

A bill for an act

relating to family law; making child support policy clarifications and improvements; amending Minnesota Statutes 2006, sections 518.68, subdivision 2; 518A.28; 518A.32, subdivisions 1, 3, 5, 6; 518A.39, subdivision 2; 518A.40, subdivisions 1, 4; 518A.41, subdivisions 1, 2, 3, 4, 5, 12, 15, 16; 518A.75, subdivision 3.

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

Section 1. Minnesota Statutes 2006, section 518.68, subdivision 2, is amended to read:

Subd. 2. **Contents.** The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS – A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or

felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(h) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

(i) The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of section 518A.40, subdivision 4, are met.

(j) The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.

(k) The public authority may suspend or resume interest charging on child support judgments if the conditions of section 548.091, subdivision 1a, are met.

5. MODIFYING CHILD SUPPORT

If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the

time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

6. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

7. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53 have been met. A copy of those sections is available from any district court clerk.

8. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address,

telephone number, driver's license number, Social Security number, and name,
address, and telephone number of the employer.

9. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

~~Child~~ Basic support and/or spousal maintenance may be adjusted every two years
based upon a change in the cost of living (using Department of Labor Consumer
Price Index, unless otherwise specified in this order) when the conditions
of Minnesota Statutes, section 518A.75, are met. Cost of living increases are
compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary
to request or contest a cost of living increase are available from any district court
clerk.

10. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a
judgment against the person responsible to make the payment by operation of law on
or after the date the payment is due, and the person entitled to receive the payment
or the public agency may obtain entry and docketing of the judgment WITHOUT
NOTICE to the person responsible to make the payment under Minnesota Statutes,
section 548.091. Interest begins to accrue on a payment or installment of child
support whenever the unpaid amount due is greater than the current support due,
according to Minnesota Statutes, section 548.091, subdivision 1a.

11. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of
Minnesota Statutes, section 548.091, are met. A copy of that section is available
from any district court clerk.

**12. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF
CHILD SUPPORT**

A judgment for attorney fees and other collection costs incurred in enforcing a child
support order will be entered against the person responsible to pay support when the
conditions of section 518A.735, are met. A copy of sections 518.14 and 518A.735
and forms necessary to request or contest these attorney fees and collection costs are
available from any district court clerk.

13. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting
time expeditor to resolve parenting time disputes under Minnesota Statutes, section
518.1751. A copy of that section and a description of the expeditor process is
available from any district court clerk.

14. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 2. Minnesota Statutes 2006, section 518A.28, is amended to read:

518A.28 PROVIDING INCOME INFORMATION.

(a) In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income for purposes of section 518A.29. The financial affidavit shall include relevant supporting documentation necessary to calculate the parental income for child support under section 518A.26, subdivision 15, including, but not limited to, pay stubs for the most recent three months, employer statements, or statements of receipts and expenses if self-employed. Documentation of earnings and income also include relevant copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit. The ~~commissioner of human services~~ state court administrator shall prepare a financial affidavit form that ~~must~~ may be used by the parties for disclosing information under this section. The parties may provide the information required under this section in a substantially similar affidavit form.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not serve and file the financial affidavit with the parent's initial pleading or motion documents, the court shall set income for that parent based on credible evidence before the court or in accordance with section 518A.32. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the

parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044. The court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.

(d) If the court determines that a party does not have access to documents that are required to be disclosed under this section, the court may consider the testimony of that party as credible evidence of that party's income.

Sec. 3. Minnesota Statutes 2006, section 518A.32, subdivision 1, is amended to read:

Subdivision 1. **General.** This section applies to child support orders, including orders for past support or reimbursement of public assistance, issued under this chapter, chapter 256, 257, 518B, or 518C. If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom, practice, or agreement, use a normal work week of more or less than 40 hours in a week.

Sec. 4. Minnesota Statutes 2006, section 518A.32, subdivision 3, is amended to read:

Subd. 3. **Parent not considered voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis.** A parent is not considered voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis upon a showing by the parent that:

(1) the unemployment ~~or~~, underemployment, or employment on a less than full-time basis is temporary and will ultimately lead to an increase in income; ~~or~~

(2) the unemployment ~~or~~, underemployment, or employment on a less than full-time basis represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child; or

(3) the unemployment, underemployment, or employment on a less than full-time basis is because a parent is physically or mentally incapacitated or due to incarceration, except where the reason for incarceration is the parent's nonpayment of support.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2007.

Sec. 5. Minnesota Statutes 2006, section 518A.32, subdivision 5, is amended to read:

Subd. 5. **Caretaker.** If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining

whether the parent is voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of child care providers.

This subdivision does not apply if the parent stays at home only to care for other nonjoint children.

Sec. 6. Minnesota Statutes 2006, section 518A.32, subdivision 6, is amended to read:

Subd. 6. **Economic conditions.** A self-employed parent is not considered to be voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.

Sec. 7. Minnesota Statutes 2006, section 518A.39, subdivision 2, is amended to read:

Subd. 2. **Modification.** (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following substantial changes of circumstances, any of which makes the terms unreasonable and unfair: (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics; (5) extraordinary medical expenses of the child not provided for under section 518A.41; (6) a change in the availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs; (7) the addition of work-related or education-related child care expenses of the obligee or a substantial

increase or decrease in existing work-related or education-related child care expenses; or ~~(7)~~ (8) upon the emancipation of the child, as provided in subdivision 5.

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

(1) the application of the child support guidelines in section 518A.35, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order or, if the current support order is less than \$75, it results in a calculated court order that is at least 20 percent per month higher or lower;

(2) the medical support provisions of the order established under section 518A.41 are not enforceable by the public authority or the obligee;

(3) health coverage ordered under section 518A.41 is not available to the child for whom the order is established by the parent ordered to provide;

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount; or

(5) the gross income of an obligor or obligee has decreased by at least 20 percent through no fault or choice of the party.

(c) A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order. Section 518A.33 shall be considered if other grounds are alleged which allow a modification of support.

(d) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518A.35, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

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

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(e) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record.

(f) 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 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, including motions under section 518.145, subdivision 2. 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 518A.71.

(g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(h) Sections 518.14 and 518A.735 shall govern the award of attorney fees for motions brought under this subdivision.

(i) Except as expressly provided, an enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

(j) There may be no modification of an existing child support order during the first year following January 1, 2007, except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and actually supporting;

(3) a parent or another caregiver of the child who is supported by the existing support order begins to receive public assistance, as defined in section 256.741;

(4) there are additional work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses;

(5) there is a change in the availability of health care coverage, as defined in section 518A.41, subdivision 1, paragraph (a), or a substantial increase or decrease in the cost of existing health care coverage;

(6) the child supported by the existing child support order becomes disabled; or

(7) both parents consent to modification of the existing order under section 518A.34.

A modification under clause (4) may be granted only with respect to child care support. A modification under clause (5) may be granted only with respect to medical support. This paragraph expires January 1, 2008.

(k) On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

Sec. 8. Minnesota Statutes 2006, section 518A.40, subdivision 1, is amended to read:

Subdivision 1. **Child care costs.** Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount of work-related or education-related child care costs required by this subdivision to be divided between the obligor and obligee is the total amount received by the child care provider from the obligee and any public agency for the joint child or children. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's PICS.

Sec. 9. Minnesota Statutes 2006, section 518A.40, subdivision 4, is amended to read:

Subd. 4. **Change in child care.** (a) When a court order provides for child care expenses, and child care support is not assigned under section 256.741, the public authority, if the public authority provides child support enforcement services, ~~the public authority~~ must suspend collecting the amount allocated for child care expenses when:

(1) either party informs the public authority that no child care costs are being incurred; and

(2) the public authority verifies the accuracy of the information with the ~~other party~~ obligee.

The suspension is effective as of the first day of the month following the date that the public authority received the verification. The public authority will resume collecting child care expenses when either party provides information that child care costs have

11.1 resumed, or when a child care support assignment takes effect under section 256.741,
11.2 subdivision 4. The resumption is effective as of the first day of the month after the date
11.3 that the public authority received the information.

11.4 (b) If the parties provide conflicting information to the public authority regarding
11.5 whether child care expenses are being incurred, or if the public authority is unable to
11.6 verify with the obligee that no child care costs are being incurred, the public authority will
11.7 continue or resume collecting child care expenses. Either party, by motion to the court,
11.8 may challenge the suspension, continuation, or resumption of the collection of child care
11.9 expenses under this subdivision. If the public authority suspends collection activities
11.10 for the amount allocated for child care expenses, all other provisions of the court order
11.11 remain in effect.

11.12 (c) In cases where there is a substantial increase or decrease in child care expenses,
11.13 the parties may modify the order under section 518A.39.

11.14 Sec. 10. Minnesota Statutes 2006, section 518A.41, subdivision 1, is amended to read:

11.15 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this chapter
11.16 and chapter 518.

11.17 (a) "Health care coverage" means medical, dental, or other health care benefits that
11.18 are provided by ~~a one or more health plan plans~~. Health care coverage does not include
11.19 any form of ~~medical assistance under chapter 256B or MinnesotaCare under chapter~~
11.20 ~~256L~~ public coverage.

11.21 (b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision
11.22 2, and 62L.02, subdivision 16.

11.23 (c) "Health plan" means a plan ~~meeting the definition under section 62A.011,~~
11.24 ~~subdivision 3, a group health plan governed under the federal Employee Retirement~~
11.25 ~~Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to~~
11.26 ~~43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated~~
11.27 ~~service network licensed under chapter 62N. Health plan includes plans, other than any~~
11.28 form of public coverage, that provides medical, dental, or other health care benefits and is:

11.29 (1) provided on an individual ~~and~~ or group basis;

11.30 (2) provided by an employer or union;

11.31 (3) purchased in the private market; ~~and~~ or

11.32 (4) available to a person eligible to carry insurance for the joint child, including a
11.33 party's spouse or parent.

11.34 Health plan includes, but is not limited to, a plan ~~providing for dependent-only dental~~
11.35 ~~or vision coverage and a plan provided through a party's spouse or parent~~ meeting the

12.1 definition under section 62A.011, subdivision 3, except that the exclusion of coverage
12.2 designed solely to provide dental or vision care under section 62A.011, subdivision 3,
12.3 clause (6), does not apply to the definition of health plan under this section; a group
12.4 health plan governed under the federal Employee Retirement Income Security Act of
12.5 1974 (ERISA); a self-insured plan under sections 43A.23 to 43A.317 and 471.617; and a
12.6 policy, contract, or certificate issued by a community-integrated service network licensed
12.7 under chapter 62N.

12.8 (d) "Medical support" means providing health care coverage for a joint child by
12.9 carrying health care coverage for the joint child or by contributing to the cost of health
12.10 care coverage, public coverage, unreimbursed medical expenses, and uninsured medical
12.11 expenses of the joint child.

12.12 (e) "National medical support notice" means an administrative notice issued by the
12.13 public authority to enforce health insurance provisions of a support order in accordance
12.14 with Code of Federal Regulations, title 45, section 303.32, in cases where the public
12.15 authority provides support enforcement services.

12.16 (f) "Public coverage" means health care benefits provided by any form of medical
12.17 assistance under chapter 256B or MinnesotaCare under chapter 256L.

12.18 (g) "Uninsured medical expenses" means a joint child's reasonable and necessary
12.19 health-related expenses if the joint child is not covered by a health plan or public coverage
12.20 when the expenses are incurred.

12.21 (h) "Unreimbursed medical expenses" means a joint child's reasonable and necessary
12.22 health-related expenses if a joint child is covered by a health plan or public coverage and
12.23 the plan or coverage does not pay for the total cost of the expenses when the expenses
12.24 are incurred. Unreimbursed medical expenses do not include the cost of premiums.
12.25 Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments,
12.26 and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not
12.27 over-the-counter medications if coverage is under a health plan.

12.28 Sec. 11. Minnesota Statutes 2006, section 518A.41, subdivision 2, is amended to read:

12.29 Subd. 2. **Order.** (a) A completed national medical support notice issued by the
12.30 public authority or a court order that complies with this section is a qualified medical
12.31 child support order under the federal Employee Retirement Income Security Act of 1974
12.32 (ERISA), United States Code, title 29, section 1169(a).

12.33 (b) Every order addressing child support must state:

12.34 (1) the names, last known addresses, and Social Security numbers of the parents and
12.35 the joint child that is a subject of the order unless the court prohibits the inclusion of an

13.1 address or Social Security number and orders the parents to provide the address and Social
13.2 Security number to the administrator of the health plan;

13.3 (2) if a joint child is not presently enrolled in health care coverage, whether
13.4 appropriate health care coverage for the joint child is available and, if so, state:

13.5 (i) ~~which parent must carry~~ the parents' responsibilities for carrying health care
13.6 coverage;

13.7 (ii) the cost of premiums and how the cost is allocated between the parents;

13.8 ~~(iii) how unreimbursed expenses will be allocated and collected by the parents; and~~

13.9 ~~(iv)~~ (iii) the circumstances, if any, under which ~~the~~ an obligation to provide health
13.10 care coverage for the joint child will shift from one parent to the other; ~~and~~

13.11 (3) if appropriate health care coverage is not available for the joint child, whether a
13.12 contribution for medical support is required; and

13.13 (4) how unreimbursed or uninsured medical expenses will be allocated between
13.14 the parents.

13.15 Sec. 12. Minnesota Statutes 2006, section 518A.41, subdivision 3, is amended to read:

13.16 Subd. 3. **Determining appropriate health care coverage.** ~~(a)~~ In determining
13.17 whether a parent has appropriate health care coverage for the joint child, the court must
13.18 ~~evaluate the health plan using~~ consider the following factors:

13.19 ~~(1) accessible coverage. Dependent health care coverage is accessible if the covered~~
13.20 ~~joint child can obtain services from a health plan provider with reasonable effort by the~~
13.21 ~~parent with whom the joint child resides. Health care coverage is presumed accessible if:~~

13.22 ~~(i) primary care coverage is available within 30 minutes or 30 miles of the joint~~
13.23 ~~child's residence and specialty care coverage is available within 60 minutes or 60 miles of~~
13.24 ~~the joint child's residence;~~

13.25 ~~(ii) the coverage is available through an employer and the employee can be expected~~
13.26 ~~to remain employed for a reasonable amount of time; and~~

13.27 ~~(iii) no preexisting conditions exist to delay coverage unduly;~~

13.28 ~~(2)~~ (1) comprehensive comprehensiveness of health care coverage providing
13.29 medical benefits. Dependent health care coverage providing medical benefits is presumed
13.30 comprehensive if it includes medical and hospital coverage and provides for preventive,
13.31 emergency, acute, and chronic care. If both parents have health care coverage providing
13.32 medical benefits that ~~meets the minimum requirements~~ is presumed comprehensive under
13.33 this paragraph, the court must determine which ~~health care parent's~~ parent's coverage is more
13.34 comprehensive by considering ~~whether~~ what other benefits are included in the coverage
13.35 ~~includes;~~

14.1 ~~(i) basic dental coverage;~~

14.2 ~~(ii) orthodontia;~~

14.3 ~~(iii) eyeglasses;~~

14.4 ~~(iv) contact lenses;~~

14.5 ~~(v) mental health services; or~~

14.6 ~~(vi) substance abuse treatment;~~

14.7 (2) accessibility. Dependent health care coverage is accessible if the covered joint
14.8 child can obtain services from a health plan provider with reasonable effort by the parent
14.9 with whom the joint child resides. Health care coverage is presumed accessible if:

14.10 (i) primary care is available within 30 minutes or 30 miles of the joint child's
14.11 residence and specialty care is available within 60 minutes or 60 miles of the joint child's
14.12 residence;

14.13 (ii) the health care coverage is available through an employer and the employee can
14.14 be expected to remain employed for a reasonable amount of time; and

14.15 (iii) no preexisting conditions exist to unduly delay enrollment in health care
14.16 coverage;

14.17 ~~(3) affordable coverage. Dependent health care coverage is affordable if it is~~
14.18 ~~reasonable in cost; and~~

14.19 ~~(4) (3) the joint child's special medical needs, if any; and~~

14.20 ~~(b) (4) affordability. Dependent health care coverage is affordable if it is reasonable~~
14.21 ~~in cost. If both parents have health care coverage available for a joint child, and the~~
14.22 ~~court determines under paragraph (a), clauses (1) and (2), that the available coverage~~
14.23 ~~is comparable with regard to accessibility and comprehensiveness of medical benefits,~~
14.24 ~~accessibility, and the joint child's special needs, the least costly health care coverage is the~~
14.25 ~~presumed to be the most appropriate health care coverage for the joint child.~~

14.26 Sec. 13. Minnesota Statutes 2006, section 518A.41, subdivision 4, is amended to read:

14.27 Subd. 4. **Ordering health care coverage.** (a) If a joint child is presently enrolled
14.28 in health care coverage, the court must order that the parent who currently has the joint
14.29 child enrolled continue that enrollment unless the ~~parents~~ parties agree otherwise or a
14.30 ~~parent~~ party requests a change in coverage and the court determines that other health
14.31 care coverage is more appropriate.

14.32 (b) If a joint child is not presently enrolled in health care coverage providing medical
14.33 benefits, upon motion of a parent or the public authority, the court must determine whether
14.34 one or both parents have appropriate health care coverage providing medical benefits for

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15.1 the joint child ~~and order the parent with appropriate health care coverage available to carry~~
15.2 ~~the coverage for the joint child.~~

15.3 (c) If only one parent has appropriate health care coverage providing medical
15.4 benefits available, the court must order that parent to carry the coverage for the joint child.

15.5 (d) If both parents have appropriate health care coverage providing medical benefits
15.6 available, the court must order the parent with whom the joint child resides to carry the
15.7 coverage for the joint child, unless:

15.8 (1) ~~either parent~~ a party expresses a preference for health care coverage providing
15.9 medical benefits available through the parent with whom the joint child does not reside;

15.10 (2) the parent with whom the joint child does not reside is already carrying
15.11 dependent health care coverage providing medical benefits for other children and the cost
15.12 of contributing to the premiums of the other parent's coverage would cause the parent with
15.13 whom the joint child does not reside extreme hardship; or

15.14 (3) the ~~parents~~ parties agree as to provide which parent will carry health care
15.15 coverage providing medical benefits and agree on the allocation of costs.

15.16 (e) If the exception in paragraph (d), clause (1) or (2), applies, the court must
15.17 determine which parent has the most appropriate coverage providing medical benefits
15.18 available and order that parent to carry coverage for the joint child. ~~If the court~~
15.19 ~~determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parents'~~
15.20 ~~health care coverage for the joint child is comparable with regard to accessibility and~~
15.21 ~~comprehensiveness, the court must presume that the parent with the least costly health~~
15.22 ~~care coverage to carry coverage for the joint child.~~

15.23 (f) If neither parent has appropriate health care coverage available, the court must
15.24 order the parents to:

15.25 (1) contribute toward the actual health care costs of the joint children based on
15.26 a pro rata share; or

15.27 (2) if the joint child is receiving any form of ~~medical assistance under chapter 256B~~
15.28 ~~or MinnesotaCare under chapter 256L~~ public coverage, the parent with whom the joint
15.29 child does not reside shall contribute a monthly amount toward the actual cost of ~~medical~~
15.30 ~~assistance under chapter 256B or MinnesotaCare under chapter 256L~~ public coverage.

15.31 The amount of ~~contribution of the noncustodial parent~~ parent's contribution is ~~the amount~~
15.32 ~~the noncustodial parent would pay for the child's premiums if the noncustodial parent's~~
15.33 ~~PICS income meets the eligibility requirements for public coverage.~~ determined by
15.34 applying the noncustodial parent's PICS to the premium schedule for public coverage. If
15.35 the noncustodial parent's PICS meets the eligibility requirements for public coverage, the
15.36 contribution is the amount the noncustodial parent would pay for the child's premium. If

the noncustodial parent's PICS exceeds the eligibility requirements for public coverage, the contribution is the amount of the premium for the highest eligible income on the appropriate premium schedule for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. ~~If the noncustodial parent's PICS income exceeds the eligibility requirements for public coverage, the court must order the noncustodial parent's contribution toward the full premium cost of the child's or children's coverage.~~ The custodial parent's obligation is determined under the requirements for public coverage as set forth in chapter 256B or 256L. ~~The court may order the parent with whom the child resides to apply for public coverage for the child.~~

(g) If neither parent has appropriate health care coverage available, the court may order the parent with whom the child resides to apply for public coverage for the child.

(h) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

(i) If a joint child is not presently enrolled in health care coverage providing dental benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate dental health care coverage for the joint child, and the court may order a parent with appropriate dental health care coverage available to carry the coverage for the joint child.

(j) If a joint child is not presently enrolled in available health care coverage providing benefits other than medical benefits or dental benefits, upon motion of a parent or the public authority, the court may determine whether that other health care coverage for the joint child is appropriate, and the court may order a parent with that appropriate health care coverage available to carry the coverage for the joint child.

Sec. 14. Minnesota Statutes 2006, section 518A.41, subdivision 5, is amended to read:

Subd. 5. **Medical support costs; unreimbursed and uninsured medical expenses.**

(a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses under the health plan be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount allocated for medical support is considered child support but is not subject to a cost-of-living adjustment under section 518A.75.

(b) If a party owes a joint child support obligation for a child and is ordered to carry health care coverage for the joint child, and the other party is ordered to contribute to the

17.1 carrying party's cost for coverage, the carrying party's child support payment must be
17.2 reduced by the amount of the contributing party's contribution.

17.3 (c) If a party owes a joint child support obligation for a child and is ordered to
17.4 contribute to the other party's cost for carrying health care coverage for the joint child,
17.5 the contributing party's child support payment must be increased by the amount of the
17.6 contribution.

17.7 (d) If the party ordered to carry health care coverage for the joint child already
17.8 carries dependent health care coverage for other dependents and would incur no additional
17.9 premium costs to add the joint child to the existing coverage, the court must not order the
17.10 other party to contribute to the premium costs for coverage of the joint child.

17.11 (e) If a party ordered to carry health care coverage for the joint child does not already
17.12 carry dependent health care coverage but has other dependents who may be added to the
17.13 ordered coverage, the full premium costs of the dependent health care coverage must be
17.14 allocated between the parties in proportion to the party's share of the parties' combined
17.15 PICS, unless the parties agree otherwise.

17.16 (f) If a party ordered to carry health care coverage for the joint child is required to
17.17 enroll in a health plan so that the joint child can be enrolled in dependent health care
17.18 coverage under the plan, the court must allocate the costs of the dependent health care
17.19 coverage between the parties. The costs of the health care coverage for the party ordered
17.20 to carry the coverage for the joint child must not be allocated between the parties.

17.21 Sec. 15. Minnesota Statutes 2006, section 518A.41, subdivision 12, is amended to read:

17.22 Subd. 12. **Spousal or former spousal coverage.** The court must require the parent
17.23 with whom the joint child does not reside to provide dependent health care coverage for the
17.24 benefit of the parent with whom the joint child resides if the parent with whom the child
17.25 does not reside is ordered to provide dependent health care coverage for the parties' joint
17.26 child and adding the other parent to the coverage results in no additional premium cost.

17.27 Sec. 16. Minnesota Statutes 2006, section 518A.41, subdivision 15, is amended to read:

17.28 Subd. 15. **Enforcement.** (a) Remedies available for collecting and enforcing child
17.29 support apply to medical support.

17.30 (b) For the purpose of enforcement, the following are additional support:

17.31 (1) the costs of individual or group health or hospitalization coverage;

17.32 (2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including ~~health and dental insurance~~ health care coverage premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the joint child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 518A.39, subdivision 2.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Sec. 17. Minnesota Statutes 2006, section 518A.41, subdivision 16, is amended to read:

Subd. 16. **Offset.** (a) If a party is the parent with primary physical custody as defined in section 518A.26, subdivision 17, and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the other party's child support ~~obligation is~~ and spousal maintenance obligations are subject to an offset under subdivision 5.

(b) The public authority, if the public authority provides child support enforcement services, may remove the offset to a party's child support obligation when:

(1) the party's court-ordered health care coverage for the joint child terminates;

(2) the party does not enroll the joint child in other health care coverage; and

(3) a modification motion is not pending.

The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must remove the offset effective the first day of the month following termination of the joint child's health care coverage.

(c) The public authority, if the public authority provides child support enforcement services, may resume the offset when the party ordered to provide health care coverage for the joint child has resumed the court-ordered health care coverage or enrolled the joint child in other health care coverage. The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must resume the offset effective the first day of the month following certification that health care coverage is in place for the joint child.

19.1 ~~(e)~~ (d) A party may contest the public authority's action to remove or resume the
19.2 offset to the child support obligation if the party makes a written request for a hearing
19.3 within 30 days after receiving written notice. If a party makes a timely request for a
19.4 hearing, the public authority must schedule a hearing and send written notice of the
19.5 hearing to the parties by mail to the parties' last known addresses at least 14 days before
19.6 the hearing. The hearing must be conducted in district court or in the expedited child
19.7 support process if section 484.702 applies. The district court or child support magistrate
19.8 must determine whether removing or resuming the offset is appropriate and, if appropriate,
19.9 the effective date for the removal or resumption.

19.10 ~~(d) If the party does not request a hearing, the public authority will remove the~~
19.11 ~~offset effective the first day of the month following termination of the joint child's health~~
19.12 ~~care coverage.~~

19.13 Sec. 18. Minnesota Statutes 2006, section 518A.75, subdivision 3, is amended to read:

19.14 Subd. 3. **Result of hearing.** If, at a hearing pursuant to this section, the obligor
19.15 establishes an insufficient cost of living or other increase in income that prevents
19.16 fulfillment of the adjusted maintenance or ~~child~~ basic support obligation, the court or
19.17 child support magistrate may direct that all or part of the adjustment not take effect. If,
19.18 at the hearing, the obligor does not establish this insufficient increase in income, the
19.19 adjustment shall take effect as of the date it would have become effective had no hearing
19.20 been requested.