SENATE STATE OF MINNESOTA EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1402

DATE	D-PG	OFFICIAL STATUS
05/09/2011	1846	Introduction and first reading Referred to Judiciary and Public Safety
01/26/2012	3651	Author added Sparks
02/02/2012	3711	Author added Kubly
02/23/2012	3942	Author added Hann
03/05/2012	4113	Chief author stricken, shown as co-author Hoffman Chief author added Wolf
03/22/2012 03/23/2012	4787a	Comm report: To pass as amended and re-refer to Health and Human Services Comm report: To pass as amended and re-refer to Finance

A bill for an act
relating to family law; increasing the parenting time presumption; modifying
the parenting expense adjustment for purposes of calculating child support;
amending Minnesota Statutes 2010, sections 518.175, subdivision 1; 518A.36,
subdivision 2.

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

Section 1. Minnesota Statutes 2010, section 518.175, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

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

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

- (b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.
- (c) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and

Section 1.

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duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

- (d) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.
- (e) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least 25 35 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.
 - Sec. 2. Minnesota Statutes 2010, section 518A.36, subdivision 2, is amended to read:
- Subd. 2. Calculation of parenting expense adjustment. The obligor is entitled to a parenting expense adjustment calculated as provided in this subdivision. The court shall:
- (1) find the adjustment percentage corresponding to the percentage of parenting time allowed to the obligor below:

2.21		Percentage Range of	Adjustment
2.22		Parenting Time	Percentage
2.23	(i)	less than 10 percent	no adjustment
2.24	(ii)	10 percent to $45\underline{30}$ percent	12 <u>15</u> percent
2.25	<u>(iii)</u>	30.1 percent to 45 percent	35 percent
2.26	(iii) (iv)	45.1 percent to 50 percent	presume parenting time is equal

- (2) multiply the adjustment percentage by the obligor's basic child support obligation to arrive at the parenting expense adjustment; and
- (3) subtract the parenting expense adjustment from the obligor's basic child support obligation. The result is the obligor's basic support obligation after parenting expense adjustment.

Sec. 3. **EFFECTIVE DATE**; **APPLICATION**.

(a) Sections 1 and 2 are effective January 1, 2013, and apply to orders adopted or modified on or after that date.

Sec. 3. 2

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3.1	(b) There must be no modification of an existing parenting time order based on the
3.2	amendment to the parenting time presumption under section 1 until July 1, 2014, unless
3.3	the child's environment presently endangers the child's physical or emotional health or
3.4	impairs the child's emotional development.
3.5	(c) There must be no modification of an existing child support order based on the
3.6	amendments to the parenting expense adjustment under section 2 until July 1, 2014,
3.7	unless the court finds that other grounds for modification exist under Minnesota Statutes
3.8	section 518A.39.

Sec. 3. 3