

Subdivision 1. FEE NOTICE. The fees charged by currency exchanges for rendering any service authorized by this act must be prominently displayed on the premises of the currency exchange in the fashion required by the commissioner.

Subd. 2. FALSE ADVERTISING. A licensee may not advertise, print, display, publish, distribute, or broadcast any statement or representation that is false, misleading, or deceptive, or that omits material information.

Subd. 3. CIVIL LIABILITY; PENALTY. A person who violates any subdivision of this chapter is liable to the person damaged by the violation for actual damages. The court may award reasonable attorney fees and costs.

Sec. 14. [53A.14] EFFECT ON LOCAL LAW.

Local law requirements that are inconsistent with the requirements in this chapter are preempted to the extent of the inconsistency.

Sec. 15. APPROPRIATION.

\$164,000 is appropriated from the general fund to the commissioner of commerce to license currency exchanges as provided in this act.

\$90,000 is for fiscal year 1990 and \$74,000 is for fiscal year 1991.

Sec. 16. EFFECTIVE DATE.

Sections 1 to 14 are effective August 1, 1989. Existing currency exchanges must submit applications in compliance with this chapter by October 1, 1989. No currency exchange shall operate without a license after December 31, 1989.

Presented to the governor May 22, 1989

Signed by the governor May 23, 1989, 7:11 a.m.

CHAPTER 248—H.F.No. 729

An act relating to marriage dissolution; requiring courts to consider the existence of domestic abuse in determining whether to award joint custody; providing for the appointment of visitation expeditors to resolve ongoing visitation disputes; providing for visitation by persons who have resided with a child; providing that either parent may request visitation rights on behalf of the child; requiring the court to restrict or modify visitation under certain circumstances; permitting agreements about modification of maintenance; including the primary caretaker standard as a factor to be considered in custody decisions; requiring specific findings on each factor and prohibiting courts from relying exclusively on one factor in determining custody; modifying provisions dealing with the valuation of marital property; amending Minnesota Statutes 1988, sections 257.022, by adding a subdivision; 518.17, subdi-

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visions 1 and 2; 518.175, subdivisions 1 and 5; 518.552, by adding a subdivision; and 518.58, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 518.

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

Section 1. Minnesota Statutes 1988, section 257.022, is amended by adding a subdivision to read:

Subd. 2b. WHEN CHILD HAS RESIDED WITH OTHER PERSON. If an unmarried minor has resided in a household with a person, other than a foster parent, for two years or more and no longer resides with the person, the person may petition the district court for an order granting the person reasonable visitation rights to the child during the child's minority. The court shall grant the petition if it finds that:

(1) visitation rights would be in the best interests of the child;

(2) the petitioner and child had established emotional ties creating a parent and child relationship; and

(3) visitation rights would not interfere with the relationship between the custodial parent and the child.

The court shall consider the reasonable preference of the child, if the court considers the child to be of sufficient age to express a preference.

Sec. 2. Minnesota Statutes 1988, section 518.17, subdivision 1, is amended to read:

Subdivision 1. **THE BEST INTERESTS OF THE CHILD.** (a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

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

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

(3) the child's primary caretaker;

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

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

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

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

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

(~~e~~) (9) the mental and physical health of all individuals involved;

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

(~~i~~) (11) the child's cultural background; and

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

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

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

Sec. 3. Minnesota Statutes 1988, section 518.17, subdivision 2, is amended to read:

Subd. 2. **FACTORS WHEN JOINT CUSTODY IS SOUGHT.** In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

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

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

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

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

The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child.

Sec. 4. Minnesota Statutes 1988, section 518.175, subdivision 1, is amended to read:

Subdivision 1. 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 the ~~noncustodial~~ either parent, grant such rights of visitation on behalf of the child and noncus-

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odial parent as will enable the child and the noncustodial 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 visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court ~~may~~ shall restrict visitation by the noncustodial parent as to time, place, duration, or supervision and may deny visitation entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the noncustodial 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 visitation.

Sec. 5. Minnesota Statutes 1988, section 518.175, subdivision 5, is amended to read:

Subd. 5. The court ~~may~~ shall modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a ~~parent's~~ visitation rights unless it finds that:

(1) the visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the noncustodial parent has chronically and unreasonably failed to comply with court-ordered visitation.

If the custodial parent makes specific allegations that visitation places the custodial parent in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting visitation rights. The court may require a third party, including the county welfare board, to supervise the visitation or may restrict a parent's visitation rights if necessary to protect the custodial parent from harm.

Sec. 6. [518.1751] VISITATION DISPUTE RESOLUTION.

Subdivision 1. VISITATION EXPEDITOR. (a) Upon agreement of all parties, the court may appoint a visitation expeditor to resolve visitation disputes that occur under a visitation order while a matter is pending under this chapter, chapter 257 or 518A, or after a decree is entered. Prior to appointing the visitation expeditor, the court shall give the parties notice that the costs of the visitation expeditor will be apportioned among the parties and that if the parties do not reach an agreement, the visitation expeditor will make a nonbinding decision resolving the dispute.

(b) For purposes of this section, "visitation dispute" means a disagreement among parties about visitation with a child. "Visitation dispute" includes a claim by a custodial parent that a noncustodial parent is not visiting a child as well as a claim by a noncustodial parent that a custodial parent is denying or interfering with visitation.

Subd. 2. APPOINTMENT; COSTS. The court shall appoint the visitation expeditor. If the parties cannot agree on a visitation expeditor, the court shall present a list of candidates with one more candidate than there are parties to

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the dispute. In developing the list of candidates, the court must give preference to persons who agree to volunteer their services. Each party shall strike one name and the court shall appoint the remaining individual as the visitation expeditor. In its order appointing the visitation expeditor, the court shall apportion the costs of the visitation expeditor among the parties, with each party bearing the portion of costs that the court determines is just and equitable under the circumstances.

Subd. 3. AGREEMENT OR DECISION. (a) If a visitation dispute arises, the visitation expeditor shall meet with the parties within five days and make a diligent effort to facilitate an agreement to resolve the visitation dispute.

(b) If the parties do not reach an agreement, the expeditor shall make a decision resolving the dispute as soon as possible. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court to resolve the dispute. The court may consider the agreement of the parties or the decision of the expeditor, but neither is binding on the court.

Subd. 4. OTHER AGREEMENTS. This section does not preclude the parties from voluntarily agreeing to submit their visitation dispute to a neutral third party.

Sec. 7. Minnesota Statutes 1988, section 518.552, is amended by adding a subdivision to read:

Subd. 5. PRIVATE AGREEMENTS. The parties may expressly preclude or limit modification of maintenance through a stipulation, if the court makes specific findings that the stipulation is fair and equitable, is supported by consideration described in the findings, and that full disclosure of each party's financial circumstances has occurred. The stipulation must be made a part of the judgment and decree.

Sec. 8. Minnesota Statutes 1988, section 518.58, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the

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contribution of a spouse as a homemaker. It shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall value marital assets for purposes of division between the parties as of the day of the proceeding for dissolution or annulment is commenced initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties, or unless the court finds makes specific findings that the parties subsequently made a good faith reconciliation, in which case the court may establish the valuation date as of the date the reconciliation ended. Within 60 days after a proceeding for dissolution or annulment is commenced, unless the time is extended either by agreement of the parties or by order of the court for good cause shown, each party shall serve and file a verified statement identifying all assets, marital and nonmarital, the values of the assets and the basis for the values, and disclosing all liabilities of the parties another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution. During the pendency of a marriage dissolution or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without consent of the other, from a transaction or from any use by the party of the marital assets.

Sec. 9. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 22, 1989

Signed by the governor May 25, 1989, 5:33 p.m.

CHAPTER 249—H.F.No. 300

An act relating to occupational safety and health; proposing changes to the employee right-to-know act of 1983; amending Minnesota Statutes 1988, sections 182.651, subdivisions 7, 16, and by adding a subdivision; 182.653, subdivision 4f; and 182.669, subdivision 1.

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

Section 1. Minnesota Statutes 1988, section 182.651, subdivision 7, is amended to read:

Subd. 7. "Employer" means a person who has employs one or more employees and includes any person acting who has the power to hire, fire, or transfer, or who acts in the interest of, or as a representative of, an employer and includes a corporation, partnership, association, group of persons, and the state and all of its political subdivisions.

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