

A bill for an act

relating to family law; making child support policy clarifications and improvements; amending Minnesota Statutes 2006, sections 256.017, subdivisions 1, 6; 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.42, subdivision 1; 518A.46, subdivision 5; 518A.75, subdivision 3; 541.04; 548.09, subdivision 1, by adding a subdivision; 548.091, subdivision 1a; 550.01; repealing Minnesota Statutes 2006, section 548.091, subdivision 3b.

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

Section 1. Minnesota Statutes 2006, section 256.017, subdivision 1, is amended to read:

Subdivision 1. **Authority and purpose.** The commissioner shall administer a compliance system for the Minnesota family investment program, the food stamp or food support program, emergency assistance, general assistance, medical assistance, general assistance medical care, emergency general assistance, Minnesota supplemental assistance, preadmission screening, ~~and~~ alternative care grants, and the child support enforcement program under the powers and authorities named in section 256.01, subdivision 2. The purpose of the compliance system is to permit the commissioner to supervise the administration of public assistance programs and to enforce timely and accurate distribution of benefits, completeness of service and efficient and effective program management and operations, to increase uniformity and consistency in the administration and delivery of public assistance programs throughout the state, and to reduce the possibility of sanctions and fiscal disallowances for noncompliance with federal regulations and state statutes.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

The commissioner shall utilize training, technical assistance, and monitoring activities, as specified in section 256.01, subdivision 2, to encourage county agency compliance with written policies and procedures.

Sec. 2. Minnesota Statutes 2006, section 256.017, subdivision 6, is amended to read:

Subd. 6. **Determining the amount of the administrative penalty.** The amount of the penalty imposed on any county agency is based on the numbers of public assistance applicants and recipients or the number of program participants that may be affected by the county agency's failure to comply with the policies and procedures established by the commissioner, the fiscal impact of the county agency's action, and the duration of the noncompliance as determined by the commissioner. Administrative penalties shall be imposed independent of any quality control case penalties.

Sec. 3. 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. 4. 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.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

Sec. 5. 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. 6. 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 due to a verified disability or due to incarceration, except where the reason for incarceration is the parent's nonpayment of support.

Sec. 7. 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,

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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. 8. 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. 9. 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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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; or

(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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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

11.4 Sec. 10. Minnesota Statutes 2006, section 518A.40, subdivision 1, is amended to read:

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

11.15 Sec. 11. Minnesota Statutes 2006, section 518A.40, subdivision 4, is amended to read:

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

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

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

11.24 The suspension is effective as of the first day of the month following the date that the
11.25 public authority received the verification. The public authority will resume collecting
11.26 child care expenses when either party provides information that child care costs have
11.27 resumed, or when a child care support assignment takes effect under section 256.741,
11.28 subdivision 4. The resumption is effective as of the first day of the month after the date
11.29 that the public authority received the information.

11.30 (b) If the parties provide conflicting information to the public authority regarding
11.31 whether child care expenses are being incurred, or if the public authority is unable to
11.32 verify with the obligee that no child care costs are being incurred, the public authority will
11.33 continue or resume collecting child care expenses. Either party, by motion to the court,
11.34 may challenge the suspension, continuation, or resumption of the collection of child care

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

12.1 expenses under this subdivision. If the public authority suspends collection activities
12.2 for the amount allocated for child care expenses, all other provisions of the court order
12.3 remain in effect.

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

12.6 Sec. 12. Minnesota Statutes 2006, section 518A.41, subdivision 1, is amended to read:

12.7 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this chapter
12.8 and chapter 518.

12.9 (a) "Health care coverage" means medical, dental, or other health care benefits that
12.10 are provided by a one or more health plan plans. Health care coverage does not include
12.11 any form of ~~medical assistance under chapter 256B or MinnesotaCare under chapter~~
12.12 ~~256L~~ public coverage.

12.13 (b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision
12.14 2, and 62L.02, subdivision 16.

12.15 (c) "Health plan" means a plan ~~meeting the definition under section 62A.011,~~
12.16 ~~subdivision 3, a group health plan governed under the federal Employee Retirement~~
12.17 ~~Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to~~
12.18 ~~43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated~~
12.19 ~~service network licensed under chapter 62N. Health plan includes plans, other than any~~
12.20 form of public coverage, that provides medical, dental, or other health care benefits and is:

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

12.22 (2) provided by an employer or union;

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

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

12.26 Health plan includes, but is not limited to, a plan providing for dependent-only dental
12.27 or vision coverage and a plan provided through a party's spouse or parent meeting the
12.28 definition under section 62A.011, subdivision 3, except that the exclusion of coverage
12.29 designed solely to provide dental or vision care under section 62A.011, subdivision 3,
12.30 clause (6), does not apply to the definition of health plan under this section; a group
12.31 health plan governed under the federal Employee Retirement Income Security Act of
12.32 1974 (ERISA); a self-insured plan under sections 43A.23 to 43A.317 and 471.617; and a
12.33 policy, contract, or certificate issued by a community-integrated service network licensed
12.34 under chapter 62N.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

13.1 (d) "Medical support" means providing health care coverage for a joint child by
13.2 carrying health care coverage for the joint child or by contributing to the cost of health
13.3 care coverage, public coverage, unreimbursed medical expenses, and uninsured medical
13.4 expenses of the joint child.

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

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

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

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

13.21 Sec. 13. Minnesota Statutes 2006, section 518A.41, subdivision 2, is amended to read:

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

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

13.27 (1) the names, last known addresses, and Social Security numbers of the parents and
13.28 the joint child that is a subject of the order unless the court prohibits the inclusion of an
13.29 address or Social Security number and orders the parents to provide the address and Social
13.30 Security number to the administrator of the health plan;

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

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

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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

14.1 ~~(iii) how unreimbursed expenses will be allocated and collected by the parents; and~~
14.2 ~~(iv) (iii) the circumstances, if any, under which the an obligation to provide health~~
14.3 ~~care coverage for the joint child will shift from one parent to the other; and~~
14.4 (3) if appropriate health care coverage is not available for the joint child, whether a
14.5 contribution for medical support is required; and
14.6 (4) how unreimbursed or uninsured medical expenses will be allocated between
14.7 the parents.

14.8 Sec. 14. Minnesota Statutes 2006, section 518A.41, subdivision 3, is amended to read:

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

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

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

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

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

14.21 ~~(2)~~ (1) comprehensive comprehensiveness of health care coverage providing
14.22 medical benefits. Dependent health care coverage providing medical benefits is presumed
14.23 comprehensive if it includes medical and hospital coverage and provides for preventive,
14.24 emergency, acute, and chronic care. If both parents have health care coverage providing
14.25 medical benefits that meets the minimum requirements is presumed comprehensive under
14.26 this paragraph, the court must determine which ~~health care~~ parent's coverage is more
14.27 comprehensive by considering ~~whether~~ what other benefits are included in the coverage
14.28 ~~includes;~~

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

14.30 ~~(ii) orthodontia;~~

14.31 ~~(iii) eyeglasses;~~

14.32 ~~(iv) contact lenses;~~

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

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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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

15.4 (i) primary care is available within 30 minutes or 30 miles of the joint child's
15.5 residence and specialty care is available within 60 minutes or 60 miles of the joint child's
15.6 residence;

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

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

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

15.13 ~~(4) (3) the joint child's special medical needs, if any; and~~

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

15.20 Sec. 15. Minnesota Statutes 2006, section 518A.41, subdivision 4, is amended to read:

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

15.26 (b) If a joint child is not presently enrolled in health care coverage providing medical
15.27 benefits, upon motion of a parent or the public authority, the court must determine whether
15.28 one or both parents have appropriate health care coverage providing medical benefits for
15.29 the joint child ~~and order the parent with appropriate health care coverage available to carry~~
15.30 ~~the coverage for the joint child.~~

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

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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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

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

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

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

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

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

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

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

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

17.1 ~~child's or children's coverage.~~ The custodial parent's obligation is determined under the
17.2 requirements for public coverage as set forth in chapter 256B or 256L. ~~The court may~~
17.3 ~~order the parent with whom the child resides to apply for public coverage for the child.~~

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

17.6 (h) The commissioner of human services must publish a table with the premium
17.7 schedule for public coverage and update the chart for changes to the schedule by July
17.8 1 of each year.

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

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

17.19 Sec. 16. Minnesota Statutes 2006, section 518A.41, subdivision 5, is amended to read:

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

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

17.27 (b) If a party owes a joint child support or spousal maintenance obligation for a
17.28 child and is ordered to carry health care coverage for the joint child, and the other party
17.29 is ordered to contribute to the carrying party's cost for coverage, the carrying party's
17.30 child support or spousal maintenance payment must be reduced by the amount of the
17.31 contributing party's contribution.

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

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

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

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

Sec. 17. Minnesota Statutes 2006, section 518A.41, subdivision 12, is amended to read:

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

Sec. 18. Minnesota Statutes 2006, section 518A.41, subdivision 15, is amended to read:

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

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

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

(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.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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

19.6 Sec. 19. Minnesota Statutes 2006, section 518A.41, subdivision 16, is amended to read:

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

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

- 19.14 (1) the party's court-ordered health care coverage for the joint child terminates;
19.15 (2) the party does not enroll the joint child in other health care coverage; and
19.16 (3) a modification motion is not pending.

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

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

19.27 ~~(c)~~ (d) A party may contest the public authority's action to remove or resume the
19.28 offset to the child support obligation if the party makes a written request for a hearing
19.29 within 30 days after receiving written notice. If a party makes a timely request for a
19.30 hearing, the public authority must schedule a hearing and send written notice of the
19.31 hearing to the parties by mail to the parties' last known addresses at least 14 days before
19.32 the hearing. The hearing must be conducted in district court or in the expedited child
19.33 support process if section 484.702 applies. The district court or child support magistrate
19.34 must determine whether removing or resuming the offset is appropriate and, if appropriate,
19.35 the effective date for the removal or resumption.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

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

Sec. 20. Minnesota Statutes 2006, section 518A.42, subdivision 1, is amended to read:

Subdivision 1. **Ability to pay.** (a) It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the court shall follow the procedure set out in this section.

(b) The court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income. If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section 518A.34, the court shall order child support under section 518A.34.

(c) If the obligor's income available for support calculated under paragraph (b) is more than the minimum support amount under subdivision 2, but less than the guideline amount under section 518A.34, then the court shall apply a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:

- (1) ~~medical~~ child care support obligation;
- (2) ~~child care~~ medical support obligation; and
- (3) basic support obligation.

(d) If the obligor's income available for support calculated under paragraph (b) is equal to or less than the minimum support amount under subdivision 2 or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subdivision 2 applies.

Sec. 21. Minnesota Statutes 2006, section 518A.46, subdivision 5, is amended to read:

Subd. 5. **Administrative authority.** (a) The public authority may take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any judicial or administrative tribunal:

- (1) recognize and enforce orders of child support agencies of other states;

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

21.1 (2) upon request for genetic testing by a child, parent, or any alleged parent, and
21.2 using the procedure in paragraph (b), order the child, parent, or alleged parent to submit to
21.3 blood or genetic testing for the purpose of establishing paternity;

21.4 (3) subpoena financial or other information needed to establish, modify, or enforce a
21.5 child support order and sanction a party for failure to respond to a subpoena;

21.6 (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor
21.7 or other payor to change the payee to the central collections unit under sections 518A.54
21.8 to 518A.56;

21.9 (5) order income withholding of child support under section 518A.53 and sanction
21.10 an employer or payor of funds pursuant to section 393.07, subdivision 9a, for failing to
21.11 comply with an income withholding notice;

21.12 (6) secure assets to satisfy the debt or arrearage in cases in which there is a support
21.13 debt or arrearage by:

21.14 (i) intercepting or seizing periodic or lump sum payments from state or local
21.15 agencies, including unemployment benefits, workers' compensation payments, judgments,
21.16 settlements, lotteries, and other lump sum payments;

21.17 (ii) attaching and seizing assets of the obligor held in financial institutions or public
21.18 or private retirement funds; and

21.19 (iii) imposing liens in accordance with section 548.091 and, in appropriate cases,
21.20 forcing the sale of property and the distribution of proceeds;

21.21 (7) for the purpose of securing overdue support, increase the amount of the monthly
21.22 support payments by an additional amount equal to 20 percent of the monthly support
21.23 payment to include amounts for debts or arrearages; and

21.24 (8) subpoena an employer or payor of funds to provide promptly information on the
21.25 employment, compensation, and benefits of an individual employed by that employer as
21.26 an employee or contractor, and sanction an employer or payor of funds pursuant to section
21.27 393.07, subdivision 9a, for failure to respond to the subpoena; and

21.28 (9) redirect basic support, medical support, and child care support to a caregiver. A
21.29 caregiver is a person or entity now caring for the child who receives public assistance, as
21.30 defined in section 256.741, subdivision 2, for the child; has legal responsibility for the
21.31 placement of the child through a voluntary placement agreement under section 260C.212,
21.32 subdivision 8, that does not address redirection of child support; or has custody of the
21.33 child through a court-ordered placement that does not address redirection of child support.
21.34 Redirection of support is effective the first day of the month following the date of the
21.35 notice to the parties, subject to the following provisions:

22.1 (i) the public authority must provide notice to the parties and the caregiver not
22.2 less than 30 days before redirecting the child support to the caregiver. The notice must
22.3 be mailed to the obligor, obligee, and caregiver at their last known addresses. The notice
22.4 shall state to whom the support will be redirected, on what date the support will begin
22.5 to be redirected, and the dollar amount of the support that will be redirected. The notice
22.6 shall also state the process for contesting the redirection;

22.7 (ii) if fewer than all of the children for whom the support is ordered are placed with
22.8 the caregiver, the proportional share of the support for the number of children placed
22.9 shall be redirected;

22.10 (iii) the obligee or obligor may contest the redirection of support on the limited
22.11 grounds that the child is not residing with the caregiver or that, under an out-of-home
22.12 placement plan under section 260C.212, subdivision 1, that includes a plan for
22.13 reunification through the local social services agency, all or part of the support is needed
22.14 to maintain the obligee's home;

22.15 (iv) if the obligee or obligor contest the redirection, within 30 calendar days of notice
22.16 of intent to redirect support, the obligee or obligor must obtain a hearing date from the
22.17 court administrator and serve the public authority, the caregiver, and the other party, with a
22.18 copy of the notice of motion and motion and affidavit at least 14 days before the hearing.
22.19 The hearing shall be set at the earliest practicable time, but no later than 30 calendar days
22.20 from the date a request for a hearing is made. The court administrator shall schedule these
22.21 hearings to be heard in the expedited process before a child support magistrate, but may
22.22 schedule these hearings in district court if the availability of a child support magistrate
22.23 does not permit a hearing to occur within the time frames of this section;

22.24 (v) the state court administrator's office shall prepare and make available to the
22.25 court administrators and obligors and obligees a notice of motion and motion form and
22.26 affidavit to be submitted by the obligor or obligee in support of a motion to contest the
22.27 redirection; and

22.28 (vi) the redirection of the basic support, medical support, and child care support
22.29 shall be terminated and support shall resume to the obligee when the public authority is
22.30 informed that the caregiver who receives public assistance for the child no longer receives
22.31 public assistance for the child and no longer cares for the child; the child leaves the
22.32 placement under the voluntary placement agreement or the voluntary placement agreement
22.33 has expired; or the court order placing the child is no longer in effect.

22.34 (b) A request for genetic testing by a child, parent, or alleged parent must be
22.35 supported by a sworn statement by the person requesting genetic testing alleging paternity,
22.36 which sets forth facts establishing a reasonable possibility of the requisite sexual contact

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

between the parties, or denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties. The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state. If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing. No results obtained through genetic testing done in response to an order issued under this section may be used in any criminal proceeding.

(c) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party recordkeeper, written notice of the subpoena shall be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(d) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court shall cancel or modify the subpoena, if appropriate. The public authority shall pay the reasonable costs of producing the documents, if requested.

(e) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. Failure to comply with the court order may subject the person who fails to comply to civil or criminal contempt of court.

(f) The administrative actions under this subdivision are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to the judge, judicial officer, or child support magistrate.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 22. Minnesota Statutes 2006, section 518A.75, subdivision 3, is amended to read:

Subd. 3. **Result of hearing.** If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance or ~~child~~ basic support obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

24.1 adjustment shall take effect as of the date it would have become effective had no hearing
24.2 been requested.

24.3 Sec. 23. Minnesota Statutes 2006, section 541.04, is amended to read:

24.4 **541.04 JUDGMENTS, TEN YEARS.**

24.5 No action shall be maintained upon a judgment or decree of a court of the United
24.6 States, or of any state or territory thereof, unless begun within ten years after the entry of
24.7 such judgment. This subdivision does not apply to child support judgments, including
24.8 judgments by operation of law.

24.9 Sec. 24. Minnesota Statutes 2006, section 548.09, subdivision 1, is amended to read:

24.10 Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided
24.11 in section 548.091, every judgment requiring the payment of money shall be entered
24.12 by the court administrator when ordered by the court and will be docketed by the court
24.13 administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript
24.14 of the docket being filed with the court administrator in any other county, the court
24.15 administrator shall also docket it. From the time of docketing the judgment is a lien, in
24.16 the amount unpaid, upon all real property in the county then or thereafter owned by the
24.17 judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant
24.18 to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten
24.19 years after its entry. ~~Child support judgments may be renewed pursuant to section 548.091.~~

24.20 Sec. 25. Minnesota Statutes 2006, section 548.09, is amended by adding a subdivision
24.21 to read:

24.22 Subd. 1a. **Nonexpiration.** Notwithstanding the provisions of subdivision 1, child
24.23 support judgments do not expire. This subdivision applies retroactively to any child
24.24 support judgments that exist on or before the date of enactment and to all child support
24.25 judgments that come into existence after the date of enactment. Child support judgments
24.26 in this subdivision include judgments by operation of law.

24.27 Sec. 26. Minnesota Statutes 2006, section 548.091, subdivision 1a, is amended to read:

24.28 Subd. 1a. **Child support judgment by operation of law.** (a) Any payment or
24.29 installment of support required by a judgment or decree of dissolution or legal separation,
24.30 determination of parentage, an order under chapter 518C, an order under section 256.87,
24.31 or an order under section 260B.331 or 260C.331, that is not paid or withheld from the
24.32 obligor's income as required under section 518A.53, or which is ordered as child support

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due, is entitled to full faith and credit in this state and any other state, and shall be entered and docketed by the court administrator on the filing of affidavits as provided in subdivision 2a. Except as otherwise provided by ~~paragraph~~ paragraphs (b) and (e), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, ~~plus two percent~~, not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518A.39, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 12 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The state court administrator shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

(c) Notwithstanding the provisions of section 549.09, upon motion to the court, the court may order interest on a child support debt or arrearage to stop accruing where the court finds that the obligor is:

- (1) unable to pay support because of a significant physical or mental disability;
- (2) a recipient of Supplemental Security Income (SSI), Title II Older Americans Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need; or
- (3) institutionalized or incarcerated for at least 30 days for an offense other than nonsupport of the child or children involved, and is otherwise financially unable to pay support.

(d) If the conditions in paragraph (c) no longer exist, upon motion to the court, the court may order interest accrual to resume retroactively from the date of service of the motion to resume the accrual of interest.

H.F. No. 1500, as introduced - 85th Legislative Session (2007-2008)

(e) Notwithstanding section 549.09, the public authority must suspend the charging of interest when:

(1) the obligor makes a request to the public authority that the public authority suspend the charging of interest;

(2) the public authority provides full IV-D child support services; and

(3) the obligor has made, through the public authority, 12 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage.

Timely payments are those made in the month in which they are due.

Interest charging must be suspended on the first of the month following the date of the written notice of the public authority's action to suspend the charging of interest. If, after interest charging has been suspended, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority may resume the charging of interest as of the first day of the month in which the obligor ceased making complete and timely payments.

The public authority must provide written notice to the parties of the public authority's action to suspend or resume the charging of interest. The notice must inform the parties of the right to request a hearing to contest the public authority's action. The notice must be sent by first class mail to the parties' last known addresses.

A party may contest the public authority's action to suspend or resume the charging of interest if the party makes a written request for a hearing within 30 days of the date of written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether suspending or resuming the interest charging is appropriate and, if appropriate, the effective date.

EFFECTIVE DATE. This section is effective January 1, 2008.

Sec. 27. Minnesota Statutes 2006, section 550.01, is amended to read:

550.01 ENFORCEMENT OF JUDGMENT.

The party in whose favor a judgment is given, or the assignee of such judgment, may proceed to enforce the same, at any time within ten years after the entry thereof, in the manner provided by law. This subdivision does not apply to child support judgments, including judgments by operation of law.

- 27.1
- Sec. 28. REPEALER.
- 27.2
- Minnesota Statutes 2006, section 548.091, subdivision 3b, is repealed.