

CHAPTER 518

MARRIAGE DISSOLUTION

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518.157 ORIENTATION IN PROCEEDINGS INVOLVING CHILDREN.

In a proceeding under this chapter involving custody, support, or visitation of children, the court may require the parties to attend an orientation and education program regarding the proceedings and the impact on the children. Upon request of a party and a showing of good cause, the court shall excuse the party from attending the program. Parties may be required to pay a fee to cover the cost of the program, except that if a party is entitled to proceed in forma pauperis under section 563.01, the court shall waive the fee or direct its payment under section 563.01. The court may not require the parties to attend the same orientation session.

History: 1995 c 127 s 1

518.165 GUARDIANS FOR MINOR CHILDREN.

[For text of subds 1 and 2, see M.S.1994]

Subd. 2a. Responsibilities of guardian ad litem. A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

[For text of subd 3, see M.S.1994]

History: 1995 c 226 art 6 s 10

518.171 MEDICAL SUPPORT.

Subdivision 1. Order. Compliance with this section constitutes compliance with a qualified medical child support order as described in the federal Employee Retirement Income

Security Act of 1974 (ERISA) as amended by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA).

(a) Every child support order must:

(1) expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs; and

(2) contain the names and last known addresses, if any, of the dependents unless the court prohibits the inclusion of an address and orders the custodial parent to provide the address to the administrator of the health plan. The court shall order the party with the better group dependent health and dental insurance coverage or health insurance plan to name the minor child as beneficiary on any health and dental insurance plan that is available to the party on:

(i) a group basis;

(ii) through an employer or union; or

(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2. "Health insurance" or "health insurance coverage" as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2. "Health insurance" or "health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that group insurance is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than \$50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) Unless otherwise agreed by the parties and approved by the court, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court shall order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

(e) Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

[For text of subd 2, see M.S.1994]

Subd. 2a. Employer and obligor responsibility. An individual shall disclose at the time of hiring if medical support is required to be withheld. If an employee discloses that medical support is required to be withheld, the employer shall begin withholding according to the terms of the order and pursuant to section 518.611, subdivision 8. If an individual discloses an obligation to obtain health and dental dependent insurance coverage and coverage is available through the employer, the employer shall make all application processes known to the individual upon hiring and enroll the employee and dependent in the plan pursuant to subdivision 3.

Subd. 3. Implementation. A copy of the court order for insurance coverage shall be forwarded to the obligor's employer or union and to the health or dental insurance carrier or employer by the obligee or the public authority responsible for support enforcement only when ordered by the court or when the following conditions are met:

(1) the obligor fails to provide written proof to the obligee or the public authority, within 30 days of the effective date of the court order, that the insurance has been obtained;

(2) the obligee or the public authority serves written notice of its intent to enforce medical support on the obligor by mail at the obligor's last known post office address; and

(3) the obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the public authority that the insurance coverage existed as of the date of mailing.

The employer or union shall forward a copy of the order to the health and dental insurance plan offered by the employer.

Subd. 4. Effect of order. (a) The order is binding on the employer or union and the health and dental insurance plan when service under subdivision 3 has been made. An employer or union that is included under ERISA may not deny enrollment based on exclusionary clauses described in section 62A.048. Upon receipt of the order, or upon application of the obligor pursuant to the order, the employer or union and its health and dental insurance plan shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the least costly health insurance plan otherwise available to the obligor that is comparable to a number two qualified plan. If the obligor is not enrolled in a health insurance plan, the employer or union shall also enroll the obligor in the chosen plan if enrollment of the obligor is necessary in order to obtain dependent coverage under the plan. Enrollment of dependents and the obligor shall be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies described in section 62A.048.

(b) An employer or union that willfully fails to comply with the order is liable for any health or dental expenses incurred by the dependents during the period of time the dependents were eligible to be enrolled in the insurance program, and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to contempt under section 518.615 and is also subject to a fine of \$500 to be paid to the obligee or public authority. Fines paid to the public authority are designated for child support enforcement services.

(c) Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Subd. 5. Eligible child. A minor child that an obligor is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the obligor until the child is emancipated or until further order of the court. The health or dental insurance carrier or employer may not disenroll or eliminate coverage of the child unless the health or dental insurance carrier or employer is provided satisfactory written evidence that the court order is no longer in effect, or the child is or will be enrolled in comparable health coverage through another health or dental insurance plan that will take effect no later than the effective date of the disenrollment, or the employer has eliminated family health and dental coverage for all of its employees, or that the required premium has not been paid by or on behalf of the child. If disenrollment or elimination of coverage of a child under this subdivision is based upon nonpayment of premium, the health or dental insurance plan must provide 30 days written notice to the child's nonobligor parent prior to the disenrollment or elimination of coverage.

[For text of subd 6, see M.S.1994]

Subd. 7. Release of information. When an order for dependent insurance coverage is in effect, the obligor's employer, union, or insurance agent shall release to the obligee or the public authority, upon request, information on the dependent coverage, including the name of the health or dental insurance carrier or employer. The employer, union, or health or dental insurance plan shall provide the obligee with insurance identification cards and all necessary

written information to enable the obligee to utilize the insurance benefits for the covered dependents. Notwithstanding any other law, information reported pursuant to section 268.121 shall be released to the public agency responsible for support enforcement that is enforcing an order for health or dental insurance coverage under this section. The public agency responsible for support enforcement is authorized to release to the obligor's health or dental insurance carrier or employer or employer information necessary to obtain or enforce medical support.

Subd. 8. Obligor liability. (a) An obligor who fails to maintain medical or dental insurance for the benefit of the children as ordered or fails to provide other medical support as ordered is liable to the obligee for any medical or dental expenses incurred from the effective date of the court order, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered. Proof of failure to maintain insurance or noncompliance with an order to provide other medical support constitutes a showing of increased need by the obligee pursuant to section 518.64 and provides a basis for a modification of the obligor's child support order.

(b) Payments for services rendered to the dependents that are directed to the obligor, in the form of reimbursement by the health or dental insurance carrier or employer, must be endorsed over to and forwarded to the vendor or custodial parent or public authority when the reimbursement is not owed to the obligor. An obligor retaining insurance reimbursement not owed to the obligor may be found in contempt of this order and held liable for the amount of the reimbursement. Upon written verification by the health or dental insurance carrier or employer of the amounts paid to the obligor, the reimbursement amount is subject to all enforcement remedies available under subdivision 10, including income withholding pursuant to section 518.611. The monthly amount to be withheld until the obligation is satisfied is 20 percent of the original debt or \$50, whichever is greater.

[For text of subds 9 and 10, see M.S.1994]

History: 1995 c 207 art 10 s 15-20; 1995 c 257 art 1 s 19

NOTE: The amendments to subdivisions 1, 3, 4, 5, and 7, by Laws 1995, chapter 207, article 10, sections 15 to 19, are effective retroactive to August 10, 1993. See Laws 1995, chapter 207, article 10, section 26.

NOTE: The amendments to subdivision 2a, by Laws 1995, chapter 257, article 1, section 19, are effective July 1, 1996. See Laws 1995, chapter 257, article 1, section 37.

518.175 VISITATION OF CHILDREN AND NONCUSTODIAL PARENT.

[For text of subds 1 to 7, see M.S.1994]

Subd. 8. Care of child by noncustodial parent. The court may allow additional visitation 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.

History: 1995 c 257 art 1 s 20

518.18 MODIFICATION OF ORDER.

(a) Unless agreed to in writing by the parties, no motion to modify a custody order 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 if the court finds that there is persistent and willful denial or inter-

ference with visitation, 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 unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established visitation 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 established by the prior order unless:

(i) both parties agree to the modification;

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

(iii) 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 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.

History: 1995 c 257 art 1 s 21

518.24 SECURITY; SEQUESTRATION; CONTEMPT.

In all cases when maintenance or support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the maintenance or support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the maintenance or support order. A child support or maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 518.617, or chapter 588.

History: 1995 c 257 art 1 s 22

518.255 PROVISION OF LEGAL SERVICES BY THE PUBLIC AUTHORITY.

The provision of services under the child support enforcement program that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the public authority does not create an attorney-client relationship with any party other than the public authority. Attorneys employed by or under contract with the public authority have an affirmative duty to inform applicants and recipients of services under the child support enforcement program that no attorney-client relationship exists between the attorney and the applicant or recipient. This section applies to all legal services provided by the child support enforcement program.

The written notice must inform the individual applicant or recipient of services that no attorney-client relationship exists between the attorney and the applicant or recipient; the rights of the individual as a subject of data under section 13.04, subdivision 2; and that the individual has a right to have an attorney represent the individual.

Data disclosed by an applicant for, or recipient of, child support services to an attorney employed by, or under contract with, the public authority is private data on an individual. However, the data may be disclosed under section 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and in order to obtain, modify or enforce child support, medical support, and parentage determinations.

An attorney employed by, or under contract with, the public authority may disclose additional information received from an applicant for, or recipient of, services for other purposes with the consent of the individual applicant for, or recipient of, child support services.

History: 1995 c 257 art 4 s 13

518.54 DEFINITIONS.

[For text of subds 1 to 2a, see M.S.1994]

Subd. 2b. Financial institution. "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

[For text of subds 3 to 12, see M.S.1994]

History: 1995 c 202 art 1 s 25

518.551 MAINTENANCE AND SUPPORT PAYMENTS.

[For text of subd 1, see M.S.1994]

Subd. 5. Notice to public authority; guidelines. (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children 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:

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 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 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 assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40.

(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 256.74;

(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 256.74, 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.

(j) If the child support payments are assigned to the public agency under section 256.74, 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.

[For text of subds 5a to 11, see M.S.1994]

Subd. 12. Occupational license suspension. (a) Upon motion of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the administrative law judge, or the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority shall direct the licensing board or other licensing agency to sus-

pend the license under section 214.101. If the obligor is a licensed attorney, the public authority may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

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

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

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

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

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

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

Subd. 13. Driver's license suspension. (a) Upon motion of an obligee, which has been properly served on the obligor and upon which there has been an opportunity for hearing, if a court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court shall order the commissioner of public safety to suspend the obligor's driver's license. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages, which payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective and the commissioner of public safety shall suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the court. An obligee may not bring a motion under this paragraph within 12 months of a denial of a previous motion under this paragraph.

(b) If a public authority responsible for child support enforcement determines that the obligor has been or may be issued a driver's license by the commissioner of public safety and

the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

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

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to suspend the obligor's driver's license or operating privileges unless the court or administrative law judge determines that the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(e) An obligor whose driver's license or operating privileges are suspended may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the court or public authority shall inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

(f) On January 15, 1997, and every two years after that, the commissioner of human services shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

- (1) the number of child support obligors notified of an intent to suspend a driver's license;
- (2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;
- (3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;
- (4) the number of cases in which there has been notification and no payments or payment agreements;
- (5) the number of driver's licenses suspended; and
- (6) the cost of implementation and operation of the requirements of this section.

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

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

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

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

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

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

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

(e) An obligor who has had a lien recorded against a motor vehicle certificate of title may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the court or public authority shall execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person. The dollar amounts in

this section shall change periodically in the manner provided in section 550.37, subdivision 4a.

History: 1995 c 186 s 94; 1995 c 257 art 1 s 23–26

518.5511 ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.

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

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and modifying maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides services to a party or parties to the proceedings. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or modification of maintenance orders if combined with a child support proceeding in district court, if additional issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a summary notice which denies the request for relief, states the reasons for the denial, and notifies the party of the right to commence an action for relief. If the party commences an action or serves and files a motion within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority.

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

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

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

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

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

(c) Following the submission of information or following the date when the information was due, the public authority shall, on the basis of all information available, complete and

sign a proposed order and notice. In preparing the proposed order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). The notice shall state that the proposed order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 within 21 days following the date of service of the proposed order. The method for requesting the conference shall be stated in the notice. The notice and proposed order shall be served under the rules of civil procedure. For the purposes of the contested hearing, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to this paragraph shall be deemed to have commenced a proceeding and the judge, including an administrative law judge or a referee, shall have jurisdiction over the contested hearing.

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

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

Subd. 3. Administrative conference. (a) If a party requests a conference within 21 days of the date of service of the proposed order, the public authority shall schedule a conference, and shall serve written notice of the date, time, and place of the conference on the parties.

(b) The purpose of the conference is to review all available information and seek an agreement to enter a consent order. The notice shall state the purpose of the conference, and that the proposed order will be entered as a final and binding default order if the requesting party fails to appear at the conference. The notice shall be served on the parties by first class mail at their last known addresses, and the method of service shall be documented in the public authority file.

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

(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date of the conference which constitutes good cause, the public authority may enter a default order through the uncontested administrative process. The public authority shall not enter the default order until at least seven days after the date of the conference.

For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision.

(e) If the parties appear at the conference, the public authority shall seek agreement of the parties to the entry of a consent order which establishes child support in accordance with applicable law. The public authority shall advise the parties that if a consent order is not entered, the matter will be scheduled for a hearing before an administrative law judge, or a district court judge or referee, and that the public authority will seek the establishment of child support at the hearing in accordance with the highest amount permitted under section 518.551, subdivision 5. If an agreement to enter the consent order is not reached at the conference, the public authority shall schedule the matter for a contested hearing.

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

Subd. 4. Contested administrative proceeding. (a) All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the contested administrative process until after the county has been trained. The contested administrative process shall be in operation in all counties no later than July 1, 1998, with the exception of Hennepin county which shall have a pilot program in operation no later than July 1, 1996.

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

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

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

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

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

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.5275, 1400.5500, 1400.6000 to 1400.6400, 1400.6600 to 1400.7000, 1400.7100 to 1400.7500, 1400.7700, 1400.7800, and 1400.8100, as adopted by the chief administrative law judge. For matters not initiated under subdivision 2, documents from the moving party shall be served and filed at least 21 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior to the hearing. In all contested administrative proceedings, the administrative law judge may limit the extent and timing of discovery. Except as provided under this section, other aspects of the case, including, but not limited to, discovery, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

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

(g) At the time the matter is scheduled for a contested hearing, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties, in addition to the documents filed under subdivision 2, paragraph (e). For matters scheduled for a contested hearing which were not initiated under subdivision 2, the public authority shall obtain any income information available to the public authority through the department

of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

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

Subd. 5. Nonattorney authority. Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary notices, proposed orders, default orders, and consent orders for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to modify maintenance if combined with a child support order. The nonattorney may also conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice to any party.

[For text of subd 6, see M.S.1994]

Subd. 7. Public authority legal advisor. At all stages of the administrative process, the county attorney, or other attorney under contract, shall act as the legal advisor for the public authority, but shall not play an active role in the review of information, the preparation of default and consent orders, and the contested hearings unless the nonattorney employee of the public authority requests the appearance of the county attorney.

[For text of subd 8, see M.S.1994]

Subd. 9. Training and restructuring. (a) The commissioner of human services, in consultation with the office of administrative hearings, shall be responsible for the supervision of the administrative process. The commissioner of human services shall provide training to child support officers and other persons involved in the administrative process. The commissioner of human services shall prepare simple and easy to understand forms for all notices and orders prescribed in this section, and the public authority shall use them.

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

History: 1995 c 257 art 5 s 1-7

518.5512 ADMINISTRATIVE PROCEDURES FOR CHILD AND MEDICAL SUPPORT ORDERS AND PARENTAGE ORDERS.

Subdivision 1. General. The provisions of this section apply to actions conducted in the administrative process pursuant to section 518.5511.

Subd. 2. Paternity. (a) A nonattorney employee of the public authority may request an administrative law judge or the district court to order the child, mother, or alleged father to submit to blood or genetic tests. The order is effective when signed by an administrative law judge or the district court. Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

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

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

Subd. 3. Cost-of-living adjustment. The notice of application for adjustment shall be treated as a proposed order under section 518.5511, subdivision 2, paragraph (c). The public authority shall stay the adjustment of support upon receipt of a request for an administrative conference. An obligor requesting an administrative conference shall provide all relevant information that establishes an insufficient increase in income to justify the adjustment of the support obligation. If the obligor fails to submit any evidence at the administrative conference, the cost-of-living adjustment will immediately go into effect.

History: 1995 c 257 art 5 s 8

518.553 PAYMENT AGREEMENTS.

In proposing or approving proposed written payment agreements for purposes of section 518.551, the court, an administrative law judge, or the public authority shall take into consideration the amount of the arrearages, the amount of the current support order, any pending request for modification, and the earnings of the obligor.

History: 1995 c 257 art 1 s 27

518.575 PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.

Subdivision 1. Publication of names. Twice each year, the commissioner of human services shall publish a list of the names and last known addresses of each person who (1) is a child support obligor, (2) is at least \$3,000 in arrears, and (3) is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority. The commissioner of human services shall publish the name of each obligor in the newspaper or newspapers of widest circulation in the area where the obligor is most likely to be residing. For each publication, the commissioner shall release the list of all names being published not earlier than the first day on which names appear in any newspaper. An obligor's name may not be published if the obligor claims in writing, and the commissioner of human services determines, there is good cause for the nonpayment of child support. Good cause includes the following: (i) there is a mistake in the obligor's identity or the amount of the obligor's arrears; (ii) arrears are reserved by the court or there is a pending legal action concerning the unpaid child support; or (iii) other circumstances as determined by the commissioner. The list must be based on the best information available to the state at the time of publication.

Before publishing the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to publish the obligor's name and the amount of child support the obligor owes. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, and the final date when the payment or agreement can be accepted.

The department of human services shall insert with the notices sent to the obligee, a notice stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name.

Subd. 2. Names published in error. If the commissioner publishes a name under subdivision 1 which is in error, the commissioner must also offer to publish a printed retraction and apology acknowledging that the name was published in error. The retraction and apology must appear in each publication that included the original notice with the name listed in error, and it must appear in the same type size and appear the same number of times as the original notice.

History: 1995 c 257 art 3 s 2

NOTE: Publication of names by the commissioner of human services under this section is suspended until January 1, 1997, by Laws 1995, chapter 257, article 3, section 16.

518.5851 CHILD SUPPORT PAYMENT CENTER; DEFINITIONS.

Subdivision 1. Scope. For the purposes of the child support center established under sections 518.5851 to 518.5853, the following terms have the meanings given.

Subd. 2. Central collections unit. "Central collections unit" means the unit created under section 518.5852.

Subd. 3. Local child support agency. "Local child support agency" means the entity at the county level that is responsible for providing child support enforcement services.

Subd. 4. Payment. "Payment" means the payment of child support, medical support, maintenance, and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 5. Tribunal. "Tribunal" has the meaning given in section 518C.101.

History: 1995 c 257 art 2 s 1

NOTE: This section, as added by Laws 1995, chapter 257, article 2, section 1, is effective January 1, 1997. See Laws 1995, chapter 257, article 2, section 4.

518.5852 CENTRAL COLLECTIONS UNIT.

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

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

The commissioner of human services may contract for services to carry out these provisions.

History: 1995 c 257 art 2 s 2

NOTE: This section, as added by Laws 1995, chapter 257, article 2, section 2, is effective January 1, 1997. See Laws 1995, chapter 257, article 2, section 4.

518.5853 MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.

Subdivision 1. Location of payment. All payments described in section 518.5852 must be made to the central collections unit.

Subd. 2. Agency designation of location. Each local child support agency shall provide a location within the agency to receive payments. A local agency receiving a payment shall transmit the funds to the central collections unit within one working day of receipt of the payment.

Subd. 3. Incentives. Notwithstanding any rule to the contrary, incentives must be paid to the county providing services and maintaining the case to which the payment is applied. Incentive payments awarded for the collection of child support must be based solely upon payments processed by the central collections unit. Incentive payments received by the county under this subdivision shall be used for county child support collection efforts.

Subd. 4. Electronic transfer of funds. The central collections unit is authorized to engage in the electronic transfer of funds for the receipt and disbursement of funds.

Subd. 5. Required content of order. A tribunal issuing an order that establishes or modifies a payment shall issue an income withholding order in conformity with section 518.613, subdivision 2. The automatic income withholding order must include the name of the obligor, the obligor's social security number, the obligor's date of birth, and the name and address of the obligor's employer. The street mailing address and the electronic mail address for the central collections unit must be included in each automatic income withholding order issued by a tribunal.

Subd. 6. Transmittal of order to the local agency by the tribunal. The tribunal shall transmit a copy of the order establishing or modifying the payment, and a copy of the automatic income withholding order, to the local child support agency within two working days of the approval of the order by the judge or administrative law judge or other person or entity authorized to sign the automatic withholding order.

Subd. 7. Transmittal of funds from the obligor or payor of funds to the central collections unit. The obligor or other payor of funds shall identify the obligor on the check or remittance by name, payor number, and social security number, and shall comply with section 518.611, subdivision 4.

Subd. 8. Sanction for checks drawn on insufficient funds. A notice may be directed to any person or entity submitting a check drawn on insufficient funds stating that future payment must be paid by cash or certified funds. The central collections unit and the local child support agency may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.

Subd. 9. Admissibility of payment records. A copy of the record of payments maintained by the central collections unit in section 518.5852 is admissible evidence in all tribunals as proof of payments made through the central collections unit without the need of testimony to prove authenticity.

Subd. 10. Transition provisions. (a) The commissioner of human services shall develop a plan for the implementation of the central collections unit. The plan must require that

payments be redirected to the central collections unit. Payments may be redirected in groups according to county of origin, county of payment, method of payment, type of case, or any other distinguishing factor designated by the commissioner.

(b) Notice that payments must be made to the central collections unit must be provided to the obligor and to the payor of funds within 30 days prior to the redirection of payments to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by a local child support agency must be forwarded to the central collections unit. A notice must be sent to the obligor or payor of funds stating that payment application may be delayed and provide directions to submit future payment to the central collections unit.

History: 1995 c 257 art 2 s 3

NOTE: This section, as added by Laws 1995, chapter 257, article 2, section 3, is effective January 1, 1997. See Laws 1995, chapter 257, article 2, section 4.

518.611 INCOME WITHHOLDING.

Subdivision 1. Order. Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, is determined and ordered by a court of this state, the amount of child support or maintenance as determined by court order must be withheld from the income, regardless of source, of the person obligated to pay the support or maintenance, and paid through the public authority. The court shall provide a copy of any order where withholding is ordered to the public authority responsible for support collections. Every order for maintenance or support must include:

(1) the obligor's social security number and date of birth and the name and address of the obligor's employer or other payor of funds; and

(2) provisions for the obligor to keep the public authority informed of the name and address of the obligor's current employer or payor of funds, and whether the obligor has access to employment-related health insurance coverage and, if so, the health insurance policy information.

Subd. 2. Conditions of income withholding. (a) Withholding shall result when:

(1) the obligor requests it in writing to the public authority;

(2) the custodial parent requests it by making a motion to the court and the court finds that previous support has not been paid on a timely or consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments; or

(3) the obligor fails to make the maintenance or support payments, and the following conditions are met:

(i) the obligor is at least 30 days in arrears;

(ii) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order on the payor of funds;

(iii) within the 15-day period, the obligor fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard;

(iv) the obligee or the public authority sends the payor of funds a notice of the withholding requirements and the provisions of this section; and

(v) the obligee serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services.

For those persons not applying for the public authority's IV-D services, a monthly service fee of \$15 must be charged to the obligor in addition to the amount of child support ordered by the court and withheld through automatic income withholding, or for persons applying for the public authority's IV-D services, the service fee under section 518.551, subdivision 7, applies. The county agency shall explain to affected persons the services available and encourage the applicant to apply for IV-D services.

(b) The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(c) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

(d) Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision that complies with section 518.68, subdivision 2. An order without this notice remains subject to this subdivision.

(e) Absent a court order to the contrary, if an arrearage exists at the time an order for ongoing support or maintenance would otherwise terminate, income withholding shall continue in effect in an amount equal to the former support or maintenance obligation plus an additional amount equal to 20 percent of the monthly child support obligation, until all arrears have been paid in full.

[For text of subds 2a and 3, see M.S.1994]

Subd. 4. Effect of order. (a) Notwithstanding any law to the contrary, the order is binding on the employer, trustee, payor of the funds, or financial institution when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule. An employer, payor of funds, or financial institution in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2 and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. The payor shall identify on the remittance information the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. The financial institution shall execute preauthorized transfers from the deposit accounts of the obligor in the amount specified in the order and amounts required under subdivision 2 as directed by the public authority responsible for child support enforcement.

(b) Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party.

(c) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement. An employer or other payor of funds that fails to withhold or transfer funds in accordance with this section is also liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld or transferred. An employer or other payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. An employer or other payor of funds that has failed to comply with the requirements of this section is subject to contempt sanctions under section 518.615. If an employer violates this subdivision, a court may award the employee twice the wages lost as a result of this violation. If a court finds the employer violates this subdivision, the court shall impose a civil fine of not less than \$500.

Subd. 5. Arrearage order. Nothing in this section shall prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in child support or maintenance payments, the obligor's liability for reimbursement of child support or of public assistance pursuant to sections 256.87 and 257.66, for pregnancy and confinement expenses and for blood test costs, and any service fees that may be imposed under section 518.551. This remedy shall not operate to exclude availability of other remedies to enforce judgments.

Subd. 6. Priority. (a) An order for withholding under this section or execution or garnishment upon a judgment for child support arrearages or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not

be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b)(2).

(b) If a single employee is subject to multiple withholding orders for the support of more than one child, the payor of funds shall comply with all of the orders to the extent that the total amount withheld from the payor's income does not exceed the limits imposed under the Consumer Credit Protection Act, giving priority to amounts designated in each order as current support as follows:

(1) if the total of the amounts designated in the orders as current support exceeds the amount available for income withholding, the payor of funds shall allocate to each order an amount for current support equal to the amount designated in that order as current support, divided by the total of the amounts designated in the orders as current support, multiplied by the amount of the income available for income withholding; and

(2) if the total of the amounts designated in the orders as current support does not exceed the amount available for income withholding, the payor of funds shall pay the amounts designated as current support, and shall allocate to each order an amount for past due support equal to the amount designated in that order as past due support, divided by the total of the amounts designated in the orders as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

(c) If more than one order exists involving the same obligor and child, the public authority shall enforce the most current order. Income withholding that has been implemented under a previous order pursuant to this section or section 518.613 shall be terminated as of the date of the most current order. The public authority shall notify the payor of funds to withhold under the most current order.

(d) Notwithstanding any law to the contrary, funds from income sources included in section 518.54, subdivision 6, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearages.

[For text of subs 7 and 8, see M.S.1994]

Subd. 8a. Lump sum payments. Before transmittal to the obligor of a lump sum payment including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits:

(1) an employer, trustee, or other payor of funds who has been served with a notice of income withholding under subdivision 2 or section 518.613 must:

(i) notify the public authority of any lump sum payment of \$500 or more that is to be paid to the obligor;

(ii) hold the lump sum payment for 30 days after the date on which the lump sum payment would otherwise have been paid to the obligor, notwithstanding sections 181.08, 181.101, 181.11, 181.13, and 181.145;

(iii) upon order of the court, pay any specified amount of the lump sum payment to the public authority for current support or reimbursement of support judgment, judgments, or arrearages; and

(iv) upon order of the court, and after a showing of past willful nonpayment of support, pay any specified amount of the lump sum payment to the public authority for future support; or

(2) upon service by United States mail of a sworn affidavit from the public authority or a court order stating:

(i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or that other support arrearages exist;

(ii) that a portion of the judgment, judgments, or arrearages remains unpaid; and

(iii) the current balance of the judgment, judgments, or arrearages, the payor of funds shall pay to the public authority the lesser of the amount of the lump sum payment or the total amount of judgments plus arrearages as stated in affidavit or court order, subject to the limits imposed under the consumer credit protection act.

[For text of subds 9 to 12, see M.S.1994]

History: 1995 c 207 art 10 s 21,22; 1995 c 257 art 3 s 3-7

NOTE: Subdivision 8 is repealed by Laws 1995, chapter 257, article 1, section 36, effective July 1, 1996.

518.613 AUTOMATIC WITHHOLDING.

Subdivision 1. General. Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, enforced by the public authority, is initially determined and ordered or modified by the court, the amount of child support or maintenance ordered by the court and any fees assessed by the public authority responsible for child support enforcement must be withheld from the income and forwarded to the public authority, regardless of the source of income, of the person obligated to pay the support.

Subd. 2. Order; collection services. Every order for child support must include the obligor's social security number and date of birth and the name and address of the obligor's employer or other payor of funds. In addition, every order must contain provisions requiring the obligor to keep the public authority informed of the name and address of the obligor's current employer, or other payor of funds and whether the obligor has access to employment-related health insurance coverage and, if so, the health insurance policy information. Upon entry of the order for support or maintenance, the court shall provide a copy of the withholding order to the public authority responsible for child support enforcement. An obligee who is not a recipient of public assistance must decide to either apply for the IV-D collection services of the public authority or obtain income withholding only services when an order for support is entered unless the requirements of this section have been waived under subdivision 7. The supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.

[For text of subds 3 to 6, see M.S.1994]

Subd. 7. Waiver. (a) The court may waive the requirements of this section if the court finds that there is no arrearage in child support or maintenance as of the date of the hearing and: (1) one party demonstrates and the court finds that there is good cause to waive the requirements of this section or to terminate automatic income withholding on an order previously entered under this section; or (2) all parties reach a written agreement that provides for an alternative payment arrangement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this section must include a written explanation of the reasons why automatic withholding would not be in the best interests of the child and, in a case that involves modification of support, that past support has been timely made. If the court waives the requirements of this section:

(1) in all cases where the obligor is at least 30 days in arrears, withholding must be carried out pursuant to section 518.611;

(2) the obligee may at any time and without cause request the court to issue an order for automatic income withholding under this section; and

(3) the obligor may at any time request the public authority to begin withholding pursuant to this section, by serving upon the public authority the request and a copy of the order for child support or maintenance. Upon receipt of the request, the public authority shall serve a copy of the court's order and the provisions of section 518.611 and this section on the obligor's employer or other payor of funds. The public authority shall notify the court that withholding has begun at the request of the obligor pursuant to this clause.

(b) For purposes of this subdivision, "parties" includes the public authority in cases when it is a party pursuant to section 518.551, subdivision 9.

Subd. 8. Interest on amount wrongfully withheld. If an excessive amount of child support is wrongfully withheld from the obligor's income because of an error by the public authority, the public authority shall pay interest based on the rate under section 549.09 on the amount wrongfully withheld from the time of the withholding until it is repaid to the obligor.

History: 1995 c 207 art 10 s 23; 1995 c 257 art 1 s 28; art 3 s 8,9

518.614 ESCROW ACCOUNT; CHILD SUPPORT; MAINTENANCE OBLIGATION.

Subdivision 1. Stay of service. If the court finds there is no arrearage in child support or maintenance as of the date of the court hearing, the court shall stay service of the order under section 518.613, subdivision 2, if the obligor establishes a savings account for a sum equal to two months of the monthly child support or maintenance obligation and provides proof of the establishment to the court and the public authority on or before the day of the court hearing determining the obligation. This sum must be held in a financial institution in an interest-bearing account with only the public authority authorized as drawer of funds. Proof of the establishment must include the financial institution name and address, account number, and the amount of deposit.

[For text of subds 2 to 5, see M.S.1994]

History: 1995 c 257 art 3 s 10

518.615 EMPLOYER CONTEMPT.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. Liability. The employer, trustee, or payor of funds is liable to the obligee or the agency responsible for child support enforcement for any amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. An employer, trustee, or payor of funds found guilty of contempt shall be punished by a fine of not more than \$250 as provided in chapter 588. The court may also impose other contempt sanctions authorized under chapter 588.

History: 1995 c 207 art 10 s 24

518.616 ADMINISTRATIVE SEEK EMPLOYMENT ORDERS.

Subdivision 1. Court order. For any support order being enforced by the public authority, the public authority may seek a court order requiring the obligor to seek employment if:

- (1) employment of the obligor cannot be verified;
- (2) the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments; and
- (3) the obligor is not in compliance with a written payment plan.

Upon proper notice being given to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding under section 518.611 or 518.613 or entered into a written payment plan approved by the court, an administrative law judge, or the public authority.

Subd. 2. Contents of order. The order to seek employment shall:

- (1) order that the obligor seek employment within a determinate amount of time;
- (2) order that the obligor file with the public authority on a weekly basis a report of at least five new attempts to find employment or of having found employment, which report must include the names, addresses, and telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed;
- (3) notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under section 518.617;
- (4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and
- (5) specify the duration of the order, not to exceed three months.

History: 1995 c 257 art 1 s 29

518.617 CONTEMPT PROCEEDINGS FOR NONPAYMENT OF SUPPORT.

Subdivision 1. Grounds. If a person against whom an order or decree for support has been entered under this chapter, chapter 256, or a comparable law from another jurisdiction, is in arrears in court-ordered child support or maintenance payments in an amount equal to or

greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the person may be cited and punished by the court for contempt under section 518.64, chapter 588, or this section. Failure to comply with a seek employment order entered under section 518.616 is evidence of willful failure to pay support.

Subd. 2. Court options. (a) If a court cites a person for contempt under this section, and the obligor lives in a county that contracts with the commissioner of human services under section 256.997, the court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) is able to work full time;

(2) works an average of less than 32 hours per week; and

(3) has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the court.

An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

(b) A person ordered to do community service work under paragraph (a) may, during the six-week period, apply to the court, an administrative law judge, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the court, an administrative law judge, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 518.611 or 518.613;

(2) enters into a written payment plan regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority; or

(3) provides proof to the court, an administrative law judge, or the public authority that, subsequent to entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

Subd. 3. Continuing obligations. The performance of community service work does not relieve a child support obligor of any unpaid accrued or accruing support obligation.

History: 1995 c 257 art 1 s 30

518.64 MODIFICATION OF ORDERS OR DECREES.

[For text of subd 1, see M.S.1994]

Subd. 2. Modification. (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

It is presumed that there has been a substantial change in circumstances under clause (1), (2), or (4) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

- (i) the excess employment began after entry of the existing support order;
- (ii) the excess employment is voluntary and not a condition of employment;
- (iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;
- (iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;
- (v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and
- (vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion. The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

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

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

[For text of subd 3, see M.S.1994]

Subd. 4. Unless otherwise agreed in writing or expressly provided in the order, provisions for the support of a child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

Subd. 4a. Automatic termination of support. (a) Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the emancipation of the child as provided under section 518.54, subdivision 2.

(b) A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the court.

(c) The obligor may request a modification of the obligor's child support order upon the emancipation of a child if there are still minor children under the order. The child support obligation shall be determined based on the income of the parties at the time the modification is sought.

[For text of subd 5, see M.S.1994]

Subd. 6. [Repealed, 1995 c 257 art 3 s 17]

History: 1995 c 257 art 1 s 31; art 3 s 11,12