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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **1309**

02/18/2019 Authored by Scott, Bennett, West, Mahoney, McDonald and others
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to children; modifying parenting time for child care; making technical
1.3 changes; removing redundant language; amending Minnesota Statutes 2018,
1.4 sections 518.175, subdivision 8; 518A.32, subdivision 1; 518A.40, subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2018, section 518.175, subdivision 8, is amended to read:

1.7 Subd. 8. **Additional parenting time for child care parent.** The court ~~may~~ shall allow
1.8 additional parenting time to a parent to provide child care while the other parent is working
1.9 if the parent is available and willing to provide such care and this arrangement is reasonable
1.10 and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition,
1.11 the court shall consider: If a court denies a parent's request to provide child care while the
1.12 other parent is working, it shall make detailed findings on each of the factors in section
1.13 518.17, subdivision 1, paragraph (a), based on the evidence presented and shall evaluate
1.14 the factors according to section 518.17, subdivision 1, paragraph (b).

1.15 ~~(1) the ability of the parents to cooperate;~~

1.16 ~~(2) methods for resolving disputes regarding the care of the child, and the parents'~~
1.17 ~~willingness to use those methods; and~~

1.18 ~~(3) whether domestic abuse, as defined in section 518B.01, has occurred between the~~
1.19 ~~parties.~~

1.20 Sec. 2. Minnesota Statutes 2018, section 518A.32, subdivision 1, is amended to read:

1.21 Subdivision 1. **General.** (a) This section applies to child support orders, including orders
1.22 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.

(b) 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.

(c) A parent's acceptance of additional parenting time under section 518.175, subdivision 8, is not sufficient to rebut the presumption that a parent who is not employed full time is voluntarily unemployed, underemployed, or employed on a less than full-time basis, unless the court makes a determination that the parent is not voluntarily unemployed, underemployed, or employed on a less than full-time basis under subdivision 3, 4, or 5. A determination that a parent is not voluntarily unemployed, underemployed, or employed on a less than full-time basis that is made pursuant to subdivision 5 must be supported by written findings on each of the factors in subdivision 5.

Sec. 3. Minnesota Statutes 2018, section 518A.40, subdivision 3, is amended to read:

Subd. 3. **Determining costs.** (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518A.75.

~~(d) The court may allow the parent with whom the joint child does not reside to care for the joint child while the parent with whom the joint child resides is working or attending school, as provided in section 518.175, subdivision 8.~~ Allowing the parent with whom the joint child does not reside to care for the joint child under section 518.175, subdivision 8, is not a reason to deviate from the guidelines.