

CHAPTER 245—S.F.No. 830

An act relating to family law; modifying provisions and procedures governing child support and maintenance, visitation, and related matters; making complying and technical changes; amending Minnesota Statutes 1996, sections 168A.05, subdivision 8; 171.19; 256.87, by adding a subdivision; 256.978, subdivision 2, as amended; 256.979, subdivisions 5, 6, 7, 8, and by adding a subdivision; 256.9791, subdivision 1; 256.998, subdivisions 3 and 9; 257.75, subdivisions 1a and 4; 518.157; 518.175, subdivision 6; 518.1751; 518.179, subdivision 1; 518.195; 518.54, subdivision 6, as amended; 518.551, subdivisions 5b, 7, 12, as amended, 14, and by adding subdivisions; 518.5511, subdivisions 1, 2, 3, 4, and by adding a subdivision; 518.5512, subdivisions 2, as amended, 3, and by adding a subdivision; 518.553; 518.5852; 518.64, subdivision 2; 518.641, subdivision 2; 518.68, subdivision 2; 518C.305; 518C.306; 518C.307; 518C.605; 518C.606; 519.05; 548.091, subdivision 9, as added; 609.375, by adding a subdivision; 626.556, subdivision 2; and 631.52, subdivision 1; Laws 1997, chapter 85, article 1, sections 16, subdivision 1, as amended; 36, subdivision 2; 43, subdivisions 4 and 5; and 66, subdivision 2; and article 3, by adding a section; S.F. No. 1908, article 6, sections 3, subdivisions 1, 4, 6, and 10; and 5, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 1996, sections 256.996; and 609.375, subdivisions 3, 4, and 6.

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

ARTICLE 1

CHILD SUPPORT

Section 1. Minnesota Statutes 1996, section 168A.05, subdivision 8, is amended to read:

Subd. 8. **LIENS FILED FOR ENFORCEMENT OF CHILD SUPPORT.** This subdivision applies if the court or a public authority responsible for child support enforcement orders or directs the commissioner to enter a lien, as provided in section 518.551, subdivision 14. If a certificate of title is applied for by the owner, the department shall enter a lien on the title in the name of the state of Minnesota or in the name of the obligee in accordance with the notice if the value of the motor vehicle determined in accordance with either the definitions of section 297B.01, subdivision 8, or the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year exceeds the exemption allowed in section 550.37. The lien on the title is subordinate to any bona fide purchase money security interest as defined in section 336.9-107 regardless of when the purchase money security interest is perfected. With respect to all other security interests, the lien is perfected as of the date entered on the title. ~~The lien is subject to an exemption in the amount currently in effect under section 518.551, subdivision 14.~~

Sec. 2. Minnesota Statutes 1996, section 171.19, is amended to read:

171.19 PETITION FOR LICENSE REINSTATEMENT.

Any person whose driver's license has been refused, revoked, suspended, or canceled by the commissioner, except where the license is revoked under section 169.123 or

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section 171.186, may file a petition for a hearing in the matter in the district court in the county wherein such person shall reside and, in the case of a nonresident, in the district court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty, to set the matter for hearing upon 15 days' written notice to the commissioner, and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancellation, or refusal of license, and shall render judgment accordingly. The petition shall be heard by the court without a jury and may be heard in or out of term. The commissioner may appear in person, or by agents or representatives, and may present evidence upon the hearing by affidavit personally, by agents, or by representatives. The petitioner may present evidence by affidavit, except that the petitioner must be present in person at such hearing for the purpose of cross-examination. In the event the department shall be sustained in these proceedings, the petitioner shall have no further right to make further petition to any court for the purpose of obtaining a driver's license until after the expiration of one year after the date of such hearing.

Sec. 3. Minnesota Statutes 1996, section 256.87, is amended by adding a subdivision to read:

Subd. 9. ARREARS FOR PARENT WHO REUNITES WITH FAMILY. (a) A parent liable for assistance under this section may seek a suspension of collection efforts under Title IV-D of the Social Security Act or a payment agreement based on ability to pay if the parent has reunited with that parent's family and lives in the same household as the child on whose behalf the assistance was furnished.

(b) The Title IV-D agency shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and shall propose a reasonable payment agreement tailored to those individual financial circumstances.

(c) The Title IV-D agency may suspend collection of arrears owed to the state under this section for as long as the obligor continues to live in the same household as the child on whose behalf the assistance was furnished if the total gross household income of the obligor is less than 185 percent of the federal poverty level.

(d) An obligor must annually reapply for suspension of collection of arrearages under paragraph (c).

(e) The obligor must notify the Title IV-D agency if the obligor no longer resides in the same household as the child.

Sec. 4. Minnesota Statutes 1996, section 256.979, subdivision 5, is amended to read:

Subd. 5. PATERNITY ESTABLISHMENT AND CHILD SUPPORT ORDER ESTABLISHMENT AND MODIFICATION BONUS INCENTIVES. (a) A bonus incentive program is created to increase the number of paternity establishments and establishment and modifications of child support orders done by county child support enforcement agencies.

(b) A bonus must be awarded to a county child support agency for each child case for which the agency completes a paternity or child support order establishment or modification through judicial, or administrative, or expedited processes and for each instance in which the agency reviews a case for a modification of the child support order.

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(c) The rate of bonus incentive is \$100 for each paternity or child support order establishment and \$50 for each review for modification of a child support order modification set in a specific dollar amount.

(d) No bonus shall be paid for a modification that is a result of a termination of child care costs according to section 518.551, subdivision 5, paragraph (b), or due solely to a reduction of child care expenses.

Sec. 5. Minnesota Statutes 1996, section 256.979, subdivision 6, is amended to read:

Subd. 6. **CLAIMS FOR BONUS INCENTIVE.** (a) The commissioner of human services and the county agency shall develop procedures for the claims process and criteria using automated systems where possible.

(b) Only one county agency may receive a bonus per paternity establishment or child support order establishment or modification for each case. The county agency making the initial preparations for the case resulting in the establishment of paternity or modification of an order is the county agency entitled to claim the bonus incentive, even if the case is transferred to another county agency prior to the time the order is established or modified. The county agency completing the action or procedure needed to establish paternity or a child support order or modify an order is the county agency entitled to claim the bonus incentive.

(c) Disputed claims must be submitted to the commissioner of human services and the commissioner's decision is final.

(d) For purposes of this section, "case" means a family unit for whom the county agency is providing child support enforcement services.

Sec. 6. Minnesota Statutes 1996, section 256.979, subdivision 7, is amended to read:

Subd. 7. **DISTRIBUTION.** (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid in the order in which claims are received.

(b) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

(c) The county agency shall repay any bonus erroneously issued.

(d) A county agency shall maintain a record of bonus incentives claimed and received for each quarter.

(e) Payment of bonus incentives is limited by the amount of the appropriation for this purpose. If the appropriation is insufficient to cover all claims, the commissioner of human services may prorate payments among the county agencies.

Sec. 7. Minnesota Statutes 1996, section 256.979, subdivision 8, is amended to read:

Subd. 8. **MEDICAL PROVIDER REIMBURSEMENT.** (a) A fee to the providers of medical services is created for the purpose of increasing the numbers of signed and notarized recognition of parentage forms completed in the medical setting.

(b) A fee of \$25 shall be paid to each medical provider for each properly completed recognition of parentage form sent to the department of vital statistics.

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(c) The office of vital statistics shall notify the department of human services quarterly of the numbers of completed forms received and the amounts paid.

(d) The department of human services shall remit quarterly to each medical provider a payment for the number of signed recognition of parentage forms completed by that medical provider and sent to the office of vital statistics.

(e) The commissioners of the department of human services and the department of health shall develop procedures for the implementation of this provision.

(f) Payments will be made to the medical provider within the limit of available appropriations.

(g) Federal matching funds received as reimbursement for the costs of the medical provider reimbursement must be retained by the commissioner of human services for educational programs dedicated to the benefits of paternity establishment.

Sec. 8. Minnesota Statutes 1996, section 256.979, is amended by adding a subdivision to read:

Subd. 10. TRANSFERABILITY BETWEEN BONUS INCENTIVE ACCOUNTS AND GRANTS TO COUNTY AGENCIES. The commissioner of human services may transfer money appropriated for child support enforcement county performance incentives under this section and section 256.9791 among county performance incentive accounts. Incentive funds to counties transferred under this section must be reinvested in the child support enforcement program and may not be used to supplant money now spent by counties for child support enforcement.

Sec. 9. Minnesota Statutes 1996, section 256.9791, subdivision 1, is amended to read:

Subdivision 1. BONUS INCENTIVE. (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for persons who are receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person for whom coverage is identified and enforced by the child support enforcement program when the obligor is under a court order to provide dependent health insurance coverage.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

Sec. 10. Minnesota Statutes 1996, section 256.998, subdivision 9, is amended to read:

Subd. 9. INDEPENDENT CONTRACTORS. The state and all political subdivisions of the state, when acting in the capacity of an employer, shall report the hiring of any person as an independent contractor to the centralized work reporting system in the same manner as the hiring of an employee is reported.

~~The attorney general and the commissioner of human services shall work with representatives of the employment community and industries that utilize independent con-~~

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tractors in the regular course of business to develop a plan to include the reporting of independent contractors by all employers to the centralized work reporting system by July 1, 1996. The attorney general and the commissioner of human services shall present the resulting plan in the form of proposed legislation to the legislature by February 1, 1996. Other payors may report independent contractors to whom they make payments that require the filing of a 1099-MISC report. Payors reporting independent contractors shall report by use of the same means and provide the same information required under subdivisions 4 and 5. The commissioner of human services shall establish procedures for payors reporting under this section.

Sec. 11. Minnesota Statutes 1996, section 257.75, subdivision 1a, is amended to read:

Subd. 1a. **JOINDER IN RECOGNITION BY HUSBAND.** A man who is a presumed father under section 257.55, subdivision 1, paragraph (a), may join in a recognition of parentage that recognizes that another man is the child's biological father. The man who is the presumed father under section 257.55, subdivision 1, paragraph (a), must sign an acknowledgment under oath before a notary public that he is renouncing the presumption under section 257.55, subdivision 1, paragraph (a), and recognizing that the father who is executing the recognition under subdivision 1 is the biological father of the child. A joinder in a recognition under this subdivision must be executed within one year after the child's birth and at the same time as the recognition under subdivision 1 or within ten days following execution of the recognition. the joinder must be included in the recognition form or incorporated by reference within the recognition and attached to the form when it is filed with the state registrar of vital statistics. The joinder must be on a form prepared by the commissioner of human services. Failure to properly execute a joinder in a recognition does not affect the validity of the recognition under subdivision 1. A joinder without a corresponding recognition of parentage has no legal effect.

Sec. 12. **[518.111] SUFFICIENCY OF NOTICE.**

Automated child support notices sent by the public authority which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

Sec. 13. Minnesota Statutes 1996, section 518.551, subdivision 5b, is amended to read:

Subd. 5b. **DETERMINATION OF INCOME.** (a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, reemployment insurance statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period.

(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

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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 appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that parent based on credible evidence before the court or in accordance with paragraph (d). 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 economic security under section 268.121.

(d) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If the court is unable to determine or estimate the earnings ability of a parent, any medical support or child care contribution must be calculated based upon the obligor's proportionate share of the child care expenses using 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is a recipient of public assistance under sections 256.72 to 256.87 or chapter 256B section 256.741, or is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

(e) Income from self employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Net income under this section may be different from taxable income.

Sec. 14, Minnesota Statutes 1996, section 518.551, is amended by adding a subdivision to read:

Subd. 5c. **ADJUSTMENT TO SUPPORT ORDER.** A support order issued under this section may provide that during any period of time of 30 consecutive days or longer that the child is residing with the noncustodial parent, the amount of support otherwise due under the order may be reduced.

Sec. 15, Minnesota Statutes 1996, section 518.551, subdivision 7, is amended to read:

Subd. 7. **SERVICE FEE.** When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient

ent or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support.

An application fee of \$25 shall be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of children, families, and learning. Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee shall assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

Sec. 16. Minnesota Statutes 1996, section 518.551, is amended by adding a subdivision to read:

Subd. 13a. DATA ON SUSPENSIONS FOR SUPPORT ARREARS. Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under subdivision 12 or a driver's license suspension under subdivision 13 that are transferred by the department of human services to respectively the department of public safety or any state, county, or municipal occupational licensing agency must have the same classification at the department of public safety or other receiving agency under section 13.02 as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the department of human services.

Sec. 17. Minnesota Statutes 1996, section 518.551, subdivision 14, is amended to read:

Subd. 14. MOTOR VEHICLE LIEN. (a) Upon motion of an obligee, if a court finds that the obligor is the registered owner of a motor vehicle and the obligor is a debtor for a judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the court shall order the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, unless the court finds that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge,

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or the public authority ~~or that the obligor's interest in the motor vehicle is valued at less than \$4,500. The court's order must be stayed for 90 days in order to allow the obligor to either execute a written payment agreement regarding both current support and arrearages, which agreement shall be approved by either the court or the public authority responsible for child support enforcement, or to allow the obligor to demonstrate that the ownership interest in the motor vehicle is valued at less than \$4,500. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or has not demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500 within the 90-day period, the court's order becomes effective and the commissioner of public safety shall record the lien on any motor vehicle certificate of title subsequently issued in the name of the obligor. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.~~

(b) If a public authority responsible for child support enforcement determines that the obligor is the registered owner of a motor vehicle and the obligor is a debtor for judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the public authority shall direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the name of the obligor unless the public authority determines that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to record a lien on the ~~obligor's any motor vehicle certificate of title subsequently issued in the name of the obligor and that the obligor must request a hearing within 30 days in order to contest the action. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice and the obligor does not execute or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or demonstrate to the public authority that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500 within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to record the lien under paragraph (b).~~

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the com-

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missioner of public safety to record the lien unless the court or administrative law judge determines that:

(1) the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages determined to be acceptable by the court, an administrative law judge, or the public authority; or

(2) the obligor has demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500.

(e) An obligor who has had a lien recorded against a motor vehicle certificate of title may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages or that the value of the motor vehicle is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority shall either execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person or shall direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the name of the obligor in instances where a lien has not yet been entered. The dollar amounts in this section shall change periodically in the manner provided in section 550.37, subdivision 4a.

(f) Any lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Sec. 18. Minnesota Statutes 1996, section 518.5511, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and parentage orders and modify enforce maintenance if combined with a child support proceeding. All laws governing these actions apply insofar as they are not inconsistent with the provisions of this section and section 518.5512. Wherever other laws or rules are inconsistent with this section and section 518.5512, the provisions in this section and section 518.5512 shall apply.

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and modifying enforcing maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides services to a party or parties to the proceedings. Cases in which there is no assignment of support or in which the public authority is not providing services may not be conducted in the administrative process. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or ~~modification~~ enforcement of maintenance orders if combined with a child support proceeding in district court, if additional issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion

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or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a summary notice of denial which denies the request for relief within 30 days of receiving the written request, states the reasons for the denial, and notifies the party of the right to commence an action for relief proceed directly to a contested administrative proceeding according to subdivision 3a, paragraph (a). If the party commences an action or serves and files a motion proceeds directly to a contested hearing and files the requisite documents, as provided by the commissioner, with the court administrator within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority. If the public authority accepts the request and proceeds with the uncontested administrative process, any order or modification may be retroactive to the date the written request was received by the public authority.

(d) After August 1, 1994, all counties shall participate in the administrative process established in this section in accordance with a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the administrative process until after the county has been trained. The implementation plan shall include provisions for training the counties by region no later than July 1, 1995. The public authority may initiate actions in the administrative process.

(e) For the purpose of the administrative process, all powers, duties, and responsibilities conferred on judges of district court to obtain and enforce child and medical support and parentage and maintenance obligations, subject to the limitations of this section are conferred on administrative law judges, including the power to determine controlling interstate orders, and to issue subpoenas, orders to show cause, and bench warrants for failure to appear.

The administrative law judge has the authority to enter parentage orders in which the custody and visitation provisions are uncontested.

(f) Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary notices, proposed orders, default orders, consent orders, orders for blood or genetic tests, and other documents related to the administrative process for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to enforce maintenance if combined with a child support order. The nonattorney employee may issue administrative subpoenas, conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice. The nonattorney employees may act subject to the limitations of section 518.5512.

(g) Any party may make a written request to the office of administrative hearings for a subpoena compelling the attendance of a witness or the production of books, papers, records, or other documents relevant to the administrative process. Subpoenas are enforceable through the district court. The public authority may also request a subpoena from the office of administrative hearings for the production of a witness or documents.

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The nonattorney employee of the public authority may issue subpoenas subject to the limitations in section 518.5512, subdivision 6, paragraph (a), clause (2).

(h) At all stages of the administrative process, the county attorney, or other attorney under contract, shall act as the legal adviser for the public authority.

(i) The commissioner of human services shall:

(1) provide training to child support officers and other persons involved in the administrative process;

(2) timely prepare simple and easy to understand forms, in consultation with the office of administrative hearings, for all notices and orders prescribed in this section, including a support order worksheet form, with the exception of orders issued by the district court or the office of administrative hearings under subdivision 4; and

(3) distribute money to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

(j) The commissioner of human services, in consultation with the office of administrative hearings, is responsible for the supervision of the administrative process.

(k) The public authority, the office of administrative hearings, court administrators, and other entities involved in the administrative process shall use the forms prepared by the commissioner.

(l) The office of administrative hearings may reject orders that have not been prepared using the commissioner's forms or on forms that have not been approved by the commissioner.

(m) The office of administrative hearings is responsible for training and monitoring the performance of administrative law judges, maintaining records of proceedings, providing transcripts upon request, and maintaining the integrity of the district court file.

Sec. 19. Minnesota Statutes 1996, section 518.5511, subdivision 2, is amended to read:

Subd. 2. UNCONTESTED ADMINISTRATIVE PROCEEDING. (a) A party may petition the chief administrative law judge, the chief district court judge, or the chief family court referee to proceed immediately to a contested hearing upon good cause shown.

(b) The public authority shall give the parties written notice requesting the submission of information necessary for the public authority to prepare a proposed order. The written notice shall be sent by first class mail to the parties' last known addresses. The written notice shall describe the information requested, state the purpose of the request, state the date by which the information must be postmarked or received (which shall be at least 30 days from the date of the mailing of the written notice), state that if the information is not postmarked or received by that date, the public authority will prepare a proposed order on the basis of the information available, and identify the type of information which will be considered.

(e) Following the submission of information or following the date when the information was due the initiation of the administrative process under subdivision 1, para-

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graph (c) or (d), the public authority shall, on the basis of all information available, complete and sign a proposed order and notice. The public authority shall attach a support order worksheet. In preparing the proposed order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). If the public authority has incomplete or insufficient information upon which to prepare a proposed order, the public authority shall use the default standard established in section 518.551, subdivision 5b, paragraph (d), to prepare the proposed order. The notice shall state that the proposed order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 contacts the public authority regarding the proposed order within 21 30 days following the date of service of the proposed order. The method for requesting the conference shall be stated in the notice. The notice and proposed order shall be served under the rules of civil procedure on the noninitiating party and by first class mail on the initiating party. After receipt of the notice and proposed order, the court administrator shall file the documents.

For the purposes of the contested hearing administrative process, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to under this paragraph shall be deemed to have commenced a proceeding and the judge, including an administrative law judge or a referee, shall have jurisdiction over the a contested hearing administrative proceeding.

(d) (b) If a conference under subdivision 3 is not requested the public authority is not contacted by a party within 21 30 days after the date of service of the proposed order, the public authority may submit the proposed order as the default order. The default order becomes enforceable upon signature by an administrative law judge, district court judge, or referee. The public authority may also prepare and serve a new notice and proposed order if new information is subsequently obtained. The default order shall be a final order, and shall be served under the rules of civil procedure.

(c) If the public authority obtains new information after service of the proposed order, the public authority may prepare one notice and revised proposed order. The revised order must be served by first class mail on the parties. If the public authority is not contacted within seven days after the date of service of the revised order, the public authority may submit the revised order as a default order but in no event sooner than 30 days after the service of the original proposed order.

(e) (d) The public authority shall file in the district court copies of all notices served on the parties, proof of service, the support order worksheet, and all orders.

Sec. 20. Minnesota Statutes 1996, section 518.5511, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATIVE CONFERENCE.** (a) If a party requests a conference contacts the public authority within 21 30 days of the date of service of the proposed order, and the public authority does not choose to proceed directly to a contested administrative proceeding, the public authority shall schedule a conference, and shall serve send written notice of the date, time, and place of the conference and the date, time, and place of a contested administrative proceeding in the event the administrative conference fails to resolve all of the issues on the parties. The public authority may request any additional

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information necessary to establish child support. The public authority may choose to go directly to a contested administrative proceeding and is not required to conduct an administrative conference. The date of the contested administrative proceeding must be set within 31 days of the administrative conference or not more than 60 days from the date of the notice of the administrative conference. A request for a continuance must be made to the chief administrative law judge according to Minnesota Rules, part 1400.7500.

(b) The purpose of the conference is to review all available information and seek an agreement to enter a consent order. The notice shall state the purpose of the conference, and that the proposed order will be entered as a final and binding default order if the requesting party fails both parties fail to appear at the conference. The notice must also state that if only one party appears at the conference and there is no new information provided, the matter shall proceed by default. The notice shall be served on the parties by first class mail at their last known addresses, and the method of service shall be documented in the public authority file. All available and relevant information must be shared with the parties at the conference subject to the limitations of sections 256.87, subdivision 8, 257.70, and 518.005, subdivision 5. If a conference is not held, information which would have been shared at the conference by the public authority must be provided to a party or the party's attorney within 15 days of receipt of a written request.

(c) A party alleging domestic abuse by the other party shall not be required to participate in a conference. In such a case, the public authority shall meet separately with the parties in order to determine whether an agreement can be reached.

(d) If all parties appear at the conference and agree to all issues, and the public authority approves the agreement, the public authority shall prepare a consent order for the parties and the public authority to sign. The public authority shall submit the consent order to the administrative law judge. Upon signature, the order is a final order and must be served on the parties by first class mail.

(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date of the conference which constitutes good cause (e) If only one party appears at the conference and there is no new information available, or if both of the parties fail to appear at the conference, the public authority may enter submit a default order through the uncontested administrative process. The public authority shall not enter the default order until at least seven days after the date of the conference.

For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision. If only one party appears at the conference and there is new information available, the matter shall proceed directly to the scheduled contested administrative proceeding.

(e) (f) If the parties appear at the conference, the public authority shall seek and do not reach agreement of the parties to the entry of a consent order which establishes child support in accordance with applicable law, the public authority shall advise the parties that if a consent order is not entered, the matter will be remains scheduled for a hearing before an administrative law judge, or a district court judge or referee contested adminis-

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trative proceeding, and that the public authority will seek the establishment of child support at the hearing proceeding in accordance with the highest amount permitted under section 518.551, subdivision 5. If an agreement to enter the consent order is not reached at the conference, the public authority shall schedule the matter for a contested hearing child support guidelines.

(f) If an agreement is reached by the parties at the conference, a consent order shall be prepared by the public authority, and shall be signed by the parties. All consent and default orders shall be signed by the nonattorney employee of the public authority and shall be submitted to an administrative law judge or the district court for approval and signature. The order is enforceable upon the signature by the administrative law judge or the district court. The consent order shall be served on the parties under the rules of civil procedure.

(g) If one or both of the parties appear at the administrative conference and there is new information that makes the proposed order unreasonable or inappropriate, the public authority may issue a revised proposed order pursuant to subdivision 2, paragraph (c), or proceed directly to a contested administrative proceeding.

Sec. 21. Minnesota Statutes 1996, section 518.5511, is amended by adding a subdivision to read:

Subd. 3a. ALTERNATIVE ADMINISTRATIVE RESOLUTIONS. (a)(1) Any party may proceed directly to a contested administrative proceeding under subdivision 4 by making a written request to the public authority. After the public authority receives a written request, the public authority shall request or schedule a contested administrative proceeding and inform the requester of the date, time, and place of the hearing. The public authority shall also provide the requester with the contested administrative documents necessary for the proceeding. These documents must be completed by the requester, served on the other party and the public authority, and filed with the court administrator at least 21 days before the hearing. If the documents are not filed with the court administrator, the contested administrative proceeding must be canceled unless the public authority or a party objects.

(2) The public authority may also proceed directly to a contested administrative proceeding.

(b) At any time in the administrative process, including prior to the issuance of the proposed order, if the parties and the public authority are in agreement, the public authority shall prepare a consent order to be signed by the public authority and the parties. The parties must waive any of their rights to the notices and time frames required by this section. The public authority shall submit the order to the administrative law judge. Upon signature by the court, the order is a final order and must be filed with the court administrator and served by first class mail on the parties.

Sec. 22. Minnesota Statutes 1996, section 518.5511, subdivision 4, is amended to read:

Subd. 4. CONTESTED ADMINISTRATIVE PROCEEDING. (a) All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the contested administrative pro-

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cess until after the county has been trained. The contested administrative process shall be in operation in all counties no later than July 1, 1998, with the exception of Hennepin county which shall have a pilot program in operation no later than July 1, 1996.

The Hennepin county pilot program shall be jointly planned, implemented, and evaluated by the department of human services, the office of administrative hearings, the fourth judicial district court, and Hennepin county. The pilot program shall provide that one-half of the case load use the contested administrative process. The pilot program shall include an evaluation which shall be conducted after one year of program operation. A preliminary evaluation report shall be submitted by the commissioner to the legislature by March 1, 1997. A final evaluation report shall be submitted by the commissioner to the legislature by January 15, 1998. The pilot program shall continue pending final decision by the legislature, or until the commissioner determines that the pilot program shall discontinue and that Hennepin county shall not participate in the contested administrative process.

In counties designated by the commissioner, contested hearings administrative proceedings required under this section shall be scheduled before administrative law judges, and shall be conducted in accordance with the provisions under this section. In counties not designated by the commissioner, contested hearings administrative proceedings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court.

(b) An administrative law judge may conduct hearings administrative proceedings and approve a stipulation reached on a contempt motion brought by the public authority. Any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district court judge.

(c) A party, witness, or attorney may appear or testify by telephone, audiovisual means, or other electronic means, at the discretion of the administrative law judge.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, the county court administrator, and the county sheriff shall jointly establish procedures, and the county shall provide hearing facilities for implementing this process in the county. A contested administrative hearing proceeding shall be conducted in a courtroom, if one is available, or a conference or meeting room with at least two exits and of sufficient size to permit adequate physical separation of the parties. The court administrator shall, to the extent practical, provide administrative support for the contested hearing administrative proceeding. Security personnel shall either be present during the administrative hearings proceedings, or be available to respond to a request for emergency assistance.

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.5275, 1400.5500, 1400.6000 to 1400.6400, 1400.6600 to 1400.7000, 1400.7100 to 1400.7500, 1400.7700, 1400.7800, and 1400.8100, as adopted by the chief administrative law judge. For matters not initiated under subdivision 2, documents from the moving party shall be served and filed at least ~~21~~ 14 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior to the hearing. In all contested administrative proceedings, the administrative law judge may limit the extent and timing of dis-

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covery. Except as provided under this section, other aspects of the case, including, but not limited to, discovery, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

(f) Pursuant to Following a contested administrative hearing, the administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge may be enforceable by the contempt powers of the district courts.

(g) At the time the matter is scheduled for a contested hearing administrative proceeding, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties that have been provided to all parties, in addition to the any documents filed under subdivision 2, paragraph (e) (d). These documents may be used as evidence by the judge in deciding the case without need for further foundation testimony. For matters scheduled for a contested hearing administrative proceeding which were not initiated under subdivision 2, the public authority shall obtain any income information available to the public authority through the department of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

(h) If only one party appears at the contested administrative proceeding, a hearing must be conducted. The administrative law judge shall prepare an order and file it with the district court. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(i) If neither party appears at the contested administrative proceeding and no new information has been submitted or made available to the court or public authority, the public authority shall submit the default order to the administrative law judge for signature. If neither party appears and new information is available to the court or public authority, the administrative law judge shall prepare an order based on the new information. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(j) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

Sec. 23. Minnesota Statutes 1996, section 518.5512, subdivision 3, is amended to read:

Subd. 3. **COST-OF-LIVING ADJUSTMENT.** The notice of application for adjustment shall be treated as a proposed order under section 518.5511, subdivision 2, paragraph (e). The public authority shall send notice of its application for a cost-of-living adjustment on the obligor in accord with section 518.641. The public authority shall stay the adjustment of support upon receipt by the public authority of a request for an administrative conference by the obligor to proceed directly to a contested administrative proceeding under section 518.5511, subdivision 4. An obligor requesting an administrative conference shall provide all relevant information that establishes an insufficient increase in income to justify the adjustment of the support obligation. If the obligor fails to submit any evidence at the administrative conference, the cost-of-living adjustment will immediately go into effect.

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Sec. 24. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 3a. FORM. The public authority shall prepare and make available to the court and obligors a form, to be submitted to the public authority by the obligor, to request to proceed directly to a contested administrative proceeding regarding a cost-of-living adjustment.

Sec. 25. Minnesota Statutes 1996, section 518.553, is amended to read:

518.553 PAYMENT AGREEMENTS.

In proposing or approving proposed written payment agreements for purposes of section 518.551, the court, an administrative law judge, or the public authority shall take into consideration the amount of the arrearages, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The court, administrative law judge, or public authority shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay any proposed payment agreement and shall propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor.

Sec. 26. Minnesota Statutes 1996, section 518.5852, is amended to read:

518.5852 CENTRAL COLLECTIONS UNIT.

The commissioner of human services shall create and maintain a central collections unit for the purpose of receiving, processing, and disbursing payments, and for maintaining a record of payments, in all cases in which:

- (1) the state or county is a party;
- (2) the state or county provides child support enforcement services to a party; or
- (3) payment is collected through income withholding.

The commissioner of human services may contract for services to carry out these provisions, provided that the commissioner first meets and negotiates with the affected exclusive representatives.

Sec. 27. **[518.618] CASE REVIEWER.**

The commissioner shall make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

Sec. 28. **[518.6195] COLLECTION; ARREARS ONLY.**

(a) Remedies available for the collection and enforcement of support in this chapter and chapters 256, 257, and 518C also apply to cases in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation. Child support arrearages under this section include arrearages for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 518.171.

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(b) This section applies retroactively to any support arrearage that accrued on or before the date of enactment and to all arrearages accruing after the date of enactment.

Sec. 29. Minnesota Statutes 1996, section 518.64, 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: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) 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.

(b) It is presumed that there has been a substantial change in circumstances under clause (1), (2), or (4) 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 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the custodial parent;

(3) health coverage ordered under section 518.171 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.

(c) 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 518.551, subdivision 5, 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

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(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) ~~(d)~~ A modification of support or maintenance 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 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. However, modification may be applied to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or

(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay.

The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

~~(d)~~ (e) 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 518.24.

(e) (f) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

~~(f)~~ (g) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 30. Minnesota Statutes 1996, section 518.641, subdivision 2, is amended to read:

Subd. 2. **CONDITIONS.** No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee or public authority serves notice of its the application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

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(b) the notice to the obligor informs the obligor of the date on which the adjustment in payments will become effective; and

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing; or

(d) the public authority sends notice of its application for adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment, and the notice informs the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment according to section 518.5512.

Sec. 31. Minnesota Statutes 1996, section 609.375, is amended by adding a subdivision to read:

Subd. 7. CONDITIONS OF WORK RELEASE; PROBATION VIOLATION.
Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Non-payment of child support is a violation of any probation granted following conviction under subdivision 2a.

Sec. 32. INDEPENDENT CONTRACTORS.

The department of human services shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1998, on the state's experience including independent contractors for the state in the work reporting system.

Sec. 33. CHILD SUPPORT ON-TIME PERFORMANCE BONUS INCENTIVE PROGRAM.

The commissioner shall develop a proposal for a bonus incentive program to reward timeliness of child support service delivery, including the establishment of orders, the modification of orders, and the administrative process. Special emphasis must be given to cases where timely delivery of services may divert families from public assistance or help families exit public assistance with minimal loss of time-limited public assistance benefits. The proposal must treat current federal law service delivery timelines as minimum standards and reward county agencies that surpass the minimum standards. Other methods to enhance timely service delivery may be considered. The commissioner shall consult with public assistance recipients and low-income nonpublic assistance recipients in developing the proposal. The commissioner shall report and make recommendations to the legislature by January 15, 1998.

Sec. 34. REPEALER.

Minnesota Statutes 1996, section 609.375, subdivisions 3, 4, and 6, are repealed.

Sec. 35. EFFECTIVE DATES.

Sections 16 and 25 are effective the day following final enactment.

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ARTICLE 2

VISITATION

Section 1. Minnesota Statutes 1996, section 518.157, is amended to read:

518.157 ORIENTATION PARENT EDUCATION PROGRAM IN PROCEEDINGS INVOLVING CHILDREN.

Subdivision 1. IMPLEMENTATION; ADMINISTRATION. By January 1, 1998, the chief judge of each judicial district or a designee shall implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing visitation conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

Subd. 2. MINIMUM STANDARDS; PLAN. The Minnesota supreme court should promulgate minimum standards for the implementation and administration of a parent education program. The chief judge of each judicial district or a designee shall submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota supreme court.

Subd. 3. ATTENDANCE. In a proceeding under this chapter involving custody, support, or visitation of children, the court may require the parties to or sections 257.51 to 257.75 where custody or visitation is contested, the parents of a minor child shall attend an orientation and education program regarding the proceedings and the impact on the children, that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or visitation the court may order the parents of a minor child to attend a parent education program. The program shall provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or visitation proceeding may attend a parent education program without a court order. Participation in a parent education program must occur as early as possible. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court shall may excuse the party from attending the program. Parties may be required to pay a fee to cover the cost of the program, except that if a party is entitled to proceed in forma pauperis under section 563.01, the court shall waive the fee or direct its payment under section 563.01. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court may shall not require the parties to attend the same orientation session parent education sessions and shall enter an order setting forth the manner in which the parties may safely participate in the program.

Subd. 4. SANCTIONS. The court may impose sanctions upon a parent for failure to attend or complete a parent education program as ordered.

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Subd. 5. **CONFIDENTIALITY.** Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors shall not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

Subd. 6. **FEE.** Except as provided in this subdivision, each person who attends a parent education program shall pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under section 563.01 is exempt from paying the parent education program fee and the court shall waive the fee or direct its payment under section 563.01. Program providers shall implement a sliding fee scale.

Sec. 2. Minnesota Statutes 1996, section 518.175, subdivision 6, is amended to read:

Subd. 6. **REMEDIES.** (a) The court may provide for one or more of the following remedies for denial of or interference with court-ordered visitation as provided under this subdivision. All visitation orders must include notice of the provisions of this subdivision.

(b) If the court finds that a person has been wrongfully deprived of the duly established right to court-ordered visitation, the court shall order the custodial parent to permit additional visits to compensate for the visitation of which the person was deprived or the court shall make specific findings as to why a request for compensatory visitation is denied. If compensatory visitation is awarded, additional visits must be:

(1) at least of the same type and duration as the wrongfully denied deprived visit and, at the discretion of the court, may be in excess of or of a different type than the deprived visit;

(2) taken within one year after the wrongfully denied deprived visit; and

(3) at a time acceptable to the person deprived of visitation.

(c) If the court finds that a party has wrongfully failed to comply with a visitation order or a binding agreement or decision under section 518.1751, the court may:

(1) impose a civil penalty of up to \$500 on the party; or

(2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;

(3) award reasonable attorney's fees and costs;

(4) require the party who violated the visitation order or binding agreement or decision of the visitation expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or

(5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a visitation expeditor program in a county

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with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied visitation and has incurred expenses in connection with the denied visitation, the court may require the party who denied visitation to post a bond in favor of the other party in the amount of prepaid expenses associated with an upcoming planned visitation.

(e) Proof of an unwarranted denial of or interference with duly established visitation may constitute contempt of court and may be sufficient cause for reversal of custody.

Sec. 3, Minnesota Statutes 1996, section 518.1751, is amended to read:

518.1751 VISITATION DISPUTE RESOLUTION.

Subdivision 1. **VISITATION EXPEDITOR.** ~~(a)~~ Upon request of either party, the parties' stipulation, or upon the court's own motion, 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.

Subd. 1a. **EXCEPTIONS.** A party may not be required to refer a visitation dispute to a visitation expeditor under this section if:

- (1) one of the parties claims to be the victim of domestic abuse by the other party;
- (2) the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party; or
- (3) the party is unable to pay the costs of the expeditor, as provided under subdivision 2a.

If the court is satisfied that the parties have been advised by counsel and have agreed to use the visitation expeditor process and the process does not involve face-to-face meeting of the parties, the court may direct that the visitation expeditor process be used.

Subd. 1b. **PURPOSE; DEFINITIONS.** (a) The purpose of a visitation expeditor is to resolve visitation disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing visitation order and, if appropriate, to make a determination as to whether the existing visitation order has been violated. A visitation expeditor may be appointed to resolve a one-time visitation dispute or to provide ongoing visitation dispute resolution services.

(b) For purposes of this section, "visitation dispute" means a disagreement among parties about visitation with a child, including a dispute about an anticipated denial of a future scheduled visit. "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.

(c) A "visitation expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve visitation disputes. A visitation expeditor shall attempt to re-

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solve a visitation dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the visitation expeditor shall make a decision resolving the dispute.

Subd. 2. **APPOINTMENT; COSTS.** The court shall appoint the visitation expeditor and indicate the term of the appointment. 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 the dispute. In developing the list of candidates, the court must give preference (a) The parties may stipulate to the appointment of a visitation expeditor or a team of two expeditors without appearing in court by submitting to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the visitation expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court shall review the agreement of the parties.

(b) If the parties cannot agree on a visitation expeditor, the court shall provide to the parties a copy of the court administrator's roster of visitation expeditors and require the parties to exchange the names of three potential visitation expeditors by a specific date. If after exchanging names the parties are unable to agree upon a visitation expeditor, the court shall select the visitation expeditor and, in its discretion, may appoint one expeditor or a team of two visitation expeditors. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as visitation expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them. 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. If a party files a pro se motion regarding a visitation dispute and there is not a court order that provides for apportionment of the costs of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the costs of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the costs of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the costs. After costs are incurred, a party may by motion request that the costs be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

(c) An order appointing a visitation expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the visitation expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the assistance of the visitation expeditor, the visitation expeditor is authorized to make a decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Subd. 2a. **FEES.** Prior to appointing the visitation expeditor, the court shall give the parties notice that the fees of the visitation expeditor will be apportioned among the par-

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ties. In its order appointing the visitation expeditor, the court shall apportion the fees of the visitation expeditor among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a visitation dispute and there is not a court order that provides for apportionment of the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the fees of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the fees of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Subd. 2b. ROSTER OF VISITATION EXPEDITORS. Each court administrator shall maintain and make available to the public and judicial officers a roster of individuals available to serve as visitation expeditors, including each individual's name, address, telephone number, and fee charged, if any. A court administrator shall not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a visitation expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as a visitation expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint a person to serve as a visitation expeditor even if the person is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of visitation expeditors, an individual shall annually submit to the court administrator proof of completion of continuing education requirements.

Subd. 2c. TRAINING AND CONTINUING EDUCATION REQUIREMENTS. To qualify for listing on a court administrator's roster of visitation expeditors, an individual shall complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota supreme court, which must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. To maintain one's listing on a court administrator's roster of visitation expeditors, an individual shall annually attend three hours of continuing education about alternative dispute resolution subjects.

Subd. 3. AGREEMENT OR DECISION. (a) If a visitation dispute arises Within five days of notice of the appointment, or within five days of notice of a subsequent visitation dispute between the same parties, the visitation expeditor shall meet with the parties together or separately within five days and shall make a diligent effort to facilitate an agreement to resolve the visitation dispute. If a visitation dispute requires immediate resolution, the visitation expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. Resolution of a dispute may include The visitation expeditor is authorized to

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award compensatory visitation under section 518.175, subdivision 6., and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the visitation order has been violated. The visitation expeditor shall not lose authority to make a decision if circumstances beyond the visitation expeditor's control make it impracticable to meet the five-day timelines.

(c) Unless the parties mutually agree, the visitation expeditor may shall not make a decision that modifies visitation rights ordered by the court. is inconsistent with an existing visitation order, but may make decisions interpreting or clarifying a visitation order, including the development of a specific schedule when the existing court order grants "reasonable visitation."

(d) The expeditor shall put an agreement or decision in writing, and provide a copy to the parties, and file a copy with the court. The visitation expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the visitation expeditor is binding on the parties unless vacated or modified by the court. 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 and shall attach a copy of the parties' written agreement or decision of the expeditor. The court may consider enforce, modify, or vacate 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 or from otherwise resolving visitation disputes on a voluntary basis.

Subd. 4a. **CONFIDENTIALITY.** (a) Statements made and documents produced as part of the visitation expeditor process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment.

(b) Sworn testimony may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence. Visitation expeditors, and lawyers for the parties to the extent of their participation in the visitation expeditor process, must not be subpoenaed or called as witnesses in court proceedings.

(c) Notes, records, and recollections of visitation expeditors are confidential and must not be disclosed to the parties, the public, or anyone other than the visitation expeditor unless:

- (1) all parties and the visitation expeditor agree in writing to the disclosure; or
- (2) disclosure is required by law or other applicable professional codes.

Notes and records of visitation expeditors must not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Those notes or records must not be released by the court unless it determines that they disclose information showing illegal violation of the criminal law of the state.

Subd. 5. **IMMUNITY.** A visitation expeditor is immune from civil liability for actions taken or not taken when acting under this section.

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Subd. 5a. REMOVAL. If a visitation expeditor has been appointed on a long-term basis, a party or the visitation expeditor may file a motion seeking to have the expeditor removed for good cause shown.

Subd. 6. MANDATORY VISITATION DISPUTE RESOLUTION. (a) Subject to subdivision 7 1a, a judicial district may establish a mandatory visitation dispute resolution program as provided in this subdivision. In a district where a program has been established, parties may be required to submit visitation disputes to a visitation expeditor as a prerequisite to a motion on the dispute being heard by the court, or either party may submit the dispute to a visitation expeditor. A party may file a motion with the court for purposes of obtaining a court date, if necessary, but a hearing may not be held until resolution of the dispute with the visitation expeditor. The appointment of a visitation expeditor must be in accordance with subdivision 2. Visitation expeditor fees must be paid in accordance with subdivision 2a.

(b) If a visitation expeditor has not been previously appointed for the parties under subdivision 1 and the parties cannot agree on a visitation expeditor, the court or court administrator shall appoint a visitation expeditor from a list of candidates established by the judicial district, giving preference to candidates who agree to volunteer their services or charge a variable fee based on the ability of the parties to pay.

(c) Notwithstanding subdivision 1, an agreement of the parties or decision of the visitation expeditor under this subdivision is binding on the parties unless vacated or modified by the court. The expeditor shall put the agreement or decision in writing, provide a copy to the parties, and file a copy with the court. The court may consider the agreement of the parties or the decision of the expeditor, but neither is binding on the court.

Subd. 7. EXCEPTIONS. A party may not be required to refer a visitation dispute to a visitation expeditor under this section if:

- (1) the party has obtained an order for protection under chapter 518B against the other party; or
- (2) the party is unable to pay the costs of the expeditor, as provided under subdivision 2.

Sec. 4. Minnesota Statutes 1996, section 518.179, subdivision 1, is amended to read:

Subdivision 1. **SEEKING CUSTODY OR VISITATION.** Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or visitation has been convicted of a crime described in subdivision 2, the person seeking custody or visitation has the burden to prove that custody or visitation by that person is in the best interests of the child if:

- (1) the conviction occurred within the preceding five years;
- (2) the person is currently incarcerated, on probation, or under supervised release for the offense; or
- (3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

If this section applies, the court may not grant custody or visitation to the person unless it finds that the custody or visitation is in the best interests of the child. If the victim

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of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Sec. 5. Minnesota Statutes 1996, section 518.195, is amended to read:

518.195 PILOT PROJECT SUMMARY DISSOLUTION PROCESS.

Subdivision 1. **CRITERIA.** In the counties selected under subdivision 4, A couple desiring of dissolving their marriage may use the streamlined procedure in this section if:

(1) no living minor children have been born to or adopted by the parties before or during the marriage, unless someone other than the husband has been adjudicated the father;

(2) the wife is not pregnant;

(3) they have been married fewer than ~~five~~ eight years as of the date they file their joint declaration;

(4) neither party owns any real estate;

(5) there are no unpaid debts in excess of ~~\$5,000~~ \$8,000 incurred by either or both of the parties during the marriage, excluding encumbrances on automobiles;

(6) the total fair market value of the marital assets does not exceed \$25,000, including net equity on automobiles;

(7) neither party has nonmarital assets in excess of \$25,000; and

(8) neither party has been a victim of domestic abuse by the other.

Subd. 2. **PROCEDURE.** A couple qualifying under all of the criteria in subdivision 1, may obtain a judgment and decree by:

(1) filing a sworn joint declaration, on which both of their signatures must be notarized, containing or appending the following information:

(i) the demographic data required in section 518.10;

(ii) verifying the qualifications set forth in subdivision 1;

(iii) listing each party's nonmarital property;

(iv) setting forth how the marital assets and debts will be apportioned;

(v) verifying both parties' income and preserving their rights to spousal maintenance; and

(vi) certifying that there has been no domestic abuse of one party by the other; and

(2) viewing any introductory and summary process educational videotapes, if then available from the court, and certifying that they watched any such tapes within the 30 days preceding the filing of the joint declaration.

The district court administrator shall enter a decree of dissolution 30 days after the filing of the joint declaration if the parties meet the statutory qualifications and have complied with the procedural requirements of this subdivision.

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Subd. 3. **FORMS.** The state court administrator shall develop simplified forms and instructions for the summary process ~~within 120 days of July 1, 1994.~~ District court administrators shall make the forms for the summary process available upon request and shall accept joint declarations for filing ~~180 days after July 1, 1994~~ on and after July 1, 1997.

Subd. 4. **PILOT PROGRAM.** The state court administrator shall designate no more than five counties in at least three different judicial districts as pilot jurisdictions for testing the streamlined process. District court administrators shall make the forms for the summary process available upon request to appropriate residents of the pilot jurisdictions.

Sec. 6. Minnesota Statutes 1996, 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

Pursuant to Minnesota Statutes, section 518.551, subdivision 1, 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), pursuant to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(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 rights of visitation 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 visitation. 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.

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(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) If there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

(h) Reasonable visitation guidelines are contained in Appendix B, which is available from the court administrator.

4. 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.

5. 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, sections 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the

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public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child 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 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. 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, pursuant to Minnesota Statutes, section 548.091, subdivision 1a.

9. 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.

10. 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 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

11. VISITATION EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation expeditor to resolve visitation 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.

12. VISITATION REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include

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compensatory visitation; 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. 7. Minnesota Statutes 1996, section 519.05, is amended to read:

519.05 LIABILITY OF HUSBAND AND WIFE.

(a) A spouse is not liable to a creditor for any debts of the other spouse, except for necessities furnished to the other after marriage, where the spouse would be liable at common law. Where husband and wife are living together, they shall be jointly and severally liable for all necessary household articles and supplies furnished to and used by the family. Notwithstanding this paragraph, in a proceeding under chapter 518 the court may apportion such debt between the spouses.

(b) Either spouse may close a credit card account or other unsecured consumer line of credit on which both spouses are contractually liable, by giving written notice to the creditor.

Sec. 8. Minnesota Statutes 1996, section 626.556, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. Neglect includes pre-

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natal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Sec. 9. Minnesota Statutes 1996, section 631.52, subdivision 1, is amended to read:

Subdivision 1. **SUSPENSION OF VISITATION RIGHTS; TRANSFER OF CUSTODY.** (a) If a person who has court-ordered custody of a child or visitation rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or visitation, the sentencing court shall refer the matter to the appropriate family court for action under this section. The family court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the child.

The family court shall expedite proceedings under this section. The defendant has the burden of proving that continued custody or visitation with the defendant is in the best

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interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case to which this section applies.

(b) If a person who has child custody or visitation rights was convicted of a crime listed in subdivision 2 before July 1, 1990, then any interested party may petition the sentencing court for relief under paragraph (a) if:

(1) the defendant is currently incarcerated, on probation, or under supervised release for the offense; or

(2) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

Sec. 10. COOPERATION FOR THE CHILDREN PROGRAM.

Subdivision 1. ESTABLISHMENT; PILOT PROJECT. Within the limits of funding provided, by January 1, 1998, the state court administrator shall develop and implement a cooperation for the children program as a 24-month pilot project in at least two counties as an effort to promote parental relationships with children. The state court administrator may allow additional counties to participate in the pilot project if those counties provide their own funding or if other funding becomes available. The provisions of Minnesota Statutes, section 518.1751, subdivision 6, pertaining to mandatory visitation dispute resolution programs, do not apply to counties participating in the cooperation for the children program pilot project.

Subd. 2. PARTICIPATION. (a) Except as provided in this subdivision, in cases where visitation is the sole issue in conflict, the person seeking relief in regard to a visitation dispute must first seek assistance from the cooperation for the children program before filing with the court or serving upon the other party a motion requesting a court hearing.

(b) An individual who submits to the program proof that the person has used, or in good faith has attempted to use, the services of a visitation expeditor or mediator or other alternative dispute resolution process to resolve the visitation dispute may, upon request to the program, be exempted from mandatory participation in the cooperation for the children program and the person may seek assistance from the court by filing a motion requesting a hearing.

(c) In cases where visitation is not the only issue in conflict, the person seeking relief may either file with the court a motion seeking resolution of all issues or may seek resolution of the visitation issue with the cooperation for the children program and resolution of the other issues with the court. In cases where the person seeking relief chooses to proceed in court, the court may determine whether the nonvisitation issues are or are not valid. If the court determines that the nonvisitation issues are not valid or that the nonvisitation issues were raised for the purpose of avoiding participation in the cooperation for the children program, the court may order the parties to participate in the cooperation for the children program or may resolve the dispute if both parties are present.

Subd. 3. FEE. Except as provided in this subdivision, a person who participates in the cooperation for the children program shall pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under Minnesota Statutes, section 563.01, is exempt from paying the program fee and the court shall waive the fee or direct its pay-

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ment under Minnesota Statutes, section 563.01. Program providers shall implement a sliding fee scale.

Subd. 4. EVALUATION. By December 15, 1999, the state court administrator shall submit to the legislature a report evaluating the cooperation for the children program pilot project based on at least 12 months of data from the project.

Sec. 11. FEDERAL FUNDS FOR VISITATION AND ACCESS.

The commissioner of human services may accept on behalf of the state any federal funding received under Public Law Number 104-193 for access and visitation programs, and shall transfer these funds to the state court administrator for the cooperation for the children pilot project and the parent education program under Minnesota Statutes, section 518.571.

Sec. 12. REPEALER.

Minnesota Statutes 1996, section 256.996, is repealed.

Sec. 13. EFFECTIVE DATE.

Section 11 is effective the day following final enactment.

ARTICLE 3

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. 1997 S.F. No. 1908, article 6, section 3, subdivision 1, if enacted, is amended to read:

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "Account" means a demand deposit account, checking or negotiable withdraw order account, savings account, time deposit account, or money market mutual fund.

(b) "Account information" means the type of account, the account number, whether the account is singly or jointly owned, and in the case of jointly owned accounts the name and address of the nonobligor account owner if available.

(c) "Financial institution" means any of the following that do business within the state:

(1) federal or state commercial banks and federal or state savings banks, including savings and loan associations and cooperative banks;

(2) federal and state chartered credit unions;

(3) benefit associations;

(4) life insurance companies;

(5) safe deposit companies; and

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(6) money market mutual funds.

(d) "Obligor" means an individual who is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(e) "Public authority" means the public authority responsible for child support enforcement.

Sec. 2. 1997 S.F. No. 1908, article 6, section 3, subdivision 4, if enacted, is amended to read:

Subd. 4. **METHOD TO PROVIDE DATA.** To comply with the requirements of this section, a financial institution may either:

(1) provide to the public authority a list containing only the names and other necessary personal identifying information of all account holders for the public authority to compare against its list of child support obligors for the purpose of identifying which obligors maintain an account at the financial institution; the names of the obligors who maintain an account at the institution shall then be transmitted to the financial institution which shall provide the public authority with account information on those obligors; or

(2) obtain a list of child support obligors from the public authority and compare that data to the data maintained at the financial institution to identify which of the identified obligors maintains an account at the financial institution.

A financial institution shall elect either method in writing upon written request of the public authority, and the election remains in effect unless the public authority agrees in writing to a change.

The commissioner shall keep track of the number of financial institutions that elect to report under clauses (1) and (2) respectively and shall report this information to the legislature by December 1, 1999.

Sec. 3. 1997 S.F. No. 1908, article 6, section 3, subdivision 6, if enacted, is amended to read:

Subd. 6. **ACCESS TO DATA.** (a) With regard to account information on all account holders provided by a financial institution under subdivision 4, clause (1), the commissioner of human services shall retain the reported information only until the account information is compared against the public authority's obligor database. Notwithstanding section 138.17, all account information that does not pertain to an obligor listed in the public authority's database must be immediately discarded, and no retention or publication may be made of that data by the public authority. All account information that does pertain to an obligor listed in the public authority's database must be incorporated into the public authority's database. Access to that data is governed by chapter 13. Notwithstanding section 16D.06, data collected pursuant to this chapter is available for the collection of child support debt only and is not available for other debt collection activities undertaken by the state under chapter 16D.

(b) With regard to data on obligors provided by the public authority to a financial institution under subdivision 4, clause (2), the financial institution shall retain the reported information only until the financial institution's database is compared against the

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public authority's database. Data that do not pertain to an account holder at the financial institution must be immediately discarded, and no retention or publication may be made of that data by the financial institution.

Sec. 4. 1997 S.F. No. 1908, article 6, section 3, subdivision 10, if enacted, is amended to read:

Subd. 10. **CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE BY FINANCIAL INSTITUTION.** (a) An account holder may bring a civil action in district court against a financial institution for unauthorized disclosure of data received from the public authority under subdivision 4, clause (2). A financial institution found to have violated this subdivision shall be liable as provided in paragraph (b) or (c).

(b) Any financial institution that willfully and maliciously discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to the sum of:

(1) any actual damages sustained by the ~~consumer~~ account holder as a result of the disclosure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action taken plus reasonable attorney's fees as determined by the court.

(c) Any financial institution that negligently discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to any actual damages sustained by the account holder as a result of the disclosure.

(d) A financial institution may not be held liable in any action brought under this subdivision if the financial institution shows, by a preponderance of evidence, that the disclosure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably ~~adapted~~ adopted to avoid any error.

Sec. 5. 1997 S.F. No. 1908, article 6, section 5, subdivision 4, if enacted, is amended to read:

Subd. 4. **EFFECT OF ASSIGNMENT.** Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less. Child care support collections made pursuant to an assignment under subdivision 2, paragraph (c), must be transferred, subject to any limitations of federal law, from the commissioner of human services to the commissioner of children, families, and learning and dedicated to the child care fund under chapter 119B. These collections are in addition to state and federal funds appropriated to the child care fund.

Sec. 6. Minnesota Statutes 1996, section 256.978, subdivision 2, as amended by 1997 S.F. No. 1908, article 6, section 12, if enacted, is amended to read:

Subd. 2. **ACCESS TO INFORMATION.** (a) A request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers of employees is limited to place of residence, employment status, wage or payment information, benefit information, and social security number. Informa-

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tion to be released by employers of independent contractors is limited to place of residence or address, contract status, payment information, benefit information, and social security number or identification number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, social security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, social security number, and current and past employment information; and

(5) financial institutions when there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, social security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision, utility companies include telephone companies, radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

Sec. 7. Minnesota Statutes 1996, section 256.998, subdivision 3, is amended to read:

Subd. 3. **DUTY TO REPORT.** Employers doing business in this state shall report to the commissioner of human services the hiring of any employee who resides or works in this state to whom the employer anticipates paying earnings. Employers shall submit reports required under this subdivision within ~~15~~ 20 calendar days of the date of hiring of the employee.

Employers are not required to report the hiring of any person who will be employed for less than two months' duration; and will have gross earnings less than \$250 per month.

Sec. 8. Minnesota Statutes 1996, section 257.75, subdivision 4, is amended to read:

Subd. 4. **ACTION TO VACATE RECOGNITION.** An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be

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brought by the public authority. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

Sec. 9. Minnesota Statutes 1996, section 518.54, subdivision 6, as amended by 1997 S.F. No. 1908, article 6, section 41, if enacted, is amended to read:

Subd. 6. **INCOME.** (a) "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, reemployment insurance, annuity, military and naval retirement, pension and disability payments. Benefits received under Title IV-A of the Social Security Act are not income under this section.

(b) ~~Income also includes nonperiodic distributions of workers' compensation claims, reemployment claims, personal injury recoveries for lost wages or salary, proceeds from a lawsuit for lost wages or salary, severance pay, and bonuses.~~

Sec. 10. Minnesota Statutes 1996, section 518.551, subdivision 12, as amended by 1997 S.F. No. 1908, article 6, section 42, if enacted, is amended to read:

Subd. 12. **OCCUPATIONAL LICENSE SUSPENSION.** (a) Upon motion of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the administrative law judge, or the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages. The payment agreement must be approved by either the court or the public au-

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thority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority shall direct the licensing board or other licensing agency to suspend the license under section 214.101. If the obligor is a licensed attorney, the public authority may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days before notifying a licensing authority or the lawyers professional responsibility board under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this subdivision and that the license holder must request a hearing within 30 days in order to contest the suspension. If the license holder makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the public authority within 90 days of the date of the notice, the public authority shall direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), or shall report the matter to the lawyers professional responsibility board.

(d) The administrative law judge, on behalf of the public authority, or the court shall notify the lawyers professional responsibility board for appropriate action in accordance with the rules of professional responsibility conduct or order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in compliance with a payment plan approved by the court, an administrative law judge, or the public authority.

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(e) Within 15 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good faith compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority responsible for child support enforcement shall notify the licensing board or licensing agency or the lawyers professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this subdivision.

(f) In addition to the criteria established under this section for the suspension of an obligor's occupational license, a court, an administrative law judge, or the public authority may direct the licensing board or other licensing agency to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a contested administrative proceeding must be held under section 518.5511, subdivision 4. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(g) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the occupational licensing board or agency to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority may notify the occupational or licensing board to suspend the obligor's license under paragraph (c).

Sec. 11. Minnesota Statutes 1996, section 518.5512, subdivision 2, as amended by 1997 S.F. No. 1908, article 6, section 44, is amended to read:

Subd. 2. **PATERNITY.** (a) After service of the notice and proposed order, a nonattorney employee of the public authority may order the child, mother, or alleged father to submit to blood or genetic tests. In a case with multiple alleged fathers, a nonattorney employee of the public authority may order the child, mother, and alleged fathers to submit to blood or genetic tests after service of the notice of the parentage proceeding. The order for genetic tests must be served by personal service. The order of the public authority shall be effective unless, within 20 days of the date of the order, the child, mother, or an alleged father requests a contested administrative proceeding under section 518.5511, subdivision 3a. If a contested administrative proceeding is requested and held, any order issued by an administrative law judge supersedes the order issued by the public authority. In all other cases, the order of the public authority is controlling. Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative hearing, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

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Sec. 12. Minnesota Statutes 1996, section 518C.305, is amended to read:

518C.305 DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 518C.301, paragraph (c), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 13. Minnesota Statutes 1996, section 518C.306, is amended to read:

518C.306 INAPPROPRIATE TRIBUNAL.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.

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Sec. 14. Minnesota Statutes 1996, section 518C.307, is amended to read:

518C.307 DUTIES OF SUPPORT ENFORCEMENT AGENCY.

(a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 15. Minnesota Statutes 1996, section 518C.605, is amended to read:

518C.605 NOTICE OF REGISTRATION OF ORDER.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 518.611 or 518.613.

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Sec. 16. Minnesota Statutes 1996, section 518C.606, is amended to read:

518C.606 PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 518C.607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

Sec. 17. Minnesota Statutes 1996, section 548.091, subdivision 9, as added by 1997 S.F. No. 1908, article 6, section 79, if enacted, is amended to read:

Subd. 9. **PAYOFF STATEMENT.** The public authority shall issue to the obligor, attorneys, lenders, and closers, or their agents, a payoff statement setting forth conclusively the amount necessary to satisfy the lien. Payoff statements must be issued within three business days after receipt of a request by mail, personal delivery, telefacsimile, or e-mail electronic mail transmission, and must be delivered to the requester by telefacsimile or e-mail electronic mail transmission if requested and if appropriate technology is available to the public authority.

Sec. 18. EFFECTIVE DATES.

1997 S.F. No. 1908, article 6, sections 44 to 46, if enacted, are effective August 1, 1997. An amendment in this article to 1997 S.F. No. 1908 takes effect at the same time that the section of law that it amends takes effect.

ARTICLE 4

TECHNICAL WELFARE REFORM AMENDMENTS

Section 1. Laws 1997, chapter 85, article 1, section 16, subdivision 1, as amended by 1997 S.F. No. 1908, article 12, section 10, if enacted, is amended to read:

Subdivision 1. **PERSON CONVICTED OF DRUG OFFENSES.** (a) Applicants or recipients who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

(1) benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit;

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(2) the convicted applicant or recipient shall be subject to random drug testing as a condition of continued eligibility and is subject to sanctions under section 256J.46 following any positive test for an illegal controlled substance, except that the grant must continue to be vendor paid under clause (1). For purposes of this subdivision, section 256J.46 is effective July 1, 1997.

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 2. Laws 1997, chapter 85, article 1, section 36, subdivision 2, is amended to read:

Subd. 2. SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS. The grant of an MFIP-S caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, if enacted, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable transitional standard. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective ten days after the required notice is given. The sanction must be in effect for a minimum of one month, and shall be removed only when the caregiver cooperates with the support requirements. Each month that an MFIP-S caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An MFIP-S caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.

Sec. 3. Laws 1997, chapter 85, article 1, section 43, subdivision 4, is amended to read:

Subd. 4. SECONDARY ASSESSMENT. (a) The job counselor must conduct a secondary assessment for those participants who:

- (1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;
- (2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment; or
- (3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive, or educational services, and the extent of any barriers to employment. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

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(c) The provider shall make available to participants information regarding additional vendors or resources which provide employment and training services that may be available to the participant under a plan developed under this section. The information must include a brief summary of services provided and related performance indicators. Performance indicators must include, but are not limited to, the average time to complete program offerings, placement rates, entry and average wages, and retention rates. To be included in the information given to participants, a vendor or resource must provide counties with relevant information in the format required by the county.

Sec. 4. Laws 1997, chapter 85, article 1, section 43, subdivision 5, is amended to read:

Subd. 5. **EMPLOYMENT PLAN; CONTENTS.** Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. As part of the development of the participant's employment plan, the participant shall have the option of selecting from among the vendors or resources that the job counselor determines will be effective in supplying one or more of the services necessary to meet the employment goals specified in the participant's plan. In compiling the list of vendors and resources that the job counselor determines would be effective in meeting the participant's employment goals, the job counselor must determine that adequate financial resources are available for the vendors or resources ultimately selected by the participant. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

Sec. 5. Laws 1997, chapter 85, article 1, section 66, subdivision 2, is amended to read:

Subd. 2. **REPORT TO THE LEGISLATURE.** The plan referred to in subdivision 1 and any resulting proposal for legislation must be presented to the legislature by ~~December 15, 1997~~ February 15, 1998.

Sec. 6. Laws 1997, chapter 85, article 3, is amended by adding a section to read:

Sec. 58. Minnesota Statutes 1996, section 268.0122, subdivision 5, is amended to read:

Subd. 5. **RULEMAKING.** (a) The commissioner may make emergency and permanent rules to carry out this chapter.

(b) Effective July 1, 1997, the commissioner may make rules to carry out section 256J.51.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. EFFECTIVE DATE.

An amendment in this article takes effect at the same time that the section of law that it amends takes effect.

Presented to the governor May 30, 1997

Signed by the governor June 3, 1997, 2:54 p.m.

CHAPTER 246—H.F.No. 632

An act relating to capital improvements; cleaning up lands contaminated by petroleum leaks; providing for replacement of leaking underground petroleum tanks; cleaning up contaminated building sites; transferring authority to administer individual on-site sewage treatment programs to the pollution control agency; modifying sewer loan repayment provisions; appropriating money for flood damage reduction and for local bridges; modifying previous appropriations for certain capital improvements; changing the source of funds for certain projects; defining design and predesign; transferring authority to administer grants for certain projects; appropriating money; authorizing the sale of state bonds; amending Minnesota Statutes 1996, sections 16B.335, subdivision 3; 115C.09, by adding a subdivision; 116.18, subdivision 3c; 116J.554, subdivisions 1 and 2; 116J.556; and 446A.072, by adding a subdivision; Laws 1994 chapter 643, sections 3, subdivision 2; 10, subdivision 10, as amended; 15, subdivisions 2 and 4; 19, subdivision 8, as amended; and 23, subdivision 28, as amended, and by adding a subdivision; Laws 1996, chapters 407, section 8, subdivision 3; and 463, sections 7, subdivision 9; 13, subdivisions 2, 4, and 8; 14, subdivision 7; 22, subdivision 8; and 24, subdivision 8; Laws 1997, chapter 202, article 1, section 35; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Laws 1994, chapter 643, section 19, subdivision 11; Laws 1996, chapter 463, section 7, subdivision 26; and Laws 1997, chapter 200, article 2, section 5.

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

Section 1. CAPITAL IMPROVEMENTS APPROPRIATIONS.

The sums in the column under "APPROPRIATIONS" are appropriated from the bond proceeds fund, or another named fund, to the state agencies or officials indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this act.

SUMMARY

MINNESOTA STATE COLLEGES AND UNIVERSITIES	\$ 4,500,000
NATURAL RESOURCES	4,000,000
POLLUTION CONTROL AGENCY	7,400,000
PUBLIC FACILITIES AUTHORITY	7,000,000
AGRICULTURE	4,000,000
ADMINISTRATION	74,035,000
TRADE AND ECONOMIC DEVELOPMENT	7,000,000
TRANSPORTATION	3,000,000
BOND SALE EXPENSES	90,000
TOTAL	\$ 111,025,000

New language is indicated by underline, deletions by ~~strikeout~~.