

act shall continue in accordance with the terms of their original appointment. As the term of each member expires, the board of county commissioners shall by majority vote fill the vacancy for a term of four years.

(b) The expiration date of all expiring terms shall be January 2.

(c) Any vacancies shall be filled by majority vote of the county board for the unexpired term.

(d) Each member shall take an oath of office before assuming the duties of office.

(e) Each member shall hold office until a successor has been appointed and qualified.

(f) No person shall be appointed or be a member of the board while holding any public office or having filed as a candidate for any office or any public employment or position in a political party within one year immediately preceding such appointment.

(g) No person shall be appointed or be a member of the board while holding or within one year of holding employment with Hennepin county or a position in a political party, except as a political party delegate.

(h) Each member of the board shall be a resident of the county and in the event the member becomes a nonresident, the member thereby forfeits the office.

(h) (i) A board member may be removed from office by the county board for cause, after a copy of the charges has first been given to the member and opportunity of being publicly heard before the county board, upon not less than ten days written notice. A majority vote of the county board shall be required for removal.

#### Sec. 7. **EFFECTIVE DATE.**

Section 6 is effective the day after compliance by the Hennepin County Board of Commissioners with Minnesota Statutes, section 645.021, subdivision 3.

Approved June 9, 1983

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### CHAPTER 308 — S.F.No. 545

*An act relating to welfare; changing laws relating to child support enforcement; providing for determination of paternity; providing for determination and modification of child support; amending Minnesota Statutes 1982, sections 256.74, by adding a subdivision; 256.87, and by adding subdivisions; 257.55, subdivision 1; 257.58; 257.59, subdivision 1; 257.60; 257.62, subdivision 1, and by adding a subdivision; 257.64, subdivision 1; 257.66,*

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*subdivisions 3 and 4; 257.69, subdivision 2; 518.10; 518.17, by adding a subdivision; 518.551, subdivisions 1, 5, and 6, and by adding subdivisions; 518.611; 518.64, subdivisions 2 and 5; 518.645; 518B.01, subdivisions 2 and 6; 518C.17, subdivision 1; 518C.33, subdivision 1; and 548.09; proposing new law coded in Minnesota Statutes, chapters 257, 518, and 543; repealing Minnesota Statutes 1982, sections 256.87, subdivision 2; 256.872; 256.873; 256.876; and 518.551, subdivisions 2, 3, and 4.*

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

Section 1. Minnesota Statutes 1982, section 256.74, is amended by adding a subdivision to read:

Subd. 5. ASSIGNMENT OF SUPPORT AND MAINTENANCE RIGHTS. An applicant for assistance, or a recipient of assistance, under sections 256.72 to 256.87 is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in his own behalf or in the behalf of any other family member for whom application is made. The assignment:

(1) is effective as to both current and accrued child support and maintenance obligations;

(2) takes effect upon a determination that the applicant is eligible for assistance under sections 256.72 to 256.87;

(3) terminates when an applicant ceases to receive assistance under sections 256.72 to 256.87, except with respect to the amount of any unpaid support or maintenance obligation, or both, accrued under the assignment.

Sec. 2. Minnesota Statutes 1982, section 256.87, is amended to read:

**256.87 CONTRIBUTION BY PARENTS; AMENDMENTS; REPEALS.**

**Subdivision 1. ACTIONS AGAINST PARENTS FOR ASSISTANCE FURNISHED.** At any time during the continuance of assistance to a child granted under sections 256.72 to 256.87 except as set forth below, a parent of a child is liable for the amount of assistance furnished during the two years immediately preceding the commencement of the action which the parent is reasonably able to pay. Provided, however, that where child support has been previously ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the commencement of the action to collect. The action may be ordered by the state agency or county agency and shall be brought in the name of the county by the county attorney of the county in which the assistance was granted, or by the state agency against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 1a. **CONTINUING SUPPORT CONTRIBUTIONS.** In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. Except as provided in subdivision 4, the order shall be effective only for the period of time during which the recipient receives public assistance from the any county or state agency and for 90 days thereafter the order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by the any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance, ~~the amount required to be paid, and the conditions under which income withholding can occur.~~ In any order modifying the amount of support or maintenance, the court may, if appropriate, make the modification retroactive to the date of automatic reinstatement.

Subd. 2. **NOT TO BE VESTED RIGHT.** All assistance granted under those sections shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be passed. No recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by any amending or repealing act.

Subd. 3. **CONTINUING CONTRIBUTIONS TO FORMER RECIPIENT.** The order for continuing support contributions shall remain in effect following the 90 day period after public assistance granted under sections 256.72 to 256.87 is terminated if:

(a) the former recipient files an affidavit with the court within 90 days of the termination of assistance requesting that the support order remain in effect;

(b) the public authority serves written notice of the filing by mail on the parent responsible for making the support payments at that parent's last known address and notice that the parent may move the court under section 518.64 to modify the order respecting the amount of support or maintenance; and

(c) the former recipient makes an application to use the public authority's collection services.

Subd. 4. **ORDER FOR MODIFICATION.** In any order modifying the amount of support or maintenance under this section, the court may make the modification retroactive to the date public assistance was terminated or reinstated.

Subd. 5. **CHILD NOT RECEIVING ASSISTANCE.** A parent having custody of a dependent child not receiving assistance under sections 256.72 to 256.87 has a cause of action for child support against the child's absent parent.

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Upon an order to show cause and a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518.

**Sec. 3. [257.541] CUSTODY AND VISITATION OF CHILDREN BORN OUTSIDE OF MARRIAGE.**

Subdivision 1. MOTHER'S RIGHT TO CUSTODY. The natural mother of a child born to a mother who was not married to the child's father neither when the child was born nor when the child was conceived has sole custody of the child until paternity has been established.

Subd. 2. FATHER'S RIGHT TO VISITATION. (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the natural father may petition for rights of visitation or custody in a separate proceeding under section 518.156.

Sec. 4. Minnesota Statutes 1982, section 257.55, subdivision 1, is amended to read:

Subdivision 1. **PRESUMPTION.** A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

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(1) he has acknowledged his paternity of the child in writing filed with ~~the district court or~~ the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or

(e) He acknowledges and the child's natural mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with ~~the district court or~~ the state registrar of vital statistics, ~~which shall promptly inform the mother of the filing of the acknowledgment, and she does not within a reasonable time after being informed thereof dispute the acknowledgment in a writing filed with the district court or the state registrar of vital statistics.~~ If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

Sec. 5. Minnesota Statutes 1982, section 257.58, is amended to read:

**257.58 LIMITATION OF ACTIONS; EXCEPTIONS.**

Subdivision 1. ACTIONS FOR CHILDREN WITHOUT A PRESUMED FATHER. Except for (a) an action brought by or on behalf of a child whose paternity has not been determined, and (b) an action brought by the public authority responsible for child support enforcement, if a child is over three years old when he or she first receives public assistance in the state of Minnesota, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 257.55 may not be brought later than three years after the birth of the child, or later than three years after August 1, 1980, whichever is later. An action brought by or on behalf of a child whose paternity has not been determined is not barred until one year after the child reaches the age of majority. If a child is over three years old when he or she first receives public assistance in the state of Minnesota, an action brought by the public authority responsible for child support enforcement is not barred until three years after the public assistance is first provided in this state.

Subd. 2. HEIRSHIP. Section 257.57 and this section do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

Sec. 6. Minnesota Statutes 1982, section 257.59, subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **COURT JURISDICTION.** Except in Hennepin and Ramsey counties, the county court has jurisdiction of an action brought under sections 257.51 to 257.74. In Hennepin and Ramsey counties, the district court has jurisdiction of an action brought under sections 257.51 to 257.74. The action may be joined with an action for dissolution, annulment, legal separation, custody under chapter 518, or reciprocal enforcement of support.

Sec. 7. Minnesota Statutes 1982, section 257.60, is amended to read:

**257.60 PARTIES.**

The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. ~~The court may appoint the commissioner of public welfare as guardian ad litem for the child.~~ If the child is a minor and the case involves a compromise under section 257.64, subdivision 1 or a lump sum payment under section 257.66, subdivision 4, the child and the commissioner of public welfare shall each be made a party and the commissioner of public welfare shall be appointed as guardian ad litem before the court approves a compromise or orders a lump sum payment. The natural mother, each man presumed to be the father under section 257.55, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. A person who may bring an action under section 257.57 may be made a party to the action. The court may align the parties.

Sec. 8. Minnesota Statutes 1982, section 257.62, subdivision 1, is amended to read:

Subdivision 1. **BLOOD TESTS REQUIRED.** The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests ~~or genetic tests, or both.~~ If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood tests of the decedent's parents, brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

Sec. 9. Minnesota Statutes 1982, section 257.62, is amended by adding a subdivision to read:

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Subd. 5. POSITIVE TEST RESULTS. If the results of the blood tests indicate that the likelihood of the alleged father's paternity is more than 92 percent, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

Sec. 10. Minnesota Statutes 1982, section 257.64, subdivision 1, is amended to read:

**257.64 PRE-TRIAL ORDERS AND RECOMMENDATIONS.**

Subdivision 1. On the basis of the information produced at the pretrial hearing, including information as to the financial status of the parties, the court may, and if requested by a party, shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

- (a) ~~That the action be dismissed with or without prejudice;~~
- (b) recommend that the alleged father voluntarily acknowledge his paternity of the child if the parties have agreed on a financial settlement; or
- (c) (b) recommend that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the court. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the court shall consider the best interest of the child, in the light of the applicable factors enumerated in section 518.17, subdivision 3, discounted by the improbability, as it appears to the court, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him. When the child reaches 21 years of age or older he may petition the court to disclose the alleged father's identity. The court shall grant the petition if after considering the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.

Sec. 11. Minnesota Statutes 1982, section 257.66, subdivision 3, is amended to read:

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Subd. 3. **JUDGMENT; ORDER.** The judgment or order shall contain provisions concerning the duty of support, the custody and guardianship of the child, the name of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 3. ~~These~~ The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement.

Sec. 12. Minnesota Statutes 1982, section 257.66, subdivision 4, is amended to read:

Subd. 4. **STATUTE OF LIMITATIONS.** Support judgments or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment may be ordered in lieu of periodic payments of support. The court shall limit the parent's liability for past support of the child to the proportion of the expenses that the court deems just, which were incurred in the ~~immediate preceding~~ two years immediately preceding the commencement of the action.

Sec. 13. Minnesota Statutes 1982, section 257.69, subdivision 2, is amended to read:

Subd. 2. **GUARDIAN; LEGAL FEES.** The court may order ~~reasonable counsel, expert witnesses, witness~~ and guardian ad litem fees, and other costs of the trial and pre-trial proceedings, including appropriate tests, to be paid by the parties in proportions and at times determined by the court. The court shall require a party to pay part of the fees of court-appointed counsel according to the party's ability to pay, but if counsel has been appointed the appropriate agency shall pay the party's proportion of all other fees and costs. The agency responsible for child support enforcement shall pay the fees and costs for blood tests in a proceeding in which it is a party, is the real party in interest, or is acting on behalf of the child. However, at the close of a proceeding in which paternity has been established under sections 257.51 to 257.74, the court shall order the adjudicated father to reimburse the public agency, if the court finds he has sufficient resources to pay the costs of the blood tests. When a party bringing an action is represented by the county attorney, no filing fee shall be paid to the clerk of court.

Sec. 14. Minnesota Statutes 1982, section 518.10, is amended to read:

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### 518.10 REQUISITES OF PETITION.

The petition for dissolution of marriage or legal separation shall state and allege:

- (a) The name and address of the petitioner;
- (b) The name and, if known, the address of the respondent;
- (c) The place and date of the marriage of the parties;
- (d) In the case of a petition for dissolution, that either the petitioner or the respondent or both:
  - (1) Has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or
  - (2) Has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or
  - (3) Has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;
- (e) The name, age and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;
- (f) Whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;
- (g) In the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;
- (h) In the case of a petition for legal separation, that there is a need for a decree of legal separation; and
- (i) Any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 15. Minnesota Statutes 1982, section 518.17, is amended by adding a subdivision to read:

**Subd. 5. DEVIATION FROM GUIDELINES.** The court shall not order the noncustodial parent to pay support in an amount below the appropriate amount determined from the guidelines in section 17 for use in public assistance

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cases unless the court makes express findings of fact as to the reason for the lower order.

Sec. 16. Minnesota Statutes 1982, section 518.551, subdivision 1, is amended to read:

Subdivision 1. **ORDER PAYMENT TO PUBLIC AGENCY.** Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, in a proceeding for dissolution or legal separation or determination of parentage, has been determined and ordered by a court of this state, that court shall order the withholding of the amount of child support or maintenance as determined by court order, from the income, regardless of source, of the person obligated to pay the support or maintenance. When an order for withholding has not previously been secured, the obligee may or the public agency responsible for child support enforcement shall move the court, and the court shall grant the order.

Each order shall provide that the obligor's employer, trustee, or other payor of funds shall withhold from the obligor's income, regardless of source, an amount equal to the court's order for support or maintenance.

The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance. Amounts received by the public agency responsible for child support enforcement greater than the amount granted to the obligee shall be remitted to the obligee.

Sec. 17. Minnesota Statutes 1982, section 518.551, subdivision 5, is amended to read:

Subd. 5. **NOTICE TO PUBLIC AUTHORITY; GUIDELINES.** The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families of with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the public authority shall recommend to the court the support that is proper and adequate for the care and support of the child or children before the issuance of the order for judgment and decree in the proceeding. shall set child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

<u>Net Income Per Month of Obligor</u>	<u>Number of Children</u>						
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7 or more</u>

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\$400 and Below

Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.

<u>\$401 - 500</u>	<u>14%</u>	<u>17%</u>	<u>20%</u>	<u>22%</u>	<u>24%</u>	<u>26%</u>	<u>28%</u>
<u>\$501 - 550</u>	<u>15%</u>	<u>18%</u>	<u>21%</u>	<u>24%</u>	<u>26%</u>	<u>28%</u>	<u>30%</u>
<u>\$551 - 600</u>	<u>16%</u>	<u>19%</u>	<u>22%</u>	<u>25%</u>	<u>28%</u>	<u>30%</u>	<u>32%</u>
<u>\$601 - 650</u>	<u>17%</u>	<u>21%</u>	<u>24%</u>	<u>27%</u>	<u>29%</u>	<u>32%</u>	<u>34%</u>
<u>\$651 - 700</u>	<u>18%</u>	<u>22%</u>	<u>25%</u>	<u>28%</u>	<u>31%</u>	<u>34%</u>	<u>36%</u>
<u>\$701 - 750</u>	<u>19%</u>	<u>23%</u>	<u>27%</u>	<u>30%</u>	<u>33%</u>	<u>36%</u>	<u>38%</u>
<u>\$751 - 800</u>	<u>20%</u>	<u>24%</u>	<u>28%</u>	<u>31%</u>	<u>35%</u>	<u>38%</u>	<u>40%</u>
<u>\$801 - 850</u>	<u>21%</u>	<u>25%</u>	<u>29%</u>	<u>33%</u>	<u>36%</u>	<u>40%</u>	<u>42%</u>
<u>\$851 - 900</u>	<u>22%</u>	<u>27%</u>	<u>31%</u>	<u>34%</u>	<u>38%</u>	<u>41%</u>	<u>44%</u>
<u>\$901 - 950</u>	<u>23%</u>	<u>28%</u>	<u>32%</u>	<u>36%</u>	<u>40%</u>	<u>43%</u>	<u>46%</u>
<u>\$951 - 1000</u>	<u>24%</u>	<u>29%</u>	<u>34%</u>	<u>38%</u>	<u>41%</u>	<u>45%</u>	<u>48%</u>
<u>\$1001 and over</u>	<u>25%</u>	<u>30%</u>	<u>35%</u>	<u>39%</u>	<u>43%</u>	<u>47%</u>	<u>50%</u>

Net Income defined as:

Total monthly income less

- \*(1) Federal Income Tax
- \*(2) State Income Tax
- (3) Social Security Deductions
- (4) Mandatory Pension Deductions
- (5) Union Dues
- (6) Dependent Health Insurance Coverage
- (7) Individual Health/Hospitalization Coverage or Medical Expense Deductions not to exceed \$25 a month.

\*Standard Deductions apply-use of tax tables recommended

(a) The child support payment guidelines take into consideration the following criteria:

- (1) all earnings, income, and resources of the obligor including real and personal property;
- (2) the basic living needs of the obligor;
- (3) the financial needs of the child or children to be supported; and
- (4) the amount of the aid to families with dependent children grant for the child or children.

(b) Debts owed to private creditors are not to be considered in establishing a support obligation.

(c) Previous support orders and maintenance orders may be considered if the obligor is paying them.

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(d) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below the guidelines in that case in which the court orders support that so deviates from the guidelines. It may also increase the amount of child support by more than the guidelines without making express findings by agreement of the parties or by making further findings.

Sec. 18. Minnesota Statutes 1982, section 518.551, subdivision 6, is amended to read:

Subd. 6. **FAILURE OF NOTICE.** If the court in a dissolution, legal separation or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court shall ~~order that notification be made and shall not issue its order for judgment and decree until the public authority has made its recommendations~~ set child support according to the guidelines in section 17. In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is ~~not proper and adequate for the care and support of the child or children~~ lower than the child support required by the guidelines in section 17, it ~~may~~ shall move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

Sec. 19. Minnesota Statutes 1982, section 518.551, is amended by adding a subdivision to read:

Subd. 8. **HEALTH INSURANCE OR PLAN.** The court shall also include in the requirements for each child support order a provision naming the child as a beneficiary on whatever medical, hospitalization or dental insurance or plan is available to the obligor on a group basis through his or her employer or union.

Sec. 20. Minnesota Statutes 1982, section 518.551, is amended by adding a subdivision to read:

Subd. 9. **ASSIGNMENT OF RIGHTS; JUDGMENT.** The public agency responsible for child support enforcement is joined as a party in each case in which rights are assigned under section 1. When arrearages are reduced to judgment, the court shall grant judgment in favor of, and in the name of, the public agency to the extent that the arrearages are assigned. The public agency may enforce a judgment entered before the assignment of rights as if the

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judgment were granted to it, and in its name, to the extent that the arrearages in that judgment are assigned.

Sec. 21. Minnesota Statutes 1982, section 518.611, is amended to read:  
518.611 **ASSIGNMENTS INCOME WITHHOLDING.**

Subdivision 1. **ORDER.** Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, in a ~~proceeding for dissolution or legal separation or determination of parentage,~~ has been is determined and ordered by a court of this state, that court shall order the withholding of the amount of child support or maintenance as determined by court order, from the income, regardless of source, of the person obligated to pay the support or maintenance. When an order for withholding has not previously been secured, the obligee may or the public agency responsible for child support enforcement shall move the court, and the court shall grant the order.

Subd. 2. **NOTICE TO OBLIGOR OF CONDITIONS.** Each order for withholding shall provide for a conspicuous notice to the obligor that withholding may result if the obligor fails to make the maintenance or support payments, and that no withholding shall be made until the following conditions are met:

(a) The obligee or the public authority determines that the obligor is at least 30 days in arrears;

(b) The obligee or the public authority serves written notice of its determination of arrearage on the obligor at least 15 days before service of the determination and a copy of the court's order for withholding on the payor of funds;

(c) Within the 15 day period, the obligor has either failed to pay all arrearages or to move the court, under section 518.64, to modify the order respecting the amount of maintenance or support and, ex parte, to stay service on the payor of funds until the motion to modify is heard; and

(d) The obligee or the public authority serves a copy of the determination of arrearage and a copy of the court's withholding order on the payor of funds.

(e) The obligee shall also serve on the public authority a copy of the determination of arrearage, a copy of the court's withholding order and an application to use the public authority's collection services.

Subd. 3. **MODIFICATION ORDERS.** An order modifying the amount of maintenance or support, issued after the hearing on the motion to modify, shall provide that payments be made outright by withholding. The provisions of subdivision 2 do not apply.

Subd. 4. **EFFECT OF ORDER.** Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds upon service upon him of notice that it has been made. The payor shall withhold from the income payable to the obligor the amount specified in the order and shall monthly or more frequently remit the amounts withheld to the public

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authority. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment withholding authorized by this section.

**Subd. 5. ARREARAGE ORDER.** Nothing in this section shall prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in child support or maintenance payments, the obligor's liability for pregnancy and confinement expenses and for blood test costs, and any service fees that may be imposed under section 518.551.

**Subd. 6. PRIORITY.** An order for withholding under this section or execution or garnishment upon a judgment for child support arrearages or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment unless otherwise ordered by the court and shall not be subject to the statutory limitations on amounts levied against the income of the obligor.

**Subd. 7. EMPLOYER EXPENSES.** An employer may deduct one dollar from the obligor-employee's remaining salary for each payment made pursuant to a withholding order under this section to cover the employer's expenses involved in the withholding.

**Subd. 8. EMPLOYER OR PAYOR NOTICE.** When a withholding order is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or the payor of funds shall notify the public agency responsible for child support enforcement of the termination within 30 days of the termination date. The notice shall include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known.

Sec. 22. Minnesota Statutes 1982, section 518.64, subdivision 2, is amended to read:

**Subd. 2. MODIFICATION.** The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party or; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost-of-living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of support, the court shall take into consideration the needs of the children and the financial circumstances of the custodial parent's spouse, if any. A modification which decreases support or maintenance may be made retroactive only upon a showing that any failure to pay in accord with the terms of the original order was not willful. A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section

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518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Sec. 23. Minnesota Statutes 1982, section 518.64, subdivision 5, is amended to read:

Subd. 5. **FORM.** The department of public welfare shall prepare and make available to courts ~~and~~ obligors ~~and~~ persons to whom child support is owed a form to be submitted by the obligor ~~or the person to whom child support is owed~~ in support of a motion for a modification of an order pursuant to this section or section 256.87. ~~The rule-making~~ rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Sec. 24. **[518.64] COST-OF-LIVING ADJUSTMENTS IN CHILD SUPPORT ORDER.**

Subdivision 1. **REQUIREMENT.** An order for child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost-of-living. The order shall specify the cost-of-living index to be applied. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. The court may specify that the housing component be excluded from the cost-of-living adjustment. Cost-of-living increases under this section shall be compounded. It may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings. The adjustment becomes effective on the first of May of the year in which it is made. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for child support has a provision such as a step increase that has the effect of a cost-of-living clause. The commissioner of public welfare may promulgate rules under this section in accordance with the rulemaking provisions of chapter 14.

Subd. 2. **CONDITIONS.** No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee or public authority serves notice of its application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

(b) the notice to the obligor shall inform the obligor that an adjustment in payments shall become effective on the first of May; and

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment

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should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing.

Subd. 3. RESULT OF HEARING. If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted child support obligation, the court may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

Subd. 4. FORM. The department of public welfare shall prepare and make available to the court and obligors a form to be submitted to the department by the obligor in support of a request for hearing under this section. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Subd. 5. REQUEST FOR COST-OF-LIVING CLAUSE. A motion for enforcement or modification of an existing child support order shall include a request for a cost-of-living clause. The court may deny the request only upon an express finding that the obligor's occupation, income, or both, does not provide for a cost-of-living adjustment or that the existing child support order either has a cost-of-living clause or sets forth a step increase which has the effect of a cost-of-living adjustment.

Sec. 25. Minnesota Statutes 1982, section 518.645, is amended to read:

**518.645 FORM OF ORDER.**

Unless otherwise ordered by the court, an order for withholding of support or maintenance payments issued pursuant to sections 256.872, subdivision 1, 518.551, subdivision 1, or 518.611, subdivision 1, under this chapter shall be substantially in the following form:

**IT IS ORDERED THAT:**

1. That The sum of ..... per ....., representing child support and/or spousal maintenance, ordered by the Court, shall be withheld from the (Husband/Wife Respondent/Petitioner)'s income on ..... by (his/her) present employer or other payor of funds, ....., and any future employer or other payor of funds, and shall be remitted at least monthly to: ....., monthly or more frequently, in accordance with the provisions of Minnesota Statutes, Chapter 518. The file number above and the employee's Obligor's name shall be included with each remittance.

2. That The parties are notified that CHILD SUPPORT AND/OR MAINTENANCE WILL BE WITHHELD FROM INCOME ONLY AFTER ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:

(a) ..... or the Obligee determines that the Obligor is at least thirty days in arrears in the payment of child support and/or spousal maintenance;

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(b) ..... or the Obligee serves written notice on the Obligor of its determination that child support and/or maintenance payments are thirty days in arrears;

(c) Within fifteen days after service of the notice, the Obligor either fails to pay all past due payments or to move the Court, Minnesota Statutes, Section 518.64, to modify the order respecting the amount of child support and/or spousal maintenance and, ex parte, to stay service of withholding on the employer or other payor of funds until the motion to modify is heard; and

(d) Not sooner than fifteen days after service of written notice in paragraph (b) on the Obligor, ..... or the Obligee serves a copy of its determination of a thirty-day delinquency and a copy of the Court's withholding order on the employer or other payor of funds, who will then be obligated to withhold payments from income and forward the amount withheld to .....

3. ~~That~~ The parties and the employer or other payor of funds are further notified that NO EMPLOYER MAY DISCHARGE, SUSPEND, OR OTHERWISE PENALIZE OR DISCIPLINE AN EMPLOYEE BECAUSE THE EMPLOYER MUST WITHHOLD SUPPORT OR MAINTENANCE MONEY. Minnesota Statutes, Sections 256.873 and 518.611, Subdivision 4. ~~A VIOLATION OF THIS PROVISION IS A MISDEMEANOR.~~ Minnesota Statutes, section 256.878 518.611.

4. ~~That, In the event~~ If the Obligee performs service ~~on~~ on serves the employer or other payor of funds under paragraph 2 (d), the Obligee shall also serve the determination and order ~~shall also be served on~~ ....., together with an application to use collection services.

5. ~~That~~ Service of this Order shall be.....

Sec. 26. Minnesota Statutes 1982, section 518B.01, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means: (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (ii) criminal sexual conduct, within the meaning of sections 609.342, 609.343, 609.344, or 609.345, committed against a minor family or household member by an adult family or household member;

(b) "Family or household members" means spouses, parents and children, persons related by consanguinity, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons jointly residing in the same dwelling unit.

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Sec. 27. Minnesota Statutes 1982, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **RELIEF BY THE COURT.** Upon notice and hearing, the court may provide relief as follows:

- (a) Restrain any party from committing acts of domestic abuse;
- (b) Exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (c) On the same basis as is provided in chapter 518, award temporary custody or establish temporary visitation with regard to minor children of the parties;
- (d) On the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;
- (e) Provide counseling or other social services for the parties, if married, or if there are minor children;
- (f) Order the abusing party to participate in treatment or counseling services;
- (g) Order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

Sec. 28. Minnesota Statutes 1982, section 518C.17, subdivision 1, is amended to read:

Subdivision 1. **ISSUANCE OF ORDER.** If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made under sections 518C.01 to 518C.36 shall require that payments be made as the responding court directs and the responding court shall order support payments under chapter 518. The court and the prosecuting attorney of a county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible, or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of a county in which it appears that the proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 29. Minnesota Statutes 1982, section 518C.33, subdivision 1, is amended to read:

Subdivision 1. **OBLIGEE AND OBLIGOR IN DIFFERENT COUNTIES BOTH IN THIS STATE.** Sections 518C.01 to 518C.36 apply if both the obligee and the obligor are in this state ~~but in different counties.~~

Sec. 30. Minnesota Statutes 1982, section 548.09, is amended to read:

**548.09 LIEN OF JUDGMENT.**

Subdivision 1. DOCKETING; SURVIVAL OF JUDGMENT. Every judgment requiring the payment of money, including a judgment or decree of dissolution or separate maintenance, a determination of parentage, an order under the reciprocal enforcement of support act, or an order under section 256.87, any of which provide for installment or periodic payments of child support, spousal maintenance, or both, shall be docketed by the clerk upon ~~the~~ its entry ~~thereof,~~ ~~and,~~ Upon a transcript of ~~such the~~ docket being filed with the clerk in any other county, ~~such the~~ clerk shall also docket ~~the same~~ it. From the time of ~~such~~ docketing the judgment ~~shall be~~ is a lien, ~~to~~ in the amount unpaid ~~thereon,~~ upon all real property in the county then or thereafter owned by the judgment debtor. ~~Such The~~ judgment ~~shall survive survives,~~ and the lien ~~thereof continue~~ continues, for the period of ten years ~~next~~ after its entry, ~~and no longer.~~

Subd. 2. **JUDGMENT CREDITOR'S AFFIDAVIT.** No judgment, except for taxes, shall be docketed until the judgment creditor, or his agent or attorney, ~~shall have~~ has filed with the clerk an affidavit, stating the full name, occupation, place of residence, and post office address of the judgment debtor, to the best of affiant's information and belief; ~~and,~~ If ~~such the~~ residence ~~be is~~ within an incorporated place having more than 5,000 inhabitants, the street number of both his place of residence and place of business, if he ~~have~~ has one, shall be stated.

Subd. 3. **VIOLATIONS BY CLERK.** If the clerk ~~shall violate~~ violates this provision, neither the judgment nor the docketing ~~thereof shall be~~ is invalid, ~~but he shall be liable to any person damaged thereby in the sum of \$5.~~

Sec. 31. [543.20] **PERSONAL JURISDICTION IN SUPPORT ENFORCEMENT CASES AND PATERNITY SUITS.**

Subdivision 1. SERVICE. In addition to the methods of service of process provided in the rules of civil procedure, service of a summons, an order to show cause, or an order or judgment within this state may also be made upon an individual by delivering a copy to him or her personally at his or her place of employment. The employer shall make the individual available for the purpose of delivering a copy. No employer shall deny a process server admittance to the employer's premises for the purpose of making service under this section.

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No service shall be allowed under this section unless such service is made personally on the individual.

**Subd. 2. APPLICABILITY.** Service at a place of employment applies only to: (a) summons in an action for dissolution, amendment, legal separation, or under the parentage act and under section 256.87; (b) orders to show cause under both section 256.87 and the revised uniform reciprocal enforcement of support act as well as for contempt of court for failure to pay child support; (c) petitions under the domestic abuse act; and (d) motions, orders and judgments for the payment of child support when the court orders personal service.

**Subd. 3. RETALIATION PROHIBITED.** An employer shall not discharge or otherwise discipline an employee as a result of service under this section.

**Sec. 32. REPEALER.**

Minnesota Statutes 1982, sections 256.87, subdivision 2; 256.872; 256.873; 256.876; and 518.551, subdivisions 2, 3, and 4 are repealed.

**Sec. 33. EFFECTIVE DATE.**

Sections 17, 18, and 24 are effective August 1, 1983. The rest of this act is effective the day following final enactment.

Approved June 9, 1983

**CHAPTER 309 — S.F.No. 554**

*An act relating to local government; providing for the appointment of commissioners of multi-county authorities; permitting all council members of the city of Marshall to serve on the housing and redevelopment authority; establishing a public housing commission for the city of Marshall; transferring functions from the housing and redevelopment authority; amending Minnesota Statutes 1982, section 462.428, subdivision 2.*

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

Section 1. Minnesota Statutes 1982, section 462.428, subdivision 2, is amended to read:

**Subd. 2. MULTI-COUNTY COMMISSIONERS.** The governing body in the case of a county, and the mayor with the approval of the governing body in the case of a municipality, of each political subdivision included in a multi-county authority shall appoint one person as a commissioner of ~~such~~ the authority. Each ~~such~~ commissioner to be first appointed may be appointed at or after the time of the adoption of the resolution declaring the need for ~~such~~ multi-county

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