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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3295

- 03/05/2018 Authored by Scott and Pryor
- The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy
- 03/19/2018 Adoption of Report: Re-referred to the Committee on Public Safety and Security Policy and Finance
- 03/28/2018 Adoption of Report: Placed on the General Register
- Read for the Second Time
- 04/16/2018 Calendar for the Day
- Read for the Third Time
- Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to family law; allowing joint petitions for custody and parenting time to

1.3 be filed in legal separations and by unmarried parents; amending Minnesota Statutes

1.4 2016, section 518.156.

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

1.6 Section 1. Minnesota Statutes 2016, section 518.156, is amended to read:

1.7 **518.156 COMMENCEMENT OF CUSTODY PROCEEDING.**

1.8 Subdivision 1. **Procedure.** In a court of this state which has jurisdiction to decide child

1.9 custody matters, a child custody proceeding is commenced by ~~a parent~~ one or both parents:

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

1.11 in the county where either spouse resides pursuant to section 518.09; or

1.12 (2) where paternity has been recognized under section 257.75, by filing a petition, or if

1.13 the parties agree on all issues related to custody, parenting time, and child support, by filing

1.14 a joint petition, agreement, and proposed order establishing custody, parenting time, and

1.15 child support, in the county where the child is permanently a resident or where the child is

1.16 found or where an earlier order for custody of the child has been entered; or

1.17 (3) where a decree of dissolution or legal separation has been entered or where none is

1.18 sought, or when paternity has been recognized under section 257.75 paternity has been

1.19 adjudicated under section 257.66, by filing a petition or motion seeking custody or parenting

1.20 time with the child in the county where the child is permanently resident or where the child

1.21 is found or where an earlier order for custody of the child has been entered.

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

2.5 Subd. 3. **Summons; joint petition.** No summons shall be required if a joint petition is
2.6 filed and no summons is needed where a decree of dissolution or legal separation has been
2.7 entered or paternity has been adjudicated under section 257.66.

2.8 Subd. 4. **Social Security numbers; financial documents.** (a) In a proceeding where
2.9 child support will be addressed, the petition, joint petition, or motion under subdivision 1
2.10 must be accompanied by a separate document that contains the Social Security number of
2.11 each party and child. The Social Security number document must be maintained in a portion
2.12 of the court file or records that are not accessible to the general public.

2.13 (b) In a proceeding where child support will be addressed, the petition, joint petition, or
2.14 motion under subdivision 1 must be accompanied by separate documentation providing
2.15 evidence of income for each party in accordance with section 518A.28. The income
2.16 information shall be maintained in a portion of the court file or records that are not accessible
2.17 to the general public.

2.18 Subd. 5. **Recognition of parentage.** A copy of the properly executed recognition of
2.19 parentage form that was filed with the state registrar of vital records shall be attached to a
2.20 joint petition establishing custody, parenting time, and child support.

2.21 Subd. 6. **Requirements; joint petition.** (a) Where paternity has been recognized under
2.22 section 257.75, no other alleged or presumed father exists, and the parties agree to all issues
2.23 regarding custody, parenting time, and child support, the parties may proceed using a joint
2.24 petition, agreement, and proposed order. Parties filing a joint petition are subject to the
2.25 requirements of the child support guidelines under chapter 518A. Parties filing a joint petition
2.26 may incorporate a parenting plan subject to the requirements of section 518.1705.

2.27 (b) The joint petition shall state and allege:

2.28 (1) the name and address of each petitioner and any prior or other name used by each
2.29 petitioner;

2.30 (2) that a petitioner has or both of the petitioners have:

2.31 (i) resided in this state for not less than 180 days immediately preceding the
2.32 commencement of the proceeding;

3.1 (ii) been a member of the armed services and stationed in this state for not less than 180
3.2 days immediately preceding the commencement of the proceeding; or

3.3 (iii) been a domiciliary of this state for not less than 180 days immediately preceding
3.4 the commencement of the proceeding;

3.5 (3) the name at the time of the joint petition and any prior or other name, age, and date
3.6 of birth of each living minor or dependent child of the parties for whom paternity has been
3.7 recognized under section 257.75;

3.8 (4) that the parties properly executed a recognition of parentage under section 257.75,
3.9 which was properly filed with the state registrar of vital records, and no other alleged or
3.10 presumed father exists;

3.11 (5) whether or not a separate proceeding for custody, parenting time, or child support
3.12 is pending in a court in this state or elsewhere or whether a separate order for custody,
3.13 parenting time, or child support exists and, if section 518A.44 applies, the public authority
3.14 is in agreement with the child support petition;

3.15 (6) any temporary or permanent child support, child custody, parenting time, attorney
3.16 fees, costs, and disbursements applied for without setting forth the amounts;

3.17 (7) whether an order for protection under chapter 518B or a similar law of another state
3.18 that governs the parties or a party and a minor child of the parties is in effect and, if so, the
3.19 district court or similar jurisdiction in which it was entered;

3.20 (8) the employer of each party and income from all sources for each party and whether
3.21 either of the parties or child receives public assistance as defined in section 256.741 or
3.22 Supplemental Security Income;

3.23 (9) whether the child has medical and dental health insurance coverage, the cost of the
3.24 insurance, and which party pays for the insurance;

3.25 (10) whether there are child care expenses for the child, the cost of the expenses, and
3.26 which party pays the expenses;

3.27 (11) whether either party pays child support for a nonjoint child in accordance with a
3.28 court order and the amount of the support;

3.29 (12) whether either party is legally responsible for a nonjoint child as provided in section
3.30 518A.33;

3.31 (13) whether either party pays or receives spousal maintenance to or from another party,
3.32 and the amount of the spousal maintenance; and

4.1 (14) whether Social Security or veterans' benefit payments are received on behalf of the
4.2 child, the amount of the benefit, and which parent receives the benefit on behalf of the child.
4.3 The joint petition shall be verified by each party, and the petition's allegations established
4.4 by competent evidence.

4.5 (c) The agreement must reflect an agreement on all issues of custody, parenting time,
4.6 and child support and be signed by each petitioner and the public authority if section 518A.44
4.7 applies. The agreement must include a waiver to the statutory right to counsel on the issue
4.8 of parentage if it applies and, if either of the parties are not represented by counsel, a waiver
4.9 to the rights to genetic testing or a jury trial to determine parentage, if applicable. After
4.10 issuance of the order, the issue of parentage may only be reopened by the parties in
4.11 accordance with section 518.145, subdivision 2.

4.12 Subd. 7. **Approval.** If the joint petition, agreement, and proposed order meet the
4.13 requirements of this subdivision, filing, review, and approval by the court is determined by
4.14 the provisions of section 518.13, subdivision 5.

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to cases
4.16 commenced on or after that date.