

1.1 Senator ..... moves to amend S.F. No. 2759 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 **"ARTICLE 1**

1.4 **PARENTING TIME**

1.5 Section 1. Minnesota Statutes 2022, section 257.025, is amended to read:

1.6 **257.025 CUSTODY AND PARENTING TIME DISPUTES.**

1.7 (a) In any custody or parenting time proceeding involving unmarried parents, the court  
1.8 shall consider section 518.175 and evaluate all relevant factors in section 518.17, subdivision  
1.9 1, to determine the best interests of the child.

1.10 (b) The fact that the parents of the child are not or were never married to each other shall  
1.11 not be determinative of the custody and parenting time of the child.

1.12 (c) A person may seek custody of a child by filing a petition or motion pursuant to section  
1.13 518.156.

1.14 (d) Section 518.619 applies to this section.

1.15 **Sec. 2. [518.001] PUBLIC POLICY STATEMENT.**

1.16 The public policy of this state is to:

1.17 (1) ensure that each child has frequent and substantial contact with the child's parents,  
1.18 as long as the child's parents have shown the ability to act in the best interests of the child;

1.19 (2) ensure that parents and caregivers provide a safe and nurturing environment for each  
1.20 child; and

1.21 (3) encourage parents to share the rights and duties of raising their child.

1.22 Sec. 3. Minnesota Statutes 2022, section 518.131, subdivision 1, is amended to read:

1.23 Subdivision 1. **Permissible orders.** In a proceeding brought for custody, dissolution,  
1.24 or legal separation, or for disposition of property, maintenance, or child support following  
1.25 the dissolution of a marriage, either party may, by motion, request from the court and the  
1.26 court may grant a temporary order pending the final disposition of the proceeding to or for:

1.27 (a) Temporary custody and parenting time regarding the minor children of the parties.  
1.28 In addition to the requirements under section 518.17, subdivision 1, the court must consider  
1.29 the child's parenting time with each parent before the pending action commenced. If the

child's access to a parent was limited or restricted before the action commenced, the court must determine the child's custody and parenting time in a manner that supports the child's opportunity to develop a relationship with both parents in accordance with sections 518.17 and 518.175;

(b) Temporary maintenance of either spouse;

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

(d) Temporary costs and reasonable attorney fees;

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

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

(g) Restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(h) Restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(i) Exclude a party from the family home of the parties or from the home of the other party; and

(j) Require one or both of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Sec. 4. Minnesota Statutes 2022, section 518.131, subdivision 11, is amended to read:

Subd. 11. ~~Temporary support and maintenance.~~ Cases given priority for temporary relief. ~~Temporary support and maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.~~ (a) While the proceeding is pending, the court must give priority to scheduling and holding an expedited hearing for temporary relief when a party credibly alleges that:

(1) the party has been denied parenting time with a child for 14 consecutive days or more; or

(2) the party has been unreasonably denied access to necessary financial resources or support during a pending marital dissolution.

(b) A court must hold a priority hearing under this subdivision within 30 days of the party's request.

(c) A court must consider credible allegations of domestic abuse, substance abuse, maltreatment findings, or neglect as a reasonable basis for a party who has denied parenting time to the other party.

(d) If temporary parenting time is ordered, the court may also order temporary child support if requested by the other party.

Sec. 5. Minnesota Statutes 2022, section 518.14, is amended to read:

**518.14 COSTS AND DISBURSEMENTS; ATTORNEY FEES; COLLECTION COSTS.**

Subdivision 1. **General.** Except as provided in section 518A.735, in a proceeding under this chapter or chapter 518A, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:

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

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

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

Subd. 1a. **Other award.** Nothing in this section or section 518A.735 precludes The court from awarding may award, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding or whose unreasonable failure to comply with an order or decree causes the other party to seek enforcement or other relief, including the reimbursement of fees and costs incurred before filing a motion. In determining whether to award fees, the court must consider the circumstances and any other factors that contributed to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section and section 518A.735 may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518A.39. The court may adjudge costs and disbursements against either

party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided.

Sec. 6. Minnesota Statutes 2022, section 518.17, subdivision 1, is amended to read:

Subdivision 1. **Best interests of the child.** (a) In evaluating the best interests of the child for purposes of determining issues of custody and parenting time, the court must consider and evaluate all relevant factors, including:

(1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;

(2) any special medical, mental health, developmental disability, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;

(3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;

(4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;

(5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;

(6) the history and nature of each parent's participation in providing care for the child;

(7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;

(8) the effect on the child's well-being and development of changes to home, school, and community;

(9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;

(10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;

(11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and

(12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.

(b) Clauses (1) to (9) govern the application of the best interests of the child factors by the court:

(1) The court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time. The court may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated.

(2) The court shall consider that it is in the best interests of the child to promote the child's healthy growth and development through safe, stable, nurturing relationships between a child and both parents. In determining custody, the court must consider the best interests of the child and must not prefer one parent over the other solely on the basis of the gender of the parent.

(3) The court shall consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise. In assessing whether parents are capable of sustaining nurturing relationships with their children, the court shall recognize that there are many ways that parents can respond to a child's needs with sensitivity and provide the child love and guidance, and these may differ between parents and among cultures.

(4) The court shall not consider conduct of a party that does not affect the party's relationship with the child.

(5) Disability alone, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child.

(6) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(7) There is no presumption for or against joint physical custody, except as provided in clause (9).

(8) Joint physical custody does not require an absolutely equal division of time.

(9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).

(c) In a proceeding involving the custodial responsibility of a service member's child, a court may not consider only a parent's past deployment or possible future deployment in determining the best interests of the child. For purposes of this paragraph, "custodial responsibility" has the meaning given in section 518E.102, paragraph (f).

Sec. 7. Minnesota Statutes 2022, section 518.17, subdivision 3, is amended to read:

Subd. 3. **Custody order.** (a) Upon adjudging the nullity of a marriage, or in a dissolution or separation proceeding, or in a child custody proceeding, the court shall make such further order as it deems just and proper concerning:

(1) the legal custody of the minor children of the parties ~~which~~ that shall be sole or joint;

(2) their physical custody, parenting time, and residence; and

(3) their support. ~~In determining custody, the court shall consider the best interests of each child and shall not prefer one parent over the other solely on the basis of the sex of the parent.~~

(b) The court shall grant the rights listed in subdivision 3a to each of the parties, regardless of custodial designation, unless specific findings are made under section 518.68, subdivision 1. The court shall include in the custody order the notice under subdivision 3a.

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

(d) If a court order or law prohibits contact by a party, the notifications and information required to be sent under subdivision 3a, clauses (1), (2), (3), (5), and (6), shall not be made by direct communication of the parties. Third-party communication shall be limited to the specific purposes delineated in this subdivision or subdivision 3a. Nothing in this subdivision or subdivision 3a shall modify, suspend, revoke, or terminate a court order or law that prohibits contact by a party.

(e) If one of the parties is a program participant under chapter 5B, the other party shall send all information and notifications required under subdivision 3a, clauses (1), (2), (3), (5), and (6), to the participant's designated address. The program participant is exempted from the requirements of subdivision 3a.

(f) Failure to notify or inform a party of rights under subdivision 3a does not form a basis for modification under section 518.18, paragraph (d), clause (iv), unless other grounds are alleged which would support a modification.

Sec. 8. Minnesota Statutes 2022, section 518.175, subdivision 1, is amended to read:

**Subdivision 1. General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child. The court, when issuing a parenting time order, may reserve a determination as to the future establishment or expansion of a parent's parenting time. In that event, the best interest standard set forth in subdivision 5, paragraph (a), shall be applied to a subsequent motion to establish or expand parenting time.

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

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

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

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

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

(g) In the absence of other evidence, there is a rebuttable presumption that a ~~parent is entitled to~~ child must receive a minimum of at least 25 percent of the parenting time ~~for the child with each parent~~. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Sec. 9. Minnesota Statutes 2022, section 518.175, subdivision 6, is amended to read:

Subd. 6. **Remedies.** (a) Each party must follow a court's order for custody and parenting time unless the parties have made another agreement in writing as defined by section 645.44, subdivision 14.

(b) For the purposes of this subdivision, "court-ordered parenting time" means:

(1) parenting time that a court has ordered, regardless of whether the order is temporary or permanent and whether family court or juvenile court has issued the order;

(2) an order by a parenting time consultant, parenting coordinator, special master, or other court-appointed individual who is authorized to establish or modify parenting time;  
or

(3) a binding agreement or decision under section 518.1751, subdivision 3.

~~(a)~~ (c) The court ~~may provide~~ shall fully consider providing compensatory parenting time when a parent has intentionally made a substantial amount of court-ordered parenting time ~~has been made~~ unavailable to ~~one~~ the other parent unless providing the compensatory parenting time is not consistent with the child's best interests. The court must consider all



relevant evidence to determine whether a parent has made a substantial amount of court-ordered parenting time unavailable to the other parent.

~~(b) The court shall provide for one of the remedies as provided under this subdivision for (1) a repeated and intentional denial of or interference with court-ordered parenting time, or (2) a repeated and intentional failure to comply with a binding agreement or decision under section 518.1751.~~

~~(e)~~ (d) If the court finds that a person has been deprived of court-ordered parenting time under paragraph (b), the court shall order the parent who has interfered to allow compensatory parenting time to the other parent. When compensatory parenting time is awarded, additional parenting time must be:

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

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

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

~~(d)~~ (e) If the court finds that a party has repeatedly and intentionally denied or interfered with court-ordered parenting time ~~or failed to comply with a binding agreement or decision under section 518.1751~~, the court ~~may~~ must, in addition to awarding compensatory parenting time ~~under paragraph (e)~~, require the party to reimburse the other party for costs incurred as a result of the party's denial of or interference with court-ordered parenting time and award reasonable attorney fees to the other party, provided that the court finds that the party from whom fees, costs, and disbursements are sought has the means to pay them. The court may:

(1) impose a ~~civil penalty sanction~~ of up to \$500 ~~on~~ against the party who denied or interfered with parenting time that is payable to the other party;

(2) modify legal and physical custody of the child by awarding custody of the child to the party whose parenting time was denied or interfered with, in accordance with the procedures under section 518.18; or

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

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

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

~~(5)~~ (3) award any other remedy that the court finds to be in the best interests of the children involved.

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

~~(e)~~ (f) The court shall provide one or more of the remedies available in paragraph ~~(d)~~ (e), clauses (1) ~~to (5)~~ and (2), if one of the following occurs:

~~(1)~~ the court finds that a party has repeatedly and intentionally denied or interfered with court-ordered parenting time after a previous finding that the party repeatedly and intentionally denied or interfered with court-ordered parenting time; ~~or,~~

~~(2) the court finds that a party has failed to comply with a binding agreement or decision under section 518.1751 after a previous finding that the party failed to comply with a binding agreement or decision under section 518.1751.~~

~~(f)~~ (g) If the court makes written findings that any denial of or interference with court-ordered parenting time ~~or the failure to comply with a binding agreement or decision under section 518.1751~~ was necessary to protect a child's physical or emotional health, the court is not required to comply with paragraphs ~~(b) to (e)~~ (d) to (f).

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

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

~~(i)~~ (j) All parenting time orders must include notice of the provisions of this subdivision.

(k) The required notice under paragraph (j) must be substantially as follows:

"NOTICE REGARDING COMPLIANCE WITH PARENTING TIME ORDER:

The parties are expected to fully comply with the court's order unless the parties mutually agree otherwise in writing as defined by Minnesota Statutes, section 645.44, subdivision

14. Pursuant to Minnesota Statutes, section 518.175, subdivision 6, and Minnesota Statutes, section 518.131, subdivision 11, the parties are hereby notified that:

(1) The court shall award compensatory parenting time to a parent who has been prevented from exercising parenting time.

(2) Deprivation of parental rights is a FELONY crime pursuant to Minnesota Statutes, section 609.375.

(3) If the court finds that one parent has repeatedly and intentionally denied or interfered with another parent's parenting time, then the court shall award attorney fees to the parent who has been denied parenting time and require the parent who has been denying or interfering with parenting time to pay the other parent for costs incurred as a result of enforcing the decision.

(4) If the court finds that one parent has repeatedly and intentionally denied or interfered with parenting time, then the court may also:

(i) transfer custody of the child to the other parent;

(ii) impose a sanction of up to \$500 on the parent who repeatedly and intentionally denied or interfered with parenting time; or

(iii) award other relief as determined to be in the best interests of the children involved."

(l) An order issued under this section requiring reimbursement of costs or fees does not require a party to have direct contact with another party.

## ARTICLE 2

### ANTENUPITAL AND POSTNUPTIAL AGREEMENTS

Section 1. Minnesota Statutes 2022, section 519.11, is amended to read:

#### **519.11 ANTENUPITAL AND POSTNUPTIAL ~~CONTRACTS~~ AGREEMENTS.**

Subdivision 1. **Antenuptial ~~contract~~ agreement.** ~~A man and woman~~ (a) Two individuals of legal age may enter into an antenuptial ~~contract or settlement~~ agreement prior to the solemnization of marriage which shall be valid and enforceable if ~~(a) there is a full and fair disclosure of the earnings and property of each party, and (b) the parties have had an opportunity to consult with legal counsel of their own choice. An antenuptial contract or settlement~~ the agreement meets the procedural and substantive fairness requirements under subdivisions 1b and 1c.

(b) An antenuptial agreement made in conformity with this section may:

12.1 (1) determine what rights each party has in the marital and nonmarital property, as those  
12.2 terms are defined in section 518.003, subdivision 3b, upon a dissolution of marriage, or  
12.3 legal separation or after its termination by death and;

12.4 (2) provide for spousal maintenance, as defined in section 518.003, subdivision 3a;

12.5 (3) determine the rights that each party has in the estate of the other as otherwise conferred  
12.6 upon them by chapter 524; and

12.7 (4) may bar each other of all rights in the respective estates not so secured to them by  
12.8 their agreement. This section shall not be construed to make invalid or unenforceable any  
12.9 antenuptial agreement or settlement made and executed in conformity with this section  
12.10 because the agreement or settlement covers or includes marital property, if the agreement  
12.11 or settlement would be valid and enforceable without regard to this section.

12.12 (c) The marriage itself is adequate consideration for an agreement made in conformity  
12.13 with this section.

12.14 (d) An agreement duly acknowledged and attested is prima facie proof of the matters  
12.15 acknowledged in the agreement.

12.16 (e) If an antenuptial agreement unambiguously permits severability, the court may sever  
12.17 any unenforceable provision and enforce the remaining provisions of the agreement.

12.18 **Subd. 1a. Postnuptial contract.** ~~(a) Spouses who are legally married under the laws of~~  
12.19 ~~this state may enter into a postnuptial contract or settlement which is valid and enforceable~~  
12.20 ~~if it:~~

12.21 ~~(1) complies with the requirements for antenuptial contracts or settlements in this section~~  
12.22 ~~and in the law of this state, including, but not limited to, the requirement that it be~~  
12.23 ~~procedurally and substantively fair and equitable both at the time of its execution and at the~~  
12.24 ~~time of its enforcement; and~~

12.25 ~~(2) complies with the requirements for postnuptial contracts or settlements in this section.~~

12.26 ~~(b) A postnuptial contract or settlement that conforms with this section may determine~~  
12.27 ~~all matters that may be determined by an antenuptial contract or settlement under the law~~  
12.28 ~~of this state, except that a postnuptial contract or settlement may not determine the rights~~  
12.29 ~~of any child of the spouses to child support from either spouse or rights of child custody or~~  
12.30 ~~parenting time.~~

12.31 ~~(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its~~  
12.32 ~~execution each spouse is represented by separate legal counsel.~~

~~(d) A postnuptial contract or settlement is presumed to be unenforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution, unless the spouse seeking to enforce the postnuptial contract or settlement can establish that the postnuptial contract or settlement is fair and equitable.~~

~~(e) Nothing in this section shall impair the validity or enforceability of a contract, agreement, or waiver which is entered into after marriage and which is described in chapter 524, article 2, part 2, further, a conveyance permitted by section 500.19 is not a postnuptial contract or settlement under this section.~~

Subd. 1b. **Procedural fairness.** (a) For purposes of this subdivision, "full and fair disclosure" means that each party has provided a reasonably accurate description of all material facts of their income and good faith estimates of the value of their property and discloses the basis for these disclosures. A party must not waive the full and fair disclosure requirement under paragraph (b), clause (1).

(b) An antenuptial agreement is procedurally fair if:

(1) there is full and fair disclosure of the current income and property of each party;

(2) each party has had a meaningful opportunity to consult with independent legal counsel of the party's choosing;

(3) the agreement is in writing, executed in the presence of two witnesses, and acknowledged by the parties before a person authorized to administer an oath under the laws of this state;

(4) the agreement is entered into voluntarily and free of duress; and

(5) the agreement is entered into and executed no less than seven days before the marriage.

(c) An agreement entered into and executed at least seven days before the date of marriage is presumed enforceable and the burden of proof is on the party seeking to set aside the agreement. An agreement that is entered into and executed less than seven days before the marriage is not presumed enforceable, and the proponent of the agreement has the burden of proof.

(d) A power of attorney does not satisfy the requirements of paragraph (b), clause (3).

Subd. 1c. **Substantive fairness.** (a) In determining if an agreement under this section is substantively fair, the court shall consider whether all or part of the agreement is substantively unfair as to be unconscionable to a party either by the agreement's terms or as the result of drastically changed circumstances originally not foreseen when the agreement

14.1 was created, such that enforcement would no longer comport with the reasonable expectations  
14.2 of the parties at the time that the parties executed the agreement.

14.3 (b) The agreement need not approximate a division of marital or nonmarital property,  
14.4 or award of spousal maintenance, consistent with statutory law regarding property division  
14.5 or spousal maintenance. A deviation from statutory standards does not in itself make an  
14.6 agreement unconscionable.

14.7 Subd. 1d. **Postnuptial agreement.** (a) Spouses who are legally married under the laws  
14.8 of this state may enter into a postnuptial agreement, which is valid and enforceable if the  
14.9 agreement:

14.10 (1) complies with the requirements for antenuptial agreements in this section and in the  
14.11 laws of this state, including but not limited to the requirement that the agreement be  
14.12 procedurally and substantively fair except that subdivision 1b, paragraph (b), clause (5),  
14.13 does not apply; and

14.14 (2) complies with the requirements for postnuptial agreements in this section.

14.15 (b) A postnuptial agreement that conforms with this section may determine all matters  
14.16 that may be determined by an antenuptial agreement under the law of this state.

14.17 (c) A postnuptial agreement is valid and enforceable only if at the time of its execution  
14.18 each spouse is represented by separate legal counsel.

14.19 (d) A postnuptial agreement is presumed to be unenforceable if either party commences  
14.20 an action for a legal separation or dissolution within two years of the date of the agreement's  
14.21 execution, unless the spouse seeking to enforce the postnuptial agreement can establish that  
14.22 the postnuptial agreement is fair and equitable.

14.23 (e) Nothing in this section impairs the validity or enforceability of a contract, agreement,  
14.24 or waiver that is entered into after marriage and that is described in sections 524.2-201 to  
14.25 524.2-215. Further, a conveyance permitted by section 500.19 is not a postnuptial agreement  
14.26 under this section.

14.27 ~~Subd. 2. **Writing; execution.** Antenuptial or postnuptial contracts or settlements shall~~  
14.28 ~~be in writing, executed in the presence of two witnesses and acknowledged by the parties,~~  
14.29 ~~executing the same before any officer or person authorized to administer an oath under the~~  
14.30 ~~laws of this state. An antenuptial contract must be entered into and executed prior to the~~  
14.31 ~~day of solemnization of marriage. A power of attorney may not be used to accomplish the~~  
14.32 ~~purposes of this section.~~

Subd. 2a. **Amendment or revocation.** An antenuptial ~~contract or settlement~~ agreement may be amended or revoked after the marriage of the parties only by a valid postnuptial ~~contract or settlement which~~ agreement that complies with this section and with the laws of this state. A postnuptial ~~contract or settlement~~ agreement may be amended or revoked only by a later, valid postnuptial ~~contract or settlement which~~ agreement that complies with this section and with the laws of this state.

~~Subd. 3. **Filing; recording.** An antenuptial or postnuptial contract or settlement which by its terms conveys or determines what rights each has in the other's real property and sets forth the legal description of the real estate granted or affected by the agreement may be filed or recorded in every county where any real estate so described is situated, in the office of the county recorder for the county or in any public office authorized to receive a deed, assignment or other instrument affecting the real estate, for filing or recording.~~

~~Subd. 4. **Effect of recording.** Any antenuptial or postnuptial contract or settlement not recorded in the office of the county recorder or other public office authorized to receive the document, where the real property is located, shall be void as against any subsequent purchaser in good faith and for a valuable consideration of the same real property, or any part thereof, whose conveyance is first duly recorded, and as against any attachment levied thereon or any judgment lawfully obtained at the suit of any party against the person in whose name the title to the property appears of record prior to recording of the conveyance.~~

~~Subd. 5. **Evidence; burden of proof.** An antenuptial or postnuptial contract or settlement duly acknowledged and attested shall be prima facie proof of the matters acknowledged therein and as to those matters, the burden of proof shall be and rest upon the person contesting the same.~~

Subd. 6. **Effective date Application.** This section ~~shall apply~~ applies to all antenuptial contracts and settlements executed on or after August 1, 1979, and shall apply to all postnuptial contracts and settlements executed on or after August 1, 1994 agreements executed on or after August 1, 2023.

Subd. 7. **Effect of sections 519.01 to 519.101.** Nothing in sections 519.01 to 519.101, shall be construed to affect antenuptial or postnuptial ~~contracts or settlements~~ agreements.

**EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to agreements executed on or after that date.

16.1 **ARTICLE 3**

16.2 **SPOUSAL MAINTENANCE**

16.3 Section 1. Minnesota Statutes 2022, section 518.552, subdivision 1, is amended to read:

16.4 Subdivision 1. **Grounds.** In a proceeding for dissolution of marriage or legal separation,  
16.5 or in a proceeding for maintenance following dissolution of the marriage by a court which  
16.6 lacked personal jurisdiction over the absent spouse and which has since acquired jurisdiction,  
16.7 the court may grant a maintenance order for either spouse if it finds that the spouse seeking  
16.8 maintenance:

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

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

16.15 (c) is the custodian of a child whose condition or circumstances make it appropriate that  
16.16 the custodian not be required to seek employment outside the home.

16.17 Sec. 2. Minnesota Statutes 2022, section 518.552, subdivision 2, is amended to read:

16.18 Subd. 2. **~~Amount; duration of maintenance.~~** The maintenance order shall be in amounts  
16.19 and for periods of time, either ~~temporary~~ transitional or ~~permanent~~ indefinite, as the court  
16.20 deems just, without regard to marital misconduct, and after considering all relevant factors  
16.21 including:

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

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

16.30 (c) the standard of living established during the marriage and the extent to which the  
16.31 standard of living was funded by debt;



(d) the duration of the marriage and, ~~in the case of a homemaker,~~ the earnings, seniority, benefits, and other employment opportunities forgone by the spouse seeking maintenance to support the other spouse or children and the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;

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

~~(f) (e) the age, and the physical and emotional condition,~~ mental, or chemical health of the spouse seeking maintenance both spouses;

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

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

(h) the need and ability of each spouse to prepare for retirement and the anticipated time of retirement.

Sec. 3. Minnesota Statutes 2022, section 518.552, subdivision 3, is amended to read:

Subd. 3. **Permanency of award Duration of maintenance.** ~~Nothing in this section shall be construed to favor a temporary award of maintenance over a permanent award, where the factors under subdivision 2 justify a permanent award.~~

~~Where there is some uncertainty as to the necessity of a permanent award, the court shall order a permanent award leaving its order open for later modification.~~ (a) A maintenance award may be transitional or indefinite. An award of temporary maintenance issued before August 1, 2024, is deemed transitional maintenance. An award of permanent maintenance issued before August 1, 2024, is deemed indefinite maintenance. Maintenance awarded during the pendency of an initial proceeding for dissolution or legal separation pursuant to section 518.131 is deemed temporary maintenance.

(b) For purposes of this subdivision, "length of the marriage" means the period from the date of the marriage until the date of the commencement of the action.

(c) The court must determine the duration of maintenance based on the length of the marriage as follows:

18.1 (1) when the length of the marriage is less than five years, it is rebuttably presumed that  
18.2 no maintenance should be awarded;

18.3 (2) when the length of the marriage is at least five years and less than 20 years, it is  
18.4 rebuttably presumed that transitional maintenance should be awarded with a duration of no  
18.5 longer than one-half the length of the marriage if the factors set forth in subdivision 1 support  
18.6 an award of maintenance; and

18.7 (3) when the length of the marriage is 20 years or more, it is rebuttably presumed that  
18.8 indefinite maintenance should be awarded if the factors set forth in subdivision 1 support  
18.9 an award of maintenance.

18.10 Sec. 4. Minnesota Statutes 2022, section 518.552, is amended by adding a subdivision to  
18.11 read:

18.12 Subd. 5a. **Maintenance on death or remarriage.** Unless otherwise agreed in writing  
18.13 or expressly provided in the decree, the obligation to pay future maintenance is terminated  
18.14 upon the death of either party or the remarriage of the party receiving maintenance.

18.15 Sec. 5. Minnesota Statutes 2022, section 518.552, is amended by adding a subdivision to  
18.16 read:

18.17 Subd. 5b. **Modification.** (a) Upon the motion of either of the parties, the court may  
18.18 modify the amount and duration of maintenance and may issue an order that the court might  
18.19 have issued in the original proceeding, except as otherwise provided in this subdivision.

18.20 (b) The terms of a maintenance order may be modified upon a showing of one or more  
18.21 of the following circumstances that make the terms of the existing order unreasonable and  
18.22 unfair:

18.23 (1) substantially increased or decreased gross income of an obligor or obligee;

18.24 (2) substantially increased or decreased need of an obligor or obligee; or

18.25 (3) substantial changes in the federal or state tax laws that affect spousal maintenance.

18.26 (c) Upon a motion to modify maintenance, including a motion to extend the duration of  
18.27 a maintenance award, the court shall apply, in addition to all other relevant factors, the  
18.28 factors for an award of maintenance under subdivisions 1 to 3 that exist at the time of the  
18.29 motion.

(d) Unless the court adopts an alternative effective date under paragraph (f), a modification of maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive:

(1) for any period during which the petitioning party has a motion for modification that is pending;

(2) from the date that the notice of the motion to modify was served on the responding party;

(3) from the date that the notice of the motion to modify was served on the public authority if public assistance is being received; or

(4) from the date that the notice of the motion to modify was served on the county attorney if the county attorney is the attorney of record.

(e) The court need not hold an evidentiary hearing on a motion to modify maintenance.

(f) The court may select an alternative effective date for a maintenance order if the parties enter into a binding agreement for an alternative effective date. The court's adoption of an alternative effective date under this paragraph must not be considered a retroactive modification of maintenance.

Sec. 6. Minnesota Statutes 2022, section 518.552, subdivision 6, is amended to read:

Subd. 6. **Cohabitation.** (a) Spousal maintenance may be modified pursuant to ~~section 518A.39, subdivision 2,~~ subdivision 5b based on the cohabitation by the maintenance obligee with another adult following dissolution of the marriage. The modification may consist of a reduction, suspension, reservation, or termination of maintenance. In determining if maintenance should be modified due to cohabitation, the court shall consider:

(1) whether the obligee would marry the cohabitant but for the maintenance award;

(2) the economic benefit the obligee derives from the cohabitation;

(3) the length of the cohabitation and the likely future duration of the cohabitation; and

(4) the economic impact on the obligee if maintenance is modified and the cohabitation ends.

(b) The court must not modify a maintenance award based solely on cohabitation if a marriage between the obligee and the cohabitant would be prohibited under section 517.03, subdivision 1, clause (2) or (3). A modification under this subdivision must be precluded

or limited to the extent the parties have entered into a private agreement under subdivision 5.

(c) A motion to modify a spousal maintenance award on the basis of cohabitation may not be brought within one year of the date of entry of the decree of dissolution or legal separation that orders spousal maintenance, unless the parties have agreed in writing that a motion may be brought or the court finds that failing to allow the motion to proceed would create an extreme hardship for one of the parties.

Sec. 7. Minnesota Statutes 2022, section 518.552, is amended by adding a subdivision to read:

Subd. 7. **Retirement.** (a) If a party retires, spousal maintenance may be modified. The modification of maintenance may consist of a reduction, suspension, reservation, or termination of maintenance.

(b) In determining if maintenance should be modified due to a party's retirement, the court shall consider:

(1) whether the retirement is in good faith or is an unjustifiable self-limitation of income;

(2) whether the party has attained the age to receive the party's full retirement benefits under section 216 of the Social Security Act, United States Code, title 42, section 416, or the customary age for retirement in the party's occupation;

(3) whether a party has reasonably and prudently managed the party's assets since the dissolution of the marriage; and

(4) the financial resources available to both parties.

(c) It is presumed that when a party has attained the age to receive the party's full retirement benefits under section 216 of the Social Security Act, United States Code, title 42, section 416, or the customary age for retirement in the party's occupation, the party will use both income and assets to meet the party's needs.

(d) A party must not be presumed to have retired in bad faith or to have unjustifiably self-limited the party's income in the event that the party's retirement is occurring on or after the party attains the age to receive full retirement benefits under section 216 of the Social Security Act, United States Code, title 42, section 416, or the customary age for retirement in the party's occupation.

(e) A motion to modify maintenance due to retirement may be brought before a party actually retires provided that the moving party specifies the date by which the party's

21.1 retirement will occur. The court may then make the modification effective as of the actual  
21.2 date of retirement.

21.3 Sec. 8. Minnesota Statutes 2022, section 518.552, is amended by adding a subdivision to  
21.4 read:

21.5 Subd. 8. **Form.** The state court administrator's office shall prepare and make available  
21.6 to court administrators, obligors, and persons to whom spousal maintenance is owed a form  
21.7 to be submitted in support of a motion for a modification of an order for maintenance or  
21.8 for contempt of court."

21.9 Amend the title accordingly