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# **MINNESOTA SUPREME COURT**

## **9<sup>th</sup> District Child Support Pilot Program**

### **EVALUATION REPORT**

**December 2002**

**Ninth Judicial District in conjunction with  
State Court Administrator's Office  
135 Minnesota Judicial Center  
St. Paul, MN 55155**

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# INTRODUCTION

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## Background

Minnesota Laws 2001, 1<sup>st</sup> Sp. S. Chapter 8, Articles 4 and 5 authorize the ninth judicial district to establish a pilot project to provide for automatic six-month review of child custody, parenting time, and support orders. The pilot project also provides a mechanism for child support obligors to request an accounting for child support. The purpose of the review hearing is to assess whether custodial and non-custodial parents are in compliance with the parenting time and child support provisions of the court order. The underlying premise of the pilot project is that if a review hearing can be held at an earlier stage in the process, high arrearages can be avoided and the importance of parenting time can be reinforced.

A separate provision of the pilot project legislation allows the obligor to bring a motion asking the court to order an obligee to account for the use or disposition of child support received. The motion must assert the specific allegations of abuse or misapplication of child support received and that a child's needs are not being met. If the court orders a hearing, the court may order an accounting only if the obligor establishes the specific allegations of abuse or misapplication of child support received and that the child's needs are not being met. Hearings are held before a District Court Judge.

The legislation requested the ninth judicial district and the state court administrator to evaluate the pilot project and submit a report to the chairs and ranking minority members of the house and senate committees having jurisdiction over child support and family law policy and funding by January 1, 2003.

This report is submitted in response to the request for an evaluation of the pilot project. The enabling legislation requested that the evaluation measure:

- a. the fiscal impact on the courts and local government; and
- b. increased child support collections and compliance with parenting time.

## Process

Under the pilot project, a decree of dissolution or legal separation or an order that establishes child custody, parenting time, or support rights and obligations of parents must contain a review date six months after its entry and an attached request for review hearing form. (See Appendix A) The six-month review hearing shall be held if any party submits a written request prior to 60 days before the review date. Review hearings are scheduled before a district court judge. If no party requests a hearing, the matter is stricken from the court calendar. Upon receipt of a completed request for hearing form, the court administrator provides notice of the hearing to all other parties and the public authority. At the six-month hearing, the court must review whether child support is current; and whether both parties are complying with the parenting time provisions of the order. The enabling legislation provides that contempt of court and all statutory remedies for child support and the court at these hearings may impose parenting time

enforcement. It should be noted however, that the remedy of contempt is to be available at the initial review hearing only if the statutory and court rule requirements on service and filing of certain documents were satisfied prior to the hearing. In practice this seldom occurs and in the pilot project led to the need to set an additional hearing to address the civil contempt issue.

The enabling legislation also provides, that upon the motion of an obligor, a court may order an obligee to account for the use or disposition of child support received. The motion must assert the specific allegations of abuse or misapplication of child support received and that a child's needs are not being met. (See Appendix B) If the court orders a hearing, the court may order an accounting only if the obligor establishes the specific allegations of abuse or misapplication of child support received and that the child's needs are not being met.

### **Pilot Project Implementation**

The Pilot Project began in the 17 counties of the ninth district on October 8, 2001. Court Administration staff, following the provisions of this legislation, send the parties a notice of the order filed, and a copy of the order with an addendum that sets the six-month review hearing date, defines the party(s) role in requesting that hearing and defines the purpose of the hearing. (See Appendix C) Court administration staff maintained a spreadsheet on this was recorded the applicable case numbers, type of case, when the six-month review hearing was set, what date the hearing was requested, and the hearing outcome. In addition, court administrators in all 17 counties maintained close contact with local social services agencies and county attorneys to ascertain the impact on those offices.

## **FINDINGS**

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A.1. As of November 15 2002, 1,242<sup>1</sup> cases were filed that fit the criteria of the project.

B.2. Of these 1,242 cases, 6 parties requested six-month review hearings. No requests for accounting reviews were received.

C.3. Three of the six review hearing requests were filed by social services in Cass County. Hearings were held in all three cases. A second hearing was scheduled in two of these cases to address the issue of contempt of court for failure to appear at the initial hearing. The other three review hearing requests were in Koochiching County. One request was withdrawn prior to the hearing. Another request was filed by social services in Koochiching County and an agreement was reached before the hearing date. The last request resulted in transferring the file to another county.

4. Court Administration staff spend approximately 10 minutes more per file, setting the court date of the review hearing, filling out and enclosing the paperwork with the other

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<sup>1</sup> Details on the cases filed by county and the hearing outcomes can be found in Appendix D.

court documents and then striking that court date from the calendar if no request for review is made.

## CONCLUSION

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### Fiscal Impact

The pilot project resulted in a diminimus increase in hearings. It has, however, increased the workload of the court administration staff in each county. The fiscal impact on the courts has been one of increased time court administration spends on these court files – approximately 10 minutes per file. This means the cases in the pilot project required over 200 additional hours of court administration time to set review hearing dates, attach notices and check back to see if the hearing should be stricken (as it was in 99.5% of the cases). In large, urban and suburban districts this would have a substantial impact on the workload of court administration offices as well as an impact on the judiciary's ability to effectively and efficiently manage calendars. It is not possible to measure the impact on other local government agencies, i.e., county attorney, social services, because so few cases were subjected to the review process.

### Increased Compliance Rates

The underlying premise of the pilot project is that if a review hearing can be held at an earlier stage in the process, high arrearages can be avoided and the importance of parenting time can be reinforced. Less than one half of one percent of the applicable cases filed in the Ninth Judicial District took advantage of the review hearing process. The issue of child support was addressed in these cases and at the writing of this report, one case resulted in the obligor being found in contempt for non compliance. A second contempt proceeding is pending.

### Recommendation

During this time of increased caseloads and diminishing resources for the judiciary, continuation of the project in the Ninth District or expansion of the project to other districts is not recommended at this time.

**APPENDIX A**

**State of Minnesota**

**District Court**

County \_\_\_\_\_

Judicial District: \_\_\_\_\_  
Court File Number: \_\_\_\_\_  
Case Type: \_\_\_\_\_

In Re the  Marriage of:  
 Support of:

\_\_\_\_\_

Plaintiff / Petitioner  
vs / and

**Request For Review Hearing**

**Defendant / Respondent**

Intervenor

**Plaintiff/Petitioner:**

**Defendant/Respondent:**

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City/State/Zip)

\_\_\_\_\_  
(City/State/Zip)

**County Child Support Agency:**

\_\_\_\_\_  
(County Attorney)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City/State/Zip)

I, \_\_\_\_\_, am exercising my right to a review hearing under Special Session Laws 2001, Chapter 8, Article 5, Section 19. The purpose of the review hearing is to show that the other party, namely \_\_\_\_\_ is not in compliance with the terms of the court order dated \_\_\_\_\_ regarding child support and/or parenting time.

**Non-compliance with child support**  
*(Check box if applies)*

In the court order dated \_\_\_\_\_, the party \_\_\_\_\_ was ordered to pay child support in the amount of \_\_\_\_\_ per month. As of \_\_\_\_\_

\_\_\_\_\_ (date) child support in the amount of \_\_\_\_\_ has not been paid. \_\_\_\_\_ is not in compliance with the child support order.  
(Name of party not in compliance)

Failure to pay court ordered child support may result in a contempt action being filed against the non-complying party.

*(Check box if applies)*

I request that the county child support agency provide to all parties and the court an informational statement detailing the monthly amount of child support, medical support, and child care as ordered by the court, including totals of any amounts not paid.

**Non-compliance with parenting time provisions**

*(Check box if applies)*

Pursuant to the court order dated \_\_\_\_\_, the other party, \_\_\_\_\_ has not complied with the parenting time provisions of the order. The following explains how the other party has not complied with the parenting time provisions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

Attorney for: \_\_\_\_\_

**A. IMPORTANT NOTICES TO THE PARTY REQUESTING THE REVIEW HEARING**

This form must be returned to the Court Administrator in the county where your court order is located. You must send a copy of this Request form to the other party and the county child support agency.

**Please Note:** If you checked the box requesting an Informational Sheet from the county child support agency, a copy of this request form must be received by the county child support agency at least 14 days before the hearing.



APPENDIX B

State of Minnesota

District Court

County

Judicial District:
Court File Number:
Case Type:

In Re the [ ] Marriage of:
[ ] Support of:

Plaintiff / Petitioner

vs / and

Defendant / Respondent

Intervenor

Motion To Request
Accounting of
Child Support Received

Other Party:

County Child Support Agency:

Name

Name of County Agency or County Attorney

Street Address

Street Address

City, State, Zip

City, State, Zip

Pursuant to Special Session Laws 2001, Chapter 8, Article 5, Section 19, Subdivision 3, the undersigned obligor asserts that the obligee, namely \_\_\_\_\_, has received child support from the undersigned obligor but has abused or misapplied the child support and thereby is not meeting the needs of the child(ren) in this action.

Motion

1. I request that the court order the obligee named above to account for all child support paid to the obligee for the time periods of \_\_\_\_\_ to \_\_\_\_\_

2. The specific accounts of abuse or misapplication of child support that I have paid to the obligee are set forth below: (such as lack of adequate housing, food, clothing, health care, child care, etc.)

Blank lines for detailed account of abuse or misapplication.

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**This motion is being brought for the sole purpose of requesting the obligee to produce an accounting of child support received and is not asking the court to address any other issues, such as modification of support, custody, or parenting time. Any other family law issue must be brought by separate motion.**

**Notice of Rights to Other Party**

- You have the right to object or respond to the motion.
- You have 14 days from the date this motion is personally served or mailed to you to serve upon all parties and file with the court a written response objecting to the relief requested.
- The court may, in its discretion, not consider any documents you file with the court if they are not filed on time.
- You have a right to legal representation.

**Acknowledgments by Party Making Motion:**

- a. I am not serving or filing this document for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- b. The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.
- c. The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.
- d. The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.
- e. The court may impose an appropriate sanction upon the attorneys, law firms, or parties that violate the above stated representations to the court, or are responsible for the violation.
- f. I understand that the existing order remains in full force and effect and I must continue to comply with that order until a new order is issued.

Dated: \_\_\_\_\_

Sworn / Affirmed before me this  
\_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_

Notary Public/Deputy Court Administrator

\_\_\_\_\_  
*Signature ( Sign only in presence of Notary or Court Deputy)*

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_

Attorney for: \_\_\_\_\_

State of Minnesota

County \_\_\_\_\_

District Court

Judicial District: \_\_\_\_\_  
Court File Number: \_\_\_\_\_  
Case Type: \_\_\_\_\_

In Re the  Marriage of:  
 Support of:

\_\_\_\_\_

Plaintiff / Petitioner

Affidavit of Personal Service

vs / and

Affidavit of Service By Mail

Defendant / Respondent

Intervenor

STATE OF MINNESOTA )  
COUNTY OF \_\_\_\_\_ ) SS  
(County where Affidavit Signed)

I, \_\_\_\_\_, being duly sworn, upon oath, state that on \_\_\_\_\_, I served the attached documents, namely \_\_\_\_\_ upon (check one):  
(Name of person who hand-delivered or mailed documents) (Date) (Title of Documents hand delivered or mailed)

- Plaintiff / Petitioner (Name) \_\_\_\_\_
- Defendant / Respondent (Name) \_\_\_\_\_
- County Office (Name) \_\_\_\_\_
- Other (Name) \_\_\_\_\_

by (check method of service used):

- Personally handing a true and correct copy of the document(s) to the person(s) named above at \_\_\_\_\_ o'clock \_\_\_\_\_ m. at \_\_\_\_\_  
(a.m. or p.m.) (Address where documents delivered)
- Mailing a true and correct copy of the document(s) to the person(s) named above by placing the document(s) in an envelope with sufficient postage in the United States mail at the Post Office located in the City of \_\_\_\_\_, State of \_\_\_\_\_, at the person's last known address of: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature ( Sign only in presence of Notary or Court Deputy)

Sworn / Affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_

Notary Public / Deputy Court Administrator

**APPENDIX C**

**ADDENDUM TO ORDER**

A six-month review hearing is being set on \_\_\_\_\_ . The purpose of this hearing is to review that all parties are complying with the language of the Order pertaining to custody of the child, parenting time and child support.

The six-month review hearing shall be held if any party submits a written request prior to 60 days before the review date. If no party requests a hearing, the matter shall be stricken.

This hearing is not for the purpose of amending, modifying or altering your child support obligations and/or visitation schedule. This must be done in separate proceedings.

**Appendix D**  
**9<sup>th</sup> District Counties Child Support Pilot**  
**Report Data by County**

County	Cases Filed	Six month hearings	Outcome	Accounting Review Hrg	Outcome
Aitkin	45	None		None	
Beltrami	178	None		None	
Cass	95	3	Case #1 – Hearing held. Court order issued requiring the defendant to keep county apprised of workers' comp claim. Case #2 – Hearing held. Defendant did not appear. Second hearing held and contempt order issued. Case #3 – Hearing held. Defendant did not appear. Second hearing scheduled to consider contempt request by state.	None	
Clearwater	16	None		None	
Crow Wing	210	None		None	
Hubbard	113	None		None	
Itasca	258	None		None	
Kittson	11	None		None	
Koochiching	18	3	Case #1 – Case transferred to Wright County Case #2 – Hearing request withdrawn Case #3 – Agreement reached prior to hearing date.	None	
Lake of the Woods	14	None		None	
Mahnomen	12	None		None	
Marshall	33	None		None	
Norman	10	None		None	
Pennington	39	None		None	
Polk	132	None		None	
Red Lake	12	None		None	
Roseau	46	None		None	
<b>Total</b>	<b>1242</b>	<b>6</b>		<b>0</b>	