

Sec. 4. Minnesota Statutes 1998, section 216B.2424, is amended by adding a subdivision to read:

**Subd. 7. EFFECT ON EXISTING PROJECTS.** The commission may not approve a project proposed after the effective date of this act which would have an adverse impact on the ability of a project approved before the effective date of this act to obtain an adequate supply of the fuel source designated for the project.

Sec. 5. Minnesota Statutes 1998, section 216B.2424, is amended by adding a subdivision to read:

**Subd. 8. AGRICULTURAL BIOMASS REQUIREMENT.** Of the 125 megawatts mandated in subdivision 5, at least 75 megawatts of the generating capacity must be generated by facilities that use agricultural biomass as the principal fuel source. For purposes of this subdivision, agricultural biomass includes only farm-grown closed-loop biomass and agricultural waste, including animal, poultry, and plant wastes. For purposes of this subdivision, principal fuel source means a fuel source that satisfies at least 75 percent of the fuel requirements of an electric power generating facility. Nothing in this subdivision is intended to expand the fuel source requirements of subdivision 5.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment.

Presented to the governor April 20, 2000

Signed by the governor April 24, 2000, 1:55 p.m.

#### CHAPTER 444—S.F.No. 3169

*An act relating to family law; providing for parenting plans; clarifying the procedure for obtaining custody and parenting time when a recognition of parentage has been executed; altering the standards for modifying physical custody; changing certain terminology; amending Minnesota Statutes 1998, sections 15.87; 119A.37; 124D.23, subdivision 8; 256L.01, subdivision 3a; 257.541; 257.75, subdivision 3; 257A.01, subdivision 2; 257A.03, subdivision 2; 480.30, subdivision 1; 494.015, subdivision 1; 517.08, subdivision 1c; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1, 2, 3, 7, and by adding a subdivision; 518.156; 518.157, subdivisions 1 and 3; 518.165, subdivision 1; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, and 8; 518.1751; 518.176, subdivision 2; 518.177; 518.179, subdivision 1; 518.18; 518.612; 518.619, subdivision 1; 518.68, subdivisions 1 and 2; 518B.01, subdivisions 4, 6, and 8; 519.11, subdivision 1a; 609.26, subdivision 2; 629.341, subdivision 3; and 631.52, subdivision 1; Minnesota Statutes 1999 Supplement, sections 119A.45; 257.66, subdivision 3; 494.03; 518.155; 518.165, subdivision 2; 518.178; 518.551, subdivision 5; 609.26, subdivision 1; and 626.556, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518.*

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

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## ARTICLE 1

## PARENTING PLANS AND PARENTING TIME

Section 1. Minnesota Statutes 1998, section 518.003, is amended by adding a subdivision to read:

Subd. 5. PARENTING TIME. "Parenting time" means the time a parent spends with a child regardless of the custodial designation regarding the child.

Sec. 2. Minnesota Statutes 1998, section 518.131, is amended by adding a subdivision to read:

Subd. 11. TEMPORARY SUPPORT AND MAINTENANCE. Temporary support and maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.

Sec. 3. **[518.1705] PARENTING PLANS.**

Subdivision 1. DEFINITION. "Domestic abuse" for the purposes of this section has the meaning given in section 518B.01, subdivision 2.

Subd. 2. PLAN ELEMENTS. (a) A parenting plan must include the following:

- (1) a schedule of the time each parent spends with the child;
- (2) a designation of decision-making responsibilities regarding the child; and
- (3) a method of dispute resolution.

(b) A parenting plan may include other issues and matters the parents agree to regarding the child.

(c) Parents voluntarily agreeing to parenting plans may substitute other terms for physical and legal custody, including designations of joint or sole custody, provided that the terms used in the substitution are defined in the parenting plan.

Subd. 3. CREATING PARENTING PLAN; RESTRICTIONS ON CREATION; ALTERNATIVE. (a) Upon the request of both parents, a parenting plan must be created in lieu of an order for child custody and parenting time unless the court makes detailed findings that the proposed plan is not in the best interests of the child.

(b) If both parents do not agree to a parenting plan, the court may create one on its own motion, except that the court must not do so if it finds that a parent has committed domestic abuse against a parent or child who is a party to, or subject of, the matter before the court. If the court creates a parenting plan on its own motion, it must not use alternative terminology unless the terminology is agreed to by the parties.

(c) If an existing order does not contain a parenting plan, the parents must not be required to create a parenting plan as part of a modification order under section 518.64.

(d) A parenting plan must not be required during an action under section 256.87.

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(e) If the parents do not agree to a parenting plan and the court does not create one on its own motion, orders for custody and parenting time must be entered under sections 518.17 and 518.175 or section 257.541, as applicable.

**Subd. 4. CUSTODY DESIGNATION.** A final judgment and decree that includes a parenting plan using alternate terms to designate decision-making responsibilities or allocation of residential time between the parents must designate whether the parents have joint legal custody or joint physical custody or which parent has sole legal custody or sole physical custody, or both. This designation is solely for enforcement of the final judgment and decree where this designation is required for that enforcement and has no effect under the laws of this state, any other state, or another country that do not require this designation.

**Subd. 5. ROLE OF COURT.** If both parents agree to the use of a parenting plan but are unable to agree on all terms, the court may create a parenting plan under this section. If the court is considering a parenting plan, it may require each parent to submit a proposed parenting plan at any time before entry of the final judgment and decree. If parents seek the court's assistance in deciding the schedule for each parent's time with the child or designation of decision-making responsibilities regarding the child, the court may order an evaluation and should consider the appointment of a guardian ad litem. Parenting plans, whether entered on the court's own motion, following a contested hearing, or reviewed by the court pursuant to a stipulation, must be based on the best interests factors in section 518.17 or 257.025, as applicable.

**Subd. 6. RESTRICTIONS ON PREPARATION OF PARENTING PLAN.** (a) Dispute resolution processes other than the judicial process may not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In these cases, the court shall consider the appointment of a guardian ad litem and a parenting plan evaluator.

(b) The court may not require a parenting plan that provides for joint legal custody or use of dispute resolution processes, other than the judicial process, if the court finds that section 518.179 applies or the court finds that either parent has engaged in the following toward a parent or child who is a party to, or subject of, the matter before the court:

(1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;

(2) physical, sexual, or a pattern of emotional abuse of a child; or

(3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

**Subd. 7. MOVING THE CHILD TO ANOTHER STATE.** Parents may agree, but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, will govern a decision concerning removal of a child's residence from this state, provided that:

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(1) both parents were represented by counsel when the parenting plan was approved; or

(2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

**Subd. 8. ALLOCATION OF CERTAIN EXPENSES.** (a) Parents creating a parenting plan are subject to the requirements of the child support guidelines under section 518.551.

(b) Parents may include in the parenting plan an allocation of expenses for the child. The allocation is an enforceable contract between the parents.

**Subd. 9. MODIFICATION OF PARENTING PLANS.** (a) Parents may modify the schedule of the time each parent spends with the child or the decision-making provisions of a parenting plan by agreement. To be enforceable, modifications must be confirmed by court order. A motion to modify decision-making provisions or the time each parent spends with the child may be made only within the time limits provided by section 518.18.

(b) The parties may agree, but the court must not require them, to apply the best interests standard in section 518.17 or 257.025, as applicable, for deciding a motion for modification that would change the child's primary residence, provided that:

(1) both parties were represented by counsel when the parenting plan was approved; or

(2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.

(c) If the parties do not agree to apply the best interests standard, section 518.18, paragraph (d), applies.

Sec. 4. Minnesota Statutes 1998, section 518.175, subdivision 5, is amended to read:

**Subd. 5. MODIFICATION OF VISITATION PARENTING PLAN OR ORDER FOR PARENTING TIME.** If modification would serve the best interests of the child, the court shall modify the decision-making provisions of a parenting plan or an order granting or denying visitation rights whenever modification would serve the best interests of the child parenting time, if the modification would not change the child's primary residence. Except as provided in section 631.52, the court may not restrict visitation rights parenting time unless it finds that:

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

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

If the custodial parent makes specific allegations that visitation parenting time places the custodial parent or child in danger of harm, the court shall hold a hearing

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at the earliest possible time to determine the need to modify the order granting ~~visitation rights~~ parenting time. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the ~~visitation~~ parenting time or may restrict a parent's ~~visitation rights~~ parenting time if necessary to protect the custodial parent or child from harm. In addition, if there is an existing order for protection governing the parties, the court shall consider the use of an independent, neutral exchange location for parenting time.

Sec. 5. Minnesota Statutes 1998, section 518.18, is amended to read:

#### 518.18 MODIFICATION OF ORDER.

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with ~~visitation~~ parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established ~~visitation~~ parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after the effective date of this clause, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

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~~(ii)~~ (iii) the child has been integrated into the family of the petitioner with the consent of the other party; or

~~(iii)~~ (iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a custodial parent has been granted sole physical custody of a minor and the child subsequently lives with the noncustodial parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the noncustodial parent's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

#### Sec. 6. [518.183] REPLACING CERTAIN ORDERS.

Upon request of both parties the court must modify an order entered under section 518.17 or 518.175 before the effective date of this act by entering a parenting plan that complies with section 518.1705, unless the court makes detailed findings that entering a parenting plan is not in the best interests of the child. If only one party makes the request, the court may modify the order by entering a parenting plan that complies with section 518.1705. The court must apply the standards in section 518.18 when considering a motion to enter a parenting plan that would change the child's primary residence. The court must apply the standards in section 518.17 when considering a motion to enter a parenting plan that would:

- (1) change decision-making responsibilities of the parents; or
- (2) change the time each parent spends with the child, but not change the child's primary residence.

Sec. 7. Minnesota Statutes 1998, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **RELIEF BY THE COURT.** (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

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(3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

(4) award temporary custody or establish temporary visitation parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation parenting time, the court shall condition or restrict visitation parenting time as to time, place, duration, or supervision, or deny visitation parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and visitation parenting time shall in no way delay the issuance of an order for protection granting other ~~reliefs~~ relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to pay restitution to the petitioner;

(11) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(12) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff, constable, or other law enforcement or corrections officer as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation,

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except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

#### Sec. 8. **EFFECTIVE DATE.**

Section 5, paragraph (d), clause (i), is effective the day following final enactment, and applies to written agreements approved by a court before, on, or after that date. The remaining provisions of this article are effective January 1, 2001.

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## ARTICLE 2

### CONFORMING TERMINOLOGY

Section 1. Minnesota Statutes 1998, section 15.87, is amended to read:

#### 15.87 VICTIMS OF VIOLENCE.

In furtherance of the state policy of zero tolerance for violence in section 1.50, the state shall have a goal of providing:

(1) every victim of violence in Minnesota, regardless of the county of residence, access to necessary services, including, but not limited to:

(i) crisis intervention services, including a 24-hour emergency telephone line;

(ii) safe housing;

(iii) counseling and peer support services; and

(iv) assistance in pursuing legal remedies and appropriate medical care; and

(2) every child who is a witness to abuse or who is a victim of violence, access to necessary services, including, but not limited to:

(i) crisis child care;

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(ii) safe supervised child visitation parenting time or independent, neutral exchange locations for parenting time, when needed;

(iii) age appropriate counseling and support; and

(iv) assistance with legal remedies, medical care, and needed social services.

Sec. 2. Minnesota Statutes 1998, section 119A.37, is amended to read:

**119A.37 GRANTS FOR FAMILY VISITATION PARENTING TIME CENTERS.**

Subdivision 1. **PURPOSE.** The commissioner shall issue a request for proposals from existing local nonprofit, nongovernmental, or governmental organizations, to use existing local facilities as family visitation parenting time centers which may also be used for visitation parenting time exchanges. The commissioner shall award grants in amounts up to \$50,000 for the purpose of creating or maintaining family visitation parenting time centers in an effort to reduce children's vulnerability to violence and trauma related to family visitation parenting time, where there has been a history of domestic violence or abuse within the family. The commissioner shall award the grants to provide the greatest possible number of family visitation parenting time centers and to locate them to provide for the broadest possible geographic distribution of the centers throughout the state.

Each children's family visitation parenting time center must use existing local facilities to provide a healthy interactive environment for parents who are separated or divorced and for parents with children in foster homes to visit with their children. The center's must be available for use by district courts who may order visitation parenting time to occur at a family visitation parenting time center. The centers may also be used as drop-off sites, so that parents who are under court order to have no contact with each other can exchange children for visitation parenting time at a neutral site. Each center must provide sufficient security to ensure a safe visitation parenting time environment for children and their parents. A grantee must demonstrate the ability to provide a 25 percent local match, which may include in-kind contributions.

Subd. 2. **COUNTY INVOLVEMENT.** Each county or group of counties is encouraged to provide supervised visitation parenting time services in an effort to fill the gap in the court system that orders supervised visitation parenting time but does not provide a center to accomplish the supervised visitation parenting time as ordered. Each county or group of counties is encouraged to either financially contribute to an existing family visitation parenting time center in the area, or establish a new center if there is not one in the area, possibly through county social services. In creating a new center, the county may collaborate with other counties, other family visitation parenting time centers, family services collaboratives, court services, and any other entity or organization. The goal is to provide family visitation parenting time centers statewide. The county shall apply for funding that may be available through the federal government, specifically for family preservation or family reunification purposes, or any other source of funding that will aid in developing and maintaining this vital service.

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Subd. 3. **FUNDING.** The commissioner may award grants to create or maintain family visitation parenting time centers.

In awarding grants to maintain a family visitation parenting time center, the commissioner may award a grant to a center that can demonstrate a 35 percent local match, provided the center is diligently exploring and pursuing all available funding options in an effort to become self-sustaining, and those efforts are reported to the commissioner.

In awarding grants to create a family visitation parenting time center, the commissioner shall give priority to:

(1) areas of the state where no other family visitation parenting time center or similar facility exists;

(2) applicants who demonstrate that private funding for the center is available and will continue; and

(3) facilities that are adapted for use to care for children, such as day care centers, religious institutions, community centers, schools, technical colleges, parenting resource centers, and child care referral services.

In awarding grants to create or maintain a family visitation parenting time center, the commissioner shall require the proposed center to meet standards developed by the commissioner to ensure the safety of the custodial parent and children.

Subd. 4. **ADDITIONAL SERVICES.** Each family visitation parenting time center may provide parenting and child development classes, and offer support groups to participating custodial parents and hold regular classes designed to assist children who have experienced domestic violence and abuse. Each family visitation parenting time center must have available an individual knowledgeable about or experienced in the provision of services to battered women on its staff, its board of directors, or otherwise available to it for consultation.

Subd. 5. **ADMINISTRATION.** In administering the grants authorized by this section, the commissioner shall ensure that the term "family visitation parenting time center" is used in all future applications, publicity releases, requests for proposals, and other materials of like nature. Materials published prior to the enactment of this legislation which use different terms may be distributed by the commissioner until supplies are gone.

Sec. 3. Minnesota Statutes 1999 Supplement, section 119A.45, is amended to read:

**119A.45 EARLY CHILDHOOD LEARNING AND CHILD PROTECTION FACILITIES.**

The commissioner may make grants to state agencies and political subdivisions to construct or rehabilitate facilities for early childhood programs, with priority to centers in counties or municipalities with the highest percentage of children living in poverty. The commissioner may also make grants to state agencies and political subdivisions to

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construct or rehabilitate facilities for crisis nurseries or ~~child visitation~~ parenting time centers. The facilities must be owned by the state or a political subdivision, but may be leased under section 16A.695 to organizations that operate the programs. The commissioner must prescribe the terms and conditions of the leases. A grant for an individual facility must not exceed \$200,000 for each program that is housed in the facility, up to a maximum of \$500,000 for a facility that houses three programs or more. Programs include Head Start, early childhood and family education programs, and other early childhood intervention programs. The commissioner must give priority to grants that involve collaboration among sponsors of programs under this section and may give priority to projects that collaborate with child care providers, including all-day and school-age child care programs, special needs care, sick child care, and nontraditional hour care. The commissioner may give priority to grants for programs that will increase their child care workers' wages as a result of the grant. At least 25 percent of the amounts appropriated for these grants up to \$50,000 must utilize youthbuild under sections 268.361 to 268.366 or other youth employment and training programs for the labor portion of the construction. Eligible programs must consult with appropriate labor organizations to deliver education and training. State appropriations must be matched on a 50 percent basis with nonstate funds. The matching requirement must apply programwide and not to individual grants.

Sec. 4. Minnesota Statutes 1998, section 124D.23, subdivision 8, is amended to read:

Subd. 8. **PLAN APPROVAL BY THE CHILDREN'S CABINET.** (a) The children's cabinet must approve local plans for collaboratives. In approving local plans, the children's cabinet must give highest priority to a plan that provides:

- (1) early intervention and family outreach services;
- (2) ~~family visitation~~ parenting time services;
- (3) a continuum of services for children from birth to age 18;
- (4) family preservation services;
- (5) culturally sensitive approaches for delivering services and utilizing culturally specific organizations;
- (6) clearly defined outcomes and valid methods of assessment;
- (7) effective service coordination;
- (8) participation by the maximum number of jurisdictions and local, county, and state funding sources;
- (9) integrated community service providers and local resources;
- (10) integrated transportation services;
- (11) integrated housing services; and
- (12) coordinated services that include a children's mental health collaborative authorized by law.

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(b) The children's cabinet must ensure that the collaboratives established under this section do not conflict with any state or federal policy or program and do not negatively impact the state budget.

Sec. 5. Minnesota Statutes 1998, section 256L.01, subdivision 3a, is amended to read:

Subd. 3a. **FAMILY WITH CHILDREN.** (a) "Family with children" means:

(1) parents, their children, and dependent siblings residing in the same household;  
or

(2) grandparents, foster parents, relative caretakers as defined in the medical assistance program, or legal guardians; their wards who are children; and dependent siblings residing in the same household.

(b) The term includes children and dependent siblings who are temporarily absent from the household in settings such as schools, camps, or ~~visitation~~ parenting time with noncustodial parents.

(c) For purposes of this subdivision, a dependent sibling means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent, grandparent, foster parent, relative caretaker, or legal guardian. Proof of school enrollment is required.

Sec. 6. Minnesota Statutes 1998, section 257.541, is amended to read:

**257.541 CUSTODY AND VISITATION OF PARENTING TIME WITH CHILDREN BORN OUTSIDE OF MARRIAGE.**

Subdivision 1. **MOTHER'S RIGHT TO CUSTODY.** The biological mother of a child born to a mother who was not married to the child's father ~~neither~~ when the child was born ~~nor~~ and was not married to the child's father when the child was conceived has sole custody of the child until paternity has been established under sections 257.51 to 257.74, or until custody is determined in a separate proceeding under section 518.156.

Subd. 2. **FATHER'S RIGHT TO VISITATION PARENTING TIME AND CUSTODY.** (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of ~~visitation~~ parenting time or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the biological father may petition for rights of ~~visitation~~ parenting time or custody in the paternity proceeding or in a separate proceeding under section 518.156.

Subd. 3. **FATHER'S RIGHT TO VISITATION PARENTING TIME AND CUSTODY; RECOGNITION OF PATERNITY.** If paternity has been recognized under section 257.75, the father may petition for rights of ~~visitation~~ parenting time or custody in an independent action under section 518.156. The proceeding must be treated as an initial determination of custody under section 518.17. The provisions of

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chapter 518 apply with respect to the granting of custody and ~~visitation~~ parenting time. An action to determine custody and parenting time may be commenced pursuant to chapter 518 without an adjudication of parentage. These proceedings may not be combined with any proceeding under chapter 518B.

Sec. 7. Minnesota Statutes 1999 Supplement, section 257.66, subdivision 3, is amended to read:

Subd. 3. **JUDGMENT; ORDER.** The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, the social security number of the mother, father, and child, if known at the time of adjudication, ~~visitation privileges~~ parenting time with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and ~~visitation~~ parenting time and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, including the mother's lost wages due to medical necessity, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement. Pregnancy and confinement expenses and genetic testing costs, submitted by the public authority, are admissible as evidence without third-party foundation testimony and constitute prima facie evidence of the amounts incurred for those services or for the genetic testing. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

Sec. 8. Minnesota Statutes 1998, section 257.75, subdivision 3, is amended to read:

Subd. 3. **EFFECT OF RECOGNITION.** Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Once a recognition has been properly executed and filed with the state registrar of vital statistics, if there are no competing presumptions of paternity, a judicial or administrative court may not allow further action to determine parentage regarding the signator of the recognition. An action to determine custody and parenting time may be commenced pursuant to chapter 518 without an adjudication of parentage. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:

(1) a basis for bringing an action to award custody or ~~visitation rights~~ parenting time to either parent, establishing a child support obligation which may include up to the two years immediately preceding the commencement of the action, ordering a

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contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3, or ordering reimbursement for the costs of blood or genetic testing, as provided under section 257.69, subdivision 2;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Sec. 9. Minnesota Statutes 1998, section 257A.01, subdivision 2, is amended to read:

**Subd. 2. CONSENTS AND NOTICE REQUIRED.** (a) The agreement must be executed by all parents with legal custody of the child and must have the consent of every parent who has court-ordered ~~visitation~~ parenting time rights to the child. As soon as practicable after executing an agreement, a copy of the agreement must be given to every child age 14 or older to whom the agreement applies.

(b) Consent of a parent required under paragraph (a) may be given in writing or may be established by mailing a notice regarding the designated caregiver agreement to the parent's last known address. The notice must include the name of the proposed designated caregiver and inform the parent whose consent is required that the parent's consent to the agreement will be implied if the parent does not object within 30 days. If the parent does not object to the agreement orally or in writing within 30 days, the consent of the parent is implied.

Sec. 10. Minnesota Statutes 1998, section 257A.03, subdivision 2, is amended to read:

**Subd. 2. NOTICE TO NONCUSTODIAL PARENT; RIGHTS.** (a) As soon as practicable after assuming care of a child, the designated caregiver shall notify any noncustodial parent that the designated caregiver has assumed care of the child.

(b) Court-ordered visitation parenting time rights of a noncustodial parent continue while the child is in the care of the designated caregiver, unless otherwise modified by the court. A designated caregiver agreement does not affect the right of a parent without physical custody to bring a custody motion under chapter 518. If a parent with legal custody is not the designated caregiver, the parent may bring a motion for temporary physical custody, which may continue until the parent with physical custody is able to resume care of the child. The court shall award that parent temporary physical custody unless it finds it would not be in the best interests of the child.

Sec. 11. Minnesota Statutes 1998, section 480.30, subdivision 1, is amended to read:

**Subdivision 1. CHILD ABUSE; DOMESTIC ABUSE; HARASSMENT.** The supreme court's judicial education program must include ongoing training for district court judges on child and adolescent sexual abuse, domestic abuse, harassment, stalking, and related civil and criminal court issues. The program must include the following:

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- (1) information about the specific needs of victims;
- (2) education on the causes of sexual abuse and family violence;
- (3) education on culturally responsive approaches to serving victims;
- (4) education on the impacts of domestic abuse and domestic abuse allegations on children and the importance of considering these impacts when making visitation parenting time and child custody decisions under chapter 518; and
- (5) information on alleged and substantiated reports of domestic abuse, including, but not limited to, department of human services survey data.

The program also must emphasize the need for the coordination of court and legal victim advocacy services and include education on sexual abuse and domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Sec. 12. Minnesota Statutes 1998, section 494.015, subdivision 1, is amended to read:

Subdivision 1. **GUIDELINES.** The state court administrator shall adopt guidelines for use by community dispute resolution programs and training programs for mediators and arbitrators for the community dispute resolution programs. The guidelines must include provisions to ensure that participation in dispute resolution is voluntary, procedures for case processing, and program certification criteria that must be met to receive court referrals. The guidelines must include:

- (1) standards for training mediators and arbitrators to recognize matters involving violence against a person; and
- (2) training in family law matters that must be completed by mediators before acceptance of postdissolution property distribution matters and postdissolution visitation parenting time matters.

Sec. 13. Minnesota Statutes 1999 Supplement, section 494.03, is amended to read:

494.03 **EXCLUSIONS.**

The guidelines shall exclude:

- (1) any dispute involving violence against persons, in which incidents arising out of situations that would support charges under sections 609.221 to 609.2231, 609.342 to 609.345, 609.365, or any other felony charges;
- (2) any matter involving competency or civil commitment;
- (3) any matter involving a person who has been adjudicated incompetent or relating to guardianship or conservatorship unless the incompetent person is accompanied by a competent advocate or the respondent in a guardianship or conservatorship matter is represented by an attorney, guardian ad litem, or other representative appointed by the court;

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(4) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260C.301 to 260C.328; and

(5) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518 and 518B, whether or not an action is pending, except for postdissolution property distribution matters and postdissolution visitation parenting time matters. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518 and 518B, or from referring disputes arising under chapters 518 and 518A to for-profit mediation.

Sec. 14. Minnesota Statutes 1998, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. **DISPOSITION OF LICENSE FEE.** Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay \$55 to the state treasurer to be deposited as follows:

(1) \$50 in the general fund;

(2) \$3 in the special revenue fund to be appropriated to the commissioner of children, families, and learning for supervised visitation parenting time facilities under section 119A.37; and

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255.

Sec. 15. Minnesota Statutes 1998, section 518.003, subdivision 3, is amended to read:

Subd. 3. **CUSTODY.** Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

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(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 16. Minnesota Statutes 1998, section 518.131, subdivision 1, is amended to read:

Subdivision 1. In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property, maintenance, or child support following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

(a) Temporary custody and ~~visitation rights of~~ parenting time regarding the minor children of the parties;

(b) Temporary maintenance of either spouse;

(c) Temporary child support for the children of the parties;

(d) Temporary costs and reasonable attorney fees;

(e) Award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;

(f) Restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(g) Restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(h) Restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(i) Exclude a party from the family home of the parties or from the home of the other party; and

(j) Require one or both of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Sec. 17. Minnesota Statutes 1998, section 518.131, subdivision 2, is amended to read:

Subd. 2. No temporary order shall:

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(a) ~~Deny visitation rights~~ parenting time to a noncustodial parent unless the court finds that ~~visitation parenting time~~ by the noncustodial parent is likely to cause physical or emotional harm to the child;

(b) Exclude a party from the family home of the parties unless the court finds that physical or emotional harm to one of the parties or to the children of the parties is likely to result, or that the exclusion is reasonable in the circumstances; or

(c) Vacate or modify an order granted under section 518B.01, subdivision 6, paragraph (a), clause (1), restraining an abusing party from committing acts of domestic abuse, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

Sec. 18. Minnesota Statutes 1998, section 518.131, subdivision 3, is amended to read:

Subd. 3. A party may request and the court may make an ex parte restraining order which may include any matter that may be included in a temporary order except:

(a) A restraining order may not exclude either party from the family home of the parties except upon a finding by the court of immediate danger of physical harm to the other party or the children of either party; and

(b) A restraining order may not deny ~~visitation parenting time~~ to either party or grant custody of the minor children to either party except upon a finding by the court of immediate danger of physical harm to the minor children of the parties.

Sec. 19. Minnesota Statutes 1998, section 518.131, subdivision 7, is amended to read:

Subd. 7. The court shall be guided by the factors set forth in sections 518.551 (concerning child support), 518.552 (concerning maintenance), 518.17 to 518.175 (concerning custody and ~~visitation parenting time~~), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Sec. 20. Minnesota Statutes 1999 Supplement, section 518.155, is amended to read:

#### 518.155 CUSTODY DETERMINATIONS.

Notwithstanding any law to the contrary, a court in which a proceeding for dissolution, legal separation, or child custody has been commenced shall not issue, revise, modify or amend any order, pursuant to sections 518.131, 518.165, 518.168, 518.17, 518.175 or 518.18, which affects the custody of a minor child or the ~~visitation rights parenting time~~ of a noncustodial parent unless the court has jurisdiction over the matter pursuant to the provisions of chapter 518D.

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Sec. 21. Minnesota Statutes 1998, section 518.156, is amended to read:

**518.156 COMMENCEMENT OF CUSTODY PROCEEDING.**

Subdivision 1. **PROCEDURE.** In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) by a parent

(1) by filing a petition for dissolution or legal separation; or

(2) where a decree of dissolution or legal separation has been entered or where none is sought, or when paternity has been recognized under section 257.75, by filing a petition or motion seeking custody or visitation of parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) by a person other than a parent, where a decree of dissolution or legal separation has been entered or where none is sought by filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered. A person seeking visitation pursuant to this paragraph must qualify under one of the provisions of section 257.022.

Subd. 2. **REQUIRED NOTICE.** Written notice of a child custody or parenting time or visitation proceeding shall be given to the child's parent, guardian, and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 22. Minnesota Statutes 1998, section 518.157, subdivision 1, is amended to read:

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 parenting time 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.

Sec. 23. Minnesota Statutes 1998, section 518.157, subdivision 3, is amended to read:

Subd. 3. **ATTENDANCE.** In a proceeding under this chapter or sections 257.51 to 257.75 where custody or visitation parenting time is contested, the parents of a minor child shall attend an orientation and education program that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or visitation parenting time 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

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by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or visitation parenting time 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 may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court shall not require the parties to attend the same parent education sessions and shall enter an order setting forth the manner in which the parties may safely participate in the program.

Sec. 24. Minnesota Statutes 1998, section 518.165, subdivision 1, is amended to read:

Subdivision 1. **PERMISSIVE APPOINTMENT OF GUARDIAN AD LITEM.** In all proceedings for child custody or for dissolution or legal separation where custody or visitation of parenting time with a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem shall advise the court with respect to custody, support, and visitation parenting time.

Sec. 25. Minnesota Statutes 1999 Supplement, section 518.165, subdivision 2, is amended to read:

Subd. 2. **REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.** In all proceedings for child custody or for marriage dissolution or legal separation in which custody or visitation of parenting time with a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007 and 626.556, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody, support, and visitation parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or visitation parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Sec. 26. Minnesota Statutes 1998, section 518.175, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such ~~rights of~~ visitation parenting time on behalf of the child and noncustodial parent as will enable the child and the noncustodial parent to maintain a child to parent relationship that will be in the best interests of the child. If the court finds, after a hearing, that visitation parenting time is likely to endanger the child's

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physical or emotional health or impair the child's emotional development, the court shall restrict ~~visitation by~~ parenting time with the noncustodial parent as to time, place, duration, or supervision and may ~~deny visitation~~ parenting time entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the noncustodial parent prior to the commencement of the proceeding. A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of ~~visitation~~ parenting time.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with ~~visitation~~ parenting time.

(c) Upon request of either party, to the extent practicable a ~~visitation~~ order for parenting time must include a specific schedule for ~~visitation~~ parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless ~~visitation~~ parenting time is restricted, denied, or reserved.

(d) The court administrator shall provide a form for a pro se motion regarding ~~visitation~~ parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the ~~visitation~~ parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

Sec. 27. Minnesota Statutes 1998, section 518.175, subdivision 1a, is amended to read:

**Subd. 1a. DOMESTIC ABUSE; SUPERVISED VISITATION PARENTING TIME.** (a) If a custodial parent requests supervised ~~visitation~~ parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the noncustodial parent to protect the custodial parent or the child, the judge or judicial officer must consider the order for protection in making a decision regarding ~~visitation~~ parenting time.

(b) The state court administrator, in consultation with representatives of custodial and noncustodial parents and other interested persons, shall develop standards to be met by persons who are responsible for supervising ~~visitation~~ parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise ~~visitation~~ parenting time.

Sec. 28. Minnesota Statutes 1998, section 518.175, subdivision 2, is amended to read:

**Subd. 2. RIGHTS OF CHILDREN AND NONCUSTODIAL PARENT.** Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and the noncustodial parent under the order or decree or any substantial amendment thereof. The custodial parent shall present the child for ~~visitation~~ parenting time with the noncustodial parent, at such times as the court directs.

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Sec. 29. Minnesota Statutes 1998, section 518.175, subdivision 3, is amended to read:

Subd. 3. **MOVE TO ANOTHER STATE.** The custodial parent shall not move the residence of the child to another state except upon order of the court or with the consent of the noncustodial parent, when the noncustodial parent has been given ~~visitation rights~~ parenting time by the decree. If the purpose of the move is to interfere with ~~visitation rights~~ parenting time given to the noncustodial parent by the decree, the court shall not permit the child's residence to be moved to another state.

Sec. 30. Minnesota Statutes 1998, 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~~ parenting time as provided under this subdivision. All ~~visitation~~ parenting time orders must include notice of the provisions of this subdivision.

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

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

(2) taken within one year after the deprived ~~visit~~ parenting time; and

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

(c) If the court finds that a party has wrongfully failed to comply with a ~~visitation~~ parenting time 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;

(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~~ parenting time order or binding agreement or decision of the ~~visitation~~ parenting time 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.

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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 parenting time expeditor program in a county 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 parenting time and has incurred expenses in connection with the denied visitation parenting time, the court may require the party who denied visitation parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with an upcoming planned visitation parenting time.

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

Sec. 31. Minnesota Statutes 1998, section 518.175, subdivision 8, is amended to read:

Subd. 8. **CARE OF CHILD BY NONCUSTODIAL PARENT.** The court may allow additional visitation parenting time to the noncustodial parent to provide child care while the custodial parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court shall consider:

- (1) the ability of the parents to cooperate;
- (2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
- (3) whether domestic abuse, as defined in section 518B.01, has occurred between the parties.

Sec. 32. Minnesota Statutes 1998, section 518.1751, is amended to read:

518.1751 **VISITATION PARENTING TIME DISPUTE RESOLUTION.**

Subdivision 1. **VISITATION PARENTING TIME EXPEDITOR.** Upon request of either party, the parties' stipulation, or upon the court's own motion, the court may appoint a visitation parenting time expeditor to resolve visitation parenting time disputes that occur under a visitation parenting time order while a matter is pending under this chapter, chapter 257 or 518A, or after a decree is entered.

Subd. 1a. **EXCEPTIONS.** A party may not be required to refer a visitation parenting time dispute to a visitation parenting time 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.

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

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

(b) For purposes of this section, "visitation parenting time dispute" means a disagreement among parties about visitation parenting time with a child, including a dispute about an anticipated denial of a future scheduled visit parenting time. "Visitation Parenting time dispute" includes a claim by a custodial parent that a noncustodial parent is not visiting spending time with a child as well as a claim by a noncustodial parent that a custodial parent is denying or interfering with visitation parenting time.

(c) A "visitation parenting time expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve visitation parenting time disputes. A visitation parenting time expeditor shall attempt to resolve a visitation parenting time 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 parenting time expeditor shall make a decision resolving the dispute.

Subd. 2. **APPOINTMENT.** (a) The parties may stipulate to the appointment of a visitation parenting time 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 parenting time 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 parenting time expeditor, the court shall provide to the parties a copy of the court administrator's roster of visitation parenting time expeditors and require the parties to exchange the names of three potential visitation parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a visitation parenting time expeditor, the court shall select the visitation parenting time 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 parenting time 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.

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(c) An order appointing a visitation parenting time 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 parenting time expeditor, the court shall give the parties notice that the fees of the ~~visitation~~ expeditor will be apportioned among the parties. 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 parenting time 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 PARENTING TIME EXPEDITORS.** Each court administrator shall maintain and make available to the public and judicial officers a roster of individuals available to serve as ~~visitation~~ visitation parenting time 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 parenting time expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as a ~~visitation~~ visitation parenting time 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~~ visitation parenting time 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 parenting time 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~~ visitation parenting time 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

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on a court administrator's roster of ~~visitation~~ parenting time expeditors, an individual shall annually attend three hours of continuing education about alternative dispute resolution subjects.

Subd. 3. **AGREEMENT OR DECISION.** (a) Within five days of notice of the appointment, or within five days of notice of a subsequent ~~visitation~~ parenting time dispute between the same parties, the ~~visitation~~ parenting time expeditor shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the ~~visitation~~ parenting time dispute. If a ~~visitation~~ parenting time dispute requires immediate resolution, the ~~visitation~~ parenting time 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. The ~~visitation~~ expeditor is authorized to award compensatory ~~visitation~~ parenting time 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~~ parenting time 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~~ parenting time expeditor shall not make a decision that is inconsistent with an existing ~~visitation~~ parenting time order, but may make decisions interpreting or clarifying a ~~visitation~~ parenting time order, including the development of a specific schedule when the existing court order grants "reasonable ~~visitation~~ parenting time."

(d) The expeditor shall put an agreement or decision in writing and provide a copy to the parties. 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 and shall attach a copy of the parties' written agreement or decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Subd. 4. **OTHER AGREEMENTS.** This section does not preclude the parties from voluntarily agreeing to submit their ~~visitation~~ parenting time dispute to a neutral third party or from otherwise resolving ~~visitation~~ parenting time disputes on a voluntary basis.

Subd. 4a. **CONFIDENTIALITY.** (a) Statements made and documents produced as part of the ~~visitation~~ parenting time 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.

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

(c) Notes, records, and recollections of ~~visitation~~ parenting time expeditors are confidential and must not be disclosed to the parties, the public, or anyone other than the ~~visitation~~ parenting time 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~~ parenting time 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~~ parenting time expeditor is immune from civil liability for actions taken or not taken when acting under this section.

Subd. 5a. **REMOVAL.** If a ~~visitation~~ parenting time 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~~ PARENTING TIME DISPUTE RESOLUTION.** Subject to subdivision 1a, a judicial district may establish a mandatory ~~visitation~~ parenting time dispute resolution program as provided in this subdivision. In a district where a program has been established, parties may be required to submit ~~visitation~~ parenting time disputes to a ~~visitation~~ parenting time 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~~ an 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~~ parenting time expeditor. The appointment of a ~~visitation~~ an expeditor must be in accordance with subdivision 2. ~~Visitation~~ Expeditor fees must be paid in accordance with subdivision 2a.

Sec. 33. Minnesota Statutes 1998, section 518.176, subdivision 2, is amended to read:

Subd. 2. If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical or emotional health is likely to be endangered or the child's emotional development impaired, the court may order the local social services agency or the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or ~~visitation~~ parenting time terms of the decree are carried out.

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Sec. 34. Minnesota Statutes 1998, section 518.177, is amended to read:

**518.177 NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.**

Every court order and judgment and decree concerning custody of or parenting time or visitation with a minor child shall contain the notice set out in section 518.68, subdivision 2.

Sec. 35. Minnesota Statutes 1999 Supplement, section 518.178, is amended to read:

**518.178 VISITATION PARENTING TIME AND SUPPORT REVIEW HEARING.**

Upon motion of either party, the court shall conduct a hearing to review compliance with the visitation parenting time and child support provisions set forth in a decree of dissolution or legal separation or an order that establishes child custody, visitation parenting time, and support rights and obligations of parents. The state court administrator shall prepare, and each court administrator shall make available, simplified pro se forms for reviewing visitation parenting time and child support disputes. The court may impose any visitation parenting time enforcement remedy available under sections 518.175 and 518.1751, and any support enforcement remedy available under section 518.551.

Sec. 36. Minnesota Statutes 1998, section 518.179, subdivision 1, is amended to read:

Subdivision 1. **SEEKING CUSTODY OR VISITATION PARENTING TIME.** Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or visitation parenting time has been convicted of a crime described in subdivision 2, the person seeking custody or visitation parenting time has the burden to prove that custody or visitation parenting time 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 parenting time to the person unless it finds that the custody or visitation parenting time is in the best interests of the child. If the victim 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. 37. Minnesota Statutes 1999 Supplement, section 518.551, subdivision 5, is amended to read:

Subd. 5. **NOTICE TO PUBLIC AUTHORITY; GUIDELINES.** (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal

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separation, determination of parentage or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (i). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (c) and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

(b) The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 5000	25%	30%	35%	39%	43%	47%	50%
or the amount in effect under paragraph (k)							

Guidelines for support for an obligor with a monthly income in excess of the income limit currently in effect under paragraph (k) shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income equal to the limit in effect.

Net Income defined as:

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Total monthly  
income less

- \*(i) Federal Income Tax
- \*(ii) State Income Tax
- (iii) Social Security Deductions
- (iv) Reasonable Pension Deductions

\*Standard  
Deductions apply-  
use of tax tables  
recommended

- (v) Union Dues
- (vi) Cost of Dependent Health  
Insurance Coverage
- (vii) Cost of Individual or Group  
Health/Hospitalization  
Coverage or an  
Amount for Actual  
Medical Expenses
- (viii) A Child Support or  
Maintenance Order that is  
Currently Being Paid.

"Net income" does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(C) the excess employment is voluntary and not a condition of employment;

(D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

The court shall review the work-related and education-related child care costs paid and shall allocate the costs to each parent in proportion to each parent's net income, as determined under this subdivision, after the transfer of child support and spousal maintenance, unless the allocation would be substantially unfair to either

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parent. There is a presumption of substantial unfairness if after the sum total of child support, spousal maintenance, and child care costs is subtracted from the noncustodial parent's income, the income is at or below 100 percent of the federal poverty guidelines. The cost of child care for purposes of this paragraph is 75 percent of the actual cost paid for child care, to reflect the approximate value of state and federal tax credits available to the custodial parent. The actual cost paid for child care is the total amount received by the child care provider for the child or children of the obligor from the obligee or any public agency. The court shall require verification of employment or school attendance and documentation of child care expenses from the obligee and the public agency, if applicable. If child care expenses fluctuate during the year because of seasonal employment or school attendance of the obligee or extended periods of ~~visitation~~ parenting time with the obligor, the court shall determine child care expenses based on an average monthly cost. The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518.641. The amount allocated for child care expenses terminates when either party notifies the public authority that the child care costs have ended and without any legal action on the part of either party. The public authority shall verify the information received under this provision before authorizing termination. The termination is effective as of the date of the notification. In other cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518.64.

The court may allow the noncustodial parent to care for the child while the custodial parent is working, as provided in section 518.175, subdivision 8. Allowing the noncustodial parent to care for the child under section 518.175, subdivision 8, is not a reason to deviate from the guidelines.

(c) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (b), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standard of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it;

(5) the parents' debts as provided in paragraph (d); and

(6) the obligor's receipt of public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K.

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(d) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.741;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(e) Any schedule prepared under paragraph (d), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(f) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(g) If payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(h) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in paragraph (c) and how the deviation serves the best interest of the child. The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public agency under section 256.741, the court may deviate downward only as provided in paragraph (j). Nothing in this paragraph prohibits the court from deviating in other cases. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

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(j) If the child support payments are assigned to the public agency under section 256.741, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

(k) The dollar amount of the income limit for application of the guidelines must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court shall select the index for the adjustment from the indices listed in section 518.641. The state court administrator shall make the changes in the dollar amount required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

(l) In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered shall be offset by the amount of the child's benefit. The court shall make findings regarding the obligor's income from all sources, the child support amount calculated under this section, the amount of the child's benefit, and the obligor's child support obligation. Any benefit received by the child in a given month in excess of the child support obligation shall not be treated as an arrearage payment or a future payment.

Sec. 38. Minnesota Statutes 1998, section 518.612, is amended to read:

**518.612 INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.**

Failure by a party to make support payments is not a defense to: interference with ~~visitation rights~~ parenting time; or without the permission of the court or the noncustodial parent removing a child from this state. Nor is interference with ~~visitation rights~~ parenting time or taking a child from this state without permission of the court or the noncustodial parent a defense to nonpayment of support. If a party fails to make support payments, or interferes with ~~visitation rights~~ parenting time, or without permission of the court or the noncustodial parent removes a child from this state, the other party may petition the court for an appropriate order.

Sec. 39. Minnesota Statutes 1998, section 518.619, subdivision 1, is amended to read:

Subdivision 1. **MEDIATION PROCEEDING.** Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody or visitation parenting time is contested, or that any issue pertinent to a custody or visitation parenting time determination, including visitation parenting time rights, is unresolved, the matter may be set for mediation of the contested issue prior to, concurrent with, or subsequent to the setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement that is supportive of the child's best interests. The mediator shall use best efforts to effect a settlement of the custody or visitation parenting time dispute, but shall have no coercive authority.

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Sec. 40. Minnesota Statutes 1998, section 518.68, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or visitation parenting time must contain certain notices as set out in subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child.

Sec. 41. Minnesota Statutes 1998, 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

According 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), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

##### 3. RULES OF SUPPORT, MAINTENANCE, VISITATION PARENTING TIME

(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 parenting time~~ 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 parenting time. 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.

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(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(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~~ parenting time 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

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conditions of Minnesota Statutes, section 518.6111 have been met. A copy of those sections is available from any district court clerk.

#### 6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

#### 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, according 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 PARENTING TIME EXPEDITORY PROCESS

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On request of either party or on its own motion, the court may appoint a visitation parenting time expeditor to resolve ~~visitation parenting time~~ 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 PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation parenting time; 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. 42. Minnesota Statutes 1998, section 518B.01, subdivision 4, is amended to read:

Subd. 4. **ORDER FOR PROTECTION.** There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

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(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised visitation parenting time, as provided in section 518.175, subdivision 1a.

Sec. 43. Minnesota Statutes 1998, section 518B.01, subdivision 8, is amended to read:

**Subd. 8. SERVICE; ALTERNATE SERVICE; PUBLICATION; NOTICE.**

(a) The petition and any order issued under this section shall be served on the respondent personally.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature

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of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any visitation parenting time proceeding, the court shall consider the order for protection in making a decision regarding visitation parenting time.

Sec. 44. Minnesota Statutes 1998, section 519.11, subdivision 1a, is amended to read:

Subd. 1a. **POSTNUPTIAL CONTRACT.** (a) Spouses who are legally married under the laws of this state may enter into a postnuptial contract or settlement which is valid and enforceable if it:

(1) complies with the requirements for antenuptial contracts or settlements in this section and in the law of this state, including, but not limited to, the requirement that it be procedurally and substantively fair and equitable both at the time of its execution and at the time of its enforcement; and

(2) complies with the requirements for postnuptial contracts or settlements in this section.

(b) A postnuptial contract or settlement that conforms with this section may determine all matters that may be determined by an antenuptial contract or settlement under the law of this state, except that a postnuptial contract or settlement may not determine the rights of any child of the spouses to child support from either spouse or rights of child custody or visitation parenting time.

(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each spouse is represented by separate legal counsel.

(d) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each of the spouses entering into the contract or settlement has marital property titled in that spouse's name, nonmarital property, or a combination of marital property titled in that spouse's name and nonmarital property with a total net value exceeding \$1,200,000.

(e) A postnuptial contract or settlement is not valid or enforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution.

(f) Nothing in this section shall impair the validity or enforceability of a contract, agreement, or waiver which is entered into after marriage and which is described in

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chapter 524, article 2, part 2, further, a conveyance permitted by section 500.19 is not a postnuptial contract or settlement under this section.

Sec. 45. Minnesota Statutes 1999 Supplement, section 609.26, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to ~~visitation~~ parenting time or custody where the action manifests an intent to substantially deprive that person of rights to ~~visitation~~ parenting time or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260, 260B, or 260C to the commissioner of human services, a child-placing agency, or the local social services agency;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to ~~visitation~~ parenting time or custody;

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child ~~visitation~~ parenting time or custody but prior to the issuance of an order determining custody or ~~visitation~~ parenting time rights, where the action manifests an intent substantially to deprive that parent of parental rights;

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions;

(6) refuses to return a minor child to a parent or lawful custodian and is at least 18 years old and more than 24 months older than the child;

(7) causes or contributes to a child being a habitual truant as defined in section 260C.007, subdivision 19, and is at least 18 years old and more than 24 months older than the child;

(8) causes or contributes to a child being a runaway as defined in section 260C.007, subdivision 20, and is at least 18 years old and more than 24 months older than the child; or

(9) is at least 18 years old and resides with a minor under the age of 16 without the consent of the minor's parent or lawful custodian.

Sec. 46. Minnesota Statutes 1998, section 609.26, subdivision 2, is amended to read:

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Subd. 2. **DEFENSES.** It is an affirmative defense if a person charged under subdivision 1 proves that:

(1) the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;

(2) the person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;

(3) the action taken is consented to by the parent, stepparent, or legal custodian seeking prosecution, but consent to custody or specific visitation parenting time is not consent to the action of failing to return or concealing a minor child; or

(4) the action taken is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Sec. 47. Minnesota Statutes 1999 Supplement, 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 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under 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:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) 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;

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(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

(5) 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;

(6) prenatal 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;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) that the parent or other person responsible for the care of the child:

(i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

(iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in section 518B.01, subdivision 2, that is within sight or sound of the child; or

(iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child;

(9) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(10) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not

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within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, 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. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or
- (9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

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

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

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

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(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~~ parenting time 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.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

Sec. 48. Minnesota Statutes 1998, section 629.341, subdivision 3, is amended to read:

Subd. 3. **NOTICE OF RIGHTS.** The peace officer shall tell the victim whether a shelter or other services are available in the community and give the victim immediate notice of the legal rights and remedies available. The notice must include furnishing the victim a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an order for protection from domestic abuse. The order could include the following:

- (1) an order restraining the abuser from further acts of abuse;
- (2) an order directing the abuser to leave your household;
- (3) an order preventing the abuser from entering your residence, school, business, or place of employment;
- (4) an order awarding you or the other parent custody of or ~~visitation~~ parenting time with your minor child or children; or
- (5) an order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

The notice must include the resource listing, including telephone number, for the area battered women's shelter, to be designated by the department of corrections.

Sec. 49. Minnesota Statutes 1998, section 631.52, subdivision 1, is amended to read:

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Subdivision 1. **SUSPENSION OF ~~VISITATION PARENTING TIME RIGHTS; TRANSFER OF CUSTODY.~~** (a) If a person who has court-ordered custody of a child or visitation parenting time rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or visitation parenting time, 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 parenting time rights, unless it finds that visitation parenting time 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 parenting time with the defendant is in the best 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 parenting time 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. 50. **EFFECTIVE DATE.**

The provisions of sections 6 and 8 relating to commencement of certain actions without an adjudication of parentage are effective August 1, 2000. The remaining provisions of this article are effective January 1, 2001.

Presented to the governor April 25, 2000

Signed by the governor April 27, 2000, 11:40 a.m.

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#### CHAPTER 445—S.F.No. 3178

*An act relating to public safety; authorizing commissioner of public safety to award public safety grants; continuing certain rule authority of commissioner of public safety; changing per diem payments to members of the board of private detectives and protective agents; requiring changes in rules regarding training programs; establishing guidelines for the administration of battered women's shelter per diem funding by the Minnesota center for crime victims services; changing the designation of battered women's advisory council to advisory council on battered women and domestic abuse; authorizing support services to domestic abuse victims; amending*

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