority for assistance to modify the order. The public
12 authority must include a copy of the form prepared by the state
13 court administrator's office under section 517C.25, subdivision
14 4, with the notice.

15 (d) If the public authority cannot locate the obligor to
16 return unclaimed support funds, the public authority must
17 continue its efforts to locate the obligor for one year from the
18 date the public authority determines that the obligor cannot be
19 located. If the public authority is unable to locate the
20 obligor after one year, the public authority must treat the
21 funds as unclaimed property according to federal law and chapter
22 345.

23 Sec. 41. [517C.52] [INCOME WITHHOLDING; GENERAL.]

24 Subdivision 1. [APPLICATION.] Sections 517C.51 to 517C.62
25 apply to all support orders issued by a court or an
26 administrative tribunal and orders for or notices of withholding
27 issued by the public authority according to section 517C.43,
28 subdivision 1, clause (5).

29 Subd. 2. [ORDER.] (a) Every support order must address
30 income withholding. Whenever a support order is initially
31 entered or modified, the full amount of the support order must
32 be withheld from the income of the obligor and forwarded to the
33 public authority. Sections 517C.51 to 517C.62 apply regardless
34 of the source of income of the person obligated to pay the child
35 support.

36 (b) Every order for child support must provide for a

1 conspicuous notice of the provisions in this section that
2 complies with section 517C.99, subdivision 3. An order without
3 this notice remains subject to this section.

4 (c) A payor of funds must implement income withholding
5 according to sections 517C.51 to 517C.62 upon receipt of an
6 order for or notice of withholding. The notice of withholding
7 must be on a form provided by the commissioner of human services.

8 Subd. 3. [NOTICE; INCOME WITHHOLDING AND COLLECTION
9 SERVICES.] (a) The commissioner of human services must prepare
10 and make available to the courts a notice of services that
11 explains child support and maintenance collection services
12 available through the public authority, including income
13 withholding. Upon receiving a petition for dissolution of
14 marriage or legal separation, the court administrator must
15 promptly send the notice of services to the petitioner and
16 respondent at the addresses stated in the petition.

17 (b) Upon receipt of a support order requiring income
18 withholding, a petitioner or respondent, who is not a recipient
19 of public assistance and does not receive child support
20 collection services from the public authority, must apply to the
21 public authority for either full child support collection
22 services or for services only to withhold income.

23 (c) For those persons applying for services only to
24 withhold income, the public authority must charge a monthly
25 service fee of \$15 to the obligor. This fee is in addition to
26 the amount of the support order and must be withheld through
27 income withholding. The public authority must explain the
28 service options in this section to the affected parties and
29 encourage the application for full child support collection
30 services.

31 Subd. 4. [CONTRACT FOR SERVICE.] To carry out income
32 withholding, the public authority may contract for services,
33 including the use of electronic funds transfer.

34 Subd. 5. [ELECTRONIC TRANSMISSION.] Orders or notices for
35 income withholding may be transmitted for enforcement purposes
36 by electronic means.

1 Subd. 6. [TIMING OF AUTOMATED ENFORCEMENT REMEDIES.] The
2 public authority must make reasonable efforts to ensure that
3 automated enforcement remedies take into consideration the time
4 periods allowed under sections 517C.51 to 517C.62.

5 Sec. 42. [517C.53] [WAIVER OF INCOME WITHHOLDING.]

6 (a) If child support is not assigned to the public
7 authority under section 256.741, the court may waive income
8 withholding requirements if it finds there are no arrears as of
9 the date of the hearing and:

10 (1) one party demonstrates and the court finds there is
11 good cause to waive the requirements of sections 517C.51 to
12 517C.62 or to terminate an order for or notice of income
13 withholding previously entered; or

14 (2) all parties reach an agreement and the agreement is
15 approved by the court after a finding that the agreement is
16 likely to result in regular and timely payments. The court's
17 findings waiving the requirements of this paragraph must include
18 a written explanation of the reasons why income withholding
19 would not be in the child's best interests.

20 (b) In addition to the other requirements in this section,
21 if the case involves a modification of support, the court must
22 make a finding that support has been timely made.

23 (c) If the court waives income withholding, the obligee or
24 obligor may at any time request subsequent income withholding
25 under section 517C.59.

26 Sec. 43. [517C.54] [PAYOR OF FUNDS RESPONSIBILITIES.]

27 Subdivision 1. [ACTIVATION.] An order for or notice of
28 withholding is binding on a payor of funds upon receipt.
29 Withholding must begin no later than the first pay period that
30 occurs after 14 days following the date of receipt of the order
31 for or notice of withholding. In the case of a financial
32 institution, preauthorized transfers must occur in accordance
33 with a court-ordered payment schedule.

34 Subd. 2. [PROCEDURE.] A payor of funds must withhold from
35 the income payable to the obligor the amount specified in the
36 order or notice of withholding and amounts specified under

1 sections 517C.58 and 517C.63 and must remit the amounts withheld
2 to the public authority within seven business days of the date
3 the obligor is paid the remainder of the income. The payor of
4 funds must include with the remittance the obligor's Social
5 Security number, the case type indicator as provided by the
6 public authority, and the date the obligor is paid the remainder
7 of the income. The obligor is considered to have paid the
8 amount withheld as of the date the obligor received the
9 remainder of the income. A payor of funds may combine all
10 amounts withheld from one pay period into one payment to each
11 public authority, but must separately identify each obligor
12 making payment.

13 Subd. 3. [RETALIATION PROHIBITED.] A payor of funds must
14 not discharge, or refuse to hire, or otherwise discipline an
15 employee as a result of wage or salary withholding authorized by
16 this chapter.

17 Subd. 4. [UPDATED ORDERS.] If more than one order for or
18 notice of withholding exists involving the same obligor and
19 child, the public authority must enforce the most recent order
20 or notice. An order for or notice of withholding that was
21 previously implemented according to this chapter ends as of the
22 date of the most recent order. The public authority must notify
23 the payor of funds to withhold under the most recent withholding
24 order or notice.

25 Subd. 5. [NOTIFICATION OF TERMINATION.] When an order for
26 or notice of withholding is in effect and the obligor's
27 employment is terminated, the obligor and the payor of funds
28 must notify the public authority of the termination within ten
29 days of the termination date. The termination notice must
30 include the obligor's home address and the name and address of
31 the obligor's new payor of funds, if known.

32 Subd. 6. [EXPENSES.] A payor of funds may deduct \$1 from
33 the obligor's remaining salary for each payment made pursuant to
34 an order for or notice of withholding under this chapter to
35 cover the expenses of withholding.

36 Sec. 44. [517C.55] [LUMP-SUM PAYMENTS.]

1 Subdivision 1. [APPLICATION.] (a) This section applies to
2 lump-sum payments of \$500 or more including, but not limited to,
3 severance pay, accumulated sick pay, vacation pay, bonuses,
4 commissions, or other pay or benefits.

5 (b) The Consumer Credit Protection Act, United States Code,
6 title 15, section 1673(b), does not apply to lump-sum payments.

7 Subd. 2. [PAYOR OF FUNDS RESPONSIBILITIES.] Before
8 transmitting a lump-sum payment to an obligor, a payor of funds
9 who has been served with an order for or notice of income
10 withholding under this chapter or a sworn affidavit of arrears
11 from the public authority must:

12 (1) notify the public authority of the lump-sum payment
13 that is to be paid to the obligor; and

14 (2) hold the lump-sum payment for 30 days after the date
15 the lump-sum payment would otherwise have been paid to the
16 obligor, notwithstanding sections 176.221, 176.225, 176.521,
17 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota
18 Rules, part 1415.2000, subpart 10.

19 Subd. 3. [PUBLIC AUTHORITY OPTIONS.] (a) The public
20 authority may direct the payor of funds to pay the lump-sum
21 payment, up to the amount of judgments or arrears, to the public
22 authority if:

23 (1) the public authority serves by mail a sworn affidavit
24 of arrears from the public authority or a court order upon the
25 payor of funds;

26 (2) a judgment entered pursuant to section 548.09 or
27 548.091, subdivision 1a, exists against the obligor, or other
28 support arrears exist; and

29 (3) a portion of the judgment or arrears remains unpaid.

30 (b) If no judgment or arrears exist, the public authority
31 may seek a court order directing the payor of funds to transmit
32 all or a portion of the lump-sum payment to the public authority
33 for future support. To obtain a court order under this
34 paragraph, the public authority must show an obligor's past
35 willful nonpayment of support.

36 Sec. 45. [517C.56] [PAYOR OF FUNDS LIABILITY.]

1 Subdivision 1. [LIABILITY TO OBLIGEE.] A payor of funds is
2 liable to the obligee for amounts required to be withheld. A
3 payor of funds that fails to withhold or transfer funds in
4 accordance with this chapter is liable to the obligee for
5 interest on the funds at the rate applicable to judgments under
6 section 549.09, computed from the date the funds were required
7 to be withheld or transferred. A payor of funds is liable for
8 reasonable attorney fees of the obligee or public authority
9 incurred in enforcing the liability under this subdivision. A
10 payor of funds that has failed to comply with the requirements
11 of sections 517C.51 to 517C.62 is subject to contempt sanctions
12 under section 517C.57. If the payor of funds is an employer or
13 independent contractor and violates this subdivision, a court
14 may award the obligor twice the wages lost as a result of this
15 violation. If a court finds a payor of funds violated this
16 subdivision, the court must impose a civil fine of not less than
17 \$500. The liabilities under this subdivision apply to
18 intentional noncompliance by a payor of funds with the
19 requirements of sections 517C.51 to 517C.62.

20 Subd. 2. [NONLIABILITY FOR COMPLIANCE.] A payor of funds
21 is not subject to civil liability to any individual or agency
22 for taking action in compliance with an income withholding order
23 or notice of withholding that appears regular on its face
24 according to this chapter or chapter 518C.

25 Sec. 46. [517C.57] [EMPLOYER CONTEMPT.]

26 Subdivision 1. [ORDERS BINDING.] Notices or orders for
27 income withholding or medical support issued pursuant to this
28 chapter are binding on the employer, trustee, or other payor of
29 funds after the order or notice has been transmitted to the
30 employer, trustee, or payor of funds.

31 Subd. 2. [CONTEMPT ACTION.] (a) An obligee or the public
32 authority may initiate a contempt action against an employer,
33 trustee, or payor of funds, within the action that created the
34 support obligation by serving an order to show cause upon the
35 employer, trustee, or payor of funds.

36 (b) The employer, trustee, or payor of funds is presumed to

1 be in contempt:

2 (1) if the employer, trustee, or payor of funds has
3 intentionally failed to withhold support after receiving the
4 order or notice for income withholding or notice of enforcement
5 of medical support; or

6 (2) upon presentation of pay stubs or similar documentation
7 showing that the employer, trustee, or payor of funds withheld
8 support and demonstrating that the employer, trustee, or payor
9 of funds intentionally failed to remit support to the public
10 authority.

11 Subd. 3. [LIABILITY; SANCTIONS.] The employer, trustee, or
12 payor of funds is liable to the obligee or the public authority
13 for amounts required to be withheld that were not paid. The
14 court may enter judgment against the employer, trustee, or payor
15 of funds for support not withheld or remitted. An employer,
16 trustee, or payor of funds found guilty of contempt must be
17 punished by a fine of not more than \$250 as provided in chapter
18 588. The court may also impose other contempt sanctions
19 authorized under chapter 588.

20 Sec. 47. [517C.58] [PRIORITY OF INCOME WITHHOLDING ORDERS;
21 MAXIMUM WITHHOLDING.]

22 Subdivision 1. [PRIORITY.] An order for or notice of
23 withholding under this chapter or execution or garnishment upon
24 a judgment for child support arrears or preadjudicated expenses
25 has priority over an attachment, execution, garnishment, or wage
26 assignment and is not subject to the statutory limitations on
27 amounts levied against the income of the obligor. Amounts
28 withheld from an employee's income must not exceed the maximum
29 permitted under the Consumer Credit Protection Act, United
30 States Code, title 15, section 1673(b).

31 Subd. 2. [MULTIPLE ORDERS.] If a single employee is
32 subject to multiple withholding orders or multiple notices of
33 withholding for the support of more than one child, the payor of
34 funds must comply with all of the orders or notices to the
35 extent that the total amount withheld from the obligor's income
36 does not exceed the limits imposed under the Consumer Credit

1 Protection Act, United States Code, title 15, section 1673(b),
2 giving priority to amounts designated in each order or notice as
3 current support as follows:

4 (1) if the total of the amounts designated in the orders
5 for or notices of withholding as current support exceeds the
6 amount available for income withholding, the payor of funds must
7 allocate to each order or notice an amount for current support
8 equal to the amount designated in that order or notice as
9 current support, divided by the total of the amounts designated
10 in the orders or notices as current support, multiplied by the
11 amount of the income available for income withholding; and

12 (2) if the total of the amounts designated in the orders
13 for or notices of withholding as current support does not exceed
14 the amount available for income withholding, the payor of funds
15 must pay the amounts designated as current support, and must
16 allocate to each order or notice an amount for past due support,
17 equal to the amount designated in that order or notice as past
18 due support, divided by the total of the amounts designated in
19 the orders or notices as past due support, multiplied by the
20 amount of income remaining available for income withholding
21 after the payment of current support.

22 Sec. 48. [517C.59] [SUBSEQUENT INCOME WITHHOLDING.]

23 Subdivision 1. [APPLICATION.] This section applies to
24 support orders that do not contain provisions for income
25 withholding.

26 Subd. 2. [PUBLIC AUTHORITY PROVIDES CHILD SUPPORT
27 ENFORCEMENT SERVICES.] If the public authority provides child
28 support enforcement services to the parties, income withholding
29 under this section takes effect without prior judicial notice to
30 the obligor and without the need for judicial or administrative
31 hearing. Withholding must be initiated when:

32 (1) the obligor requests it in writing to the public
33 authority;

34 (2) the obligee or obligor serves on the public authority a
35 copy of the notice of income withholding, a copy of the court's
36 order, an application, and the fee to use the public authority's

1 collection services; or

2 (3) the public authority commences withholding under
3 section 517C.43.

4 Subd. 3. [PUBLIC AUTHORITY DOES NOT PROVIDE CHILD SUPPORT
5 ENFORCEMENT SERVICES.] If the public authority does not provide
6 child support enforcement services to the parties, income
7 withholding under this section must be initiated when an obligee
8 requests it by making a written motion to the court and the
9 court finds that previous support has not been paid on a timely,
10 consistent basis or that the obligor has threatened expressly or
11 otherwise to stop or reduce payments.

12 Subd. 4. [NOTICE.] Within two days after the public
13 authority commences withholding under this section, the public
14 authority must send to the obligor at the obligor's last known
15 address, notice that withholding has commenced. The notice must
16 include the information provided to the payor of funds in the
17 notice of withholding.

18 Subd. 5. [CONTEST.] (a) The obligor may contest
19 withholding under this section on the limited grounds that the
20 withholding or the amount withheld is improper due to mistake of
21 fact. An obligor who chooses to contest the withholding must do
22 so no later than 15 days after the employer commences
23 withholding, by bringing a proper motion under section 484.702
24 and the expedited child support process rules.

25 (b) The income withholding must remain in place while the
26 obligor contests the withholding.

27 (c) If the court finds a mistake in the amount of the
28 arrears to be withheld, the court must continue the income
29 withholding, but it must correct the amount of the arrears to be
30 withheld.

31 Sec. 49. [517C.60] [INCOME WITHHOLDING; ARREARS ORDER.]

32 (a) In addition to ordering income withholding for current
33 support, the court may order the payor of funds to withhold
34 amounts to satisfy the obligor's previous arrears in support
35 order payments. Use of this remedy does not exclude the use of
36 other remedies to enforce judgments. The employer or payor of

1 funds must withhold from the obligor's income an additional
2 amount equal to 20 percent of the monthly child support
3 obligation until the arrears are paid.

4 (b) Notwithstanding any law to the contrary, funds from
5 income sources included in section 517C.12, subdivision 1,
6 whether periodic or lump sum, are not exempt from attachment or
7 execution upon a judgment for child support arrears.

8 (c) Absent an order to the contrary, if arrears exist at
9 the time a support order would otherwise terminate, income
10 withholding continues in effect or may be implemented in an
11 amount equal to the support order plus an additional 20 percent
12 of the monthly child support obligation, until all arrears have
13 been paid in full.

14 Sec. 50. [517C.61] [INTERSTATE INCOME WITHHOLDING.]

15 (a) Upon receipt of an order for support entered in another
16 state and the specified documentation from an authorized agency,
17 the public authority must implement income withholding. A payor
18 of funds in this state must withhold income under court orders
19 for withholding issued by other states or territories.

20 (b) An employer receiving an income withholding notice from
21 another state must withhold and distribute the funds as directed
22 in the withholding notice and must apply the law of the
23 obligor's principal place of employment when determining:

24 (1) the employer's fee for processing an income withholding
25 notice;

26 (2) the maximum amount permitted to be withheld from the
27 obligor's income; and

28 (3) deadlines for implementing and forwarding the child
29 support payment.

30 (c) An obligor may contest withholding under this section
31 pursuant to section 518C.506.

32 Sec. 51. [517C.62] [ORDER TERMINATING INCOME WITHHOLDING.]

33 Subdivision 1. [GENERAL PROCEDURE.] (a) An order
34 terminating income withholding must specify the effective date
35 of the order and reference the initial order or decree that
36 establishes the support obligation. A court must enter an order

1 terminating income withholding if:

2 (1) the obligor serves written notice of the application
3 for termination of income withholding by mail upon the obligee
4 at the obligee's last known mailing address, and serves a
5 duplicate copy of the application on the public authority;

6 (2) the application for termination of income withholding
7 specifies the event that terminates the support obligation, the
8 effective date of the termination of the support obligation, and
9 the applicable provisions of the order or decree that
10 established the support obligation; and

11 (3) the application includes the complete name of the
12 obligor's payor of funds, the business mailing address, the
13 court action and court file number, and the support and
14 collections file number, if known.

15 (b) The obligee or the public authority may request a
16 contested hearing on the issue of whether income withholding
17 should continue. The request must be made within 20 days of
18 receiving an application for termination of income withholding.
19 The request must clearly specify the basis for continuing income
20 withholding. The obligee or public authority may make an ex
21 parte motion to stay the service of an order terminating income
22 withholding upon the obligor's payor of funds pending the
23 outcome of the contested hearing.

24 Subd. 2. [TERMINATION BY PUBLIC AUTHORITY.] (a) If the
25 public authority determines that income withholding is no longer
26 applicable, the public authority must notify the obligee and the
27 obligor of intent to terminate income withholding.

28 (b) Five days after notification to the obligee and
29 obligor, the public authority must issue a notice to the payor
30 of funds terminating income withholding. A court order is not
31 required unless the obligee has requested an expedited child
32 support hearing under section 484.702.

33 Sec. 52. [517C.63] [CHILD SUPPORT DEPOSIT ACCOUNT;
34 FINANCIAL INSTITUTIONS.]

35 Subdivision 1. [APPLICATION.] If income withholding is
36 ineffective due to the obligor's method of obtaining income, the

1 court must order the obligor to identify a child support deposit
2 account owned solely by the obligor, or to establish an account
3 in a financial institution located in this state for the purpose
4 of depositing court-ordered child support payments. The court
5 must order the obligor to execute an agreement with the
6 appropriate public authority for preauthorized transfers from
7 the obligor's child support account payable to an account of the
8 public authority. The court must order the obligor to disclose
9 to the court all deposit accounts owned by the obligor in whole
10 or in part in any financial institution. The court may order
11 the obligor to disclose to the court the opening or closing of
12 any deposit account owned in whole or in part by the obligor
13 within 30 days of the opening or closing. The court may order
14 the obligor to execute an agreement with the appropriate public
15 authority for preauthorized transfers from any deposit account
16 owned in whole or in part by the obligor to the obligor's child
17 support deposit account if necessary to satisfy court-ordered
18 child support payments. The court may order a financial
19 institution to disclose to the court the account number and any
20 other information regarding accounts owned in whole or in part
21 by the obligor. An obligor who fails to comply with this
22 subdivision, fails to deposit funds in at least one deposit
23 account sufficient to pay court-ordered child support, or stops
24 payment or revokes authorization of a preauthorized transfer is
25 subject to contempt of court procedures under chapter 588.

26 Subd. 2. [TRANSFERS.] A financial institution must execute
27 preauthorized transfers for the obligor's deposit accounts in
28 the amount specified in the order and amounts required under
29 this section as directed by the public authority. A financial
30 institution is liable to the obligee if funds in any of the
31 obligor's deposit accounts identified in the court order equal
32 the amount stated in the preauthorization agreement but are not
33 transferred by the financial institution in accordance with the
34 agreement.

35 Sec. 53. [517C.64] [ESCROW ACCOUNT.]

36 Subdivision 1. [STAY OF SERVICE.] (a) If the court finds

1 there is no arrearage in child support as of the date of the
2 court hearing, the court must stay service of the income
3 withholding order under sections 517C.51 to 517C.62 if the
4 obligor:

5 (1) establishes a savings account for a sum equal to two
6 months of the monthly child support obligation; and

7 (2) provides proof of establishing the savings account to
8 the court and the public authority on or before the day of the
9 court hearing determining the obligation.

10 (b) The obligor must hold the sum under paragraph (a) in a
11 financial institution in an interest-bearing account with only
12 the public authority authorized as drawer of funds. The
13 obligor's proof of establishing the account must include the
14 financial institution name and address, account number, and the
15 deposit amount.

16 Subd. 2. [RELEASE OF STAY.] Within three working days of
17 receipt of notice of default, the public authority must direct
18 the financial institution to release to the public authority the
19 sum held under this section when the following conditions are
20 met:

21 (1) the obligor fails to pay the support amount to the
22 obligee or the public authority within ten days of the date it
23 is ordered to be paid;

24 (2) the obligee transmits a notice of default to the public
25 authority and makes application to the public authority for
26 child support and maintenance collection services. The obligee
27 must verify the notice and the notice must contain the title of
28 the action, the court file number, the obligee's full name and
29 address, the obligor's name and last known address, the
30 obligor's last known employer or other payor of funds, the date
31 of the first unpaid amount, the date of the last unpaid amount,
32 and the total amount unpaid; and

33 (3) within three working days of receipt of notice from the
34 obligee, the public authority sends a copy of the notice of
35 default and a notice of intent to implement income withholding
36 by mail to the obligor at the address given. The notice of

1 intent must state that the public authority will serve the order
2 establishing the child support or maintenance obligation on the
3 obligor's employer or payor of funds unless, within 15 days
4 after the mailing of the notice, the obligor requests a hearing
5 on the issue of whether payment was in default as of the date of
6 the notice of default. The obligor must serve notice of the
7 request for hearing on the public authority and the obligee.

8 Subd. 3. [DUTIES OF PUBLIC AUTHORITY.] Within three
9 working days of receipt of sums released under subdivision 2,
10 the public authority shall remit to the obligee all amounts not
11 assigned under section 256.741 as current support or
12 maintenance. The public authority must also serve a copy of the
13 court's order and the provisions of this section and sections
14 517C.51 to 517C.62 on the obligor's employer or other payor of
15 funds unless, within 15 days after mailing of the notice of
16 intent to implement income withholding, the obligor makes a
17 proper motion pursuant to section 484.702 and the rules of the
18 expedited child support process. The public authority must
19 inform the employer or payor of funds pursuant to sections
20 517C.51 to 517C.62 of the effective date on which the next
21 support or maintenance payment is due. The withholding process
22 must begin on that date and must reflect the total credits of
23 principal and interest amounts received from the escrow account.

24 Subd. 4. [HEARING.] Within 30 days of the date of the
25 notice of default under subdivision 2, clause (2), the court
26 must hold a hearing if a motion is brought by the obligor as set
27 forth in subdivision 2. If the court finds that there was a
28 default, the court must order the immediate withholding of
29 support or maintenance from the obligor's income. If the court
30 finds that there was no default, the court must order either the
31 obligor or obligee to reestablish the escrow account and
32 continue the stay of income withholding.

33 Subd. 5. [TERMINATION OF STAY.] When the obligation for
34 support of a child or for spousal maintenance ends under the
35 terms of the order or decree establishing the obligation and the
36 sum held under this section has not otherwise been released, the

1 public authority must release the sum and interest to the
2 obligor when the following conditions are met:

3 (1) the obligor transmits a notice of termination to the
4 public authority. The obligor must verify the notice and the
5 notice must contain the title of the action, the court file
6 number, the full name and address of the obligee, specify the
7 event that ends the support or maintenance obligation, the
8 effective date of the termination of support or maintenance
9 obligation, and the applicable provisions of the order or decree
10 that established the support or maintenance obligation;

11 (2) the public authority sends a copy of the notice of
12 termination to the obligee; and

13 (3) the obligee fails within 20 days after mailing of the
14 notice under clause (2) to request a hearing on the issue of
15 whether the support or maintenance obligation continues and
16 serve notice of the request for hearing on the obligor and the
17 public authority.

18 Sec. 54. [517C.65] [TRUSTEE.]

19 Subdivision 1. [APPOINTMENT.] Upon its own motion or upon
20 motion of either party, the court may appoint a trustee, when it
21 is deemed expedient, to receive money ordered to be paid as
22 child support for remittance to the person entitled to receive
23 the payments. The trustee may also receive property that is
24 part of an award for division of marital property. The trustee
25 must hold the property in trust to invest and pay over the
26 income in the manner the court directs, or to pay over the
27 principal sum in the proportions and at the times the court
28 orders. In all cases, the court must consider the situation and
29 circumstances of the recipient, and the children, if any. The
30 trustee must give a bond, as the court requires, for the
31 faithful performance of the trust. If it appears that the
32 recipient of money ordered to be paid as support will receive
33 public assistance, the court must appoint the public authority
34 as trustee.

35 Subd. 2. [RECORDS.] The trustee must maintain records
36 listing the amount of payments, the date when payments are

1 required to be made, and the names and addresses of the parties
2 affected by the order.

3 Subd. 3. [COMMUNICATION.] The parties affected by the
4 order must inform the trustee of a change of address or of other
5 conditions that may affect the administration of the order.

6 Subd. 4. [LATE PAYMENT.] If a required support payment is
7 not made within ten days of the due date, the trustee must send
8 the obligor notice of the arrears by first class mail. If
9 payment of the sum due is not received by the trustee within ten
10 days after sending notice, the trustee must certify the amount
11 due to the public authority, whenever that authority is not the
12 trustee. If the public authority refers the arrears to the
13 county attorney, the county attorney may initiate enforcement
14 proceedings against the obligor for support.

15 Sec. 55. [517C.66] [OVERPAYMENTS.]

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

20 (1) apply the amount of the overpayment to reduce the
21 amount of child support arrears or debts owed to the obligee;
22 and

23 (2) if an overpayment exists after the reduction of arrears
24 or debt, reduce the amount of the child support remitted to the
25 obligee by an amount no greater than 20 percent of the current
26 monthly support obligation and remit this amount to the obligor
27 until the overpayment is reduced to zero.

28 Sec. 56. [517C.67] [ALTERNATE NOTICE OF COURT ORDER.]

29 Whenever this chapter requires service of a court's order
30 on an employer, union, or payor of funds, service of a verified
31 notice of order may be made in lieu of the order. The verified
32 notice must contain the title of the action, the name of the
33 court, the court file number, the date of the court order, and
34 must recite the operative provisions of the order.

35 Sec. 57. [517C.70] [CHILD SUPPORT AND PARENTING TIME ARE
36 INDEPENDENT.]

1 (a) Failure by a party to make support payments is not a
2 defense to:

3 (1) interference with parenting time; or

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

6 (b) Interference with parenting time or taking a child from
7 this state without permission of the court or the other parent
8 is not a defense to nonpayment of support.

9 (c) If a party fails to make support payments, interferes
10 with parenting time, or removes a child from this state without
11 permission of the court or the other parent, the other party may
12 petition the court for an appropriate order.

13 Sec. 58. [517C.71] [PAYMENT AGREEMENTS.]

14 Subdivision 1. [GENERAL REQUIREMENTS.] An obligor who has
15 child support arrears may enter into a payment agreement that
16 addresses payment of both current and overdue support. Payment
17 agreements must:

18 (1) be in writing;

19 (2) address both current support and arrears; and

20 (3) be approved by the district court, a child support
21 magistrate, or the public authority.

22 Subd. 2. [CONSIDERATIONS.] In proposing or approving
23 proposed payment agreements for purposes of this chapter, the
24 district court, a child support magistrate, or the public
25 authority must take into consideration the amount of the
26 arrears, the amount of the current support order, any pending
27 request for modification, and the earnings of the obligor. The
28 district court, child support magistrate, or public authority
29 must consider the individual financial circumstances of each
30 obligor in evaluating the obligor's ability to pay a proposed
31 payment agreement and must propose a reasonable payment
32 agreement tailored to the individual financial circumstances of
33 each obligor. The district court, child support magistrate, or
34 public authority also must consider a graduated payment plan
35 tailored to the individual financial circumstances of each
36 obligor.

1 Sec. 59. [517C.72] [SEEK EMPLOYMENT ORDERS.]

2 Subdivision 1. [COURT ORDER.] (a) When the public
3 authority is enforcing a support order, the public authority may
4 seek a court order requiring an obligor to seek employment if:

5 (1) the obligor's employment cannot be verified;

6 (2) the obligor has child support arrears amounting to at
7 least three times the obligor's total monthly support payments;
8 and

9 (3) the obligor is not in compliance with a payment
10 agreement.

11 (b) Upon proper notice to the obligor, the court may enter
12 a seek employment order if it finds that the obligor has not
13 provided proof of gainful employment and has not consented to an
14 order for income withholding or entered into a payment agreement.

15 Subd. 2. [CONTENTS OF ORDER.] The order to seek employment
16 must:

17 (1) order that the obligor seek employment within a
18 determinate amount of time;

19 (2) order that the obligor file with the public authority a
20 weekly report of at least five new attempts to find employment
21 or of having found employment. The report must include the
22 names, addresses, and telephone numbers of the employers or
23 businesses with whom the obligor attempted to obtain employment
24 and the name of the individual contact at each employer or
25 business to whom the obligor made application for employment or
26 to whom an inquiry was directed;

27 (3) notify the obligor that failure to comply with the
28 order is evidence of a willful failure to pay support under
29 section 517C.74;

30 (4) order that the obligor provide the public authority
31 with verification of any reason for noncompliance with the
32 order; and

33 (5) specify the duration of the order, not to exceed three
34 months.

35 Sec. 60. [517C.73] [ORDER FOR COMMUNITY SERVICES.]

36 If the court finds that the obligor earns \$400 or less per

1 month and does not have the ability to provide support based on
2 the guidelines and factors in this chapter, the court may order
3 the obligor to perform community services to fulfill the
4 obligor's support obligation. In ordering community services
5 under this section, the court must consider whether the obligor
6 has the physical capability to perform community services, and
7 must order community services that are appropriate for the
8 obligor's abilities.

9 Sec. 61. [517C.74] [CONTEMPT PROCEEDINGS FOR NONPAYMENT OF
10 SUPPORT.]

11 Subdivision 1. [GROUNDS.] If a person against whom an
12 order or decree for support has been entered under this chapter,
13 chapter 256, or a comparable law from another jurisdiction has
14 child support arrears amounting to at least three times the
15 obligor's total monthly support obligation and is not in
16 compliance with a payment agreement, a court may cite and punish
17 a person for contempt under section 517C.25, subdivision 1,
18 chapter 588, or this section. An obligor's failure to comply
19 with a seek employment order entered under section 517C.72 is
20 evidence of willful failure to pay support.

21 Subd. 2. [COURT OPTIONS.] (a) If a court cites a person
22 for contempt under this section, and the obligor lives in a
23 county that contracts with the commissioner of human services
24 under section 256.997, the court may order the performance of
25 community service work up to 32 hours per week for six weeks for
26 each finding of contempt if the obligor:

27 (1) is able to work full time;
28 (2) works an average of less than 32 hours per week; and
29 (3) has actual weekly gross income averaging less than 40
30 times the federal minimum hourly wage under United States Code,
31 title 29, section 206(a)(1), or is voluntarily earning less than
32 the obligor has the ability to earn, as determined by the court.

33 (b) An obligor is presumed to be able to work full time.
34 The obligor has the burden of proving inability to work full
35 time.

36 Subd. 3. [RELEASE.] A person ordered to do community

1 service work under subdivision 2 may, during the six-week
2 period, apply to the district court, a child support magistrate,
3 or the public authority to be released from the community
4 service work requirement if the person:

5 (1) provides proof to the district court, a child support
6 magistrate, or the public authority that the person is gainfully
7 employed and submits to an order for income withholding under
8 section 517C.52;

9 (2) enters into a payment agreement under section 517C.71;
10 or

11 (3) provides proof to the district court, a child support
12 magistrate, or the public authority that, after entry of the
13 order, the person's circumstances have so changed that the
14 person is no longer able to fulfill the terms of the community
15 service order.

16 Subd. 4. [CONTINUING OBLIGATIONS.] An obligor's
17 performance of community service work does not relieve the
18 obligor of a current support obligation or arrears.

19 Sec. 62. [517C.745] [SECURITY; SEQUESTRATION; CONTEMPT.]

20 (a) In all cases when the court orders support payments,
21 the court may require sufficient security to be given for the
22 payment of them according to the terms of the order. Upon
23 neglect or refusal to give security, or upon failure to pay the
24 support, the court may sequester the obligor's personal estate
25 and the rents and profits of real estate of the obligor, and
26 appoint a receiver of them. The court may cause the personal
27 estate and the rents and profits of the real estate to be
28 applied according to the terms of the order.

29 (b) The obligor is presumed to have an income from a source
30 sufficient to pay the support order. A child support order
31 constitutes prima facie evidence that the obligor has the
32 ability to pay the award. If the obligor disobeys the order, it
33 is prima facie evidence of contempt. The court may cite the
34 obligor for contempt under this section, section 517C.74, or
35 chapter 588.

36 Sec. 63. [517C.75] [DRIVER'S LICENSE SUSPENSION.]

1 Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An
2 obligor's driver's license must be suspended if the court finds
3 that the obligor has been or may be issued a driver's license by
4 the commissioner of public safety and if:

5 (1) the obligor has arrears amounting to at least three
6 times the obligor's total monthly support obligation and the
7 obligor is not in compliance with a payment agreement under
8 section 517C.71; or

9 (2) the obligor has failed, after receiving notice, to
10 comply with a subpoena relating to a paternity or child support
11 proceeding.

12 Subd. 2. [INITIATED BY OBLIGEE.] (a) An obligee may bring
13 a motion to suspend an obligor's driver's license. The obligee
14 must properly serve the motion on the obligor pursuant to court
15 rules and file the motion with the court. An obligee may not
16 bring a motion under this subdivision within 12 months of a
17 denial of a previous motion under this subdivision.

18 (b) At the hearing, if the court finds that a factor under
19 subdivision 1 exists, the court must:

20 (1) order the commissioner of public safety to suspend the
21 obligor's driver's license; and

22 (2) stay the order for 90 days to allow the obligor the
23 opportunity to enter into a payment agreement under section
24 517C.71.

25 (c) If after 90 days the obligor has not entered into or is
26 not in compliance with a payment agreement under section
27 517C.71, the court's order becomes effective and the
28 commissioner of public safety must suspend the obligor's
29 driver's license.

30 Subd. 3. [INITIATED BY PUBLIC AUTHORITY.] (a) If the
31 public authority determines that a factor in subdivision 1
32 exists, the public authority must initiate the suspension of the
33 obligor's driver's license.

34 (b) The public authority must mail a written notice to the
35 obligor at the obligor's last known address indicating that:

36 (1) the public authority intends to seek suspension of the

1 obligor's driver's license; and

2 (2) the obligor must make a written request for a hearing
3 to contest the driver's license suspension within 30 days of the
4 date of the notice.

5 (c) If the obligor requests a hearing within 30 days of the
6 date of the notice, a court hearing must be held. At least 14
7 days before the hearing, the public authority must serve notice
8 on the obligor personally or by mail at the obligor's last known
9 address of the following:

10 (1) the hearing time and place;

11 (2) the allegations against the obligor; and

12 (3) a statement informing the obligor of the requirement to
13 enter into a payment agreement under section 517C.71 to avoid
14 license suspension.

15 (d) If a hearing is held and the court finds a factor under
16 subdivision 1 exists, the court must order the commissioner of
17 public safety to suspend the obligor's driver's license.

18 (e) If the obligor does not request a hearing within 30
19 days of the date of the notice and has not executed a written
20 payment agreement under section 517C.71 that is approved by the
21 public authority within 90 days of the date of the notice, the
22 public authority must direct the commissioner of public safety
23 to suspend the obligor's driver's license.

24 Subd. 4. [SUSPENSION FOR FAILURE TO COMPLY WITH A
25 SUBPOENA.] (a) A court, child support magistrate, or the public
26 authority may direct the commissioner of public safety to
27 suspend an obligor's driver's license if the obligor has failed,
28 after receiving notice, to comply with a subpoena relating to a
29 paternity or child support proceeding.

30 (b) The notice to an obligor of intent to suspend a
31 driver's license must be served by first class mail at the
32 obligor's last known address. The notice must inform the
33 obligor of the right to make a written request for a hearing.

34 (c) If the obligor makes a written request within ten days
35 of the date of the notice, a hearing must be held. At the
36 hearing, the only issues to be considered are mistake of fact

1 and whether the obligor received the subpoena.

2 Subd. 5. [SUSPENSION FOR FAILURE TO REMAIN IN COMPLIANCE
3 WITH A PAYMENT AGREEMENT.] The license of an obligor who fails
4 to remain in compliance with a payment agreement under section
5 517C.71 may be suspended. A party or the public authority must
6 serve notice upon the obligor of intent to suspend under this
7 subdivision. The party or public authority must serve the
8 notice upon the obligor by first class mail at the obligor's
9 last known address not less than ten days before the hearing
10 date. The notice must include a notice of hearing. If the
11 obligor appears at the hearing and the judge determines that the
12 obligor has failed to comply with a payment agreement under
13 section 517C.71, the judge must notify the Department of Public
14 Safety to suspend the obligor's driver's license. If the
15 obligor fails to appear at the hearing, the public authority may
16 notify the Department of Public Safety to suspend the obligor's
17 driver's license.

18 Subd. 6. [REINSTATEMENT.] (a) An obligor whose driver's
19 license or operating privileges are suspended may:

20 (1) provide proof to the public authority that the obligor
21 is in compliance with all payment agreements under section
22 517C.71;

23 (2) bring a motion for reinstatement of the driver's
24 license. At the hearing, the district court or child support
25 magistrate must establish a payment agreement under section
26 517C.71 if the district court or child support magistrate orders
27 reinstatement of the driver's license; or

28 (3) seek a limited license under section 171.30. A limited
29 license issued to an obligor under section 171.30 expires 90
30 days after the date it is issued.

31 (b) Within 15 days of the receipt of the proof under
32 paragraph (a), clause (1), or a court order, the public
33 authority must inform the commissioner of public safety that the
34 obligor's driver's license or operating privileges should no
35 longer be suspended.

36 Subd. 7. [REMEDIES AVAILABLE.] The remedy under this

1 section is in addition to any other enforcement remedy available
2 to the court or public authority.

3 Subd. 8. [REPORT TO LEGISLATURE.] On January 15, 2007, and
4 every two years after that, the commissioner of human services
5 must submit a report to the legislature that identifies the
6 following information relevant to the implementation of this
7 section:

8 (1) the number of child support obligors notified of an
9 intent to suspend a driver's license;

10 (2) the amount collected in payments from the child support
11 obligors notified of an intent to suspend a driver's license;

12 (3) the number of cases paid in full and payment agreements
13 executed in response to notification of an intent to suspend a
14 driver's license;

15 (4) the number of cases in which there has been
16 notification and no payments or payment agreements;

17 (5) the number of driver's licenses suspended;

18 (6) the cost of implementation and operation of the
19 requirements of this section; and

20 (7) the number of limited licenses issued and number of
21 cases in which payment agreements are executed and cases are
22 paid in full following issuance of a limited license.

23 Sec. 64. [517C.76] [OCCUPATIONAL LICENSE SUSPENSION.]

24 Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An
25 obligor's occupational license must be suspended if the court
26 finds that the obligor is or may be licensed by a licensing
27 board listed in section 214.01 or other state, county, or
28 municipal agency or board that issues an occupational license
29 and if:

30 (1) the obligor has arrears amounting to at least three
31 times the obligor's total monthly support obligation and the
32 obligor is not in compliance with a payment agreement under
33 section 517C.71; or

34 (2) the obligor has failed, after receiving notice, to
35 comply with a subpoena relating to a paternity or child support
36 proceeding.

1 Subd. 2. [INITIATED BY OBLIGEE.] (a) An obligee may bring
2 a motion to suspend an obligor's occupational license. The
3 obligee must properly serve the motion on the obligor pursuant
4 to court rules and file the motion with the court.

5 (b) At the hearing, if the court finds that a factor under
6 subdivision 1 exists, the court must:

7 (1) order the licensing board or agency to suspend the
8 obligor's occupational license under section 214.101; and

9 (2) stay the order for 90 days to allow the obligor the
10 opportunity to enter into a payment agreement under section
11 517C.71.

12 (c) If after 90 days the obligor has not entered into or is
13 not in compliance with a payment agreement under section
14 517C.71, the court order becomes effective and the licensing
15 board or agency must suspend the obligor's occupational license.

16 (d) If the obligor is a licensed attorney, the court must
17 comply with the procedure under subdivision 4 for notifying the
18 Lawyers Professional Responsibility Board.

19 Subd. 3. [INITIATED BY PUBLIC AUTHORITY.] (a) If the
20 public authority determines that a factor in subdivision 1
21 exists, the public authority must initiate the suspension of the
22 obligor's occupational license.

23 (b) The public authority must mail a written notice to the
24 obligor at the obligor's last known address indicating that:

25 (1) the public authority intends to seek suspension of the
26 obligor's occupational license; and

27 (2) the obligor must make a written request for a hearing
28 to contest the occupational license suspension within 30 days of
29 the date of the notice.

30 (c) If the obligor requests a hearing within 30 days of the
31 date of the notice, a court hearing must be held. At least 14
32 days before the hearing, the public authority must serve notice
33 on the obligor personally or by mail at the obligor's last known
34 address of the following:

35 (1) the hearing time and place;

36 (2) the allegations against the obligor; and

1 (3) a statement informing the obligor of the requirement to
2 enter into a payment agreement under section 517C.71 to avoid
3 license suspension.

4 (d) If a hearing is held and the court finds a factor
5 warranting suspension under subdivision 1 exists, the court must
6 order the occupational licensing board or agency to suspend the
7 obligor's occupational license.

8 (e) If the obligor does not request a hearing within 30
9 days of the date of the notice and has not executed a written
10 payment agreement under section 517C.71 that is approved by the
11 public authority within 90 days of the date of the notice, the
12 public authority must direct the occupational licensing board or
13 agency to suspend the obligor's occupational license.

14 (f) If the obligor is a licensed attorney, the court or
15 public authority must comply with the procedure under
16 subdivision 4 for notifying the Lawyers Professional
17 Responsibility Board.

18 Subd. 4. [OBLIGOR IS LICENSED ATTORNEY.] If an obligor is
19 a licensed attorney and the court finds that a factor warranting
20 suspension under subdivision 1 exists, the court or public
21 authority must notify the Lawyers Professional Responsibility
22 Board for appropriate action in accordance with the rules of
23 professional conduct or order the licensing board or agency to
24 suspend the obligor's license if the court finds that the
25 obligor:

26 (1) is licensed by a licensing board or other state agency
27 that issues an occupational license;

28 (2) has not made full payment of arrears found to be due by
29 the public authority; and

30 (3) has not executed or is not in compliance with a payment
31 agreement.

32 Subd. 5. [FAILURE TO COMPLY WITH SUBPOENA.] (a) A court,
33 child support magistrate, or the public authority may direct the
34 occupational licensing board or agency to suspend an obligor's
35 occupational license if the obligor has failed, after receiving
36 notice, to comply with a subpoena relating to a paternity or

1 child support proceeding.

2 (b) The notice to an obligor of intent to suspend an
3 occupational license must be served by first class mail at the
4 obligor's last known address. The notice must inform the
5 obligor of the right to make a written request for a hearing.

6 (c) If the obligor makes a written request within ten days
7 of the date of the notice, a hearing must be held. At the
8 hearing, the only issues to be considered are mistake of fact
9 and whether the obligor received the subpoena.

10 Subd. 6. [FAILURE TO REMAIN IN COMPLIANCE WITH APPROVED
11 PAYMENT AGREEMENT.] The license of an obligor who fails to
12 remain in compliance with a payment agreement under section
13 517C.71 may be suspended. A party must serve notice upon the
14 obligor of an intent to suspend under this subdivision. A party
15 must serve the notice by first class mail at the obligor's last
16 known address not less than ten days before the date of the
17 hearing. The notice must include a notice of hearing. If the
18 obligor appears at the hearing and the judge determines that the
19 obligor has failed to comply with a payment agreement under
20 section 517C.71, the judge must notify the licensing board or
21 agency to suspend the obligor's license. If the obligor fails
22 to appear at the hearing, the public authority may notify the
23 licensing board or agency to suspend the obligor's license.

24 Subd. 7. [REINSTATEMENT.] An obligor whose occupational
25 license is suspended may provide proof to the public authority
26 that the obligor is in compliance with all payment agreements
27 under section 517C.71. Within 15 days of the receipt of that
28 proof, the public authority must inform the licensing board or
29 agency or the Lawyers Professional Responsibility Board that the
30 obligor is no longer ineligible for license issuance,
31 reinstatement, or renewal under this section.

32 Subd. 8. [REMEDIES AVAILABLE.] The remedy under this
33 section is in addition to any other enforcement remedy available
34 to the court or public authority.

35 Sec. 65. [517C.77] [DATA ON SUSPENSIONS FOR SUPPORT
36 ARREARS.]

1 Notwithstanding section 13.03, subdivision 4, paragraph
2 (c), data on an occupational license suspension under section
3 517C.76 or a driver's license suspension under section 517C.75,
4 that are transferred by the Department of Human Services to the
5 Department of Public Safety or a state, county, or municipal
6 occupational licensing agency respectively must have the same
7 classification at the Department of Public Safety or other
8 receiving agency under section 13.02 as other license suspension
9 data held by the receiving agency. The transfer of the data
10 does not affect the classification of the data in the hands of
11 the Department of Human Services.

12 Sec. 66. [517C.78] [RECREATIONAL LICENSE SUSPENSION.]

13 Subdivision 1. [MOTION; FACTORS.] (a) An obligee or the
14 public authority may bring a motion to suspend the recreational
15 license or licenses of an obligor. An obligee or the public
16 authority must serve the motion on the obligor in person or by
17 first class mail at the obligor's last known address. There
18 must be an opportunity for a hearing. The court may direct the
19 commissioner of natural resources to suspend or bar receipt of
20 the obligor's recreational license or licenses if it finds that:

21 (1) the obligor has child support arrears amounting to at
22 least six times the obligor's total monthly support payments and
23 the obligor is not in compliance with a payment agreement under
24 section 517C.71; or

25 (2) the obligor has failed, after receiving notice, to
26 comply with a subpoena relating to a paternity or child support
27 proceeding.

28 (b) Before utilizing this section, the court must find that
29 other substantial enforcement mechanisms have been attempted but
30 have not resulted in compliance.

31 Subd. 2. [AFFECTED LICENSES.] For purposes of this
32 section, a recreational license includes all licenses, permits,
33 and stamps issued centrally by the commissioner of natural
34 resources under sections 97B.301, 97B.401, 97B.501, 97B.515,
35 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

36 Subd. 3. [REINSTATEMENT.] An obligor whose recreational

1 license has been suspended or barred may provide proof to the
2 court that the obligor is in compliance with all payment
3 agreements under section 517C.71. Within 15 days of receipt of
4 that proof, the court must notify the commissioner of natural
5 resources that the obligor's recreational license or licenses
6 must no longer be suspended nor may receipt be barred.

7 Sec. 67. [517C.79] [MOTOR VEHICLE LIEN.]

8 Subdivision 1. [FACTORS WARRANTING LIEN.] A lien in the
9 name of the obligee or the state of Minnesota, as appropriate,
10 in accordance with section 168A.05, subdivision 8, must be
11 entered on any motor vehicle certificate of title subsequently
12 issued in the obligor's name if the obligor:

13 (1) is a debtor for a judgment debt resulting from child
14 support arrears in an amount at least three times the total
15 monthly support obligation; and

16 (2) is not in compliance with a payment agreement under
17 section 517C.71.

18 Subd. 2. [INITIATED BY OBLIGEE.] (a) An obligee may bring
19 a motion for the entry of a lien on any motor vehicle
20 certificate of title issued in the obligor's name. The obligee
21 must properly serve the motion on the obligor pursuant to court
22 rules and file the motion with the court.

23 (b) At the hearing, if the court finds that the factors
24 under subdivision 1 exist, the court must:

25 (1) order the commissioner of public safety to enter a lien
26 in the obligee's name or in the name of the state of Minnesota,
27 as appropriate under section 168A.05, subdivision 8, on any
28 motor vehicle certificate of title subsequently issued in the
29 obligor's name; and

30 (2) stay the order for 90 days to allow the obligor the
31 opportunity to enter into a payment agreement under section
32 517C.71.

33 (c) If after 90 days the obligor has not entered into or is
34 not in compliance with a payment agreement under section
35 517C.71, the court's order becomes effective and the
36 commissioner of public safety must enter the lien on any motor

1 vehicle certificate of title subsequently issued in the
2 obligor's name.

3 Subd. 3. [INITIATED BY PUBLIC AUTHORITY.] (a) If the
4 public authority determines that the factors in subdivision 1
5 exist, the public authority must direct the commissioner of
6 public safety to enter a lien in the name of the obligee or in
7 the name of the state of Minnesota, as appropriate, under
8 section 168A.05, subdivision 8, on any motor vehicle certificate
9 of title subsequently issued in the obligor's name.

10 (b) At least 90 days before directing the entry of a lien
11 under this section, the public authority must mail a written
12 notice to the obligor at the obligor's last known address
13 indicating that:

14 (1) the public authority intends to enter a lien on any
15 motor vehicle certificate of title subsequently issued in the
16 obligor's name; and

17 (2) the obligor must make a written request for a hearing
18 within 30 days of the date of the notice to contest the action.

19 (c) If the obligor makes a written request for a hearing
20 within 30 days of the date of the notice, a court hearing must
21 be held. At least 14 days before the hearing, the public
22 authority must serve the obligor personally or by mail at the
23 obligor's last known address with a notice including the hearing
24 time and place and the allegations against the obligor.

25 (d) If a hearing is held and the court finds the factors
26 under subdivision 1 exist, the court must order the commissioner
27 of public safety to enter the lien on any motor vehicle
28 certificate of title subsequently issued in the obligor's name.

29 (e) If the obligor does not make a written request for a
30 hearing within 30 days of the date of the notice and has not
31 entered into or is not in compliance with a payment agreement
32 under section 517C.71 approved by the public authority within 90
33 days of the date of the notice, the public authority must direct
34 the commissioner of public safety to enter the lien on any motor
35 vehicle certificate of title subsequently issued in the
36 obligor's name.

1 Subd. 4. [RELEASE.] An obligor may provide proof to the
2 court or the public authority that the obligor is in compliance
3 with all written payment agreements under section 517C.71 or
4 that the motor vehicle's value is less than the exemption
5 provided under section 550.37. Within 15 days of the receipt of
6 that proof, the court or public authority must:

7 (1) execute a release of security interest under section
8 168A.20, subdivision 4, and mail or deliver the release to the
9 owner or other authorized person; or

10 (2) in instances where a lien has not yet been entered,
11 direct the commissioner of public safety not to enter a lien on
12 any motor vehicle certificate of title subsequently issued in
13 the obligor's name.

14 Subd. 5. [NONEXEMPT VALUE.] A lien recorded against a
15 motor vehicle certificate of title under this section and
16 section 168A.05, subdivision 8, attaches only to the nonexempt
17 value of the motor vehicle as determined in accordance with
18 section 550.37. The value of a motor vehicle must be determined
19 in accordance with the retail value described in the National
20 Auto Dealers Association Official Used Car Guide, Midwest
21 Edition, for the current year, or in accordance with the
22 purchase price as defined in section 297B.01, subdivision 8.

23 Subd. 6. [REMEDIES AVAILABLE.] The remedy available under
24 this section is in addition to any other enforcement remedies
25 available to the court or public authority.

26 Sec. 68. [517C.80] [PUBLICATION OF NAMES OF DELINQUENT
27 CHILD SUPPORT OBLIGORS.]

28 Subdivision 1. [MAKING NAMES PUBLIC.] At least once each
29 year, the commissioner of human services, in consultation with
30 the attorney general, may publish a list of the names and other
31 identifying information of no more than 25 persons who:

32 (1) are child support obligors;

33 (2) are at least \$10,000 in arrears;

34 (3) are not in compliance with a payment agreement
35 regarding both current support and arrears approved by the
36 district court, a child support magistrate, or the public

1 authority;

2 (4) cannot currently be located by the public authority for
3 the purposes of enforcing a support order; and

4 (5) have not made a support payment except tax intercept
5 payments in the preceding 12 months.

6 Subd. 2. [IDENTIFYING INFORMATION.] Identifying
7 information may include the obligor's name, last known address,
8 amount owed, date of birth, photograph, the number of children
9 for whom support is owed, and any additional information about
10 the obligor that would assist in identifying or locating the
11 obligor. The commissioner and attorney general may use posters,
12 media presentations, electronic technology, and other means that
13 the commissioner and attorney general determine are appropriate
14 for dissemination of the information, including publication on
15 the Internet. The commissioner and attorney general may make
16 any or all of the identifying information regarding these
17 persons public. Information regarding an obligor who meets the
18 criteria in this section will only be made public after that
19 person's selection by the commissioner and attorney general.

20 Subd. 3. [NOTICE.] (a) Before making the obligor's name
21 public, the Department of Human Services must send a notice to
22 the obligor's last known address stating the department's
23 intention to make public information on the obligor. The notice
24 must also provide an opportunity to have the obligor's name
25 removed from the list by paying the arrears or by entering into
26 an agreement to pay the arrears, or by providing information to
27 the public authority that there is good cause not to make the
28 information public. The notice must include the final date when
29 the payment or agreement can be accepted.

30 (b) The Department of Human Services must obtain the
31 obligee's written consent to make the obligor's name public.

32 Subd. 4. [NAMES PUBLISHED IN ERROR.] If the commissioner
33 makes a name public under subdivision 1 in error, the
34 commissioner must also offer to publish a printed retraction and
35 a public apology acknowledging that the name was made public in
36 error. If the person whose name was made public in error elects

1 the public retraction and apology, the retraction and apology
2 must appear in the same medium and the same format as the
3 original notice where the name was listed in error. In addition
4 to the right of a public retraction and apology, a person whose
5 name was made public in error has a civil action for damages
6 caused by the error.

7 Sec. 69. [517C.81] [COLLECTION; ARREARS.]

8 Subdivision 1. [COLLECTION OF ARREARS TO CONTINUE AFTER
9 CHILD IS EMANCIPATED.] Remedies available for collecting and
10 enforcing support in this chapter and chapters 256, 257, and
11 518C also apply to cases in which a child for whom support is
12 owed is emancipated and the obligor owes past support or has
13 accumulated arrears as of the date of the youngest child's
14 emancipation. Child support arrears under this section include
15 arrears for child support, medical support, child care,
16 pregnancy and birth expenses, and unreimbursed medical expenses
17 as defined in section 517C.15.

18 Subd. 2. [RETROACTIVE APPLICATION.] This section applies
19 retroactively to support arrears that accrued on or before the
20 date of enactment and to all arrears accruing after the date of
21 enactment.

22 Subd. 3. [LIMITATIONS.] Past support or pregnancy and
23 confinement expenses ordered for which the obligor has specific
24 court-ordered terms for repayment may not be enforced using
25 drivers' and occupational or professional license suspension,
26 credit bureau reporting, and additional income withholding under
27 section 517C.60, unless the obligor fails to comply with the
28 terms of the court order for repayment.

29 Subd. 4. [PAYMENT OF ARREARS.] Absent a court order to the
30 contrary, if an arrearage exists at the time a support order
31 would otherwise terminate and section 517C.60 does not apply,
32 the obligor must repay the arrearage in an amount equal to the
33 current support order until all arrears have been paid in full.

34 Subd. 5. [PAYMENT AGREEMENT.] If arrears exist according
35 to a support order which fails to establish a monthly support
36 obligation in a specific dollar amount, the public authority, if

1 it provides child support collection services, or the obligee
2 may establish a payment agreement. The payment agreement must
3 equal what the obligor would pay for current child support, plus
4 an additional 20 percent of the current child support
5 obligation, until all arrears are paid in full. If the obligor
6 fails to enter into or comply with a payment agreement, the
7 public authority, if it provides child support collection
8 services, or the obligee may file a motion in district court or
9 the expedited child support process, if section 484.702 applies,
10 for a court order establishing repayment terms.

11 Sec. 70. [517C.82] [COLLECTION; REVENUE RECAPTURE.]

12 The public authority may submit debt under chapter 270A
13 only if the obligor is in arrears in court-ordered child support
14 or maintenance payments, or both, in an amount greater than the
15 obligor's total monthly support and maintenance payments or if
16 the debt has been entered and docketed as a judgment.

17 Sec. 71. [517C.83] [CASE REVIEWER.]

18 The commissioner must make a case reviewer available to
19 obligors and obligees. The reviewer must be available to answer
20 questions concerning the collection process and to review the
21 collection activity taken. A reviewer who reasonably believes
22 that a particular action being taken is unreasonable or unfair
23 may make recommendations to the commissioner and the applicable
24 county in regard to the collection action.

25 Sec. 72. [517C.84] [ATTORNEY FEES; COLLECTION COSTS.]

26 Subdivision 1. [GENERAL.] (a) A child support obligee is
27 entitled to recover from the obligor reasonable attorney fees
28 and other collection costs incurred to enforce a child support
29 judgment, as provided in this section if the child support
30 arrears are:

31 (1) at least \$500;

32 (2) at least 90 days past due; and

33 (3) docketed as a judgment under sections 548.09 and
34 548.091.

35 (b) If the obligor pays in full the judgment rendered under
36 section 548.091 within 20 days of receipt of notice of entry of

1 judgment, the obligee is not entitled to recover attorney fees
2 or collection costs under this section.

3 Subd. 2. [ENFORCEMENT.] Attorney fees and collection costs
4 obtained under this section are considered child support and
5 entitled to the applicable remedies for child support collection
6 and enforcement.

7 Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] If the public
8 authority is a party to a case, an obligee must provide written
9 notice to the public authority within five days of:

10 (1) contracting with an attorney or collection entity to
11 enforce a child support judgment; or

12 (2) receipting payments received on a child support
13 judgment.

14 Subd. 4. [NOTICE TO OBLIGOR; HEARING.] (a) The obligee
15 must serve notice of the obligee's intent to recover attorney
16 fees and collection costs by certified or registered mail on the
17 obligor at the obligor's last known address. The notice must
18 itemize the attorney fees and collection costs being sought by
19 the obligee. It must inform the obligor that the fees and costs
20 will become an additional judgment for child support unless,
21 within 20 days of mailing of the notice, the obligor requests a
22 hearing:

23 (1) on the reasonableness of the fees and costs; or

24 (2) to contest the child support judgment on grounds
25 limited to mistake of fact.

26 (b) If the obligor requests a hearing, the only issues to
27 be determined by the court are:

28 (1) whether the attorney fees or collection costs were
29 reasonably incurred by the obligee for the enforcement of a
30 child support judgment against the obligor; or

31 (2) the validity of the child support judgment on grounds
32 limited to mistake of fact.

33 (c) The fees and costs may not exceed 30 percent of the
34 arrears. The court may modify the amount of attorney fees and
35 costs as appropriate and must enter judgment accordingly.

36 (d) If the obligor fails to request a hearing within 20

1 days of mailing of the notice under paragraph (a), the amount of
2 the attorney fees or collection costs requested by the obligee
3 in the notice automatically becomes an additional judgment for
4 child support.

5 Subd. 5. [FORMS.] The state court administrator must
6 prepare and make available to the court and the parties forms
7 for use in providing for notice and requesting a hearing under
8 this section.

9 Sec. 73. [517C.99] [REQUIRED NOTICES.]

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

21 Subd. 2. [COPIES OF LAWS AND FORMS.] The district court
22 administrator must make copies of the sections referred to in
23 subdivision 3 available at no charge and must provide forms to
24 request or contest attorney fees and collection costs under
25 section 517C.84, and cost-of-living increases under section
26 517C.31.

27 Subd. 3. [CONTENTS.] The required notices must be
28 substantially as follows:

29 "IMPORTANT NOTICE

30 1. PAYMENTS TO PUBLIC AGENCY

31 According to Minnesota Statutes, section 517C.35, payments
32 ordered for maintenance and support must be paid to the
33 public agency responsible for child support enforcement as
34 long as the person entitled to receive the payments is
35 receiving or has applied for public assistance or has
36 applied for support and maintenance collection services.

1 MAIL PAYMENTS TO:

2 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A
3 FELONY

4 A person may be charged with a felony who conceals a minor
5 child or takes, obtains, retains, or fails to return a
6 minor child from or to the child's parent (or person with
7 custodial or visitation rights), according to Minnesota
8 Statutes, section 609.26. A copy of that section is
9 available from any district court clerk.

10 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

11 A person who fails to pay court-ordered child support or
12 maintenance may be charged with a crime, which may include
13 misdemeanor, gross misdemeanor, or felony charges,
14 according to Minnesota Statutes, section 609.375. A copy
15 of that section is available from any district court clerk.

16 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

17 (a) Payment of support or spousal maintenance is to be as
18 ordered, and the giving of gifts or making purchases of
19 food, clothing, and the like will not fulfill the
20 obligation.

21 (b) Payment of support must be made as it becomes due, and
22 failure to secure or denial of parenting time is NOT an
23 excuse for nonpayment, but the aggrieved party must seek
24 relief through a proper motion filed with the court.

25 (c) Nonpayment of support is not grounds to deny parenting
26 time. The party entitled to receive support may apply for
27 support and collection services, file a contempt motion, or
28 obtain a judgment as provided in Minnesota Statutes,
29 section 548.091.

30 (d) The payment of support or spousal maintenance takes
31 priority over payment of debts and other obligations.

32 (e) A party who accepts additional obligations of support
33 does so with the full knowledge of the party's prior
34 obligation under this proceeding.

35 (f) Child support or maintenance is based on annual income,
36 and it is the responsibility of a person with seasonal

1 employment to budget income so that payments are made
2 throughout the year as ordered.

3 (g) If the obligor is laid off from employment or receives
4 a pay reduction, support may be reduced, but only if the
5 obligor or public authority serves and files a motion to
6 reduce the support with the court. Any reduction will take
7 effect only if ordered by the court and may only relate
8 back to the time that the obligor files a motion. If the
9 obligor or public authority does not file a motion, the
10 support obligation will continue at the current level. The
11 court is not permitted to reduce support retroactively,
12 except as provided in Minnesota Statutes, section 517C.29.

13 (h) Reasonable parenting time guidelines are contained in
14 Appendix B, which is available from the court administrator.

15 (i) The nonpayment of support may be enforced through the
16 denial of student grants; interception of state and federal
17 tax refunds; suspension of driver's, recreational, and
18 occupational licenses; referral to the Department of
19 Revenue or private collection agencies; seizure of assets,
20 including bank accounts and other assets held by financial
21 institutions; reporting to credit bureaus; interest
22 charging, income withholding, and contempt proceedings; and
23 other enforcement methods allowed by law.

24 5. PARENTAL RIGHTS REGARDING INFORMATION AND CONTACT

25 Unless otherwise provided by the court:

26 (a) Each party has the right of access to, and to receive
27 copies of, school, medical, dental, religious training, and
28 other important records and information about the minor
29 child. Each party has the right of access to information
30 regarding health or dental insurance available to the minor
31 child. Presentation of a copy of this order to the
32 custodian of a record or other information about the minor
33 child constitutes sufficient authorization for the release
34 of the record or information to the requesting party.

35 (b) Each party must keep the other informed as to the name
36 and address of the school of attendance of the minor

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

6 (c) In case of an accident or serious illness of a minor
7 child, each party must notify the other party of the
8 accident or illness, and the name of the health care
9 provider and the place of treatment.

10 (d) Each party has the right of reasonable access and
11 telephone contact with the minor child.

12 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

13 Child support and/or spousal maintenance may be withheld
14 from income, with or without notice to the person obligated
15 to pay, when the conditions of Minnesota Statutes, sections
16 517C.51 to 517C.62, have been met. A copy of those
17 sections is available from any district court clerk.

18 7. CHANGE OF ADDRESS OR RESIDENCE

19 Unless otherwise ordered, each party must notify the other
20 party, the court, and the public authority responsible for
21 collection, if applicable, of the following information
22 within ten days of any change: the residential and mailing
23 address; telephone number; driver's license number; Social
24 Security number; and name, address, and telephone number of
25 the employer.

26 8. COST-OF-LIVING INCREASE OF SUPPORT AND MAINTENANCE

27 Child support and/or spousal maintenance may be adjusted
28 every two years based upon a change in the cost of living
29 (using Department of Labor Consumer Price Index,
30 unless otherwise specified in this order) when the
31 conditions of Minnesota Statutes, section 517C.31, are met.
32 Cost-of-living increases are compounded. A copy of
33 Minnesota Statutes, section 517C.31, and forms necessary to
34 request or contest a cost-of-living increase are available
35 from any district court clerk.

36 9. JUDGMENTS FOR UNPAID SUPPORT

1 If a person fails to make a child support payment, the
2 payment owed becomes a judgment against the person
3 responsible to make the payment by operation of law on or
4 after the date the payment is due, and the person entitled
5 to receive the payment or the public agency may obtain
6 entry and docketing of the judgment WITHOUT NOTICE to the
7 person responsible to make the payment under Minnesota
8 Statutes, section 548.091. Interest begins to accrue on a
9 payment or installment of child support whenever the unpaid
10 amount due is greater than the current support due,
11 according to Minnesota Statutes, section 548.091,
12 subdivision 1a.

13 10. JUDGMENTS FOR UNPAID SPOUSAL MAINTENANCE

14 A judgment for unpaid spousal maintenance may be entered
15 when the conditions of Minnesota Statutes, section 548.091,
16 are met. A copy of that section is available from any
17 district court clerk.

18 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
19 SUPPORT

20 A judgment for attorney fees and other collection costs
21 incurred in enforcing a child support order will be entered
22 against the person responsible to pay support when the
23 conditions of Minnesota Statutes, section 517C.84, are
24 met. A copy of Minnesota Statutes, section 517C.84, and
25 forms necessary to request or contest these attorney fees
26 and collection costs are available from any district court
27 clerk.

28 12. PARENTING TIME EXPEDITOR PROCESS

29 On request of either party or on its own motion, the court
30 may appoint a parenting time expeditor to resolve parenting
31 time disputes under Minnesota Statutes, section 517B.26. A
32 copy of that section and a description of the expeditor
33 process is available from any district court clerk.

34 13. PARENTING TIME REMEDIES AND PENALTIES

35 Remedies and penalties for the wrongful denial of parenting
36 time are available under Minnesota Statutes, section

1 517B.25, subdivision 7. These include compensatory
2 parenting time, civil penalties, bond requirements,
3 contempt, and reversal of custody. A copy of that
4 subdivision and forms for requesting relief are available
5 from any district court clerk."

6 Sec. 74. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT
7 GUIDELINES.]

8 As part of the 2006 quadrennial review under Minnesota
9 Statutes, section 517C.15, subdivision 5, the commissioner of
10 human services shall request that the University of Minnesota or
11 another university in the Minnesota State Colleges and
12 Universities system conduct an analysis of the child support
13 guidelines contained in this act to evaluate:

14 (1) 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 (2) whether the standards for medical support and child
18 care costs fairly apportion those costs between the parents,
19 after consideration of the respective tax benefits; and

20 (3) whether the guidelines fairly reflect each parent's
21 ability to provide for basic housing needs.

22 In performing this economic analysis, the university shall
23 utilize the per capita cost approach, except that costs for
24 housing must utilize the marginal cost approach, comparing the
25 typical housing cost for two-parent intact families.

26 Sec. 75. [APPROPRIATIONS.]

27 \$..... in fiscal year 2006 and \$..... in fiscal year
28 2007 are appropriated from the general fund to the commissioner
29 of human services to fund implementation of the Minnesota Child
30 Support Act and to reimburse counties for their implementation
31 costs. The commissioner of human services shall devise an
32 equitable system to reimburse counties for their costs of
33 implementing the Minnesota Child Support Act. The appropriation
34 base in fiscal year 2007 for grants to counties is \$.....

35 \$..... is appropriated in fiscal year 2006 from the
36 general fund to the Supreme Court administrator to fund

1 implementation of the Minnesota Child Support Act. This is a
2 onetime appropriation.

3 Sec. 76. [REVISOR'S INSTRUCTION.]

4 (a) The revisor of statutes must correct internal
5 cross-references to sections that are now in Minnesota Statutes,
6 chapter 517C, throughout Minnesota Statutes and Minnesota Rules.

7 (b) If a provision of a section of Minnesota Statutes
8 amended by this act is amended by the 2005 regular legislative
9 session or 2005 special legislative session, if any, the revisor
10 shall codify the amendment consistent with the recodification of
11 the affected section by this act, notwithstanding any law to the
12 contrary. In sections affected by this instruction, the revisor
13 may make changes necessary to correct the punctuation, grammar,
14 or structure of the remaining text and preserve its meaning.

15 Sec. 77. [REPEALER.]

16 Minnesota Statutes 2004, sections 518.111; 518.171;
17 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551;
18 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852;
19 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617;
20 518.618; 518.6195; 518.6196; and 518.68, are repealed.

21 Sec. 78. [EFFECTIVE DATE.]

22 This act is effective January 1, 2006.

Article 1 MARRIAGE DISSOLUTION, LEGAL SEPARATION, AND ANNULMENT..... page 1

Article 2 CUSTODY, PARENTING TIME, AND VISITATION..... page 42
GENERAL

Article 3 CHILD SUPPORT..... page 75

1 Senator moves to amend S.F. No. 630 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 518.54,
4 subdivision 7, is amended to read:

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

7 Sec. 2. Minnesota Statutes 2004, section 518.54,
8 subdivision 8, is amended to read:

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

15 Sec. 3. Minnesota Statutes 2004, section 518.54,
16 subdivision 13, is amended to read:

17 Subd. 13. [ARREARS.] Arrears are amounts that accrue
18 pursuant to an obligor's failure to comply with a ~~support~~ an
19 ~~order. Past support and~~ Pregnancy and confinement expenses
20 contained in a ~~support~~ an order are arrears if the court order
21 does not contain repayment terms. Arrears also arise by the
22 obligor's failure to comply with the terms of a court order for
23 repayment of ~~past support or~~ pregnancy and confinement
24 expenses. An obligor's failure to comply with the terms for
25 repayment of amounts owed for ~~past support or~~ pregnancy and
26 confinement turns the entire amount owed into arrears.

27 Sec. 4. Minnesota Statutes 2004, section 518.55,
28 subdivision 4, is amended to read:

29 Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public
30 authority or a party may request the district court to determine
31 a controlling order in situations in which more than one order
32 involving the same obligor and child exists. The court shall
33 presume that the latest order is controlling, subject to
34 contrary proof.

35 Sec. 5. Minnesota Statutes 2004, section 518.551,
36 subdivision 5, is amended to read:

1 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The
 2 petitioner shall notify the public authority of all proceedings
 3 for dissolution, legal separation, determination of parentage or
 4 for the custody of a child, if either party is receiving public
 5 assistance or applies for it subsequent to the commencement of
 6 the proceeding. The notice must contain the full names of the
 7 parties to the proceeding, their Social Security account
 8 numbers, and their birth dates. After receipt of the notice,
 9 the court shall set child support as provided in this
 10 subdivision. The court may order either or both parents owing a
 11 duty of support to a child of the marriage to pay an amount
 12 reasonable or necessary for the child's support, without regard
 13 to marital misconduct. The court shall approve a child support
 14 stipulation of the parties if each party is represented by
 15 independent counsel, unless the stipulation does not meet the
 16 conditions of paragraph (i). In other cases the court shall
 17 determine and order child support in a specific dollar amount in
 18 accordance with the guidelines and the other factors set forth
 19 in paragraph (c) and any departure therefrom. The court may
 20 also order the obligor to pay child support in the form of a
 21 percentage share of the obligor's net bonuses, commissions, or
 22 other forms of compensation, in addition to, or if the obligor
 23 receives no base pay, in lieu of, an order for a specific dollar
 24 amount.

25 ~~(b) The court shall derive a specific dollar amount for~~
 26 ~~child support by multiplying the obligor's net income by the~~
 27 ~~percentage indicated by the following guidelines:~~

28 ~~Net Income Per-----Number of Children-~~
 29 ~~Month of Obligor-~~
 30 ~~-----1-----2-----3-----4-----5-----6-----7-or-~~
 31 ~~-----more-~~
 32 ~~\$550 and Below-----Order based on the ability of the-~~
 33 ~~-----obligor to provide support--~~
 34 ~~-----at these income levels, or at higher--~~
 35 ~~-----levels, if the obligor has-~~
 36 ~~-----the earning ability--~~

1	\$551---	600---	16%---	19%---	22%---	25%---	28%---	30%---	32%---
2	\$601---	650---	17%---	21%---	24%---	27%---	29%---	32%---	34%---
3	\$651---	700---	18%---	22%---	25%---	28%---	31%---	34%---	36%---
4	\$701---	750---	19%---	23%---	27%---	30%---	33%---	36%---	38%---
5	\$751---	800---	20%---	24%---	28%---	31%---	35%---	38%---	40%---
6	\$801---	850---	21%---	25%---	29%---	33%---	36%---	40%---	42%---
7	\$851---	900---	22%---	27%---	31%---	34%---	38%---	41%---	44%---
8	\$901---	950---	23%---	28%---	32%---	36%---	40%---	43%---	46%---
9	\$951---	1000---	24%---	29%---	34%---	38%---	41%---	45%---	48%---
10	\$1001---	5000---	25%---	30%---	35%---	39%---	43%---	47%---	50%---

11 or-the-amount-
 12 in-effect-under
 13 paragraph-(k)

14 Guidelines-for-support-for-an-obligor-with-a-monthly-income
 15 in-excess-of-the-income-limit-currently-in-effect-under
 16 paragraph-(k)-shall-be-the-same-dollar-amounts-as-provided-for
 17 in-the-guidelines-for-an-obligor-with-a-monthly-income-equal-to
 18 the-limit-in-effect.

19 Net-Income-defined-as:-

20 -----

21 -----Total-monthly-

22 -----income-less-----*(i)-Federal-Income-Tax-

23 -----*(ii)-State-Income-Tax-

24 -----(iii)-Social-Security

25 -----Deductions-

26 -----(iv)-Reasonable

27 -----Pension-Deductions

28 -----*Standard-

29 -----Deductions-apply-----*(v)-Union-Dues-

30 -----use-of-tax-tables-----*(vi)-Cost-of-Dependent-Health

31 -----recommended-----Insurance-Coverage--

32 -----*(vii)-Cost-of-Individual-or-Group

33 -----Health/Hospitalization

34 -----Coverage-or-an-----

35 -----Amount-for-Actual-

36 -----Medical-Expenses---

1 -----(viii)-A-Child-Support-or--
2 -----Maintenance-Order-that-is
3 -----Currently-Being-Paid--
4 "Net-income"-does-not-include:
5 (i)-the-income-of-the-obligor's-spouse,-but-does-include
6 in-kind-payments-received-by-the-obligor-in-the-course-of
7 employment,-self-employment,-or-operation-of-a-business-if-the
8 payments-reduce-the-obligor's-living-expenses,-or
9 (2)-compensation-received-by-a-party-for-employment-in
10 excess-of-a-40-hour-work-week,-provided-that:
11 (i)-support-is-nonetheless-ordered-in-an-amount-at-least
12 equal-to-the-guidelines-amount-based-on-income-not-excluded
13 under-this-clause,-and
14 (ii)-the-party-demonstrates,-and-the-court-finds,-that:
15 (A)-the-excess-employment-began-after-the-filing-of-the
16 petition-for-dissolution,
17 (B)-the-excess-employment-reflects-an-increase-in-the-work
18 schedule-or-hours-worked-over-that-of-the-two-years-immediately
19 preceding-the-filing-of-the-petition,
20 (C)-the-excess-employment-is-voluntary-and-not-a-condition
21 of-employment,
22 (D)-the-excess-employment-is-in-the-nature-of-additional,
23 part-time-or-overtime-employment-compensable-by-the-hour-or
24 fraction-of-an-hour,-and
25 (E)-the-party's-compensation-structure-has-not-been-changed
26 for-the-purpose-of-affecting-a-support-or-maintenance-obligation.
27 The-court-shall-review-the-work-related-and
28 education-related-child-care-costs-paid-and-shall-allocate-the
29 costs-to-each-parent-in-proportion-to-each-parent's-net-income,
30 as-determined-under-this-subdivision,-after-the-transfer-of
31 child-support-and-spousal-maintenance,-unless-the-allocation
32 would-be-substantially-unfair-to-either-parent.--There-is-a
33 presumption-of-substantial-unfairness-if-after-the-sum-total-of
34 child-support,-spousal-maintenance,-and-child-care-costs-is
35 subtracted-from-the-obligor's-income,-the-income-is-at-or-below
36 100-percent-of-the-federal-poverty-guidelines.--The-cost-of

1 child-care-for-purposes-of-this-paragraph-is-75-percent-of-the
2 actual-cost-paid-for-child-care,-to-reflect-the-approximate
3 value-of-state-and-federal-tax-credits-available-to-the
4 obligee.--The-actual-cost-paid-for-child-care-is-the-total
5 amount-received-by-the-child-care-provider-for-the-child-or
6 children-of-the-obligor-from-the-obligee-or-any-public-agency.
7 The-court-shall-require-verification-of-employment-or-school
8 attendance-and-documentation-of-child-care-expenses-from-the
9 obligee-and-the-public-agency,-if-applicable.--If-child-care
10 expenses-fluctuate-during-the-year-because-of-seasonal
11 employment-or-school-attendance-of-the-obligee-or-extended
12 periods-of-parenting-time-with-the-obligor,-the-court-shall
13 determine-child-care-expenses-based-on-an-average-monthly-cost.
14 The-amount-allocated-for-child-care-expenses-is-considered-child
15 support-but-is-not-subject-to-a-cost-of-living-adjustment-under
16 section-518.641.--The-amount-allocated-for-child-care-expenses
17 terminates-when-either-party-notifies-the-public-authority-that
18 the-child-care-costs-have-ended-and-without-any-legal-action-on
19 the-part-of-either-party.--The-public-authority-shall-verify-the
20 information-received-under-this-provision-before-authorizing
21 termination.--The-termination-is-effective-as-of-the-date-of-the
22 notification.--In-other-cases-where-there-is-a-substantial
23 increase-or-decrease-in-child-care-expenses,-the-parties-may
24 modify-the-order-under-section-518.64.

25 The-court-may-allow-the-obligor-parent-to-care-for-the
26 child-while-the-obligee-parent-is-working,-as-provided-in
27 section-518.175,-subdivision-8,-but-this-is-not-a-reason-to
28 deviate-from-the-guidelines.

29 (c)-In-addition-to-the-child-support-guidelines,-the-court
30 shall-take-into-consideration-the-following-factors-in-setting
31 or-modifying-child-support-or-in-determining-whether-to-deviate
32 from-the-guidelines:

33 (1)-all-earnings,-income,-and-resources-of-the-parents,
34 including-real-and-personal-property,-but-excluding-income-from
35 excess-employment-of-the-obligor-or-obligee-that-meets-the
36 criteria-of-paragraph-(b),-clause-(2)(ii);

1 ~~(2)-the-financial-needs-and-resources,-physical-and~~
2 ~~emotional-condition,-and-educational-needs-of-the-child-or~~
3 ~~children-to-be-supported;~~

4 ~~(3)-the-standard-of-living-the-child-would-have-enjoyed-had~~
5 ~~the-marriage-not-been-dissolved,-but-recognizing-that-the~~
6 ~~parents-now-have-separate-households;~~

7 ~~(4)-which-parent-receives-the-income-taxation-dependency~~
8 ~~exemption-and-what-financial-benefit-the-parent-receives-from~~
9 ~~it;~~

10 ~~(5)-the-parents'-debts-as-provided-in-paragraph-(d);-and~~

11 ~~(6)-the-obligor's-receipt-of-public-assistance-under-the~~
12 ~~AFDC-program-formerly-codified-under-sections-256-72-to-256-82~~
13 ~~or-256B-01-to-256B-40-and-chapter-256J-or-256K-~~

14 ~~(d)-In-establishing-or-modifying-a-support-obligation,-the~~
15 ~~court-may-consider-debts-owed-to-private-creditors,-but-only-if-~~

16 ~~(1)-the-right-to-support-has-not-been-assigned-under~~
17 ~~section-256-741;~~

18 ~~(2)-the-court-determines-that-the-debt-was-reasonably~~
19 ~~incurred-for-necessary-support-of-the-child-or-parent-or-for-the~~
20 ~~necessary-generation-of-income.---If-the-debt-was-incurred-for~~
21 ~~the-necessary-generation-of-income,-the-court-shall-consider~~
22 ~~only-the-amount-of-debt-that-is-essential-to-the-continuing~~
23 ~~generation-of-income;-and~~

24 ~~(3)-the-party-requesting-a-departure-produces-a-sworn~~
25 ~~schedule-of-the-debts,-with-supporting-documentation,-showing~~
26 ~~goods-or-services-purchased,-the-recipient-of-them,-the-amount~~
27 ~~of-the-original-debt,-the-outstanding-balance,-the-monthly~~
28 ~~payment,-and-the-number-of-months-until-the-debt-will-be-fully~~
29 ~~paid-~~

30 ~~(e)-Any-schedule-prepared-under-paragraph-(d);-clause-(3);~~
31 ~~shall-contain-a-statement-that-the-debt-will-be-fully-paid-after~~
32 ~~the-number-of-months-shown-in-the-schedule,-barring-emergencies~~
33 ~~beyond-the-party's-control-~~

34 ~~(f)-Any-further-departure-below-the-guidelines-that-is~~
35 ~~based-on-a-consideration-of-debts-owed-to-private-creditors~~
36 ~~shall-not-exceed-18-months-in-duration,-after-which-the-support~~

~~1 shall-increase-automatically-to-the-level-ordered-by-the-court-~~
~~2 Nothing-in-this-section-shall-be-construed-to-prohibit-one-or~~
~~3 more-step-increases-in-support-to-reflect-debt-retirement-during~~
~~4 the-18-month-period-~~

~~5 (g)-If-payment-of-debt-is-ordered-pursuant-to-this-section,~~
~~6 the-payment-shall-be-ordered-to-be-in-the-nature-of-child~~
~~7 support-~~

~~8 (h)-Nothing-shall-preclude-the-court-from-receiving~~
~~9 evidence-on-the-above-factors-to-determine-if-the-guidelines~~
~~10 should-be-exceeded-or-modified-in-a-particular-case-~~

11 (i) The guidelines in this subdivision are a rebuttable
12 presumption and shall be used in all cases when establishing or
13 modifying child support. If the court does not deviate from the
14 guidelines, the court shall make written findings concerning the
15 amount of the obligor's income used as the basis for the
16 guidelines calculation and any other significant evidentiary
17 factors affecting the determination of child support. If the
18 court deviates from the guidelines, the court shall make written
19 findings giving the amount of support calculated under the
20 guidelines, the reasons for the deviation, and shall
21 specifically address the criteria in paragraph (c) and how the
22 deviation serves the best interest of the child. The court may
23 deviate from the guidelines if both parties agree and the court
24 makes written findings that it is in the best interests of the
25 child, except that in cases where child support payments are
26 assigned to the public agency under section 256.741, the court
27 may deviate downward only as provided in paragraph (j). Nothing
28 in this paragraph prohibits the court from deviating in other
29 cases. The provisions of this paragraph apply whether or not
30 the parties are each represented by independent counsel and have
31 entered into a written agreement. The court shall review
32 stipulations presented to it for conformity to the guidelines
33 and the court is not required to conduct a hearing, but the
34 parties shall provide the documentation of earnings required
35 under subdivision 5b.

36 (j) (c) If the child support payments are assigned to the

1 public agency under section 256.741, the court may not deviate
2 downward from the child support guidelines unless the court
3 specifically finds that the failure to deviate downward would
4 impose an extreme hardship on the obligor.

5 ~~(k)~~ (d) The dollar amount of the income limit for
6 application of the guidelines must be adjusted on July 1 of
7 every even-numbered year to reflect cost-of-living changes. The
8 Supreme Court shall select the index for the adjustment from the
9 indices listed in section 518.641. The state court
10 administrator shall make the changes in the dollar amount
11 required by this paragraph available to courts and the public on
12 or before April 30 of the year in which the amount is to change.

13 ~~(l)~~ (e) In establishing or modifying child support, if a
14 child receives a child's insurance benefit under United States
15 Code, title 42, section 402, because the obligor is entitled to
16 old age or disability insurance benefits, the amount of support
17 ordered shall be offset by the amount of the child's benefit.
18 The court shall make findings regarding the obligor's income
19 from all sources, the child support amount calculated under this
20 section, the amount of the child's benefit, and the obligor's
21 child support obligation. Any benefit received by the child in
22 a given month in excess of the child support obligation shall
23 not be treated as an arrearage payment or a future payment.

24 Sec. 6. Minnesota Statutes 2004, section 518.551,
25 subdivision 5b, is amended to read:

26 Subd. 5b. [DETERMINATION OF INCOME.] (a) The parties shall
27 timely serve and file documentation of earnings and income. When
28 there is a prehearing conference, the court must receive the
29 documentation of income at least ten days prior to the
30 prehearing conference. Documentation of earnings and income
31 also includes, but is not limited to, pay stubs for the most
32 recent three months, employer statements, or statement of
33 receipts and expenses if self-employed. Documentation of
34 earnings and income also includes copies of each parent's most
35 recent federal tax returns, including W-2 forms, 1099 forms,
36 unemployment benefits statements, workers' compensation

1 statements, and all other documents evidencing income as
2 received that provide verification of income over a longer
3 period.

4 (b) In addition to the requirements of paragraph (a), at
5 any time after an action seeking child support has been
6 commenced or when a child support order is in effect, a party or
7 the public authority may require the other party to give them a
8 copy of the party's most recent federal tax returns that were
9 filed with the Internal Revenue Service. The party shall
10 provide a copy of the tax returns within 30 days of receipt of
11 the request unless the request is not made in good faith. A
12 request under this paragraph may not be made more than once
13 every two years, in the absence of good cause.

14 (c) If a parent under the jurisdiction of the court does
15 not appear at a court hearing after proper notice of the time
16 and place of the hearing, the court shall set income for that
17 parent based on credible evidence before the court or in
18 accordance with paragraph (d). Credible evidence may include
19 documentation of current or recent income, testimony of the
20 other parent concerning recent earnings and income levels, and
21 the parent's wage reports filed with the Minnesota Department of
22 Employment and Economic Development under section 268.044.

23 ~~(d)-If-the-court-finds-that-a-parent-is-voluntarily~~
24 ~~unemployed-or-underemployed-or-was-voluntarily-unemployed-or~~
25 ~~underemployed-during-the-period-for-which-past-support-is-being~~
26 ~~sought,-support-shall-be-calculated-based-on-a-determination-of~~
27 ~~imputed-income.--A-parent-is-not-considered-voluntarily~~
28 ~~unemployed-or-underemployed-upon-a-showing-by-the-parent-that~~
29 ~~the-unemployment-or-underemployment:--(1)-is-temporary-and-will~~
30 ~~ultimately-lead-to-an-increase-in-income,-or-(2)-represents-a~~
31 ~~bona-fide-career-change-that-outweighs-the-adverse-effect-of~~
32 ~~that-parent's-diminished-income-on-the-child.--Imputed-income~~
33 ~~means-the-estimated-earning-ability-of-a-parent-based-on-the~~
34 ~~parent's-prior-earnings-history,-education,-and-job-skills,-and~~
35 ~~on-availability-of-jobs-within-the-community-for-an-individual~~
36 ~~with-the-parent's-qualifications.~~

1 ~~(e) If there is insufficient information to determine~~
2 ~~actual income or to impute income pursuant to paragraph (d), the~~
3 ~~court may calculate support based on full-time employment of 40~~
4 ~~hours per week at 150 percent of the federal minimum wage or the~~
5 ~~Minnesota minimum wage, whichever is higher. If a parent is a~~
6 ~~recipient of public assistance under section 256.741, or is~~
7 ~~physically or mentally incapacitated, it shall be presumed that~~
8 ~~the parent is not voluntarily unemployed or underemployed.~~

9 ~~(f) Income from self-employment is equal to gross receipts~~
10 ~~minus ordinary and necessary expenses. Ordinary and necessary~~
11 ~~expenses do not include amounts allowed by the Internal Revenue~~
12 ~~Service for accelerated depreciation expenses or investment tax~~
13 ~~credits or any other business expenses determined by the court~~
14 ~~to be inappropriate for determining income for purposes of child~~
15 ~~support. The person seeking to deduct an expense, including~~
16 ~~depreciation, has the burden of proving, if challenged, that the~~
17 ~~expense is ordinary and necessary. Net income under this~~
18 ~~section may be different from taxable income.~~

19 Sec. 7. Minnesota Statutes 2004, section 518.62, is
20 amended to read:

21 518.62 [TEMPORARY MAINTENANCE.]

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

32 Sec. 8. Minnesota Statutes 2004, section 518.64,
33 subdivision 2, is amended to read:

34 Subd. 2. [MODIFICATION.] (a) The terms of an order
35 respecting maintenance or support may be modified upon a showing
36 of one or more of the following: (1) substantially increased or

1 decreased earnings of a party; (2) substantially increased or
2 decreased need of a party or the child or children that are the
3 subject of these proceedings; (3) receipt of assistance under
4 the AFDC program formerly codified under sections 256.72 to
5 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a
6 change in the cost of living for either party as measured by the
7 Federal Bureau of Statistics, any of which makes the terms
8 unreasonable and unfair; (5) extraordinary medical expenses of
9 the child not provided for under section 518.171; or (6) the
10 addition of work-related or education-related child care
11 expenses of the obligee or a substantial increase or decrease in
12 existing work-related or education-related child care expenses.

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

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

21 (1) the application of the child support guidelines in
22 section 518.551, subdivision 5, to the current circumstances of
23 the parties results in a calculated court order that is at least
24 20 percent and at least \$50 per month higher or lower than the
25 current support order;

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

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

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

34 (c) On a motion for modification of maintenance, including
35 a motion for the extension of the duration of a maintenance
36 award, the court shall apply, in addition to all other relevant

1 factors, the factors for an award of maintenance under section
2 518.552 that exist at the time of the motion. On a motion for
3 modification of support, the court:

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

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

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

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

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

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

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

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

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

36 (1) the party seeking modification was precluded from

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

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

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

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

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

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

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

3 (g) Section 518.14 shall govern the award of attorney fees
4 for motions brought under this subdivision.

5 (h) An enactment, amendment, or repeal of law does not
6 constitute a substantial change in the circumstances for
7 purposes of modifying a child support order.

8 Sec. 9. [518.711] [LEGISLATIVE FINDINGS.]

9 The legislature finds that:

10 (1) the federal Family Support Act of 1988 mandates that
11 the state must establish a formula for child support award
12 amounts that is applicable in any proceeding for the award of
13 child support;

14 (2) it is further mandated that the amount of child support
15 determined by the formula must be presumed to be the correct
16 amount unless rebutted by a specific finding on the record that
17 the application of the formula would be unjust or inappropriate
18 in the particular case as determined under criteria established
19 by the state;

20 (3) it is also mandated that the formula is to be reviewed
21 at least once every four years to insure that the application of
22 the formula results in appropriate child support awards;

23 (4) there is a need for uniformity in child support awards,
24 and child support awards often are based upon noneconomic
25 factors and are inadequate in terms of the needs of the child;
26 and

27 (5) the Department of Human Services is the appropriate
28 agency to establish the required formula.

29 Sec. 10. [518.712] [DEFINITIONS.]

30 Subdivision 1. [SCOPE.] The definitions in this section
31 apply to sections 518.712 to 518.753.

32 Subd. 2. [ADJUSTED GROSS INCOME.] "Adjusted gross income"
33 means modified gross income minus deductions for the nonjoint
34 child as allowed by section 518.717 and plus Social Security or
35 veterans' benefits as allowed by section 518.718.

36 Subd. 3. [APPORTIONED VETERANS' BENEFITS.] "Apportioned

1 veterans' benefits" means the amount the Veterans Administration
2 deducts from the veteran's award and disburses to the child or
3 the child's representative payee. The apportionment of
4 veterans' benefits shall be that determined by the Veterans
5 Administration and governed by 38 Code of Federal Regulations,
6 sections 3.450 to 3.458.

7 Subd. 4. [ARREARS.] "Arrears" are amounts that accrue
8 pursuant to an obligor's failure to comply with a support
9 order. Past support and pregnancy and confinement expenses
10 contained in a support order are arrears if the court order does
11 not contain repayment terms. Arrears also arise by the
12 obligor's failure to comply with the terms of a court order for
13 repayment of past support or pregnancy and confinement
14 expenses. An obligor's failure to comply with the terms for
15 repayment of amounts owed for past support or pregnancy and
16 confinement turns the entire amount owed into arrears.

17 Subd. 5. [BASIC SUPPORT.] "Basic support" means the
18 support obligation determined by applying the parent's adjusted
19 gross income, or if there are two parents, their combined
20 adjusted gross income, to the guideline in the manner set out in
21 section 518.725.

22 Basic support includes the dollar amount ordered for a
23 child's housing, food, clothing, transportation, and education
24 costs, and other expenses relating to the child's care. Basic
25 support does not include monetary contributions for a child's
26 private school tuition, child care expenses, and medical and
27 dental expenses.

28 Subd. 6. [CHILD.] "Child" means an individual under 18
29 years of age, an individual under age 20 who is still attending
30 secondary school, or an individual who, by reason of physical or
31 mental condition, is incapable of self-support.

32 Subd. 7. [CHILD SUPPORT.] "Child support" means an amount
33 for basic support, child care support, and medical support
34 pursuant to:

35 (1) an award in a dissolution, legal separation, annulment,
36 or parentage proceeding for the care, support, and education of

1 a child of the marriage or of the parties to the proceeding;

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

3 or

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

5 Subd. 8. [DEPOSIT ACCOUNT.] "Deposit account" means funds
6 deposited with a financial institution in the form of a savings
7 account, checking account, NOW account, or demand deposit
8 account.

9 Subd. 9. [GROSS INCOME.] "Gross income" means:

10 (1) the gross income of the parent calculated pursuant to
11 section 518.726;

12 (2) the potential income of the parent as determined in
13 subdivision 19; or

14 (3) a combination of gross income and potential income as
15 calculated under clauses (1) and (2).

16 Subd. 10. [IV-D CASE.] "IV-D case" means a case where a
17 party assigns rights to child support to the state because the
18 party receives public assistance, as defined in section 256.741,
19 or applies for child support services under title IV-D of the
20 Social Security Act, United States Code, title 42, section
21 654(4).

22 Subd. 11. [JOINT CHILD.] "Joint child" means the dependent
23 child who is the son or daughter of both parents in the support
24 proceeding. In those cases where support is sought from only
25 one parent of a child, a joint child is the child for whom
26 support is sought.

27 Subd. 12. [LOW-INCOME ADJUSTMENT.] "Low-income adjustment"
28 means the child support guideline amount appropriate for a
29 low-income obligor under section 518.723, determined by applying
30 the lesser of:

31 (1) the parents' pro rata share of the basic support
32 obligation; or

33 (2) the support obligation determined by applying the
34 parents' single modified gross income to the guideline in the
35 manner set out in sections 518.725.

36 Subd. 13. [MODIFIED GROSS INCOME.] "Modified gross income"

1 means gross income minus any mandatory payment of union dues and
2 plus or minus court-ordered spousal support.

3 Subd. 14. [NONJOINT CHILD.] "Nonjoint child" means the
4 legal child of one, but not both of the parents subject to this
5 determination. Specifically excluded from this definition are
6 stepchildren.

7 Subd. 15. [OBLIGOR.] "Obligor" means a person obligated to
8 pay child support. A person who is designated as the sole
9 physical custodian of a child is presumed not to be an obligor
10 for purposes of calculating current support unless the court
11 makes specific written findings to overcome this presumption.
12 For purposes of ordering medical support under section 518.719,
13 a custodial parent may be an obligor subject to a cost-of-living
14 adjustment under section 518.641 and a payment agreement under
15 section 518.553.

16 Subd. 16. [OBLIGEE.] "Obligee" means a person to whom
17 payments for child support are owed.

18 Subd. 17. [PARENTING TIME.] "Parenting time" means the
19 amount of time a child is scheduled to spend with a parent
20 according to a current written agreement between the parents or
21 a court order.

22 Subd. 18. [PAYOR OF FUNDS.] "Payor of funds" means a
23 person or entity that provides funds to an obligor, including an
24 employer as defined under chapter 24, section 3401(d), of the
25 Internal Revenue Code, an independent contractor, payor of
26 workers' compensation benefits or unemployment insurance
27 benefits, or a financial institution as defined in section
28 13B.06.

29 Subd. 19. [POTENTIAL INCOME.] "Potential income" is income
30 determined under this subdivision.

31 (a) If a parent is unemployed, employed on a less than a
32 full-time basis, or there is no direct evidence of any income,
33 child support shall be calculated based on a determination of
34 potential income. For purposes of this determination, it is
35 rebuttably presumed that a parent can be gainfully employed on a
36 full-time basis.

1 (b) Determination of potential income shall be made
2 according to one of three methods, as appropriate:

3 (1) the parent's probable earnings level based on
4 employment potential, recent work history, and occupational
5 qualifications in light of prevailing job opportunities and
6 earnings levels in the community; or

7 (2) if a parent is receiving unemployment compensation or
8 workers' compensation, that parent's income may be calculated
9 using the actual amount of the unemployment compensation or
10 workers' compensation benefit received; or

11 (3) the amount of income a parent could earn working
12 full-time at the current state minimum wage.

13 (c) This presumption does not apply to a parent who is
14 unable to work full-time due to a verified disability or to an
15 incarcerated obligor.

16 (d) As used in this section, "full-time" means 40 hours of
17 work in a week except in those industries, trades, or
18 professions in which most employers due to custom, practice, or
19 agreement utilize a normal work week of more or less than 40
20 hours in a week.

21 Subd. 20. [PRIMARY PHYSICAL CUSTODY.] The parent having
22 "primary physical custody" means the parent who provides the
23 primary residence for a child and is responsible for the
24 majority of the day-to-day decisions concerning a child.

25 Subd. 21. [PUBLIC AUTHORITY.] "Public authority" means the
26 local unit of government, acting on behalf of the state, that is
27 responsible for child support enforcement or the Department of
28 Human Services, Child Support Enforcement Division.

29 Subd. 22. [SOCIAL SECURITY BENEFITS.] "Social Security
30 benefits" means the monthly amount the Social Security
31 Administration pays to a joint child or the child's
32 representative payee due solely to the disability or retirement
33 of either parent. Benefits paid to a parent due to the
34 disability of a child are excluded from this definition.

35 Subd. 23. [SPLIT CUSTODY.] "Split custody" means that each
36 parent in a two-parent calculation has primary physical custody

1 of at least one of the joint children.

2 Subd. 24. [SPOUSAL MAINTENANCE.] "Spousal maintenance" is
3 the classes of spousal support referred to by this subdivision.
4 The amount of any preexisting or concurrently entered
5 court-ordered spousal maintenance shall be deducted from the
6 gross income of the parent obligated to pay the spousal support
7 whether the spousal support is to be paid to the other parent or
8 any other person. The amount of any preexisting or concurrently
9 entered court-ordered spousal support to be received by a parent
10 from the other parent or any other person shall be added to the
11 gross income of the parent entitled to receive the spousal
12 support.

13 Subd. 25. [SUPPORT ORDER.] (a) "Support order" means a
14 judgment, decree, or order, whether temporary, final, or subject
15 to modification, issued by a court or administrative agency of
16 competent jurisdiction that:

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

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

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

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

28 Subd. 26. [SURVIVORS' AND DEPENDENTS' EDUCATIONAL
29 ASSISTANCE.] "Survivors' and dependents' educational assistance"
30 are funds disbursed by the Veterans Administration under 38
31 United States Code, chapter 35, to the child or the child's
32 representative payee.

33 Sec. 11. [518.7123] [GROSS INCOME.]

34 (a) Except as excluded below, gross income includes income
35 from any source, including, but not limited to, salaries, wages,
36 commissions, advances, bonuses, dividends, severance pay,

1 pensions, interest, honoraria, trust income, annuities, return
2 on capital, Social Security benefits, workers' compensation
3 benefits, unemployment insurance benefits, disability insurance
4 benefits, gifts, prizes, including lottery winnings, and alimony
5 or separate maintenance received.

6 (b) Excluded and not counted in gross income is
7 compensation received by a party for employment in excess of a
8 40-hour work week, provided that:

9 (1) child support is nonetheless ordered in an amount at
10 least equal to the guideline amount based on gross income not
11 excluded under this clause; and

12 (2) the party demonstrates, and the court finds, that:

13 (i) the excess employment began after the filing of the
14 petition for dissolution;

15 (ii) the excess employment reflects an increase in the work
16 schedule or hours worked over that of the two years immediately
17 preceding the filing of the petition;

18 (iii) the excess employment is voluntary and not a
19 condition of employment;

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

23 (v) the party's compensation structure has not been changed
24 for the purpose of affecting a support or maintenance obligation.

25 (c) Expense reimbursements or in-kind payments received by
26 a parent in the course of employment, self-employment, or
27 operation of a business shall be counted as income if they are
28 significant and reduce personal living expenses.

29 (d) Gross income may be calculated on either an annual or
30 monthly basis. Weekly income shall be translated to monthly
31 income by multiplying the weekly income by 4.33.

32 (e) If the parent of a joint child is a recipient of
33 Temporary Assistance for Needy Families (TANF), the gross income
34 attributed to that parent shall be the amount which could be
35 earned by full-time work (40 hours a week) at the state minimum
36 wage.

1 (f) Excluded and not counted as income is any child support
2 payment. It is a rebuttable presumption that adoption
3 assistance payments, guardianship assistance payments, and
4 foster care subsidies are excluded and not counted as income.

5 Sec. 12. [518.7125] [INCOME FROM SELF-EMPLOYMENT OR
6 OPERATION OF A BUSINESS.]

7 For income from self-employment, rent, royalties,
8 proprietorship of a business, or joint ownership of a
9 partnership or closely held corporation, gross income is defined
10 as gross receipts minus costs of goods sold minus ordinary and
11 necessary expenses required for self-employment or business
12 operation. Specifically excluded from ordinary and necessary
13 expenses are amounts allowable by the Internal Revenue Service
14 for the accelerated component of depreciation expenses,
15 investment tax credits, or any other business expenses
16 determined by the court to be inappropriate or excessive for
17 determining gross income for purposes of calculating child
18 support.

19 Sec. 13. [518.713] [COMPUTATION OF INDIVIDUAL CHILD
20 SUPPORT OBLIGATIONS.]

21 To determine the presumptive amount of support owed by a
22 parent, follow the procedure set forth in this section:

- 23 (1) determine the gross income of each parent;
24 (2) determine the modified gross income of each parent;
25 (3) determine the adjusted gross income of each parent, and
26 if there are two parents, the combined adjusted gross income;
27 (4) if there are two parents, determine the percentage
28 contribution of each parent to the combined adjusted gross
29 income by dividing the combined adjusted gross income into each
30 parent's adjusted gross income;
31 (5) determine the basic child support obligation by
32 application of the guideline in section 518.725;
33 (6) determine each parent's share of the basic child
34 support obligation by multiplying the percentage figure from
35 clause (4) by the basic child support obligation in clause (5);
36 (7) determine the parenting time credit if any and adjust

1 the basic child support obligation as provided in section
2 518.722;

3 (8) apply the low-income adjustment, if appropriate, as
4 provided in section 518.723;

5 (9) determine the cost for each parent for child care costs
6 as allowed by section 518.72;

7 (10) determining the cost for each parent for medical
8 expenses and health care coverage as allowed by section
9 518.719. If costs are not equal each month, annual costs shall
10 be averaged to determine a monthly cost;

11 (11) calculate the total costs owed by each parent to the
12 other by applying the parent's percentage of income as
13 determined in clause (4) to the out-of-pocket costs incurred by
14 the other parent. Add these amounts to each parent's child
15 support obligation;

16 (12) determine the net child support obligation by
17 subtracting the smaller of the obligations from the larger;

18 (13) if Social Security benefits or veterans' benefits are
19 received by the obligee as a representative payee for a joint
20 child due to the obligor's disability or retirement, subtract
21 the amount of benefits from the obligor's net child support
22 obligation, if any; and

23 (14) determine the portion of the calculated child support
24 obligation the obligor has the ability to pay as provided in
25 section 518.724.

26 Sec. 14. [518.7131] [TEMPORARY SUPPORT.]

27 Temporary support may be awarded as provided in section
28 518.131.

29 Sec. 15. [518.714] [DEVIATIONS FROM CHILD SUPPORT
30 GUIDELINES.]

31 Subdivision 1. [GENERAL FACTORS.] Among other reasons,
32 deviation from the presumptive guideline amount is intended to
33 encourage prompt and regular payments of child support and to
34 prevent when possible the impoverishment of either the child or
35 obligor. In addition to the child support guidelines, the court
36 must take into consideration the following factors in setting or

1 modifying child support or in determining whether to deviate
2 upward or downward from the guidelines:

3 (1) all earnings, income, and resources of each parent,
4 including real and personal property, but excluding income from
5 excess employment of the obligor or obligee that meets the
6 criteria of section 518.64, subdivision 2, paragraph (c), clause
7 (2);

8 (2) the financial needs and resources, physical and
9 emotional condition, and educational needs of the child to be
10 supported;

11 (3) the standard of living the child would enjoy if the
12 parents were currently living together, but recognizing that the
13 parents now have separate households;

14 (4) which parent receives the income taxation dependency
15 exemption and the financial benefit the parent receives from it;

16 (5) the parents' debts as provided in subdivision 2;

17 (6) each parent's eligibility for or receipt of public
18 assistance as defined under section 256.741, subdivision 1. A
19 court may deviate upward from the amount of child support under
20 the guidelines if a parent does not receive the public
21 assistance that the parent is eligible to receive;

22 (7) the number and needs of other dependents of a parent;

23 (8) the extraordinary or diminished needs of the child; and

24 (9) prior findings in a judgment, order, decree, or
25 settlement agreement that an existing support award was made in
26 consideration of other property, debt, or financial awards.

27 Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In
28 establishing or modifying a support obligation, the court may
29 consider debts owed to private creditors, but only if:

30 (1) the right to support has not been assigned under
31 section 256.741;

32 (2) the court determines that the debt was reasonably
33 incurred for necessary support of the child or parent or for the
34 necessary generation of income. If the debt was incurred for
35 the necessary generation of income, the court may consider only
36 the amount of debt that is essential to the continuing

1 generation of income; and

2 (3) the party requesting a departure produces a sworn
3 schedule of the debts, with supporting documentation, showing
4 goods or services purchased, the recipient of them, the original
5 debt amount, the outstanding balance, the monthly payment, and
6 the number of months until the debt will be fully paid.

7 (b) A schedule prepared under paragraph (a), clause (3),
8 must contain a statement that the debt will be fully paid after
9 the number of months shown in the schedule, barring emergencies
10 beyond the party's control.

11 (c) Any further departure below the guidelines that is
12 based on a consideration of debts owed to private creditors must
13 not exceed 18 months in duration. After 18 months the support
14 must increase automatically to the level ordered by the court.
15 This section does not prohibit one or more step increases in
16 support to reflect debt retirement during the 18-month period.

17 (d) If payment of debt is ordered pursuant to this section,
18 the payment must be ordered to be in the nature of child support.

19 Subd. 3. [EVIDENCE.] The court may receive evidence on the
20 factors in this section to determine if the guidelines should be
21 exceeded or modified in a particular case.

22 Subd. 4. [PAYMENTS ASSIGNED TO PUBLIC AUTHORITY.] If the
23 child support payments are assigned to the public authority
24 under section 256.741, the court may not deviate downward from
25 the child support guidelines unless the court specifically finds
26 that the failure to deviate downward would impose an extreme
27 hardship on the obligor.

28 Subd. 5. [JOINT LEGAL CUSTODY.] An award of joint legal
29 custody is not a reason for departure from the guidelines.

30 Subd. 6. [SELF-SUPPORT LIMITATION.] If, after payment of
31 income taxes, the obligor can establish that they do not have
32 enough for the self-support reserve, a deviation may be allowed.

33 Sec. 16. [518.715] [WRITTEN FINDINGS.]

34 Subdivision 1. [NO DEVIATION.] If the court does not
35 deviate from the guidelines, the court must make written
36 findings concerning the amount of the parties' income used as

1 the basis for the guidelines calculation and any other
2 significant evidentiary factors affecting the child support
3 determination.

4 Subd. 2. [DEVIATION.] (a) If the court deviates from the
5 guidelines, the court must make written findings giving the
6 amount of support calculated under the guidelines, the reasons
7 for the deviation, and must specifically address the criteria in
8 section 517C.20 and how the deviation serves the best interests
9 of the child.

10 (b) The court may deviate from the guidelines if both
11 parties agree and the court makes written findings that it is in
12 the best interests of the child, except that in cases where
13 child support payments are assigned to the public authority
14 under section 256.741, the court may deviate downward only as
15 provided in section 518.714, subdivision 4. Nothing in this
16 section prohibits the court from deviating in other cases.

17 Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The
18 provisions of this section apply whether or not the parties are
19 each represented by independent counsel and have entered into a
20 written agreement. The court must review stipulations presented
21 to it for conformity to the guidelines. The court is not
22 required to conduct a hearing, but the parties must provide
23 sufficient documentation of earnings.

24 Sec. 17. [518.716] [GUIDELINES REVIEW.]

25 No later than 2006 and every four years after that, the
26 Department of Human Services must conduct a review of the child
27 support guidelines.

28 Sec. 18. [518.717] [NONJOINT CHILDREN.]

29 (a) When either or both parents of the joint child subject
30 to this determination are legally responsible for a nonjoint
31 child who resides in that parent's household, or a nonjoint
32 child to whom or on whose behalf a parent owes an ongoing child
33 support obligation under a court or administrative order, a
34 credit for this obligation shall be calculated under this
35 section.

36 (b) Subtract from a parent's gross income the amount of any

1 spousal support a court orders that parent to pay, and add to a
2 parent's gross income any spousal support the parent is entitled
3 to receive.

4 (c) Determine the number of nonjoint children in the
5 parent's immediate household, and the number of nonjoint
6 children to whom the parent has been ordered to pay support by
7 prior court or administrative order. The result is total
8 nonjoint children.

9 (d) Using the guideline as established in section 518.725,
10 determine the basic child support obligation for the nonjoint
11 child or children by using the income of the parent for whom the
12 credit is being calculated and adjusting that income for spousal
13 support, if applicable, according to paragraph (b), and using
14 the number of total nonjoint children determined under paragraph
15 (c).

16 (e) The credit for nonjoint children shall be 50 percent of
17 the guideline amount from paragraph (d).

18 Sec. 19. [518.718] [SOCIAL SECURITY OR VETERANS' BENEFIT
19 PAYMENTS RECEIVED ON BEHALF OF THE CHILD.]

20 (a) The amount of the monthly Social Security benefits or
21 apportioned veterans' benefits received by the child or on
22 behalf of the child shall be added to the gross income of the
23 parent for whom the disability or retirement benefit was paid.

24 (b) The amount of the monthly survivors' and dependents'
25 educational assistance received by the child or on behalf of the
26 child shall be added to the gross income of the parent for whom
27 the disability or retirement benefit was paid.

28 (c) If the Social Security or apportioned veterans'
29 benefits are paid on behalf of the obligor, and are received by
30 the obligee as a representative payee for the child or by the
31 child attending school, then the amount of the benefits may also
32 be subtracted from the obligor's net child support obligation as
33 calculated pursuant to section 518.713.

34 (d) If the survivors' and dependents' educational
35 assistance is paid on behalf of the obligor, and is received by
36 the obligee as a representative payee for the child or by the

1 child attending school, then the amount of the assistance shall
2 also be subtracted from the obligor's net child support
3 obligation as calculated pursuant to section 518.713.

4 Sec. 20. [518.719] [MEDICAL SUPPORT.]

5 Subdivision 1. [DEFINITIONS.] The definitions in this
6 subdivision apply to sections 518.711 to 518.733.

7 (a) "Health care coverage" means health care benefits that
8 are provided by a health plan. Health care coverage does not
9 include any form of medical assistance under chapter 256B or
10 MinnesotaCare under chapter 256L.

11 (b) "Health carrier" means a carrier as defined in sections
12 62A.011, subdivision 2, and 62L.02, subdivision 16.

13 (c) "Health plan" means a plan meeting the definition under
14 section 62A.011, subdivision 3, a group health plan governed
15 under the federal Employee Retirement Income Security Act of
16 1974 (ERISA), a self-insured plan under sections 43A.23 to
17 43A.317 and 471.617, or a policy, contract, or certificate
18 issued by a community-integrated service network licensed under
19 chapter 62N. Health plan includes plans:

20 (1) provided on an individual and group basis;

21 (2) provided by an employer or union;

22 (3) purchased in the private market; and

23 (4) available to a person eligible to carry insurance for
24 the child.

25 Health plan includes a plan providing for dependent-only dental
26 or vision coverage and a plan provided through a party's spouse
27 or parent.

28 (d) "Medical support" means providing health care coverage
29 for a child by carrying health care coverage for the child or by
30 contributing to the cost of health care coverage, public
31 coverage, unreimbursed medical expenses, and uninsured medical
32 expenses of the child.

33 (e) "National medical support notice" means an
34 administrative notice issued by the public authority to enforce
35 health insurance provisions of a support order in accordance
36 with Code of Federal Regulations, title 45, section 303.32, in

1 cases where the public authority provides support enforcement
2 services.

3 (f) "Public coverage" means health care benefits provided
4 by any form of medical assistance under chapter 256B or
5 MinnesotaCare under chapter 256L.

6 (g) "Uninsured medical expenses" means a child's reasonable
7 and necessary health-related expenses if the child is not
8 covered by a health plan or public coverage when the expenses
9 are incurred.

10 (h) "Unreimbursed medical expenses" means a child's
11 reasonable and necessary health-related expenses if a child is
12 covered by a health plan or public coverage and the plan or
13 coverage does not pay for the total cost of the expenses when
14 the expenses are incurred. Unreimbursed medical expenses do not
15 include the cost of premiums. Unreimbursed medical expenses
16 include, but are not limited to, deductibles, co-payments, and
17 expenses for orthodontia, and prescription eyeglasses and
18 contact lenses.

19 Subd. 2. [ORDER.] (a) A completed national medical support
20 notice issued by the public authority or a court order that
21 complies with this section is a qualified medical child support
22 order under the federal Employee Retirement Income Security Act
23 of 1974 (ERISA), United States Code, title 29, section 1169(a).

24 (b) Every order addressing child support must state:

25 (1) the names, last known addresses, and Social Security
26 numbers of the parents and the child that is a subject of the
27 order unless the court prohibits the inclusion of an address or
28 Social Security number and orders the parents to provide the
29 address and Social Security number to the administrator of the
30 health plan;

31 (2) whether appropriate health care coverage for the child
32 is available and, if so, state:

33 (i) which party must carry health care coverage;

34 (ii) the cost of premiums and how the cost is allocated
35 between the parties;

36 (iii) how unreimbursed expenses will be allocated and

1 collected by the parties; and

2 (iv) the circumstances, if any, under which the obligation
3 to provide health care coverage for the child will shift from
4 one party to the other;

5 (3) if appropriate health care coverage is not available
6 for the child, whether a contribution for medical support is
7 required; and

8 (4) whether the amount ordered for medical support is
9 subject to a cost-of-living adjustment under section 518.641.

10 Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE

11 COVERAGE.] (a) In determining whether a party has appropriate
12 health care coverage for the child, the court must evaluate the
13 health plan using the following factors:

14 (1) accessible coverage. Dependent health care coverage is
15 accessible if the covered child can obtain services from a
16 health plan provider with reasonable effort by the parent with
17 whom the child resides. Health care coverage is presumed
18 accessible if:

19 (i) primary care coverage is available within 30 minutes or
20 30 miles of the child's residence and specialty care coverage is
21 available within 60 minutes or 60 miles of the child's
22 residence;

23 (ii) the coverage is available through an employer and the
24 employee can be expected to remain employed for a reasonable
25 amount of time; and

26 (iii) no preexisting conditions exist to delay coverage
27 unduly;

28 (2) comprehensive coverage. Dependent health care coverage
29 is comprehensive if it includes, at a minimum, medical and
30 hospital coverage and provides for preventive, emergency, acute,
31 and chronic care. If both parties have health care coverage
32 that meets the minimum requirements, the court must determine
33 which health care coverage is more comprehensive by considering
34 whether the coverage includes:

35 (i) basic dental coverage;

36 (ii) orthodontia;

1 (iii) eyeglasses;

2 (iv) contact lenses;

3 (v) mental health services; or

4 (vi) substance abuse treatment;

5 (3) affordable coverage. Dependent health care coverage is
6 affordable if it is reasonable in cost; and

7 (4) the child's special medical needs, if any.

8 (b) If both parties have health care coverage available for
9 a child, and the court determines under paragraph (a), clauses
10 (1) and (2), that the available coverage is comparable with
11 regard to accessibility and comprehensiveness, the least costly
12 health care coverage is the appropriate health care coverage for
13 the child.

14 Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child
15 is presently enrolled in health care coverage, the court must
16 order that the parent who currently has the child enrolled
17 continue that enrollment unless the parties agree otherwise or a
18 party requests a change in coverage and the court determines
19 that other health care coverage is more appropriate.

20 (b) If a child is not presently enrolled in health care
21 coverage, upon motion of a party or the public authority, the
22 court must determine whether one or both parties have
23 appropriate health care coverage for the child and order the
24 party with appropriate health care coverage available to carry
25 the coverage for the child.

26 (c) If only one party has appropriate health care coverage
27 available, the court must order that party to carry the coverage
28 for the child.

29 (d) If both parties have appropriate health care coverage
30 available, the court must order the parent with whom the child
31 resides to carry the coverage for the child, unless:

32 (1) either party expresses a preference for coverage
33 available through the parent with whom the child does not
34 reside;

35 (2) the parent with whom the child does not reside is
36 already carrying dependent health care coverage for other

1 children and the cost of contributing to the premiums of the
2 other parent's coverage would cause the parent with whom the
3 child does not reside extreme hardship; or

4 (3) the parents agree to provide coverage and agree on the
5 allocation of costs.

6 (e) If the exception in paragraph (d), clause (1) or (2),
7 applies, the court must determine which party has the most
8 appropriate coverage available and order that party to carry
9 coverage for the child. If the court determines under
10 subdivision 3, paragraph (a), clauses (1) and (2), that the
11 parties' health care coverage for the child is comparable with
12 regard to accessibility and comprehensiveness, the court must
13 order the party with the least costly health care coverage to
14 carry coverage for the child.

15 (f) If neither party has appropriate health care coverage
16 available, the court must order the parents to:

17 (1) contribute toward the actual health care costs of the
18 children based on a pro rata share; or

19 (2) if the child is receiving any form of medical
20 assistance under chapter 256B or MinnesotaCare under chapter
21 256L, the parent with whom the 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 determined by the court to be just and appropriate; the
25 contribution of the parent with whom the child resides is the
26 monthly contribution as determined by the eligibility
27 requirements for public coverage.

28 (g) If the court finds a pro rata apportionment unjust or
29 inappropriate under paragraph (f), the court shall:

30 (1) order the parties to contribute an amount of the cost
31 of health care as the court finds just and appropriate; and

32 (2) make findings regarding the factors considered, the
33 amount of each parent's share of the cost, and the reasons the
34 court did not order a pro rata apportionment.

35 A presumption of no less than \$50 per month must be applied
36 to the actual health care costs of the children or to the cost

1 of health care coverage.

2 (h) The commissioner of human services must publish a table
3 with the premium schedule for public coverage and update the
4 chart for changes to the schedule by July 1 of each year.

5 Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND
6 UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by
7 the parties and approved by the court, the court must order that
8 the cost of health care coverage and all unreimbursed and
9 uninsured medical expenses be divided between the obligor and
10 obligee based on their proportionate share of the parties'
11 combined monthly adjusted gross income.

12 (b) If a party owes a child support obligation for a child
13 and is ordered to carry health care coverage for the child, and
14 the other party is ordered to contribute to the carrying party's
15 cost for coverage, the carrying party's child support payment
16 must be reduced by the amount of the contributing party's
17 contribution.

18 (c) If a party owes a child support obligation for a child
19 and is ordered to contribute to the other party's cost for
20 carrying health care coverage for the child, the contributing
21 party's child support payment must be increased by the amount of
22 the contribution.

23 (d) If the party ordered to carry health care coverage for
24 the child already carries dependent health care coverage for
25 other dependents and would incur no additional premium costs to
26 add the child to the existing coverage, the court must not order
27 the other party to contribute to the premium costs for coverage
28 of the child.

29 (e) If a party ordered to carry health care coverage for
30 the child does not already carry dependent health care coverage
31 but has other dependents who may be added to the ordered
32 coverage, the full premium costs of the dependent health care
33 coverage must be allocated between the parties in proportion to
34 the party's share of the parties' combined income, unless the
35 parties agree otherwise.

36 (f) If a party ordered to carry health care coverage for

1 the child is required to enroll in a health plan so that the
2 child can be enrolled in dependent health care coverage under
3 the plan, the court must allocate the costs of the dependent
4 health care coverage between the parties. The costs of the
5 health care coverage for the party ordered to carry the coverage
6 for the child must not be allocated between the parties.

7 Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER,
8 UNION, OR HEALTH CARRIER.] (a) The public authority must forward
9 a copy of the national medical support notice or court order for
10 health care coverage to the party's employer within two business
11 days after the date the party is entered into the work reporting
12 system under section 256.998.

13 (b) The public authority or a party seeking to enforce an
14 order for health care coverage must forward a copy of the
15 national medical support notice or court order to the obligor's
16 employer or union, or to the health carrier under the following
17 circumstances:

18 (1) the party ordered to carry health care coverage for the
19 child fails to provide written proof to the other party or the
20 public authority, within 30 days of the effective date of the
21 court order, that the party has applied for health care coverage
22 for the child;

23 (2) the party seeking to enforce the order or the public
24 authority gives written notice to the party ordered to carry
25 health care coverage for the child of its intent to enforce
26 medical support. The party seeking to enforce the order or
27 public authority must mail the written notice to the last known
28 address of the party ordered to carry health care coverage for
29 the child; and

30 (3) the party ordered to carry health care coverage for the
31 child fails, within 15 days after the date on which the written
32 notice under clause (2) was mailed, to provide written proof to
33 the other party or the public authority that the party has
34 applied for health care coverage for the child.

35 (c) The public authority is not required to forward a copy
36 of the national medical support notice or court order to the

1 obligor's employer or union, or to the health carrier, if the
2 court orders health care coverage for the child that is not
3 employer-based or union-based coverage.

4 Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer
5 or union must forward the national medical support notice or
6 court order to its health plan within 20 business days after the
7 date on the national medical support notice or after receipt of
8 the court order.

9 (b) Upon determination by an employer's or union's health
10 plan administrator that a child is eligible to be covered under
11 the health plan, the employer or union and health plan must
12 enroll the child as a beneficiary in the health plan, and the
13 employer must withhold any required premiums from the income or
14 wages of the party ordered to carry health care coverage for the
15 child.

16 (c) If enrollment of the party ordered to carry health care
17 coverage for a child is necessary to obtain dependent health
18 care coverage under the plan, and the party is not enrolled in
19 the health plan, the employer or union must enroll the party in
20 the plan.

21 (d) Enrollment of dependents and, if necessary, the party
22 ordered to carry health care coverage for the child must be
23 immediate and not dependent upon open enrollment periods.
24 Enrollment is not subject to the underwriting policies under
25 section 62A.048.

26 (e) Failure of the party ordered to carry health care
27 coverage for the child to execute any documents necessary to
28 enroll the dependent in the health plan does not affect the
29 obligation of the employer or union and health plan to enroll
30 the dependent in a plan. Information and authorization provided
31 by the public authority, or by a party or guardian, is valid for
32 the purposes of meeting enrollment requirements of the health
33 plan.

34 (f) An employer or union that is included under the federal
35 Employee Retirement Income Security Act of 1974 (ERISA), United
36 States Code, title 29, section 1169(a), may not deny enrollment

1 to the child or to the parent if necessary to enroll the child
2 based on exclusionary clauses described in section 62A.048.

3 (g) A new employer or union of a party who is ordered to
4 provide health care coverage for a child must enroll the child
5 in the party's health plan as required by a national medical
6 support notice or court order.

7 Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan
8 administrator receives a completed national medical support
9 notice or court order, the plan administrator must notify the
10 parties, and the public authority if the public authority
11 provides support enforcement services, within 40 business days
12 after the date of the notice or after receipt of the court
13 order, of the following:

14 (1) whether coverage is available to the child under the
15 terms of the health plan and, if not, the reason why coverage is
16 not available;

17 (2) whether the child is covered under the health plan;

18 (3) the effective date of the child's coverage under the
19 health plan; and

20 (4) what steps, if any, are required to effectuate the
21 child's coverage under the health plan.

22 (b) If the employer or union offers more than one plan and
23 the national medical support notice or court order does not
24 specify the plan to be carried, the plan administrator must
25 notify the parents and the public authority if the public
26 authority provides support enforcement services. When there is
27 more than one option available under the plan, the public
28 authority, in consultation with the parent with whom the child
29 resides, must promptly select from available plan options.

30 (c) The plan administrator must provide the parents and
31 public authority, if the public authority provides support
32 enforcement services, with a notice of the child's enrollment,
33 description of the coverage, and any documents necessary to
34 effectuate coverage.

35 (d) The health plan must send copies of all correspondence
36 regarding the health care coverage to the parents.

1 (e) An insured child's parent's signature is a valid
2 authorization to a health plan for purposes of processing an
3 insurance reimbursement payment to the medical services provider
4 or to the parent, if medical services have been prepaid by that
5 parent.

6 Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or
7 union that willfully fails to comply with the order or notice is
8 liable for any uninsured medical expenses incurred by the
9 dependents while the dependents were eligible to be enrolled in
10 the health plan and for any other premium costs incurred because
11 the employer or union willfully failed to comply with the order
12 or notice.

13 (b) An employer or union that fails to comply with the
14 order or notice is subject to a contempt finding, a \$250 civil
15 penalty under section 518.615, and is subject to a civil penalty
16 of \$500 to be paid to the party entitled to reimbursement or the
17 public authority. Penalties paid to the public authority are
18 designated for child support enforcement services.

19 Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest
20 a child's enrollment in a health plan on the limited grounds
21 that the enrollment is improper due to mistake of fact or that
22 the enrollment meets the requirements of section 518.64,
23 subdivision 2.

24 (b) If the party chooses to contest the enrollment, the
25 party must do so no later than 15 days after the employer
26 notifies the party of the enrollment by doing the following:

27 (1) filing a motion in district court or according to
28 section 484.702 and the expedited child support process rules if
29 the public authority provides support enforcement services;

30 (2) serving the motion on the other party and public
31 authority if the public authority provides support enforcement
32 services; and

33 (3) securing a date for the matter to be heard no later
34 than 45 days after the notice of enrollment.

35 (c) The enrollment must remain in place while the party
36 contests the enrollment.

1 Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE;
2 COVERAGE OPTIONS.] (a) Unless a court order provides otherwise,
3 a child for whom a party is required to provide health care
4 coverage under this section must be covered as a dependent of
5 the party until the child is emancipated, until further order of
6 the court, or as consistent with the terms of the coverage.

7 (b) The health carrier, employer, or union may not
8 disenroll or eliminate coverage for the child unless:

9 (1) the health carrier, employer, or union is provided
10 satisfactory written evidence that the court order is no longer
11 in effect;

12 (2) the child is or will be enrolled in comparable health
13 care coverage through another health plan that will take effect
14 no later than the effective date of the disenrollment;

15 (3) the employee is no longer eligible for dependent
16 coverage; or

17 (4) the required premium has not been paid by or on behalf
18 of the child.

19 (c) The health plan must provide 30 days' written notice to
20 the child's parents, and the public authority if the public
21 authority provides support enforcement services, before the
22 health plan disenrolls or eliminates the child's coverage.

23 (d) A child enrolled in health care coverage under a
24 qualified medical child support order, including a national
25 medical support notice, under this section is a dependent and a
26 qualified beneficiary under the Consolidated Omnibus Budget and
27 Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon
28 expiration of the order, the child is entitled to the
29 opportunity to elect continued coverage that is available under
30 the health plan. The employer or union must provide notice to
31 the parties and the public authority, if it provides support
32 services, within ten days of the termination date.

33 (e) If the public authority provides support enforcement
34 services and a plan administrator reports to the public
35 authority that there is more than one coverage option available
36 under the health plan, the public authority, in consultation

1 with the parent with whom the child resides, must promptly
2 select coverage from the available options.

3 Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court
4 must require the parent with whom the child does not reside to
5 provide dependent health care coverage for the benefit of the
6 parent with whom the child resides if the parent is ordered to
7 provide dependent health care coverage for the parties' child
8 and adding the other parent to the coverage results in no
9 additional premium cost.

10 Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public
11 authority provides support enforcement services, the parties
12 must provide the public authority with the following information:

13 (1) information relating to dependent health care coverage
14 or public coverage available for the benefit of the child for
15 whom support is sought, including all information required to be
16 included in a medical support order under this section;

17 (2) verification that application for court-ordered health
18 care coverage was made within 30 days of the court's order; and

19 (3) the reason that a child is not enrolled in
20 court-ordered health care coverage, if a child is not enrolled
21 in coverage or subsequently loses coverage.

22 (b) Upon request from the public authority under section
23 256.978, an employer, union, or plan administrator, including an
24 employer subject to the federal Employee Retirement Income
25 Security Act of 1974 (ERISA), United States Code, title 29,
26 section 1169(a), must provide the public authority the following
27 information:

28 (1) information relating to dependent health care coverage
29 available to a party for the benefit of the child for whom
30 support is sought, including all information required to be
31 included in a medical support order under this section; and

32 (2) information that will enable the public authority to
33 determine whether a health plan is appropriate for a child,
34 including, but not limited to, all available plan options, any
35 geographic service restrictions, and the location of service
36 providers.

1 (c) The employer, union, or plan administrator must not
2 release information regarding one party to the other party. The
3 employer, union, or plan administrator must provide both parties
4 with insurance identification cards and all necessary written
5 information to enable the parties to utilize the insurance
6 benefits for the covered dependent.

7 (d) The public authority is authorized to release to a
8 party's employer, union, or health plan information necessary to
9 verify availability of dependent health care coverage, or to
10 establish, modify, or enforce medical support.

11 (e) An employee must disclose to an employer if medical
12 support is required to be withheld under this section and the
13 employer must begin withholding according to the terms of the
14 order and under section 518.6111. If an employee discloses an
15 obligation to obtain health care coverage and coverage is
16 available through the employer, the employer must make all
17 application processes known to the individual and enroll the
18 employee and dependent in the plan.

19 Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public
20 authority must take necessary steps to establish and enforce an
21 order for medical support if the child receives public
22 assistance or a party completes an application for services from
23 the public authority under section 518.6111, subdivision 4.

24 Subd. 15. [ENFORCEMENT.] (a) Remedies available for
25 collecting and enforcing child support apply to medical support.

26 (b) For the purpose of enforcement, the following are
27 additional support:

28 (1) the costs of individual or group health or
29 hospitalization coverage;

30 (2) dental coverage;

31 (3) medical costs ordered by the court to be paid by either
32 party, including health and dental insurance premiums paid by
33 the obligee because of the obligor's failure to obtain coverage
34 as ordered; and

35 (4) liabilities established under this subdivision.

36 (c) A party who fails to carry court-ordered dependent

1 health care coverage is liable for the child's uninsured medical
2 expenses unless a court order provides otherwise. A party's
3 failure to carry court-ordered coverage, or to provide other
4 medical support as ordered, is a basis for modification of a
5 support order under section 518.64, subdivision 2.

6 (d) Payments by the health carrier or employer for services
7 rendered to the dependents that are directed to a party not owed
8 reimbursement must be endorsed over to and forwarded to the
9 vendor or appropriate party or the public authority. A party
10 retaining insurance reimbursement not owed to the party is
11 liable for the amount of the reimbursement.

12 Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party
13 owes no child support obligation for a child and is an obligor
14 ordered to contribute to the other party's cost for carrying
15 health care coverage for the child, the obligor is subject to an
16 offset under subdivision 5 or income withholding under section
17 517C.52.

18 (b) If a party's court-ordered health care coverage for the
19 child terminates and the child is not enrolled in other health
20 care coverage or public coverage, and a modification motion is
21 not pending, the public authority may remove the offset to a
22 party's child support obligation or terminate income withholding
23 instituted against a party under section 518.6111. The public
24 authority must provide notice to the parties of the action.

25 (c) A party may contest the public authority's action to
26 remove the offset to the child support obligation or terminate
27 income withholding if the party makes a written request for a
28 hearing within 30 days after receiving written notice. If a
29 party makes a timely request for a hearing, the public authority
30 must schedule a hearing and send written notice of the hearing
31 to the parties by mail to the parties' last known addresses at
32 least 14 days before the hearing. The hearing must be conducted
33 in district court or in the expedited child support process if
34 section 484.702 applies. The district court or child support
35 magistrate must determine whether removing the offset or
36 terminating income withholding is appropriate and, if

1 appropriate, the effective date for the removal or termination.

2 (d) If the party does not request a hearing, the district
3 court or child support magistrate must order the offset or
4 income withholding termination effective the first day of the
5 month following termination of the child's health care 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 child's unreimbursed or uninsured medical expenses
27 and include copies of all bills, receipts, and insurance company
28 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. 21. [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. For purposes of this subdivision,
14 the obligor's household includes the obligor and the number of
15 children for whom child support is being ordered; or

16 (2) the amount of the obligor's child care obligation under
17 subdivision 1.

18 (b) The commissioner of human services must publish a table
19 with the child care assistance basic sliding fee amounts and
20 update the table for changes to the basic sliding fee schedule
21 by July 1 of each year.

22 Subd. 3. [DETERMINING COSTS.] (a) The court must require
23 verification of employment or school attendance and
24 documentation of child care expenses from the obligee and the
25 public authority, if applicable.

26 (b) If child care expenses fluctuate during the year
27 because of the obligee's seasonal employment or school
28 attendance or extended periods of parenting time with the
29 obligor, the court must determine child care expenses based on
30 an average monthly cost.

31 (c) The amount allocated for child care expenses is
32 considered child support but is not subject to a cost-of-living
33 adjustment under section 518.641.

34 (d) The court may allow the parent with whom the child does
35 not reside to care for the child while the parent with whom the
36 child resides is working or attending school, as provided in

1 section 518.175, subdivision 8. Allowing the parent with whom
2 the child does not reside to care for the child under section
3 518.175, subdivision 8, is not a reason to deviate from the
4 guidelines.

5 (e) The court may limit child care expenses to the market
6 rates found for the city or county of residence of the obligee
7 as surveyed by the commissioner of human services for purposes
8 of chapter 119B.

9 Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order
10 provides for child care expenses and the public authority
11 provides child support enforcement services, the public
12 authority must suspend collecting the amount allocated for child
13 care expenses when:

14 (1) either party informs the public authority that no child
15 care costs are being incurred; and

16 (2) the public authority verifies the accuracy of the
17 information.

18 The public authority will resume collecting child care expenses
19 when either party provides information that child care costs
20 have resumed.

21 (b) If the parties provide conflicting information to the
22 public authority regarding whether child care expenses are being
23 incurred, the public authority will continue or resume
24 collecting child care expenses. Either party, by motion to the
25 court, may challenge the suspension or resumption of the
26 collection of child care expenses. If the public authority
27 suspends collection activities for the amount allocated for
28 child care expenses, all other provisions of the court order
29 remain in effect.

30 (c) In cases where there is a substantial increase or
31 decrease in child care expenses, the parties may modify the
32 order under section 518.641.

33 Sec. 22. [518.721] [PARENTING TIME.]

34 (a) Each parent shall be presumptively entitled to no less
35 than 91 child overnights for each child.

36 (b) If there is a current written parenting time agreement

1 or court order providing for parenting time or the parents have
 2 split custody, the percentage of overall parenting time for each
 3 parent shall be calculated as follows:

4 (1) multiply the number of joint children by 365 to arrive
 5 at a total number of child overnights. Add together the total
 6 number of overnights the parent is allowed with each joint child
 7 and divide the parenting time overnights by the total number of
 8 child overnights;

9 (2) if the parents have split custody but no current
 10 written parenting time agreement or court order providing for
 11 parenting time, each parent shall be attributed 365 days for
 12 each joint child in the parent's physical custody; and

13 (3) notwithstanding the calculation provided in paragraph
 14 (b), clauses (1) and (2), the percentage of parenting time may
 15 be determined using a method other than overnights if the
 16 parents have an alternative parenting time schedule in which a
 17 parent has significant time periods where the child is in the
 18 parent's physical custody but does not stay overnight.

19 (c) If the court determines that actual parenting time
 20 exercised by a parent is different from what is provided in a
 21 written parenting plan or court order, the percentage of
 22 parenting time may be calculated using the actual parenting time
 23 exercised by the parent.

24 (d) If there is no written parenting time agreement or
 25 court order providing for parenting time, the parent having
 26 primary physical custody shall be treated as having 100 percent
 27 of the parenting time.

28 Sec. 23. [518.722] [PARENTING TIME CREDIT.]

29 (a) This section shall apply when the overall parenting
 30 time calculated pursuant to section 518.721 is 20 percent or
 31 greater for each parent.

32 (b) The obligor shall be entitled to a parenting time
 33 credit calculated as follows:

34 (1) find the adjustment percentage corresponding to the
 35 percentage of parenting time allowed to the obligor below:

36 Percentage Range of Adjustment

	<u>Parenting Time</u>	<u>Percentage</u>
1		
2	<u>(i) less than 20 percent</u>	<u>no adjustment</u>
3	<u>(ii) 20 percent to 29.9 percent</u>	<u>16 percent</u>
4	<u>(iii) 30 percent to 39.9 percent</u>	<u>23 percent</u>
5	<u>(iv) 40 percent to 48 percent</u>	<u>35 percent</u>
6	<u>(v) 48.1 percent to 50 percent</u>	<u>presume parenting</u>
7		<u>time is equal</u>

8 (2) multiply the adjustment percentage by the basic child
9 support obligation to arrive at the parenting time credit.

10 (c) If the parenting time credit is greater than the
11 obligor's prorated share of the basic child support obligation,
12 subtract the obligor's basic child support obligation from the
13 parenting time credit. The result is the obligee's obligation
14 after parenting time credit.

15 (d) If the parenting time credit is less than the obligor's
16 prorated share of the basic child support obligation, subtract
17 the parenting time credit from the obligor's basic child support
18 obligation. The result is the obligor's obligation after
19 parenting time credit.

20 (e) If the parenting time is equal, the expenses for the
21 children are equally shared, and the adjusted gross incomes of
22 the parents also are equal, no support shall be paid.

23 (f) If the parenting time is equal but the parents'
24 adjusted gross incomes are not equal, the parent having the
25 greater adjusted gross income shall be obligated for the amount
26 of basic child support needed to equalize the basic child
27 support to each parent, calculated as follows:

28 (1) after the basic child support obligation has been
29 prorated between the parents, subtract the lower amount from the
30 higher amount and divide the balance in half; and

31 (2) the resulting figure is the obligation after parenting
32 time credit for the parent with the greater adjusted gross
33 income.

34 (g) This parenting time credit reflects the presumption
35 that while exercising parenting time, a parent is responsible

1 shall be used in any judicial or administrative proceeding to
 2 establish or modify a support obligation under chapter 518.

3 (b) The basic child support obligation shall be determined
 4 by referencing the guideline for the appropriate number of joint
 5 children and the combined adjusted gross income of the parents.

6 (c) If a child is not in the custody of either parent and a
 7 support order is sought against one or both parents, the basic
 8 child support obligation shall be determined by referencing the
 9 guideline for the appropriate number of joint children, and the
 10 parent's individual adjusted gross income, not the combined
 11 adjusted gross income of the parents.

12 (d) For combined adjusted gross incomes exceeding \$15,000
 13 per month, the presumed basic child support obligations shall be
 14 as for parents with combined adjusted gross income of \$15,000
 15 per month. A basic child support obligation in excess of this
 16 level may be demonstrated for those reasons set forth in section
 17 518.714.

18 Subd. 2. [BASIC SUPPORT; GUIDELINE.] Unless otherwise
 19 agreed to by the parents and approved by the court, the court
 20 must order that basic support be divided between the parents
 21 based on their proportionate share of the parents' combined
 22 monthly income, as determined under section 518.713. Basic
 23 support must be computed using the following guideline:

<u>Parents'</u> <u>Combined Adjusted</u> <u>Gross 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>\$0- \$799</u>	<u>\$50</u>	<u>\$50</u>	<u>\$75</u>	<u>\$75</u>	<u>\$100</u>	<u>\$100</u>
<u>800- 899</u>	<u>80</u>	<u>129</u>	<u>149</u>	<u>173</u>	<u>201</u>	<u>233</u>
<u>900- 999</u>	<u>90</u>	<u>145</u>	<u>167</u>	<u>194</u>	<u>226</u>	<u>262</u>
<u>1,000- 1,099</u>	<u>116</u>	<u>161</u>	<u>186</u>	<u>216</u>	<u>251</u>	<u>291</u>
<u>1,100- 1,199</u>	<u>145</u>	<u>205</u>	<u>237</u>	<u>275</u>	<u>320</u>	<u>370</u>
<u>1,200- 1,299</u>	<u>177</u>	<u>254</u>	<u>294</u>	<u>341</u>	<u>396</u>	<u>459</u>
<u>1,300- 1,399</u>	<u>212</u>	<u>309</u>	<u>356</u>	<u>414</u>	<u>480</u>	<u>557</u>
<u>1,400- 1,499</u>	<u>251</u>	<u>368</u>	<u>425</u>	<u>493</u>	<u>573</u>	<u>664</u>
<u>1,500- 1,599</u>	<u>292</u>	<u>433</u>	<u>500</u>	<u>580</u>	<u>673</u>	<u>780</u>
<u>1,600- 1,699</u>	<u>337</u>	<u>502</u>	<u>580</u>	<u>673</u>	<u>781</u>	<u>905</u>
<u>1,700- 1,799</u>	<u>385</u>	<u>577</u>	<u>666</u>	<u>773</u>	<u>897</u>	<u>1,040</u>

1	<u>1,800- 1,899</u>	<u>436</u>	<u>657</u>	<u>758</u>	<u>880</u>	<u>1,021</u>	<u>1,183</u>
2	<u>1,900- 1,999</u>	<u>490</u>	<u>742</u>	<u>856</u>	<u>994</u>	<u>1,152</u>	<u>1,336</u>
3	<u>2,000- 2,099</u>	<u>516</u>	<u>832</u>	<u>960</u>	<u>1,114</u>	<u>1,292</u>	<u>1,498</u>
4	<u>2,100- 2,199</u>	<u>528</u>	<u>851</u>	<u>981</u>	<u>1,139</u>	<u>1,320</u>	<u>1,531</u>
5	<u>2,200- 2,299</u>	<u>538</u>	<u>867</u>	<u>1,000</u>	<u>1,160</u>	<u>1,346</u>	<u>1,561</u>
6	<u>2,300- 2,399</u>	<u>546</u>	<u>881</u>	<u>1,016</u>	<u>1,179</u>	<u>1,367</u>	<u>1,586</u>
7	<u>2,400- 2,499</u>	<u>554</u>	<u>893</u>	<u>1,029</u>	<u>1,195</u>	<u>1,385</u>	<u>1,608</u>
8	<u>2,500- 2,599</u>	<u>560</u>	<u>903</u>	<u>1,040</u>	<u>1,208</u>	<u>1,400</u>	<u>1,625</u>
9	<u>2,600- 2,699</u>	<u>570</u>	<u>920</u>	<u>1,060</u>	<u>1,230</u>	<u>1,426</u>	<u>1,655</u>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>
26	<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>
27	<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>
28	<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>
29	<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>
30	<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>
31	<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>
32	<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>
33	<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>
34	<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>
35	<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>
36	<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>

1	<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>
2	<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>
3	<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>
4	<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>
5	<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>
6	<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>
7	<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>
8	<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>
9	<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>
10	<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>
11	<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>
12	<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>
13	<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>
14	<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>
15	<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>
16	<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>
17	<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>
18	<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>
19	<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>
20	<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>
21	<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>
22	<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>
23	<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>
24	<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>
25	<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>

26 the amount
 27 in effect
 28 under subd. 4

29 Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a)

30 The basic support obligation for parents with a combined monthly
 31 income in excess of the income limit currently in effect under
 32 subdivision 1 must be the same dollar amount as provided for
 33 parties with a combined monthly income equal to the income limit
 34 in effect under subdivision 1.

35 (b) A court may order a basic support obligation in a child
 36 support order in an amount that exceeds the income limit in
 37 subdivision 1 if it finds that a child has a disability or other

1 substantial, demonstrated need for the additional support and
2 that the additional support will directly benefit the child.

3 (c) The dollar amount for the cap in subdivision 1 must be
4 adjusted on July 1 of every even-numbered year to reflect
5 cost-of-living changes. The Supreme Court must select the index
6 for the adjustment from the indices listed in section 517C.31.
7 The state court administrator must make the changes in the
8 dollar amounts required by this paragraph available to courts
9 and the public on or before April 30 of the year in which the
10 amount is to change.

11 Subd. 4. [MORE THAN SIX CHILDREN.] If a child support
12 proceeding involves more than six children, the court may derive
13 a support order without specifically following the guidelines.
14 However, the court must consider the basic principles
15 encompassed by the guidelines and must consider both parents'
16 needs, resources, and circumstances.

17 Subd. 5. [REPORT TO LEGISLATURE.] No later than 2006 and
18 every four years after that, the commissioner of human services
19 shall conduct a review of the child support guidelines.

20 Sec. 27. [518.729] [WORKSHEET.]
21 The commissioner of human services must create and publish
22 a worksheet to assist in calculating child support under
23 sections 518.711 to 518.728. The worksheet must not impose
24 substantive requirements other than requirements contained in
25 sections 518.711 to 518.728. The commissioner must update the
26 worksheet by July 1 of each year. The commissioner must make an
27 interactive version of the worksheet available on the Department
28 of Human Services Web site.

29 Sec. 28. [STUDY OF ECONOMIC IMPACT OF CHILD SUPPORT
30 GUIDELINES.]

31 The commissioner of human services shall employ a private
32 provider of policy studies to conduct an economic analysis of
33 the child support guidelines contained in this act to evaluate:

34 (1) whether the guidelines fairly represent the cost of
35 raising children for the respective parental income levels,
36 excluding medical support, child care, and education costs;

1 (2) whether the standards for medical support and child
2 care costs fairly apportion those costs between the parents,
3 after consideration of the respective tax benefits; and

4 (3) whether the guidelines fairly reflect each parent's
5 ability to provide for basic housing needs.

6 The results of the study shall be completed by no later
7 than January 30, 2006. The private provider must have
8 experience in evaluating or establishing child support
9 guidelines, using the income shares approach, in other states.

10 Sec. 29. [REVISOR'S INSTRUCTION.]

11 The revisor of statutes shall renumber the provisions of
12 Minnesota Statutes listed in column A to the references listed
13 in column B. The revisor shall also make necessary
14 cross-reference changes in Minnesota Statutes and Minnesota
15 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>
<u>518.612</u>	<u>518.757</u>
<u>518.614</u>	<u>518.759</u>
<u>518.615</u>	<u>518.761</u>
<u>518.616</u>	<u>518.763</u>
<u>518.617</u>	<u>518.765</u>
<u>518.618</u>	<u>518.767</u>
<u>518.6195</u>	<u>518.769</u>
<u>518.6196</u>	<u>518.770</u>
<u>518.641</u>	<u>518.771</u>
<u>518.642</u>	<u>518.773</u>

36 Sec. 30. [REPEALER.]

1 Minnesota Statutes 2004, sections 518.54, subdivisions 2,
 2 4, and 4a; 518.551, subdivisions 5a, 5c, and 5f; and 518.171,
 3 are repealed."

4 Delete the title and insert:

5 "A bill for an act relating to civil law; reforming law
 6 relating to child support; establishing criteria for support
 7 obligations; defining parents' rights and responsibilities;
 8 amending Minnesota Statutes 2004, sections 518.54, subdivisions
 9 7, 8, 13; 518.55, subdivision 4; 518.551, subdivisions 5, 5b;
 10 518.62; 518.64, subdivision 2; proposing coding for new law in
 11 Minnesota Statutes, chapter 518; repealing Minnesota Statutes
 12 2004, sections 518.171; 518.54, subdivisions 2, 4, 4a; 518.551,
 13 subdivisions 5a, 5c, 5f."