

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 1424**

(SENATE AUTHORS: EATON)

DATE	D-PG	OFFICIAL STATUS
03/05/2015	572	Introduction and first reading Referred to Judiciary
03/11/2015		Comm report: To pass as amended Second reading

1.1 A bill for an act  
 1.2 relating to family law; requiring notice of certain rights; modifying interest  
 1.3 rates on judgments in family court actions; amending Minnesota Statutes 2014,  
 1.4 sections 518.17, subdivision 3, by adding a subdivision; 549.09, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2014, section 518.17, subdivision 3, is amended to read:

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

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

1.11 (2) their physical custody and residence; and

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

1.15 (b) The court shall grant the ~~following~~ rights listed in subdivision 3a to each of the  
 1.16 parties, regardless of custodial designation, unless specific findings are made under section  
 1.17 518.68, subdivision 1. ~~Each party has the following rights:~~ The court shall include in the  
 1.18 custody order the notice under subdivision 3a.

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

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

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

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

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

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

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

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

2.14 (d) If a court order or law prohibits contact by a party, notification required under  
 2.15 paragraph (b), clauses (1), (2), (3), (5), and (6), shall not be by direct communication of  
 2.16 the parties. Third-party communication shall be limited to the specific purposes delineated  
 2.17 in this subdivision. Nothing in this subdivision shall modify, suspend, revoke, or terminate  
 2.18 a court order or law that prohibits contact by a party.

2.19 (e) If one of the parties is a program participant under chapter 5B, the other party  
 2.20 shall send all information and notifications required under paragraph (b), clauses (1),  
 2.21 (2), (3), (5), and (6), to the participant's designated address. The program participant is  
 2.22 exempted from the requirements of paragraph (b).

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

2.26 Sec. 2. Minnesota Statutes 2014, section 518.17, is amended by adding a subdivision  
 2.27 to read:

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

2.30 "NOTICE  
 2.31 EACH PARTY IS GRANTED THE FOLLOWING RIGHTS:

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

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

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

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

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

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

3.11 (7) right to reasonable access and telephone contact with the minor children."

3.12 Sec. 3. Minnesota Statutes 2014, section 549.09, subdivision 1, is amended to read:

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

3.17 (b) Except as otherwise provided by contract or allowed by law, preverdict,  
3.18 preaward, or prereport interest on pecuniary damages shall be computed as provided  
3.19 in paragraph (c) from the time of the commencement of the action or a demand for  
3.20 arbitration, or the time of a written notice of claim, whichever occurs first, except as  
3.21 provided herein. The action must be commenced within two years of a written notice of  
3.22 claim for interest to begin to accrue from the time of the notice of claim. If either party  
3.23 serves a written offer of settlement, the other party may serve a written acceptance or a  
3.24 written counteroffer within 30 days. After that time, interest on the judgment or award  
3.25 shall be calculated by the judge or arbitrator in the following manner. The prevailing  
3.26 party shall receive interest on any judgment or award from the time of commencement  
3.27 of the action or a demand for arbitration, or the time of a written notice of claim, or as  
3.28 to special damages from the time when special damages were incurred, if later, until the  
3.29 time of verdict, award, or report only if the amount of its offer is closer to the judgment or  
3.30 award than the amount of the opposing party's offer. If the amount of the losing party's  
3.31 offer was closer to the judgment or award than the prevailing party's offer, the prevailing  
3.32 party shall receive interest only on the amount of the settlement offer or the judgment or  
3.33 award, whichever is less, and only from the time of commencement of the action or a  
3.34 demand for arbitration, or the time of a written notice of claim, or as to special damages  
3.35 from when the special damages were incurred, if later, until the time the settlement offer

4.1 was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers  
4.2 and counteroffers. For the purposes of clause (2), the amount of settlement offer must  
4.3 be allocated between past and future damages in the same proportion as determined by  
4.4 the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict,  
4.5 preaward, or prereport interest shall not be awarded on the following:

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

4.8 (2) judgments or awards for future damages;

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

4.10 (4) judgments or awards not in excess of the amount specified in section 491A.01; and

4.11 (5) that portion of any verdict, award, or report which is founded upon interest, or  
4.12 costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

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

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

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

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

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

5.4 (3) When a judgment creditor, or the judgment creditor's attorney or agent, has  
5.5 received a payment after entry of judgment, whether the payment is made voluntarily by  
5.6 or on behalf of the judgment debtor, or is collected by legal process other than execution  
5.7 levy where a proper return has been filed with the court administrator, the judgment  
5.8 creditor, or the judgment creditor's attorney, before applying to the court administrator  
5.9 for an execution shall file with the court administrator an affidavit of partial satisfaction.  
5.10 The affidavit must state the dates and amounts of payments made upon the judgment after  
5.11 the most recent affidavit of partial satisfaction filed, if any; the part of each payment that  
5.12 is applied to taxable disbursements and to accrued interest and to the unpaid principal  
5.13 balance of the judgment; and the accrued, but the unpaid interest owing, if any, after  
5.14 application of each payment.

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

5.18 (e) For purposes of this subdivision:

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

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