

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1191

(SENATE AUTHORS: NEWMAN)

DATE	D-PG	OFFICIAL STATUS
02/26/2015	445	Introduction and first reading Referred to Judiciary
03/11/2015	625a 670	Comm report: To pass as amended Second reading
04/30/2015	3187a 3208	Special Order: Amended Third reading Passed
05/11/2015	3453	Returned from House Presentment date 05/11/15
05/15/2015	3568 3568	Governor's action Approval 05/14/15 Secretary of State Chapter 30 05/14/15 Effective date 08/01/15

A bill for an act

1.1 relating to family law; making changes to provisions related to best interests
1.2 of the child standards, custody, parenting time, maintenance, child support,
1.3 judgments, and awards; providing the Uniform Deployed Parents Custody and
1.4 Visitation Act; making technical changes; amending Minnesota Statutes 2014,
1.5 sections 257.025; 518.167, subdivision 2; 518.17, subdivisions 1, 3, by adding
1.6 a subdivision; 518.175, subdivisions 1, 6; 518.552, subdivision 5; 518A.28;
1.7 518A.38, by adding a subdivision; 518A.39, subdivision 2; 549.09, subdivision
1.8 1; proposing coding for new law as Minnesota Statutes, chapter 518E; repealing
1.9 Minnesota Statutes 2014, section 518.17, subdivisions 1a, 2.
1.10

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

ARTICLE 1

1.12
1.13 **GENERAL PROVISIONS; CUSTODY AND PARENTING TIME**

1.14 Section 1. Minnesota Statutes 2014, section 257.025, is amended to read:

1.15 **257.025 CUSTODY DISPUTES.**

1.16 (a) In any custody or parenting time proceeding ~~where two or more parties seek~~
1.17 ~~custody of a child involving unmarried parents,~~ the court shall consider and evaluate all
1.18 relevant factors ~~in determining in section 518.17, subdivision 1, to determine~~ the best
1.19 interests of the child, ~~including the following factors:~~

1.20 (1) ~~the wishes of the party or parties as to custody;~~

1.21 (2) ~~the reasonable preference of the child, if the court deems the child to be of~~
1.22 ~~sufficient age to express preference;~~

1.23 (3) ~~the child's primary caretaker;~~

1.24 (4) ~~the intimacy of the relationship between each party and the child;~~

1.25 (5) ~~the interaction and interrelationship of the child with a party or parties, siblings,~~
1.26 ~~and any other person who may significantly affect the child's best interests;~~

- 2.1 ~~(6) the child's adjustment to home, school, and community;~~
2.2 ~~(7) the length of time the child has lived in a stable, satisfactory environment and~~
2.3 ~~the desirability of maintaining continuity;~~
2.4 ~~(8) the permanence, as a family unit, of the existing or proposed custodial home;~~
2.5 ~~(9) the mental and physical health of all individuals involved; except that a~~
2.6 ~~disability, as defined in section 363A.03, of a proposed custodian or the child shall not be~~
2.7 ~~determinative of the custody of the child, unless the proposed custodial arrangement is not~~
2.8 ~~in the best interest of the child;~~
2.9 ~~(10) the capacity and disposition of the parties to give the child love, affection, and~~
2.10 ~~guidance, and to continue educating and raising the child in the child's culture, religion, or~~
2.11 ~~creed, if any;~~
2.12 ~~(11) the child's cultural background; and~~
2.13 ~~(12) the effect on the child of the actions of an abuser, if related to domestic abuse as~~
2.14 ~~defined in section 518B.01, that has occurred between the parents or the parties.~~

2.15 ~~The court may not use one factor to the exclusion of all others. The court must make~~
2.16 ~~detailed findings on each of the factors and explain how the factors led to its conclusions~~
2.17 ~~and to the determination of the best interests of the child.~~

2.18 (b) The fact that the parents of the child are not or were never married to each other
2.19 shall not be determinative of the custody of the child.

2.20 (e) ~~The court shall not consider conduct of a proposed custodian that does not affect~~
2.21 ~~the custodian's relationship to the child.~~

2.22 (d) ~~The court shall consider evidence of a violation of section 609.507 in determining~~
2.23 ~~the best interests of the child.~~

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

2.26 ~~(f)~~ (d) Section 518.619 applies to this section.

2.27 Sec. 2. Minnesota Statutes 2014, section 518.167, subdivision 2, is amended to read:

2.28 Subd. 2. **Preparation.** (a) In preparing a report concerning a child, the investigator
2.29 may consult any person who may have information about the child and the potential
2.30 custodial arrangements except for persons involved in mediation efforts between the
2.31 parties. Mediation personnel may disclose to investigators and evaluators information
2.32 collected during mediation only if agreed to in writing by all parties. Upon order of the
2.33 court, the investigator may refer the child to professional personnel for diagnosis. The
2.34 investigator may consult with and obtain information from medical, psychiatric, school

3.1 personnel, or other expert persons who have served the child in the past after obtaining the
3.2 consent of the parents or the child's custodian or guardian.

3.3 (b) The report submitted by the investigator must:

3.4 (1) state the position of each party;

3.5 (2) consider and evaluate the factors in section 518.17, subdivision 1, and;

3.6 (3) include a detailed analysis of all information considered for each factor. If joint
3.7 eustody is contemplated or sought, the report must consider and evaluate the factors in
3.8 section 518.17, subdivision 2, state the position of each party and;

3.9 (4) state the investigator's recommendation and the reason for the recommendation;

3.10 and

3.11 (5) reference established means for dispute resolution between the parties.

3.12 Sec. 3. Minnesota Statutes 2014, section 518.17, subdivision 1, is amended to read:

3.13 Subdivision 1. **The best interests of the child.** ~~(a) "The best interests of the child"~~
3.14 ~~means all relevant factors to be considered and evaluated by the court including:~~

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

3.16 ~~(2) the reasonable preference of the child, if the court deems the child to be of~~
3.17 ~~sufficient age to express preference;~~

3.18 ~~(3) the child's primary caretaker;~~

3.19 ~~(4) the intimacy of the relationship between each parent and the child;~~

3.20 ~~(5) the interaction and interrelationship of the child with a parent or parents, siblings,~~
3.21 ~~and any other person who may significantly affect the child's best interests;~~

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

3.23 ~~(7) the length of time the child has lived in a stable, satisfactory environment and~~
3.24 ~~the desirability of maintaining continuity;~~

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

3.26 ~~(9) the mental and physical health of all individuals involved; except that a~~
3.27 ~~disability, as defined in section 363A.03, of a proposed custodian or the child shall not be~~
3.28 ~~determinative of the custody of the child, unless the proposed custodial arrangement is not~~
3.29 ~~in the best interest of the child;~~

3.30 ~~(10) the capacity and disposition of the parties to give the child love, affection,~~
3.31 ~~and guidance, and to continue educating and raising the child in the child's culture and~~
3.32 ~~religion or creed, if any;~~

3.33 ~~(11) the child's cultural background;~~

3.34 ~~(12) the effect on the child of the actions of an abuser, if related to domestic abuse,~~
3.35 ~~as defined in section 518B.01, that has occurred between the parents or between a parent~~

4.1 ~~and another individual, whether or not the individual alleged to have committed domestic~~
4.2 ~~abuse is or ever was a family or household member of the parent; and~~

4.3 ~~(13) except in cases in which a finding of domestic abuse as defined in section~~
4.4 ~~518B.01 has been made, the disposition of each parent to encourage and permit frequent~~
4.5 ~~and continuing contact by the other parent with the child.~~

4.6 ~~The court may not use one factor to the exclusion of all others. The primary~~
4.7 ~~caretaker factor may not be used as a presumption in determining the best interests of the~~
4.8 ~~child. The court must make detailed findings on each of the factors and explain how the~~
4.9 ~~factors led to its conclusions and to the determination of the best interests of the child.~~

4.10 ~~(b) The court shall not consider conduct of a proposed custodian that does not affect~~
4.11 ~~the custodian's relationship to the child.~~

4.12 (a) In evaluating the best interests of the child for purposes of determining issues
4.13 of custody and parenting time, the court must consider and evaluate all relevant factors,
4.14 including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.15 (2) The court shall consider that it is in the best interests of the child to promote the
5.16 child's healthy growth and development through safe, stable, nurturing relationships
5.17 between a child and both parents.

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

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

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

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

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

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

5.33 (9) The court shall use a rebuttable presumption that upon request of either or both
5.34 parties, joint legal custody is in the best interests of the child. However, the court shall use
5.35 a rebuttable presumption that joint legal custody or joint physical custody is not in the best
5.36 interests of the child if domestic abuse, as defined in section 518B.01, has occurred between

6.1 the parents. In determining whether the presumption is rebutted, the court shall consider
 6.2 the nature and context of the domestic abuse and the implications of the domestic abuse for
 6.3 parenting and for the child's safety, well-being, and developmental needs. Disagreement
 6.4 alone over whether to grant sole or joint custody does not constitute an inability of parents
 6.5 to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).

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

6.10 Sec. 4. Minnesota Statutes 2014, section 518.17, subdivision 3, is amended to read:

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

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

6.15 (2) their physical custody and residence; and

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

6.19 (b) The court shall grant the ~~following~~ rights listed in subdivision 3a to each of the
 6.20 parties, regardless of custodial designation, unless specific findings are made under section
 6.21 518.68, subdivision 1. ~~Each party has the following rights:~~ The court shall include in the
 6.22 custody order the notice under subdivision 3a.

6.23 ~~(1) right of access to, and to receive copies of, school, medical, dental, religious~~
 6.24 ~~training, police reports, and other important records and information about the minor~~
 6.25 ~~children;~~

6.26 ~~(2) right of access to information regarding health or dental insurance available to~~
 6.27 ~~the minor children;~~

6.28 ~~(3) right to be informed by the other party as to the name and address of the school~~
 6.29 ~~of attendance of the minor children;~~

6.30 ~~(4) right to be informed by school officials about the children's welfare, educational~~
 6.31 ~~progress and status, and to attend school and parent-teacher conferences. The school is~~
 6.32 ~~not required to hold a separate conference for each party;~~

6.33 ~~(5) right to be notified by the other party of an accident or serious illness of a minor~~
 6.34 ~~child, including the name of the health care provider and the place of treatment;~~

7.1 ~~(6) right to be notified by the other party if the minor child is the victim of an alleged~~
 7.2 ~~crime, including the name of the investigating law enforcement officer or agency. There is~~
 7.3 ~~no duty to notify if the party to be notified is the alleged perpetrator; and~~

7.4 ~~(7) right to reasonable access and telephone contact with the minor children.~~

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

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

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

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

7.20 Sec. 5. Minnesota Statutes 2014, section 518.17, is amended by adding a subdivision
 7.21 to read:

7.22 Subd. 3a. **Contents on notice.** The required notice under subdivision 3 must be
 7.23 substantially as follows:

7.24 "NOTICE

7.25 EACH PARTY IS GRANTED THE FOLLOWING RIGHTS:

7.26 (1) right of access to, and to receive copies of, school, medical, dental, religious
 7.27 training, police reports, and other important records and information about the minor
 7.28 children;

7.29 (2) right of access to information regarding health or dental insurance available to
 7.30 the minor children;

7.31 (3) right to be informed by the other party as to the name and address of the school
 7.32 of attendance of the minor children;

7.33 (4) right to be informed by school officials about the children's welfare, educational
 7.34 progress and status, and to attend school and parent-teacher conferences. The school is not
 7.35 required to hold a separate conference for each party, unless attending the same conference
 7.36 would result in violation of a court order prohibiting contact with a party;

- 8.1 (5) right to be notified by the other party of an accident or serious illness of a minor
8.2 child, including the name of the health care provider and the place of treatment;
8.3 (6) right to be notified by the other party if the minor child is the victim of an alleged
8.4 crime, including the name of the investigating law enforcement officer or agency. There is
8.5 no duty to notify if the party to be notified is the alleged perpetrator; and
8.6 (7) right to reasonable access and telephone or other electronic contact with the
8.7 minor children."

8.8 Sec. 6. Minnesota Statutes 2014, section 518.175, subdivision 1, is amended to read:

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

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

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

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

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

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

9.1 a request for a change of custody. The court shall provide instructions on serving and
9.2 filing the motion.

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

9.11 Sec. 7. Minnesota Statutes 2014, section 518.175, subdivision 6, is amended to read:

9.12 Subd. 6. **Remedies.** (a) The court may provide compensatory parenting time when
9.13 a substantial amount of court-ordered parenting time has been made unavailable to one
9.14 parent unless providing the compensatory parenting time is not consistent with the child's
9.15 best interests.

9.16 ~~(a) (b)~~ The court may shall provide for one or more of the following remedies as
9.17 provided under this subdivision for (1) a repeated and intentional denial of or interference
9.18 with court-ordered parenting time as provided under this subdivision. All parenting time
9.19 orders must include notice of the provisions of this subdivision, or (2) a repeated and
9.20 intentional failure to comply with a binding agreement or decision under section 518.1751.

9.21 ~~(b) (c)~~ If the court finds that a person has been deprived of court-ordered parenting
9.22 time under paragraph (b), the court shall order the parent who has interfered to allow
9.23 compensatory parenting time to the other parent or the court shall make specific findings
9.24 as to why a request for compensatory parenting time is denied. If When compensatory
9.25 parenting time is awarded, additional parenting time must be:

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

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

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

9.31 ~~(e) (d)~~ If the court finds that a party has ~~wrongfully failed to comply with a parenting~~
9.32 time order repeatedly and intentionally denied or interfered with court-ordered parenting
9.33 time or failed to comply with a binding agreement or decision under section 518.1751, the
9.34 court may in addition to awarding compensatory parenting time under paragraph (c):

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

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

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

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

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

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

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

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

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

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

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

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

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

10.33 Sec. 8. Minnesota Statutes 2014, section 518.552, subdivision 5, is amended to read:

10.34 Subd. 5. **Private agreements.** The parties may expressly preclude or limit
 10.35 modification of maintenance through a stipulation, if the court makes specific findings

11.1 that the stipulation is fair and equitable, is supported by consideration described in the
11.2 findings, and that full disclosure of each party's financial circumstances has occurred. The
11.3 stipulation must be made a part of the judgment and decree or a post-decree stipulated
11.4 order. The parties may restore the court's authority or jurisdiction to award or modify
11.5 maintenance through a binding stipulation.

11.6 Sec. 9. Minnesota Statutes 2014, section 518A.28, is amended to read:

11.7 **518A.28 PROVIDING INCOME INFORMATION.**

11.8 (a) In any case where the parties have joint children for which a child support
11.9 order must be determined, the parties shall serve and file with their initial pleadings
11.10 or motion documents, a financial affidavit, disclosing all sources of gross income for
11.11 purposes of section 518A.29. The financial affidavit shall include relevant supporting
11.12 documentation necessary to calculate the parental income for child support under section
11.13 518A.26, subdivision 15, including, but not limited to, pay stubs for the most recent three
11.14 months, employer statements, or statements of receipts and expenses if self-employed.
11.15 Documentation of earnings and income also include relevant copies of each parent's
11.16 most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit
11.17 statements, workers' compensation statements, and all other documents evidencing
11.18 earnings or income as received that provide verification for the financial affidavit. The
11.19 state court administrator shall prepare a financial affidavit form that may be used by
11.20 the parties for disclosing information under this section. The parties may provide the
11.21 information required under this section in a substantially similar affidavit form.

11.22 (b) In addition to the requirements of paragraph (a), at any time after an action
11.23 seeking child support has been commenced or when a child support order is in effect, a
11.24 party or the public authority may require the other party to give them a copy of:

11.25 (1) the party's ~~most recent~~ complete federal tax returns for the preceding year that
11.26 were filed with the Internal Revenue Service; or

11.27 (2) if the party's federal tax returns have not been filed for that year, one or more of
11.28 the following:

11.29 (i) the party's 1099 form;

11.30 (ii) the party's W-2 form; or

11.31 (iii) the party's K-1 form.

11.32 The party shall provide a copy of the tax returns or forms within 30 days of receipt of the
11.33 request unless the request is not made in good faith. A request under this paragraph may
11.34 not be made more than once every two years, in the absence of good cause.

12.1 (c) If a parent under the jurisdiction of the court does not serve and file the financial
12.2 affidavit with the parent's initial pleading or motion documents, the court shall set income
12.3 for that parent based on credible evidence before the court or in accordance with section
12.4 518A.32. Credible evidence may include documentation of current or recent income,
12.5 testimony of the other parent concerning recent earnings and income levels, and the
12.6 parent's wage reports filed with the Minnesota Department of Employment and Economic
12.7 Development under section 268.044. The court may consider credible evidence from one
12.8 party that the financial affidavit submitted by the other party is false or inaccurate.

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

12.12 (e) If the court finds that a party has violated a court order or statute requiring the
12.13 party to disclose income or employment information and any changes to that information,
12.14 the court may issue an order requiring compensation and cost and reasonable attorney
12.15 fees to the party who was wrongfully deprived of the information, but in no event later
12.16 than three years from the date the information should have been provided. A party who
12.17 brings a meritless motion for such relief may be ordered to pay costs and reasonable
12.18 attorney fees to the other party.

12.19 Sec. 10. Minnesota Statutes 2014, section 518A.38, is amended by adding a
12.20 subdivision to read:

12.21 Subd. 7. **Income tax dependency exemptions.** (a) The court may allocate income
12.22 tax dependency exemptions for a child and require a party who has the child in the
12.23 party's physical custody for more than one-half of the calendar year to provide a properly
12.24 executed declaration that releases the party's claim to the child as a dependent under
12.25 section 152(e) of the Internal Revenue Code of 1986, as amended, to the other parent.

12.26 (b) In determining the allocation under paragraph (a), the court shall consider the
12.27 following:

12.28 (1) the financial resources of each party;

12.29 (2) if not awarding the dependency exemption negatively impacts a parent's ability
12.30 to provide for the needs of the child;

12.31 (3) if only one party or both parties would receive a tax benefit from the dependency
12.32 exemption; and

12.33 (4) the impact of the dependent exemption on either party's ability to claim a
12.34 premium tax credit or a premium subsidy under the federal Patient Protection and
12.35 Affordable Care Act, Public Law 111-148, as amended, including the federal Health Care

13.1 and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to,
13.2 and any federal guidance or regulations issued under, these acts.

13.3 (c) The court may place reasonable conditions on a party's right to claim an
13.4 exemption, including a requirement that the party remains in compliance with a child
13.5 support obligation.

13.6 (d) A party with less than ten percent of court-ordered parenting time shall not be
13.7 entitled to receive a dependency exemption except by agreement of the parties.

13.8 (e) The court may issue an order to modify a prior allocation of an income tax
13.9 dependency exemption upon a showing of substantial change in the factors under
13.10 paragraph (b).

13.11 (f) If allocation of an exemption is contested, the court must make findings
13.12 supporting its decision on the allocation.

13.13 (g) When a party has claimed an income tax dependency exemption in violation of
13.14 a court order or applicable law, or has failed or refused to provide a properly executed
13.15 written declaration that releases the party's claim to a child as a dependent to the other
13.16 party as required by a court order, the court may issue an order requiring compensation in
13.17 the amount of the lost benefit and costs and reasonable attorney fees, to the party who
13.18 was wrongfully deprived of the income tax dependency exemption. A motion for such
13.19 relief must be brought within a reasonable time, but in no event later than three years from
13.20 the date of the filing of the return in which the exemption was claimed or could have
13.21 been claimed. A party who brings a meritless motion for such relief may be ordered to
13.22 pay costs and reasonable attorney fees to the other party.

13.23 Sec. 11. Minnesota Statutes 2014, section 518A.39, subdivision 2, is amended to read:

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

14.1 or education-related child care expenses; or (8) upon the emancipation of the child, as
14.2 provided in subdivision 5.

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

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

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

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

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

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

14.19 (6) a deviation was granted based on the factor in section 518A.43, subdivision 1,
14.20 clause (4), and the child no longer resides in a foreign country or the factor is otherwise no
14.21 longer applicable.

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

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

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

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

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

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

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

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

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

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

15.10 (e) A modification of support or maintenance, including interest that accrued
15.11 pursuant to section 548.091, may be made retroactive only with respect to any period
15.12 during which the petitioning party has pending a motion for modification but only from
15.13 the date of service of notice of the motion on the responding party and on the public
15.14 authority if public assistance is being furnished or the county attorney is the attorney of
15.15 record, unless the court adopts an alternative effective date under paragraph (l). The
15.16 court's adoption of an alternative effective date under paragraph (l) shall not be considered
15.17 a retroactive modification of maintenance or support.

15.18 (f) Except for an award of the right of occupancy of the homestead, provided in
15.19 section 518.63, all divisions of real and personal property provided by section 518.58
15.20 shall be final, and may be revoked or modified only where the court finds the existence
15.21 of conditions that justify reopening a judgment under the laws of this state, including
15.22 motions under section 518.145, subdivision 2. The court may impose a lien or charge on
15.23 the divided property at any time while the property, or subsequently acquired property, is
15.24 owned by the parties or either of them, for the payment of maintenance or support money,
15.25 or may sequester the property as is provided by section 518A.71.

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

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

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

15.33 (j) MS 2006 [Expired]

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

16.1 (l) The court may select an alternative effective date for a maintenance or support
16.2 order if the parties enter into a binding agreement for an alternative effective date.

16.3 Sec. 12. Minnesota Statutes 2014, section 549.09, subdivision 1, is amended to read:

16.4 Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery
16.5 of money, including a judgment for the recovery of taxes, interest from the time of the
16.6 verdict, award, or report until judgment is finally entered shall be computed by the court
16.7 administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.

16.8 (b) Except as otherwise provided by contract or allowed by law, preverdict,
16.9 preaward, or prereport interest on pecuniary damages shall be computed as provided
16.10 in paragraph (c) from the time of the commencement of the action or a demand for
16.11 arbitration, or the time of a written notice of claim, whichever occurs first, except as
16.12 provided herein. The action must be commenced within two years of a written notice of
16.13 claim for interest to begin to accrue from the time of the notice of claim. If either party
16.14 serves a written offer of settlement, the other party may serve a written acceptance or a
16.15 written counteroffer within 30 days. After that time, interest on the judgment or award
16.16 shall be calculated by the judge or arbitrator in the following manner. The prevailing
16.17 party shall receive interest on any judgment or award from the time of commencement
16.18 of the action or a demand for arbitration, or the time of a written notice of claim, or as
16.19 to special damages from the time when special damages were incurred, if later, until the
16.20 time of verdict, award, or report only if the amount of its offer is closer to the judgment or
16.21 award than the amount of the opposing party's offer. If the amount of the losing party's
16.22 offer was closer to the judgment or award than the prevailing party's offer, the prevailing
16.23 party shall receive interest only on the amount of the settlement offer or the judgment or
16.24 award, whichever is less, and only from the time of commencement of the action or a
16.25 demand for arbitration, or the time of a written notice of claim, or as to special damages
16.26 from when the special damages were incurred, if later, until the time the settlement offer
16.27 was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers
16.28 and counteroffers. For the purposes of clause (2), the amount of settlement offer must
16.29 be allocated between past and future damages in the same proportion as determined by
16.30 the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict,
16.31 preaward, or prereport interest shall not be awarded on the following:

16.32 (1) judgments, awards, or benefits in workers' compensation cases, but not including
16.33 third-party actions;

16.34 (2) judgments or awards for future damages;

16.35 (3) punitive damages, fines, or other damages that are noncompensatory in nature;

17.1 (4) judgments or awards not in excess of the amount specified in section 491A.01; and
17.2 (5) that portion of any verdict, award, or report which is founded upon interest, or
17.3 costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

17.4 (c)(1)(i) For a judgment or award of \$50,000 or less or a judgment or award for or
17.5 against the state or a political subdivision of the state, regardless of the amount, or a
17.6 judgment or award in a family court action, regardless of the amount, the interest shall
17.7 be computed as simple interest per annum. The rate of interest shall be based on the
17.8 secondary market yield of one year United States Treasury bills, calculated on a bank
17.9 discount basis as provided in this section.

17.10 On or before the 20th day of December of each year the state court administrator
17.11 shall determine the rate from the one-year constant maturity treasury yield for the most
17.12 recent calendar month, reported on a monthly basis in the latest statistical release of the
17.13 board of governors of the Federal Reserve System. This yield, rounded to the nearest one
17.14 percent, or four percent, whichever is greater, shall be the annual interest rate during the
17.15 succeeding calendar year. The state court administrator shall communicate the interest
17.16 rates to the court administrators and sheriffs for use in computing the interest on verdicts
17.17 and shall make the interest rates available to arbitrators.

17.18 This ~~clause~~ item applies to any section that references section 549.09 by citation
17.19 for the purposes of computing an interest rate on any amount owed to or by the state or a
17.20 political subdivision of the state, regardless of the amount.

17.21 (ii) The court, in a family court action, may order a lower interest rate or no interest
17.22 rate if the parties agree or if the court makes findings explaining why application of a
17.23 lower interest rate or no interest rate is necessary to avoid causing an unfair hardship to
17.24 the debtor. This item does not apply to child support or spousal maintenance judgments
17.25 subject to section 548.091.

17.26 (2) For a judgment or award over \$50,000, other than a judgment or award for or
17.27 against the state or a political subdivision of the state or a judgment or award in a family
17.28 court action, the interest rate shall be ten percent per year until paid.

17.29 (3) When a judgment creditor, or the judgment creditor's attorney or agent, has
17.30 received a payment after entry of judgment, whether the payment is made voluntarily by
17.31 or on behalf of the judgment debtor, or is collected by legal process other than execution
17.32 levy where a proper return has been filed with the court administrator, the judgment
17.33 creditor, or the judgment creditor's attorney, before applying to the court administrator
17.34 for an execution shall file with the court administrator an affidavit of partial satisfaction.
17.35 The affidavit must state the dates and amounts of payments made upon the judgment after
17.36 the most recent affidavit of partial satisfaction filed, if any; the part of each payment that

18.1 is applied to taxable disbursements and to accrued interest and to the unpaid principal
18.2 balance of the judgment; and the accrued, but the unpaid interest owing, if any, after
18.3 application of each payment.

18.4 (d) This section does not apply to arbitrations between employers and employees
18.5 under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from
18.6 awarding interest under chapter 179 or under section 179A.16 for essential employees.

18.7 (e) For purposes of this subdivision:

18.8 (1) "state" includes a department, board, agency, commission, court, or other entity
18.9 in the executive, legislative, or judicial branch of the state; and

18.10 (2) "political subdivision" includes a town, statutory or home rule charter city,
18.11 county, school district, or any other political subdivision of the state.

18.12 Sec. 13. **REPEALER.**

18.13 Minnesota Statutes 2014, section 518.17, subdivisions 1a and 2, are repealed.

18.14 **ARTICLE 2**

18.15 **UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT**

18.16 Section 1. **[518E.101] SHORT TITLE.**

18.17 This chapter may be cited as the Uniform Deployed Parents Custody and Visitation
18.18 Act.

18.19 Sec. 2. **[518E.102] DEFINITIONS.**

18.20 (a) The definitions in this section apply to this chapter.

18.21 (b) "Adult" means an individual who has attained 18 years of age or an emancipated
18.22 minor.

18.23 (c) "Caretaking authority" means the right to live with and care for a child on a
18.24 day-to-day basis. The term includes physical custody, parenting time, right to access,
18.25 and visitation.

18.26 (d) "Child" means:

18.27 (1) an unemancipated individual who has not attained 18 years of age; or

18.28 (2) an adult son or daughter by birth or adoption, or under law of this state other than
18.29 this chapter, who is the subject of a court order concerning custodial responsibility.

18.30 (e) "Court" means a tribunal, including an administrative agency, authorized under
18.31 law of this state other than this chapter to make, enforce, or modify a decision regarding
18.32 custodial responsibility.

19.1 (f) "Custodial responsibility" includes all powers and duties relating to caretaking
19.2 authority and decision-making authority for a child. The term includes physical custody,
19.3 legal custody, parenting time, right to access, visitation, and authority to grant limited
19.4 contact with a child.

19.5 (g) "Decision-making authority" means the power to make important decisions
19.6 regarding a child, including decisions regarding the child's education, religious training,
19.7 health care, extracurricular activities, and travel. The term does not include the power to
19.8 make decisions that necessarily accompany a grant of caretaking authority.

19.9 (h) "Deploying parent" means a service member, who is deployed or has been
19.10 notified of impending deployment and is:

19.11 (1) a parent of a child under law of this state other than this chapter; or

19.12 (2) an individual who has custodial responsibility for a child under law of this state
19.13 other than this chapter.

19.14 (i) "Deployment" means the movement or mobilization of a service member for
19.15 more than 90 days but less than 18 months pursuant to uniformed service orders that:

19.16 (1) are designated as unaccompanied;

19.17 (2) do not authorize dependent travel; or

19.18 (3) otherwise do not permit the movement of family members to the location to
19.19 which the service member is deployed.

19.20 (j) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent
19.21 of a child or an individual recognized to be in a familial relationship with a child under
19.22 law of this state other than this chapter.

19.23 (k) "Limited contact" means the authority of a nonparent to visit a child for a limited
19.24 time. The term includes authority to take the child to a place other than the residence of
19.25 the child.

19.26 (l) "Nonparent" means an individual other than a deploying parent or other parent.

19.27 (m) "Other parent" means an individual who, in common with a deploying parent, is:

19.28 (1) a parent of a child under law of this state other than this chapter; or

19.29 (2) an individual who has custodial responsibility for a child under law of this state
19.30 other than this chapter.

19.31 (n) "Record" means information that is inscribed on a tangible medium or that is
19.32 stored in an electronic or other medium and is retrievable in perceivable form.

19.33 (o) "Return from deployment" means the conclusion of service of the deploying
19.34 parent:

19.35 (1) as specified in the deploying parent's service orders;

19.36 (2) as specified in the deploying parent's command service orders; or

20.1 (3) as specified in a letter to the deploying parent from the deploying parent's
 20.2 command, on command letterhead, stating that the deploying parent has concluded service.

20.3 (p) "Service member" means a member of a uniformed service.

20.4 (q) "Sign" means, with present intent to authenticate or adopt a record:

20.5 (1) to execute or adopt a tangible symbol; or

20.6 (2) to attach to or logically associate with the record an electronic symbol, sound,
 20.7 or process.

20.8 (r) "State" means a state of the United States, the District of Columbia, Puerto
 20.9 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
 20.10 jurisdiction of the United States.

20.11 (s) "Uniformed service" means:

20.12 (1) active and reserve components of the Army, Navy, Air Force, Marine Corps, or
 20.13 Coast Guard of the United States;

20.14 (2) the United States Merchant Marine;

20.15 (3) the commissioned corps of the United States Public Health Service;

20.16 (4) the commissioned corps of the National Oceanic and Atmospheric Administration
 20.17 of the United States; or

20.18 (5) the National Guard of a state.

20.19 **Sec. 3. [518E.103] REMEDIES FOR NONCOMPLIANCE.**

20.20 In addition to other remedies under law of this state other than this chapter, if a court
 20.21 finds that a party to a proceeding under this chapter has acted in bad faith or intentionally
 20.22 failed to comply with this chapter or a court order issued under this chapter, the court may
 20.23 assess reasonable attorney fees and costs against the party and order other appropriate relief.

20.24 **Sec. 4. [518E.104] JURISDICTION.**

20.25 (a) A court may issue an order regarding custodial responsibility under this chapter
 20.26 only if the court has jurisdiction under chapter 518D.

20.27 (b) If a court has issued an order regarding custodial responsibility pursuant to
 20.28 sections 518E.301 to 518E.311, the residence of the deploying parent is not changed by
 20.29 reason of the deployment for the purposes of chapter 518D during the deployment.

20.30 (c) If a court has issued a permanent order regarding custodial responsibility before
 20.31 notice of deployment and the parents modify that order temporarily by agreement pursuant
 20.32 to sections 518E.201 to 518E.205, the residence of the deploying parent is not changed by
 20.33 reason of the deployment for the purposes of chapter 518D.

21.1 (d) If a court in another state has issued an order regarding custodial responsibility
 21.2 as a result of impending or current deployment, the residence of the deploying parent is
 21.3 not changed by reason of the deployment for the purposes of chapter 518D.

21.4 (e) This section does not prevent a court from exercising temporary emergency
 21.5 jurisdiction under chapter 518D.

21.6 **Sec. 5. [518E.105] NOTIFICATION REQUIRED OF DEPLOYING PARENT.**

21.7 (a) Except as otherwise provided in paragraph (d) and subject to paragraph (c), a
 21.8 deploying parent shall notify in a record the other parent of a pending deployment not
 21.9 later than seven days after receiving notice of deployment unless reasonably prevented
 21.10 from doing so by the circumstances of service. If the circumstances of service prevent
 21.11 giving notification within the seven days, the deploying parent shall give the notification
 21.12 as soon as reasonably possible.

21.13 (b) Except as otherwise provided in paragraph (d) and subject to paragraph (c), each
 21.14 parent shall provide in a record the other parent with a plan for fulfilling that parent's share
 21.15 of custodial responsibility during deployment. Each parent shall provide the plan as soon
 21.16 as reasonably possible after notification of deployment is given under paragraph (a).

21.17 (c) If a court order currently in effect prohibits disclosure of the address or contact
 21.18 information of the other parent, notification of deployment under paragraph (a), or
 21.19 notification of a plan for custodial responsibility during deployment under paragraph (b),
 21.20 may be made only to the issuing court. If the address of the other parent is available to the
 21.21 issuing court, the court shall forward the notification to the other parent. The court shall
 21.22 keep confidential the address or contact information of the other parent.

21.23 (d) Notification in a record under paragraph (a) or (b) is not required if the parents are
 21.24 living in the same residence and both parents have actual notice of the deployment or plan.

21.25 (e) In a proceeding regarding custodial responsibility, a court may consider the
 21.26 reasonableness of a parent's efforts to comply with this section.

21.27 **Sec. 6. [518E.106] DUTY TO NOTIFY OF CHANGE OF ADDRESS.**

21.28 (a) Except as otherwise provided in paragraph (b), an individual to whom custodial
 21.29 responsibility has been granted during deployment pursuant to sections 518E.201 to
 21.30 518E.205 or sections 518E.301 to 518E.311 shall notify the deploying parent and any
 21.31 other individual with custodial responsibility of a child of any change of the individual's
 21.32 mailing address or residence until the grant is terminated. The individual shall provide
 21.33 the notice to any court that has issued a custody or child support order concerning the
 21.34 child which is in effect.

22.1 (b) If a court order currently in effect prohibits disclosure of the address or contact
22.2 information of an individual to whom custodial responsibility has been granted, a
22.3 notification under paragraph (a) may be made only to the court that issued the order. The
22.4 court shall keep confidential the mailing address or residence of the individual to whom
22.5 custodial responsibility has been granted.

22.6 **ARTICLE 3**

22.7 **AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY** 22.8 **DURING DEPLOYMENT**

22.9 Section 1. **[518E.201] FORM OF AGREEMENT.**

22.10 (a) The parents of a child may enter into an agreement under sections 518E.201 to
22.11 518E.205 granting custodial responsibility during deployment.

22.12 (b) An agreement under paragraph (a) must be:

22.13 (1) in writing; and

22.14 (2) signed by both parents and any nonparent to whom custodial responsibility
22.15 is granted.

22.16 (c) Subject to paragraph (d), an agreement under paragraph (a), if feasible, must:

22.17 (1) identify the destination, duration, and conditions of the deployment that is the
22.18 basis for the agreement;

22.19 (2) specify the allocation of caretaking authority among the deploying parent, the
22.20 other parent, and any nonparent;

22.21 (3) specify any decision-making authority that accompanies a grant of caretaking
22.22 authority;

22.23 (4) specify any grant of limited contact to a nonparent;

22.24 (5) if under the agreement custodial responsibility is shared by the other parent and a
22.25 nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

22.26 (6) specify the frequency, duration, and means, including electronic means, by which
22.27 the deploying parent will have contact with the child, any role to be played by the other
22.28 parent in facilitating the contact, and the allocation of any costs of contact;

22.29 (7) specify the contact between the deploying parent and child during the time the
22.30 deploying parent is on leave or is otherwise available;

22.31 (8) acknowledge that any party's child support obligation cannot be modified by the
22.32 agreement, and that changing the terms of the obligation during deployment requires
22.33 modification in the appropriate court;

22.34 (9) provide that the agreement will terminate according to the procedures under
22.35 sections 518E.401 to 518E.404 after the deploying parent returns from deployment; and

23.1 (10) if the agreement must be filed pursuant to section 518E.205, specify which
23.2 parent is required to file the agreement.

23.3 (d) The omission of any of the items specified in paragraph (c) does not invalidate
23.4 an agreement under this section.

23.5 **Sec. 2. [518E.202] NATURE OF AUTHORITY CREATED BY AGREEMENT.**

23.6 (a) An agreement under sections 518E.201 to 518E.205 terminates pursuant to
23.7 sections 518E.401 to 518E.404 after the deploying parent returns from deployment, unless
23.8 the agreement has been terminated before that time by court order or modification under
23.9 section 518E.203. The agreement does not create an independent, continuing right to
23.10 caretaking authority, decision-making authority, or limited contact in an individual to
23.11 whom custodial responsibility is given.

23.12 (b) A nonparent who has caretaking authority, decision-making authority, or limited
23.13 contact by an agreement under sections 518E.201 to 518E.205 has standing to enforce
23.14 the agreement until it has been terminated by court order, by modification under section
23.15 518E.203, or under sections 518E.401 to 518E.404.

23.16 **Sec. 3. [518E.203] MODIFICATION OF AGREEMENT.**

23.17 (a) By mutual consent, the parents of a child may modify an agreement regarding
23.18 custodial responsibility made pursuant to sections 518E.201 to 518E.205.

23.19 (b) If an agreement is modified under paragraph (a) before deployment of a
23.20 deploying parent, the modification must be in writing and signed by both parents and any
23.21 nonparent who will exercise custodial responsibility under the modified agreement.

23.22 (c) If an agreement is modified under paragraph (a) during deployment of a
23.23 deploying parent, the modification must be agreed to in a record by both parents and any
23.24 nonparent who will exercise custodial responsibility under the modified agreement.

23.25 **Sec. 4. [518E.204] POWER OF ATTORNEY.**

23.26 A deploying parent, by power of attorney, may delegate all or part of custodial
23.27 responsibility to an adult nonparent for the period of deployment if no other parent
23.28 possesses custodial responsibility under law of this state other than this chapter, or if a
23.29 court order currently in effect prohibits contact between the child and the other parent. The
23.30 deploying parent may revoke the power of attorney by signing a revocation of the power.

23.31 **Sec. 5. [518E.205] FILING AGREEMENT OR POWER OF ATTORNEY WITH**
23.32 **COURT.**

24.1 An agreement or power of attorney under sections 518E.201 to 518E.205 must
24.2 be filed within a reasonable time with any court that has entered an order on custodial
24.3 responsibility or child support that is in effect concerning the child who is the subject of
24.4 the agreement or power. The case number and heading of the pending case concerning
24.5 custodial responsibility or child support must be provided to the court with the agreement
24.6 or power.

24.7 **ARTICLE 4**

24.8 **JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL RESPONSIBILITY** 24.9 **DURING DEPLOYMENT**

24.10 Section 1. **[518E.301] DEFINITION.**

24.11 In sections 518E.301 to 518E.311, "close and substantial relationship" means a
24.12 relationship in which a significant bond exists between a child and a nonparent.

24.13 Sec. 2. **[518E.302] PROCEEDING FOR CUSTODY ORDER.**

24.14 (a) After a deploying parent receives notice of deployment and until the deployment
24.15 terminates, a court may issue an order granting custodial responsibility unless prohibited
24.16 by the Servicemembers Civil Relief Act, United States Code, title 50, appendix sections
24.17 521 and 522. A court may not issue a permanent order granting custodial responsibility
24.18 without the consent of the deploying parent.

24.19 (b) At any time after a deploying parent receives notice of deployment, either parent
24.20 may file a motion regarding custodial responsibility of a child during deployment. The
24.21 motion must be filed in a pending proceeding for custodial responsibility in a court with
24.22 jurisdiction under section 518E.104 or, if there is no pending proceeding in a court with
24.23 jurisdiction under section 518E.104, in a new action for granting custodial responsibility
24.24 during deployment.

24.25 Sec. 3. **[518E.303] EXPEDITED EVIDENTIARY HEARING.**

24.26 If a motion to grant custodial responsibility is filed under section 518E.302,
24.27 paragraph (b), before a deploying parent deploys, the court shall conduct an expedited
24.28 evidentiary hearing within 30 days of filing the motion. In determining whether to grant
24.29 custodial responsibility, the court shall consider the best interests of the child as prescribed
24.30 in section 518.17. The court shall issue an order on the motion not later than 30 days from
24.31 the date of the expedited evidentiary hearing.

24.32 Sec. 4. **[518E.304] TESTIMONY BY ELECTRONIC MEANS.**

25.1 In a proceeding under sections 518E.301 to 518E.311, a party or witness who is not
25.2 reasonably available to appear personally may appear, provide testimony, and present
25.3 evidence by electronic means unless the court finds good cause to require a personal
25.4 appearance.

25.5 **Sec. 5. [518E.305] EFFECT OF PRIOR JUDICIAL ORDER OR AGREEMENT.**

25.6 In a proceeding for a grant of custodial responsibility pursuant to sections 518E.301
25.7 to 518E.311, the following rules apply:

25.8 (1) a prior judicial order designating custodial responsibility in the event of
25.9 deployment is binding on the court unless the circumstances meet the requirements of
25.10 law of this state other than this chapter for modifying a judicial order regarding custodial
25.11 responsibility; and

25.12 (2) the court shall enforce a prior written agreement between the parents for
25.13 designating custodial responsibility in the event of deployment, including an agreement
25.14 executed under sections 518E.201 to 518E.205, unless the court finds that the agreement
25.15 is contrary to the best interest of the child.

25.16 **Sec. 6. [518E.306] GRANT OF CARETAKING OR DECISION-MAKING**
25.17 **AUTHORITY TO NONPARENT.**

25.18 (a) On motion of a deploying parent and in accordance with law of this state other
25.19 than this chapter, if it is in the best interests of the child, a court may grant caretaking
25.20 authority to a nonparent who is an adult family member of the child or to another adult.
25.21 The individual who is granted caretaking authority must have a close and substantial
25.22 relationship with the child.

25.23 (b) Unless a grant of caretaking authority to a nonparent under paragraph (a) is
25.24 agreed to by the other parent, the grant is limited to an amount of time not greater than:

25.25 (1) the amount of time granted to the deploying parent under a permanent custody
25.26 order, but the court may add unusual travel time necessary to transport the child; or

25.27 (2) in the absence of a permanent custody order that is currently in effect, the amount
25.28 of time that the deploying parent habitually cared for the child before being notified of
25.29 deployment, but the court may add unusual travel time necessary to transport the child.

25.30 (c) A court may grant part of a deploying parent's decision-making authority to a
25.31 nonparent who is an adult family member of the child or another adult only if granting part
25.32 of the deploying parent's decision-making authority is in the best interests of the child and
25.33 the deploying parent is unable to exercise that authority. The individual who is granted
25.34 decision-making authority must have a close and substantial relationship with the child. If

26.1 a court grants the authority to a nonparent, the court shall specify the decision-making
26.2 powers granted, including decisions regarding the child's education, religious training,
26.3 health care, extracurricular activities, and travel.

26.4 Sec. 7. **[518E.307] GRANT OF LIMITED CONTACT.**

26.5 On motion of a deploying parent, and in accordance with law of this state other than
26.6 this chapter, unless the court finds that the contact would be contrary to the best interest of
26.7 the child, a court shall grant limited contact to a nonparent who is a family member of the
26.8 child or an individual with whom the child has a close and substantial relationship.

26.9 Sec. 8. **[518E.308] NATURE OF AUTHORITY CREATED BY CUSTODY**
26.10 **ORDER.**

26.11 (a) A grant of authority under sections 518E.301 to 518E.311 terminates under
26.12 sections 518E.401 to 518E.404 after the return from deployment of the deploying parent,
26.13 unless the grant has been terminated before that time by court order. The grant does not
26.14 create an independent, continuing right to caretaking authority, decision-making authority,
26.15 or limited contact in an individual to whom it is granted.

26.16 (b) A nonparent granted caretaking authority, decision-making authority, or limited
26.17 contact under sections 518E.301 to 518E.311 has standing to enforce the grant until it is
26.18 terminated by court order or under sections 518E.401 to 518E.404.

26.19 Sec. 9. **[518E.309] CONTENT OF CUSTODY ORDER.**

26.20 (a) An order granting custodial responsibility under sections 518E.301 to 518E.311
26.21 must:

26.22 (1) designate the order as being of limited duration;

26.23 (2) identify to the extent feasible the destination, duration, and conditions of the
26.24 deployment;

26.25 (3) identify and address any issues of domestic abuse as prescribed in section 518.17,
26.26 subdivision 1, clause (12); and

26.27 (4) appoint a parenting time expeditor in accordance with section 518.1751,
26.28 subdivision 2.

26.29 (b) If applicable, an order for custodial responsibility under sections 518E.301
26.30 to 518E.311 must:

26.31 (1) specify the allocation of caretaking authority, decision-making authority, or
26.32 limited contact among the deploying parent, the other parent, and any nonparent;

27.1 (2) if the order divides caretaking or decision-making authority between individuals,
27.2 or grants caretaking authority to one individual and limited contact to another, provide a
27.3 process to resolve any dispute that may arise;

27.4 (3) provide for liberal communication between the deploying parent and the child
27.5 during deployment, including through electronic means, unless contrary to the best interest
27.6 of the child, and allocate any costs of communications;

27.7 (4) provide for liberal contact between the deploying parent and the child during
27.8 the time the deploying parent is on leave or otherwise available, unless contrary to the
27.9 best interest of the child;

27.10 (5) provide for reasonable contact between the deploying parent and the child after
27.11 return from deployment until the order is terminated, even if the time of contact exceeds
27.12 the time the deploying parent spent with the child before entry of the order; and

27.13 (6) provide that the order will terminate pursuant to sections 518E.401 to 518E.404
27.14 after the deploying parent returns from deployment.

27.15 Sec. 10. **[518E.310] ORDER FOR CHILD SUPPORT.**

27.16 If a court has issued an order granting caretaking authority under sections 518E.301 to
27.17 518E.311, or an agreement granting caretaking authority has been executed under sections
27.18 518E.201 to 518E.205, the court may enter a temporary order for child support consistent
27.19 with law of this state other than this chapter if the court has jurisdiction under chapter 518C.

27.20 Sec. 11. **[518E.311] MODIFYING OR TERMINATING GRANT OF**
27.21 **CUSTODIAL RESPONSIBILITY TO NONPARENT.**

27.22 (a) Except for an order under section 518E.305, except as otherwise provided in
27.23 paragraph (b), and consistent with the Servicemembers Civil Relief Act, United States
27.24 Code, title 50, appendix sections 521 and 522, on motion of a deploying or other parent or
27.25 any nonparent to whom caretaking authority, decision-making authority, or limited contact
27.26 has been granted, the court may modify or terminate the grant if the modification or
27.27 termination is consistent with sections 518E.301 to 518E.311 and it is in the best interest
27.28 of the child. A modification terminates pursuant to sections 518E.401 to 518E.404 after
27.29 the deploying parent returns from deployment, unless the grant has been terminated before
27.30 that time by court order.

27.31 (b) On motion of a deploying parent, the court shall terminate a grant of limited
27.32 contact.

27.33 Sec. 12. **[518E.312] MOTIONS FOR AMENDED FINDINGS AND ORDER.**

28.1 A party who disagrees with an order issued under this chapter may bring a motion
28.2 for amended findings and order before the district court within the time limits set forth
28.3 under Minnesota Rules of Civil Procedure.

28.4 **ARTICLE 5**

28.5 **RETURN FROM DEPLOYMENT**

28.6 **Section 1. [518E.401] PROCEDURE FOR TERMINATING GRANT OF** 28.7 **CUSTODIAL RESPONSIBILITY ESTABLISHED BY AGREEMENT.**

28.8 (a) At any time after return from deployment, an agreement granting custodial
28.9 responsibility under sections 518E.201 to 518E.205 may be terminated by an agreement to
28.10 terminate signed by the deploying parent and the other parent.

28.11 (b) An agreement under sections 518E.201 to 518E.205 granting custodial
28.12 responsibility terminates:

28.13 (1) if an agreement to terminate under paragraph (a) specifies a date for termination,
28.14 on that date; or

28.15 (2) if the agreement to terminate does not specify a date, on the date the agreement
28.16 to terminate is signed by the deploying parent and the other parent.

28.17 (c) In the absence of an agreement under paragraph (a) to terminate, an agreement
28.18 granting custodial responsibility terminates under sections 518E.201 to 518E.205 60 days
28.19 after the deploying parent gives notice, pursuant to section 518E.4011, to the other parent
28.20 that the deploying parent returned from deployment.

28.21 (d) If an agreement granting custodial responsibility was filed with a court pursuant
28.22 to section 518E.205, an agreement to terminate the agreement also must be filed with that
28.23 court within a reasonable time after the signing of the agreement. The case number and
28.24 heading of the case concerning custodial responsibility or child support must be provided
28.25 to the court with the agreement to terminate.

28.26 **Sec. 2. [518E.4011] RETURN FROM DEPLOYMENT; NOTIFICATION** 28.27 **REQUIREMENT.**

28.28 (a) When a deploying parent returns from deployment and a custodial responsibility
28.29 order concerning the deploying parent's child has been previously issued by the court, the
28.30 deploying parent or the appropriate commanding officer must provide notice in a record
28.31 regarding the return of a deploying parent from deployment as provided in this section.

28.32 (b) The notice must be given not later than seven days after the deploying parent or the
28.33 appropriate commanding officer receives the deploying parent's conclusion of service order
28.34 or a letter from the deploying parent's command, on command letterhead, stating that the

29.1 deploying parent has concluded service, unless the deploying parent and the commanding
 29.2 officer are reasonably prevented from doing so by the circumstances of the return from
 29.3 deployment. If the circumstances of the return from deployment prevent giving notification
 29.4 within seven days of receiving the deploying parent's conclusion of service order or a letter
 29.5 from the deploying parent's command, on command letterhead, stating that the deploying
 29.6 parent has concluded service, the deploying parent or the appropriate commanding officer
 29.7 must give the notification of return from deployment as soon as reasonably possible.

29.8 (c) The notice of return from deployment must include the following:

29.9 (1) the names of both parents;

29.10 (2) the names of each child of the parents;

29.11 (3) the case number and the heading of the case concerning the custodial
 29.12 responsibility or child support of the child;

29.13 (4) the IV-D number, if applicable; and

29.14 (5) the date of the deployed parent's return from deployment.

29.15 (d) The notice of return from deployment must be accompanied by the following:

29.16 (1) the conclusion of the deploying parent's service in that parent's service orders;

29.17 (2) the conclusion of the deploying parent's service as specified in that parent's
 29.18 command service orders; or

29.19 (3) a letter from the deploying parent's command, on command letterhead, stating
 29.20 that the deploying parent has concluded service.

29.21 (e) The notice of return from deployment must be filed with the court and served
 29.22 by mail upon:

29.23 (1) the other parent of the child;

29.24 (2) a nonparent who was granted custodial responsibility; and

29.25 (3) the county attorney, if a IV-D case.

29.26 (f) If a court order currently in effect prohibits disclosure of the address or contact
 29.27 information of the other parent, notification of return from deployment under this section
 29.28 may be made only to the issuing court. If the address of the other parent is available to the
 29.29 issuing court, the court shall forward the notification to the other parent. The court shall
 29.30 keep confidential the address or contact information of the other parent.

29.31 (g) Notification in a record under this section is not required if the parents are living
 29.32 in the same residence immediately after the return from deployment and both parents have
 29.33 actual notice of the return from deployment.

29.34 **Sec. 3. [518E.402] CONSENT PROCEDURE FOR TERMINATING GRANT OF**
 29.35 **CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.**

30.1 At any time after a deploying parent returns from deployment, the deploying parent
 30.2 and the other parent may file with the court an agreement to terminate an order for
 30.3 custodial responsibility issued under sections 518E.301 to 518E.311. After an agreement
 30.4 has been filed, the court shall issue an order terminating the order effective on the date
 30.5 specified in the agreement. If a date is not specified, the order is effective immediately.

30.6 **Sec. 4. [518E.403] VISITATION BEFORE TERMINATION OF GRANT OF**
 30.7 **CUSTODIAL RESPONSIBILITY.**

30.8 After a deploying parent returns from deployment until an agreement or order for
 30.9 custodial responsibility established under sections 518E.201 to 518E.205 or 518E.301
 30.10 to 518E.311 is terminated, the court shall issue an order granting the deploying parent
 30.11 reasonable contact with the child unless it is contrary to the best interest of the child,
 30.12 even if the time of contact exceeds the time the deploying parent spent with the child
 30.13 before deployment.

30.14 **Sec. 5. [518E.404] TERMINATION BY OPERATION OF LAW OF GRANT OF**
 30.15 **CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.**

30.16 (a) If an agreement between the parties to terminate an order for custodial
 30.17 responsibility under sections 518E.301 to 518E.311 has not been filed, the order terminates
 30.18 60 days after the deploying parent or the appropriate commanding officer gives notice
 30.19 as prescribed by section 518E.4011. If notice of return from deployment is not given as
 30.20 provided in section 518E.4011, the order for custodial responsibility is terminated by
 30.21 operation of law as of the date that the deploying parent's conclusion of service order is
 30.22 issued, and the court shall address future custody and related matters accordingly.

30.23 (b) A proceeding seeking to prevent termination of an order for custodial
 30.24 responsibility is governed by law of this state other than this chapter.

30.25 **ARTICLE 6**

30.26 **MISCELLANEOUS PROVISIONS**

30.27 **Section 1. [518E.501] UNIFORMITY OF APPLICATION AND**
 30.28 **CONSTRUCTION.**

30.29 In applying and construing this chapter, consideration must be given to the need to
 30.30 promote uniformity of the law with respect to its subject matter among states that enact it.

30.31 **Sec. 2. [518E.502] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
 30.32 **AND NATIONAL COMMERCE ACT.**

31.1 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
31.2 National Commerce Act, United States Code, title 15, section 7001, et seq., but does not
31.3 modify, limit, or supersede section 101(c) of that act; United States Code, title 15, section
31.4 7001(c); or authorize electronic delivery of any of the notices described in section 103(b)
31.5 of that act, United States Code, title 15, section 7003(b).

31.6 Sec. 3. **[518E.503] SAVINGS CLAUSE.**

31.7 This chapter does not affect the validity of a court order concerning custodial
31.8 responsibility during deployment which was entered before August 1, 2015.

APPENDIX
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518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.

Subd. 1a. **Evidence of false allegations of child abuse.** The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

Subd. 2. **Factors when joint custody is sought.** (a) There is no presumption for or against joint physical custody, except when domestic abuse, as defined in section 518B.01, has occurred between the parents.

(b) In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

(1) the ability of parents to cooperate in the rearing of their children;

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

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

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

The court shall not use one of the factors to be considered to the exclusion of all of the other factors. The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (b), clause (1).

(c) If the parties disagree as to whether the court should award joint or sole legal or physical custody, the court shall make detailed factual findings on each of the factors in this subdivision and explain how its findings on the factors led to its determination as to whether joint custody or sole custody would be in the best interests of the child.