

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

THIRTY-SIXTH DAY

St. Paul, Minnesota, Thursday, April 10, 2003

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Pastor Scott T. Westphal.

The roll was called, and the following Senators answered to their names:

Anderson	Gaither	Larson	Ortman	Senjem
Bachmann	Hann	LeClair	Ourada	Skoe
Bakk	Higgins	Limmer	Pappas	Skoglund
Belanger	Hottinger	Lourey	Pariseau	Solon
Berglin	Johnson, D.E.	Marko	Pogemiller	Sparks
Betzold	Johnson, D.J.	Marty	Ranum	Stumpf
Chaudhary	Jungbauer	McGinn	Reiter	Tomassoni
Cohen	Kelley	Metzen	Rest	Vickerman
Day	Kierlin	Michel	Robling	Wergin
Dibble	Kiscaden	Moua	Rosen	Wiger
Dille	Kleis	Murphy	Ruud	
Fischbach	Knutson	Neuville	Sams	
Foley	Kubly	Nienow	Saxhaug	
Frederickson	Langseth	Olson	Scheid	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

RECESS

Senator Hottinger moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committee indicated.

April 4, 2003

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

BOARD ON JUDICIAL STANDARDS

Elizabeth Hepola, 19645 Skyview Cir., Hutchinson, in the county of McLeod, effective April 11, 2003, for a term that expires on January 1, 2007.

Robert M. A. Johnson, 14820 Bowers Dr., Ramsey, in the county of Anoka, effective April 11, 2003, for a term that expires on January 1, 2007.

(Referred to the Committee on Judiciary.)

Sincerely,
Tim Pawlenty, Governor

April 9, 2003

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

On behalf of the people of Minnesota, I am honored to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 293.

Sincerely,
Tim Pawlenty, Governor

April 9, 2003

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2003 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2003	Date Filed 2003
293		11	3:45 p.m. April 9	April 9

Sincerely,
Mary Kiffmeyer
Secretary of State

REPORTS OF COMMITTEES

Senator Hottinger moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1148 and 462. The motion prevailed.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 1414: A bill for an act relating to judgments; regulating stays of execution on money judgments; limiting bond amounts; amending Minnesota Statutes 2002, section 550.36.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Anderson from the Committee on Commerce and Utilities, to which was referred

S.F. No. 537: A bill for an act relating to insurance; clarifying that certain laws include long-term care insurance; amending Minnesota Statutes 2002, sections 60A.06, subdivision 1; 61B.20, subdivision 10.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 61B.20, subdivision 10, is amended to read:

Subd. 10. [HEALTH INSURANCE.] "Health insurance" means accident and health insurance as described in section 60A.06, subdivision 1, clause (5)(a), long-term care insurance, credit accident and health insurance regulated under chapter 62B, and subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; clarifying that a certain law includes long-term care insurance; amending Minnesota Statutes 2002, section 61B.20, subdivision 10."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 636: A bill for an act relating to the environment; requiring vapor recovery equipment for gasoline deliveries in the metropolitan area; providing penalties; amending Minnesota Statutes 2002, sections 115C.09, by adding a subdivision; 116.073, subdivisions 1, 2; 116.46, by adding subdivisions; 116.49, by adding subdivisions; 116.50.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3i. [RETAIL LOCATIONS AND TRANSPORT VEHICLES.] (a) As used in this subdivision, "retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in

automobiles and trucks. "Transport vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 at a retail location.

(b) Notwithstanding any other provision in this chapter, and any rules adopted under this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of retail locations and transport vehicles completed between January 1, 2001, and January 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed \$3,000 per retail location and \$3,000 per transport vehicle.

Sec. 2. Minnesota Statutes 2002, section 116.073, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE.] (a) Pollution control agency staff designated by the commissioner and department of natural resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061; or

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, pollution control agency staff designated by the commissioner may issue citations to owners and operators of facilities dispensing petroleum products who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) Until June 1, 2004, citations for violation of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 90-day period to correct violations stated in writing by pollution control agency staff, unless there is a discharge associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500.

Sec. 3. Minnesota Statutes 2002, section 116.073, subdivision 2, is amended to read:

Subd. 2. [PENALTY AMOUNT.] The citation must impose the following penalty amounts:

(1) \$100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of \$2,000;

(2) \$25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of \$2,000;

(3) \$25 per lead acid battery governed by section 115A.915, up to a maximum of \$2,000;

(4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000;

(5) up to \$200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) \$50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of \$2,000;

(7) \$250 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of \$2,000;

(8) \$100 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of \$2,000;

(9) \$250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of \$2,000;

(10) \$50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of \$2,000;

(11) \$50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of \$2,000;

(12) \$25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of \$2,000;

(13) \$1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of \$2,000; and

(14) \$250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of \$2,000; and

(15) \$250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment;

or

(iii) the driver for failure to use supplied vapor recovery equipment.

Sec. 4. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7a. [RETAIL LOCATION.] "Retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks.

Sec. 5. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 7b. [TRANSPORT DELIVERY VEHICLE.] "Transport delivery vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks.

Sec. 6. Minnesota Statutes 2002, section 116.46, is amended by adding a subdivision to read:

Subd. 9. [VAPOR RECOVERY SYSTEM.] "Vapor recovery system" means a system which transfers vapors from underground storage tanks during the filling operation to the storage compartment of the transport vehicle delivering gasoline.

Sec. 7. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 3. [VAPOR RECOVERY SYSTEM.] Every underground gasoline storage tank at a retail location must be fitted with vapor recovery equipment by January 1, 2006. The equipment must be certified by the manufacturer as capable of collecting 95 percent of hydrocarbons emitted during gasoline transfers from a transport delivery vehicle to an underground storage tank. Product delivery and vapor recovery access points must be on the same side of the transport vehicle when the transport vehicle is positioned for delivery into the underground tank. After January 1, 2006, no gasoline may be delivered to a retail location that is not equipped with a vapor recovery system.

Sec. 8. Minnesota Statutes 2002, section 116.49, is amended by adding a subdivision to read:

Subd. 4. [VAPOR RECOVERY ON TRANSPORTS.] All transport delivery vehicles that deliver gasoline into underground storage tanks in the metropolitan area as defined in section 473.121, subdivision 2, must be fitted with vapor recovery equipment. The equipment must recover and manage 95 percent of hydrocarbons emitted during the transfer of gasoline from the underground storage tank and the transport delivery vehicle by January 1, 2006. After January 1, 2006, no gasoline may be delivered to a retail location by a transport vehicle that is not fitted with vapor recovery equipment.

Sec. 9. Minnesota Statutes 2002, section 116.50, is amended to read:

116.50 [PREEMPTION.]

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1054: A bill for an act relating to natural resources; allowing the Clearwater river watershed district to charge for facilities for disposing sewage, industrial waste, or other wastes.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 8, delete "charge" and insert "collect outstanding charges"

Page 1, line 11, delete "otherwise" and insert "acquired by the district"

Page 1, line 12, delete everything after "wastes"

Page 1, line 13, delete everything before "as"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 837: A bill for an act relating to civil actions; providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; amending Minnesota Statutes 2002, section 13.43, subdivision 16; proposing coding for new law in Minnesota Statutes, chapter 181.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 26, insert:

"Sec. 2. Minnesota Statutes 2002, section 181.961, subdivision 1, is amended to read:

Subdivision 1. [RIGHT TO REVIEW; FREQUENCY.] Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record ~~only once at any time within one~~ each year after separation for as long as the personnel record is maintained."

Page 2, line 18, delete "by clear and convincing evidence"

Page 2, line 20, after the semicolon, insert "and"

Page 2, line 23, delete "; and"

Page 2, delete lines 24 and 25

Page 2, line 26, delete "employee"

Page 3, line 3, before the period, insert "with a copy sent by regular mail to the employee's last known address"

Page 3, after line 20, insert:

"(c) A prospective employer or employment agency shall not disclose written information received under this section without the written authorization of the employee."

Page 3, line 22, after "of" insert "all public personnel data and to"

Page 3, line 25, before "data" insert "private"

Page 3, delete lines 30 and 31

Page 3, line 32, delete everything before "and"

Page 3, line 33, delete "(3)" and insert "(2)"

Page 4, line 8, delete "This"

Page 4, delete lines 9 and 10

Page 4, line 11, delete "(b)"

Page 4, line 13, delete "(c)" and insert "(b)"

Page 4, line 16, delete "2" and insert "3"

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "regulating the right of an employee to inspect personnel records concerning the employee;"

Page 1, line 7, delete "section" and insert "sections"

Page 1, line 8, after the semicolon, insert "181.961, subdivision 1;"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 1148: A bill for an act relating to government data practices; clarifying that schools may report certain alleged juvenile offenses to the juvenile justice system; amending Minnesota Statutes 2002, section 13.32, subdivision 8.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 15, delete "and" and insert ". Notwithstanding paragraphs (b) and (c),"

Page 1, line 17, before the period, insert "must also be disclosed on request"

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 935: A bill for an act relating to state lands; providing for certain state land acquisition; modifying the Mississippi whitewater trail; modifying provisions of the outdoor recreation system; establishing a mineral coordinating committee; adding to and deleting from state parks, state recreation areas, state forests, and wildlife management areas; authorizing sales of certain surplus state land in St. Louis and Beltrami counties; amending Minnesota Statutes 2002, sections 85.013, subdivision 1; 85.0156, subdivision 1; 86A.04; proposing coding for new law in Minnesota Statutes, chapter 93.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 85.013, subdivision 1, is amended to read:

Subdivision 1. [NAMES, ACQUISITION; ADMINISTRATION.] ~~State parks,~~ (a) Designated monuments, recreation reserves, and waysides heretofore established and hereby confirmed as state monuments, state recreation areas and state waysides together with the counties in which they are situated are listed in this section and shall hereafter be named as indicated in this section.

(b) Any land that now is or hereafter becomes tax-forfeited land and is located within the described boundaries of a state recreation area as defined by session laws is hereby withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for such purposes and transmit the same to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes.

Sec. 2. Minnesota Statutes 2002, section 85.0156, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] An urban whitewater trail is created along the Mississippi river in the lower St. Anthony falls area ~~below the stone arch bridge~~ in Minneapolis. The trail must be primarily developed for whitewater rafters, canoers, and kayakers.

Sec. 3. Minnesota Statutes 2002, section 86A.04, is amended to read:

86A.04 [COMPOSITION OF SYSTEM.]

The outdoor recreation system shall consist of all state parks; state recreation areas; state trails established pursuant to sections 84.029, subdivision 2, ~~and~~ 85.015, 85.0155, and 85.0156; state scientific and natural areas; state wilderness areas; state forests; state wildlife management areas; state water access sites, which include all lands and facilities established by the commissioner of natural resources or the commissioner of transportation to provide public access to water; state wild, scenic, and recreational rivers; state historic sites; state rest areas, which include all facilities established by the commissioner of transportation for the safety, rest, comfort and use of the highway traveler, and shall include all existing facilities designated as rest areas and waysides by the commissioner of transportation; and any other units not listed in this section that are classified under section 86A.05. Each individual state park, state recreation area, and so forth is called a "unit."

Sec. 4. [93.0015] [MINERAL COORDINATING COMMITTEE.]

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] The mineral coordinating committee is established to plan for diversified mineral development. The mineral coordinating committee consists of:

- (1) the commissioner of natural resources;
- (2) the deputy commissioner of the Minnesota pollution control agency;
- (3) the director of United Steelworkers of America, district 11, or the director's designee;
- (4) the commissioner of iron range resources and rehabilitation;
- (5) the director of the Minnesota geological survey;
- (6) the dean of the University of Minnesota institute of technology;
- (7) the director of the natural resources research institute; and
- (8) three individuals appointed by the governor for a four-year term, one each representing the iron ore and taconite, nonferrous metallic minerals, and industrial minerals industries within the state.

Subd. 2. [STAFFING.] The commissioner of natural resources shall serve as chair of the committee. A member of the committee may designate another person of the member's organization to act in the member's place. The commissioner shall provide staff and administrative services necessary for the committee's activities.

Subd. 3. [EXPIRATION.] Notwithstanding section 15.059, subdivision 5, or other law to the contrary, the committee expires June 30, 2007.

Subd. 4. [ADVICE.] The mineral coordinating committee is encouraged to solicit and receive advice from representatives of the United States Geological Survey, United States Environmental Protection Agency, and United States Department of Energy.

Sec. 5. Laws 2001, First Special Session chapter 2, section 14, subdivision 4, is amended to read:

Subd. 4. Fish and Wildlife Habitat	10,042,000	8,238,000
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Summary by Fund

Future Resources Fund	1,805,000	-0-
Trust Fund	8,237,000	8,238,000

(a) Forest and Prairie Stewardship of Private Lands

\$272,000 the first year and \$273,000 the second year are from the trust fund to the commissioner of natural resources, in cooperation with the Minnesota Forestry Association and the Nature Conservancy, to develop stewardship plans for private prairie and forested lands and to implement natural resource projects by providing matching money on a one-to-one basis to private landowners. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(b) State Fish Hatchery Rehabilitation

\$145,000 is from the future resources fund to the commissioner of natural resources to accelerate hatchery rehabilitation.

(c) Enhancing Canada Goose
Hunting and Management

\$340,000 is from the future resources fund to the commissioner of natural resources ~~for an agreement with the Minnesota Waterfowl Association to acquire leases to enter into~~ professional and technical agreements on private farmlands for development of foraging sites and public hunting opportunities and to provide technical assistance to local units of government in developing controlled hunts for nuisance geese. This appropriation is available until June 30, 2004.

(d) Biological Control of
Eurasian Water Milfoil and
Purple Loosestrife - Continuation

\$45,000 the first year and \$45,000 the second year are from the trust fund to the commissioner of natural resources for the fifth biennium of a five biennia project to develop and implement biological controls for Eurasian water milfoil and purple loosestrife. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(e) Restoring Minnesota's
Fish and Wildlife Habitat
Corridors

\$5,873,000 the first year and \$5,872,000 the second year are from the trust fund to the commissioner of natural resources for acceleration of agency programs and cooperative agreements with Minnesota Waterfowl Association, Minnesota Deer Hunters Association, Ducks Unlimited, Inc., National Wild Turkey Federation, Pheasants Forever, The Nature Conservancy, Minnesota Land Trust, Trust for Public Land, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, Natural Resources Conservation Service, and the U.S. Forest Service to restore and acquire fragmented landscape corridors that connect areas of quality habitat to sustain fish, wildlife, and plants. \$352,000 is for program coordination, corridor identification, and mapping. \$3,343,000 is for restoration and management activities in wildlife management areas, wetland habitat, lakes, wild rice beds, grasslands, and fisheries habitat. \$2,650,000 is for conservation easement programs on riparian areas, big woods forests, native prairies, and wetlands. \$5,400,000 is for

habitat acquisition activities on prairies, riparian areas, and other fish and wildlife habitat corridors. As part of the required work program, criteria and priorities for planned acquisition and restoration activities must be submitted to the legislative commission on Minnesota resources for review and approval. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. Any land acquired in fee title by the commissioner of natural resources with money from this appropriation must be designated:

(1) as an outdoor recreation unit under Minnesota Statutes, section 86A.07; or

(2) as provided in Minnesota Statutes, sections 89.018, subdivision 2, paragraph (a); 97A.101; 97A.125; 97C.001; and 97C.011.

The commissioner may so designate any lands acquired in less than fee title. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(f) Engineering Support for
Public Lands Waterfowl
Projects

\$275,000 is from the future resources fund to the commissioner of natural resources for an agreement with Ducks Unlimited, Inc., to provide survey and engineering support to natural resources agencies for waterfowl projects on public lands.

(g) Metro Greenways

\$1,365,000 the first year and \$1,365,000 the second year are from the trust fund to the commissioner of natural resources for the metro greenways program for planning, improving, and protecting important natural areas in the metropolitan region through grants, contracted services, conservation easements, and fee acquisition. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(h) Acquisition of Lands as
Scientific and Natural Areas

\$227,000 the first year and \$228,000 the second year are from the trust fund to the commissioner of natural resources to acquire land with natural features of statewide significance in the scientific and natural area program long-range plan and to improve land acquired with this appropriation. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources.

(i) Big Rivers Partnership:
Helping Communities to Restore
Habitat

\$455,000 the first year and \$455,000 the second year are from the trust fund to the commissioner of natural resources for an agreement with Great River Greening to implement private and public habitat projects on a cost-share basis in the Mississippi and Minnesota river valleys. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

(j) Acquisition of
Eagle Creek's Last Private Land

\$910,000 is from the future resources fund to the commissioner of natural resources for an agreement with the city of Savage to acquire a buffer strip along Eagle Creek for transfer and dedication as an aquatic management area. Acquisition expenses incurred prior to July 1, 2001, may be reimbursed by the commissioner. Land acquired with this appropriation must be sufficiently improved to meet at least minimum management standards as determined by the commissioner of natural resources.

(k) Neighborhood Wilds
Program

\$135,000 is from the future resources fund to the commissioner of natural resources for the neighborhood wilds program to assist neighborhoods adjacent to public lands and natural areas in restoration and management of habitat through demonstration projects. This appropriation is available until June 30, 2004, at which time the project must be completed and final products delivered, unless an earlier date is specified in the work program.

Sec. 6. [GREENLEAF LAKE STATE PARK.]

Subdivision 1. [85.012] [Subd. 24b.] [GREENLEAF LAKE STATE PARK, MEEKER COUNTY.] Greenleaf Lake State Park is established in Meeker County.

Subd. 2. [BOUNDARIES.] The following described lands are added to Greenleaf Lake State Park, all in Township 118 North, Range 30 West, Meeker County:

(1) all of Government Lots 1 and 2, the East Half of the South 23.61 acres of Government Lot 3, and Government Lot 4, excepting that part described as follows: Beginning at a point 109 feet South of a point on the section line which is 4301.5 feet East of the northwest corner of Section 20; thence in a southwesterly direction South 14 degrees 36 seconds West 403.0 feet; thence in a southeasterly direction South 75 degrees 24 minutes East 402 feet, to a point on the meandered line of Sioux Lake; thence in a northeasterly direction along the meandered line North 14 degrees 36 minutes East 553 feet; thence in a southwesterly direction along the meandered line South 84 degrees 00 minutes West 431 feet, to the point of beginning, said exception containing 4.4 acres more or less; all in Section 20;

(2) all of Government Lot 2, the Southeast Quarter except that described as follows: Beginning at the northeast corner of said Southwest Quarter of the Southeast Quarter; thence on an assumed bearing of South 0 degrees 08 minutes 46 seconds West, along the east line of said Southwest Quarter of the Southeast Quarter, a distance of 306.24 feet; thence on a bearing of North 84 degrees 17 minutes 23 seconds West, 628.50 feet; thence on a bearing of North 0 degrees 08 minutes 46 seconds East, 338.05 feet; thence on a bearing of South 86 degrees 08 minutes East, 626.86 feet to the east line of the Northwest Quarter of the Southeast Quarter; thence on a bearing of South 0 degrees 08 minutes 46 seconds West, along last said line, 52.07 feet to the point of beginning. Containing 2.5 acres, more or less. Subject to the rights of the public in County Road No. 172; and excepting the north nine and eighty-four hundredths (9.84) acres of the Southeast Quarter of the Southeast Quarter described as follows: Beginning at the northeast corner of the Southeast Quarter of the Southeast Quarter and running; thence West nineteen and ninety-two hundredths chains (19.92) to the 1/16 section corner; thence South on the 1/16 section line four and sixty-four hundredths (4.64) chains; thence East nineteen and ninety-three hundredths (19.93) chains to the section line; thence North on section line five and twenty-four hundredths (5.24) chains to the place of beginning; all in Section 21;

(3) the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Northeast Quarter, the Northeast Quarter of the Northwest Quarter, and the Northwest Quarter of the Northwest Quarter, all in Section 28;

(4) all of Section 29, except that part of Government Lot 4 bounded by the following described lines: Beginning at a point of intersection with the center line of County Road No. 169 and the north line of said Section 29; thence North 90 degrees 00 minutes East, 994.8 feet along the north line of said Section 29; thence South 00 degrees 00 minutes West, 17.9 feet; thence South 75 degrees 28 minutes West, 1051.4 feet, to the center line of County Road No. 169; thence North 04 degrees 39 minutes East, 282.7 feet along the center line of County Road No. 169 to the point of beginning; Including all riparian rights to the contained 3.4 acres more or less and subject to existing road easements; all in Section 29;

(5) the Southeast Quarter of the Southeast Quarter, the Northeast Quarter of the Southeast Quarter, the Southeast Quarter of the Northeast Quarter, and the Northeast Quarter of the Northeast Quarter, all in Section 30; and

(6) the West 15 acres of the Northwest Quarter of the Northwest Quarter of Section 32.

Sec. 7. [ADDITIONS TO STATE PARKS.]

Subdivision 1. [85.012] [Subd. 18.] [FORT SNELLING STATE PARK, RAMSEY, HENNEPIN, AND DAKOTA COUNTIES.] The following areas are added to Ft. Snelling state park, Dakota and Hennepin counties:

(1) the following is in Section 18, Township 27 North, Range 23 West, Dakota county: that part of Government Lot 8, according to the Government Survey thereof, described as follows: commencing at the southwest corner of said Government Lot 8; thence on an assumed bearing of South 88 degrees 21 minutes 46 seconds East, along the south line of said Government Lot 8, a distance of 1287.93 feet to the actual point of beginning of the property to be described; thence

continuing South 88 degrees 21 minutes 46 seconds East, along said south line of Government Lot 8, a distance of 1055.38 feet to the southwesterly right-of-way line of Cedar Avenue (Nicols Road); thence northwesterly along said southwesterly right-of-way line to a point distant 75.00 feet southeasterly, measured along said southwesterly right-of-way line, from its intersection with the southeasterly right-of-way line of the Chicago, St. Paul, Minneapolis, and Omaha Railroad; thence South 48 degrees 15 minutes 09 seconds West, parallel with said southeasterly right-of-way line, a distance of 150.00 feet; thence North 29 degrees 28 minutes 09 seconds West, parallel with said southwesterly right-of-way line, a distance of 75.00 feet to the southeasterly right-of-way line of said railroad; thence southwesterly along said southeasterly right-of-way line to its intersection with a line bearing North 32 degrees 45 minutes 39 seconds West from the point of beginning; thence South 32 degrees 45 minutes 39 seconds East a distance of 323.53 feet to the point of beginning; EXCEPTING THEREFROM that part described as follows: beginning at the intersection of the south line of said Government Lot 8 and the southwesterly right-of-way line of Cedar Avenue (Nicols Road); thence northwesterly along said southwesterly right-of-way line a distance of 285.00 feet; thence South 57 degrees 40 minutes 36 seconds West a distance of 446.50 feet to a point on the south line of said Government Lot 8, distant 508.50 feet West of the point of beginning; thence South 88 degrees 21 minutes 46 seconds East, along the south line of said Government Lot 8, a distance 508.50 feet to the point of beginning;

(2) that part of the East Half of the Northeast Quarter North of Little Creek, Section 6, Township 27 North, Range 23 West, described as follows: Beginning at the northeast corner of the Northeast Quarter of said Section 6; thence South along the east line of said Section 6, a distance of 2115.8 feet to center of Little Creek so-called; thence with a bearing of North 74 degrees 30 minutes 00 seconds West from last mentioned course, a distance of 750 feet along said center of creek; thence North 38 degrees 53 minutes 00 seconds West a distance of 170 feet along the center of said creek; thence North 14 degrees 44 minutes 00 seconds West, a distance of 250 feet along said center line of creek; thence southwesterly along said center line of creek a distance of 505 feet to a point on the west line of the East Half of said Northeast Quarter of Section 6, said point being 1790.6 feet South of the north line of said Northeast Quarter of Section 6; thence North along the west line of the East Half of the Northeast Quarter of said Section 6, a distance of 1790.6 feet to the north line of said Northeast Quarter; thence East 1320 feet to the point of beginning, the title thereto being registered as evidenced by Certificate of Title No. 590582; which lies southerly of Line 1 described as follows: From the northeast corner of Section 6, Township 27 North, Range 23 West, run southerly on the east line of said Section 6, on an azimuth of 179 degrees 57 minutes 16 seconds for 50.13 feet to the point of beginning of Line 1 to be described; thence on an azimuth of 235 degrees 01 minutes 06 seconds for 94.31 feet; thence on an azimuth of 224 degrees 33 minutes 00 seconds for 196.82 feet; thence on an azimuth of 230 degrees 12 minutes 40 seconds for 403.57 feet; thence on an azimuth of 233 degrees 15 minutes 41 seconds for 276.59 feet; thence on an azimuth of 237 degrees 46 minutes 24 seconds for 338.06 feet; thence on an azimuth of 247 degrees 21 minutes 24 seconds for 314.42 feet more or less to the west line of the East Half of said Section 6, and there terminating. Subject to the following restrictions: no access shall be permitted to Trunk Highway 393, renumbered 494, from the lands herein described and conveyed; and

(3) that part of Section 20, Township 28 North, Range 23 West, of the fourth principal meridian, Hennepin county, Minnesota, as shown on an October 28, 1997, survey done by William H. Herbst for Group No. 179 titled "TOWNSHIP 28 NORTH, RANGE 23 WEST, OF THE FOURTH PRINCIPAL MERIDIAN, MINNESOTA. DEPENDENT RESURVEY AND SURVEY U.S. BUREAU OF MINES, TWIN CITIES RESEARCH CENTER, WITHIN THE FORT SNELLING MILITARY RESERVATION," described as follows: Commencing at Station H.H., said station being a 1-inch-diameter steel rod firmly imbedded in concrete (to get to Station H.H: Commence at the southwest corner of Section 17, Township 28 North, Range 23 West, said corner being MCM 107 of the city of Minneapolis and state of Minnesota coordinate grid systems; thence South 39 degrees 54 minutes 57 seconds East, a distance of 4,015.45 feet to monument number 2 located on a western extension of the south line of the U.S. Department of the Interior, Bureau of Mines reservation heretofore established; thence South 89 degrees 52 minutes 00 seconds East for a distance of 1,192 feet, more or less, along the south boundary and fence line of the Bureau of Mines to Station H.H.); thence on an assumed bearing of North 89 degrees 55.3 minutes West, a distance of 234.85 feet, along the south line of the U.S. Department of the

Interior, Bureau of Mines reservation to the POINT OF BEGINNING; thence North 34 degrees 20.5 minutes West, a distance of 187.42 feet; thence North 23 degrees 39.6 minutes West, a distance of 80.18 feet; thence North 19 degrees 26.3 minutes West, a distance of 75.69 feet; thence North 16 degrees 31.6 minutes West, a distance of 70.66 feet; thence North 13 degrees 22.0 minutes West, a distance of 70.02 feet; thence North 10 degrees 30.0 minutes West, a distance of 80.78 feet; thence North 08 degrees 56.6 minutes West, a distance of 73.92 feet; thence North 07 degrees 52.2 minutes West, a distance of 1,189.90 feet to a point on the north line of the U.S. Department of the Interior, Bureau of Mines reservation (said point lying South 89 degrees 54.6 minutes West, a distance of 18.0 feet from Station A.A.); thence South 89 degrees 54.6 minutes West, a distance of 740.84 feet along said north line; thence South 14 degrees 43.1 minutes East, a distance of 846.53 feet; thence South 13 degrees 29.7 minutes East, a distance of 57.42 feet; thence South 12 degrees 47.1 minutes East, a distance of 424.03 feet; thence South 25 degrees 57.4 minutes East, a distance of 283.01 feet; thence South 38 degrees 45.3 minutes East, a distance of 303.20 feet to the south line of said reservation; thence South 89 degrees 55.3 minutes East, a distance of 478.70 feet to the point of beginning.

Subd. 2. [85.012] [Subd. 33.] [LAKE BEMIDJI STATE PARK, BELTRAMI COUNTY.] The following area is added to Lake Bemidji state park, all in Township 146 North, Range 33 West, Beltrami county:

That part of Lot 1, Block 3 of LINDS ADDITION TO BEMIDJI, according to the recorded plat thereof on file and of record in the Beltrami county recorder's office, in Section 2, described as follows: commencing at the southeast corner of said Lot 1, Block 3; thence westerly along the south line of said Lot 1, Block 3 to a point being 25 feet easterly of, measured at right angles to, the centerline of an existing trail and the point of beginning of the land to be described; thence northwesterly parallel with and 25 feet easterly of measured at right angles to, the centerline of the existing trail to a point being 25 feet northerly of, measured at right angles to, the south line of said Lot 1, Block 3; thence westerly, parallel with and 25 feet northerly of the south line of said Lot 1, Block 3, to a point being 25 feet westerly of, measured at right angles to, the centerline of the existing trail; thence southerly, perpendicular to the south line of said Lot 1, Block 3, to the said south line of Lot 1, Block 3; thence easterly along the south line of said Lot 1, Block 3, to the point of beginning.

Subd. 3. [85.012] [Subd. 55a.] [TETTEGOUCHE STATE PARK, LAKE COUNTY.] The following areas are added to Tettegouche state park, Lake county: the Northeast Quarter of Section 16, Township 56 North, Range 7 West.

Sec. 8. [DELETION FROM TETTEGOUCHE STATE PARK.]

[85.012] [Subd. 55a.] [TETTEGOUCHE STATE PARK, LAKE COUNTY.] The following area is deleted from Tettegouche state park, Lake county: the Southwest Quarter of Section 16, Township 56 North, Range 7 West.

Sec. 9. [ADDITIONS TO STATE RECREATION AREAS.]

Subdivision 1. [85.013] [Subd. 2c.] [BIG BOG STATE RECREATION AREA, BELTRAMI COUNTY.] The following area is added to Big Bog state recreation area, Beltrami county: That part of Government Lot 6 lying east of Minnesota state trunk highway 72, Section 5, Township 154, Range 30.

Subd. 2. [85.013] [Subd. 12a.] [IRON RANGE OFF-HIGHWAY VEHICLE RECREATION AREA, ST. LOUIS COUNTY.] The following areas are added to Iron Range Off-Highway Vehicle recreation area, St. Louis county:

(1) the NW1/4, lying north of the Mesabi Trail, in Section 23, Township 58 North, Range 17 West, containing approximately 80 acres; and

(2) the N1/2 of the NW1/4, SW1/4 of the NW1/4, and the NW1/4 of the SW1/4 all in Section 3, Township 58 North, Range 17 West, containing approximately 160 acres.

Sec. 10. [ADDITIONS TO STATE FORESTS.]

Subdivision 1. [89.021] [Subd. 38.] [PAUL BUNYAN STATE FOREST.] The following area is added to Paul Bunyan state forest: S1/2SE1/4 of Section 25, Township 143 North, Range 34 West; Lot 10 of Section 15, Township 141 North, Range 33 West; Government Lot 4 and the SW1/4NW1/4 of Section 22, Township 141 North, Range 33 West; and the NW1/4SW1/4 of Section 9; the N1/2NE1/4; W1/2NW1/4 and the SE1/4NW1/4 of Section 16, Township 141 North, Range 32 West.

Subd. 2. [89.021] [Subd. 46.] [SAVANNA STATE FOREST, AITKIN COUNTY.] The following area is added to Savanna state forest, Aitkin county:

(1) SW1/4-SW1/4 of Section 32, Township 48 North, Range 23 West.

Subd. 3. [89.021] [Subd. 51a.] [WAUKENABO STATE FOREST, AITKIN COUNTY.] The following areas are added to Waukenabo state forest, Aitkin county:

(1) Lot 1 of section 4, Township 47 North, Range 26 West;

(2) Lot 2 and NE1/4-SW1/4 of section 1; Lot 8 of Section 2; all in Township 48 North, Range 26 West; and

(3) NE1/4-NW1/4 and SW1/4-NW1/4 of Section 11, Township 48 North, Range 27 West.

Sec. 11. [DELETIONS FROM STATE FORESTS.]

Subdivision 1. [89.021] [Subd. 19.] [FOOT HILLS STATE FOREST, CASS COUNTY.] The following areas are deleted from Foot Hills state forest, Cass county:

(1) That part of Government Lot 4 lying west of County Road No. 6, Section 8, Township 140 North, Range 31 West;

(2) That part of the SW1/4-NW1/4 lying northwest of County Road No. 6, Section 15, Township 140 North, Range 31 West; and

(3) That part of the NE1/4-SW1/4 lying north of County Road No. 6, Section 16, Township 140 North, Range 31 West.

Subd. 2. [89.021] [Subd. 27.] [KABETOGAMA STATE FOREST, ST. LOUIS COUNTY.] The following areas are deleted from Kabetogama state forest, St. Louis county:

(1) That portion of Government Lot 5, Section 1, Township 67 North, Range 17 West sold pursuant to section 10 of this act; and

(2) Outlot B, Plat of Sunset Forest, located in Section 22, Township 69 North, Range 21 West.

Subd. 3. [89.021] [Subd. 34.] [MISSISSIPPI HEADWATERS STATE FOREST, BELTRAMI COUNTY.] The following areas are deleted from Mississippi Headwaters state forest, Beltrami county:

(1) SE1/4-NE1/4, Section 32, Township 147 North, Range 34 West; and

(2) SW1/4-NW1/4, Section 33, Township 147 North, Range 34 West.

Sec. 12. [DELETIONS FROM RED LAKE WILDLIFE MANAGEMENT AREA.]

[97A.133] [Subd. 44.] [RED LAKE WILDLIFE MANAGEMENT AREA; BELTRAMI COUNTY] The following areas are deleted from Red Lake wildlife management area:

(1) all of Sections 1 and 2; Lot 1, Lot 2, the S1/2 of the NE1/4, and the SE1/4 of Section 3; the E1/2, the SE1/4 of the NW1/4, the NE1/4 of the SW1/4, and the S1/2 of the SW1/4 of Section 10; all of Sections 11, 12, 13, 14, and 15; all in Township 155 North, Range 31 West; and

(2) all of Sections 25, 26, and 27; the E1/2, the NW1/4, and the N1/2 of the SW1/4 of Section 34; the N1/2 and the SW1/4 of Section 35; the N1/2, the E1/2 of the SW1/4; the SW1/4 of the

SW1/4, the W1/2 of the SE1/4 and the SE1/4 of the SE1/4 of Section 36; all in Township 156 North, Range 31 West.

Sec. 13. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; AITKIN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Aitkin county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Aitkin county and is described as:

Six acres in Government Lot 3 as in Document #198469 less 2.69 acres plat Section 24, Township 52, Range 26, more accurately described as: That part of Government Lot 3, Section 24, Township 52 North, Range 26 West, Aitkin County, Minnesota, described as follows: Commencing at the southwest corner of Government Lot 3, Section 24, thence North, assumed bearing, along the west line of Government Lot 3 a distance of 819.59 feet; thence South 89 degrees 50 minutes 32 seconds East a distance of 244.00 feet to the point of beginning of parcel to be described; thence continuing South 89 degrees 50 minutes 32 seconds East a distance of 893 feet, more or less, to the mean high water mark of Hill Lake; thence southeasterly along the meandered shoreline of Hill Lake a distance of 416 feet, more or less, to a point at the intersection of the mean high water line of Hill Lake and line "A" as hereinafter described; thence South 69 degrees 27 minutes 14 seconds West a distance of 188 feet, more or less; thence North 41 degrees 52 minutes 10 seconds West a distance of 245.95 feet; thence North 76 degrees 23 minutes 39 seconds West a distance of 653.09 feet; thence due North a distance of 139.56 feet to the point of beginning containing six acres. Line "A" is hereby described by commencing at the previous point of beginning; thence due South a distance of 139.56 feet; thence South 76 degrees 23 minutes 39 seconds East a distance of 653.09 feet; thence South 41 degrees 52 minutes 10 seconds East a distance of 245.95 feet to the beginning of line "A"; thence North 69 degrees 27 minutes 14 seconds East a distance of 188 feet, more or less, along line "A" to the mean high water line of Hill Lake, which is also the end of line "A." Which lies easterly of the following described line: Commencing at the southwest corner of said Government Lot 3; thence on an assumed bearing of North along the west line of said Government Lot 3, a distance of 819.59 feet; thence South 89 degrees 50 minutes 32 seconds East, a distance of 818.97 feet to the point of beginning of the line to be described; thence South 0 degrees 09 minutes 28 seconds West, a distance of 154.06 feet; thence South 18 degrees 42 minutes 02 seconds West, a distance of 120 feet more or less to the southerly line of the above described tract and there terminating.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 14. [PUBLIC SALE OF SURPLUS STATE LAND; BELTRAMI COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 94.10, the commissioner of natural resources may sell by public sale for less than the appraised value the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Beltrami county and is described as: Lots 6 through 12, Block 11, First Addition to Blackduck.

(d) The commissioner has determined that the land is no longer needed for any natural resource purpose and that the state's land management interests would best be served if the land was sold.

Sec. 15. [RECONVEYANCE OF LAND; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 94.09 to 94.16, 161.44, or any other law, the commissioner of transportation shall convey to Cook county for no consideration the land

bordering public water that is described in paragraph (c). The commissioner may not convey the land until Cook county enters into an agreement with Mn/DOT to spend an amount equal to the value of the land described in paragraph (c) for airport purposes. The value of the land shall be determined by a current appraisal.

(b) The conveyance must be in a form approved by the attorney general and must convey the land free and clear of any requirement to use the land for a particular purpose.

(c) The land to be conveyed is described as:

(1) all of Government Lots 1, 2, 10, 11, and 12 of Section 30, Township 62 North, Range 1 East of the Fourth Principal Meridian, Cook county, Minnesota, according to plat of resurvey accepted by the United States of America, Department of Interior, Bureau of Land Management, on May 22, 1951, except the land lying South and East of the following described line:

From the northwest corner of said Section 30, South 2 degrees 18 minutes East for a distance of 1758.9 feet to the meander corner Sections 25 and 30 on the north shore of Devils Track Lake; thence North 2 degrees 18 minutes West 26.4 feet to a point on the section line; thence south 87 degrees 05 minutes East for a distance of 646.8 feet; thence South 88.4 feet to a point on the north shore of Devils Track Lake which is the point of beginning of the line to be described herein; from said point of beginning North for a distance of 88.4 feet; thence South 87 degrees 05 minutes East for a distance of 1442.8 feet; thence South 100 feet; thence South 87 degrees 05 minutes East for a distance of 947.1 feet to a point on the North-South quarter line of said Section 30, said point being 124.1 feet South of the center of Section 30, subject to reservation of the coal and other minerals and conditions and limitations provided by the Federal Act of December 22, 1928 (45 Stat., 1069); and

(2) that part of Government Lot 3, Section 30, Township 62 North, Range 1 East, Cook county, Minnesota, lying within the following described lines:

Beginning at the northwest corner of Section 30, Township 62 North, Range 1 East, Cook county, thence South 02 degrees 00 minutes East for a distance of 1747 feet; thence South 87 degrees 05 minutes East for a distance of 2089.6 feet; thence South for a distance of 100 feet; thence South 87 degrees 05 minutes East for a distance of 947.1 feet to a point on the North-South quarter line of Section 30 which is the point of beginning of the property to be described herein; from said point of beginning thence South 87 degrees 05 minutes East for a distance of 450 feet; thence North 01 degrees 38 minutes East for a distance of 840 feet; thence North 87 degrees 05 minutes West for a distance of 450 feet to a point on the North-South quarter line of Section 30; thence South 01 degrees 38 minutes West on said North-South quarter line for a distance of 840 feet to the point of beginning.

Sec. 16. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Crow Wing county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Crow Wing county and is described as: Undivided 303/720 interest in the Northeast Quarter of the Northeast Quarter of Section 36, Township 44 North, Range 32 West.

(d) The county has determined that the county's land management interests would best be served if the land was returned to private ownership.

Sec. 17. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the

public sale provisions of Minnesota Statutes, chapter 282, Crow Wing county may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of the appraised value.

(c) The land to be sold is located in Crow Wing county and is described as:

All of the following:

That part of Railroad Lot 7, located in the Northwest Quarter of the Southeast Quarter of Section 22, Township 43 North, Range 32 West, shown as Parcel 212A on Minnesota department of transportation right-of-way plat numbered 18-79 as the same is on file and of record in the office of the county recorder in and for Crow Wing county, Minnesota;

containing 0.770 hectare (1.90 acres), more or less; together with other rights as set forth below, forming and being part of said Parcel 212A:

Access:

All right of access as shown on said plat by the access control symbol.

Temporary Easement:

A temporary easement for highway purposes as shown on said plat as to said Parcel 212A by the temporary easement symbol; said easement shall cease on December 1, 2008, or on such earlier date upon which the commissioner of transportation determines by formal order that it is no longer needed for highway purposes.

Sec. 18. [PRIVATE SALE OF TAX-FORFEITED LAND; ITASCA COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Itasca county may sell by private sale the tax-forfeited land described in paragraph (c) to an adjoining landowner.

(b) The conveyance must be in a form approved by the attorney general for consideration no less than the appraised value of the land.

(c) The land to be sold is located in Itasca county and is described as:

(1) that part of Outlot B, the north one-half of the vacated roadway south of Outlot B of the Plat of GREEN-ROCK on file at the Itasca county recorder's office, and Government Lot 3, Section 24, Township 60 North, Range 22 West of the Fourth Principal Meridian described as follows:

Commencing at the northwest corner of said Outlot B; thence South 88 degrees 30 minutes 57 seconds West, bearing assigned, along the extended north line of said Outlot B, 14.64 feet; thence North 06 degrees 25 minutes 20 seconds West 175.49 feet; thence South 87 degrees 58 minutes 29 seconds East 377.61 feet to the point of beginning of the tract to be described; thence South 89 degrees 27 minutes 27 seconds East 269.45 feet; thence South 02 degrees 43 minutes 38 seconds East 142.22 feet more or less to the south line of said Government Lot 3 and the east corner of said Outlot B; thence South 80 degrees 20 minutes 57 seconds West along the south line of Outlot B 85.55 feet more or less to the intersection of the south line of Outlot B and the west line of Scott Avenue projected north; thence South 09 degrees 39 minutes 03 seconds East along the west line of said projected Scott Avenue 16.50 feet to the south line of the north half of the vacated roadway lying south of Outlot B; thence South 80 degrees 20 minutes 57 seconds West along said south line of north half of vacated roadway 187.10 feet more or less to intersect a line bearing South 02 degrees 43 minutes 38 seconds East from the point of beginning; thence North 02 degrees 43 minutes 38 seconds West 206.87 feet more or less to the point of beginning. Tract contains 1.1 acres more or less;

(2) that part of SE-NW, Section 24, Township 60 North, Range 22 West, lying south and east of County Road 531;

(3) the South 295.16 feet of the West 295.16 feet of SE-SW of Section 10, Township 60 North, Range 25 West;

(4) the North 100 feet of the South 768 feet of SW-NW, Section 33, Township 62 North, Range 24 West, lying East of State Highway No. 1 LESS AND EXCEPT the East 245 feet thereof; and

(5) that part of Lot 3 lying East of a line drawn parallel to and 66 feet West of the E 1/16th line of Section 20, Township 150 North, Range 28 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 19. [PRIVATE SALE OF TAX-FORFEITED LAND; KOOCHICHING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Koochiching county may sell by private sale to the Bois Forte band of Chippewa Indians the tax-forfeited land, some of which borders public water, that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general at a price agreed to by the Koochiching county board and the Bois Forte tribal council.

(c) The land to be sold is located within the Nett Lake Reservation in Koochiching county and is described as fractional interests in:

- (1) W1/2SW1/4, Section 2, Township 64 North, Range 22 West;
- (2) E1/2NE1/4, Section 13, Township 65 North, Range 23 West;
- (3) E1/2SE1/4, Section 7, Township 64 North, Range 23 West;
- (4) NE1/4SW1/4 and NW1/4SE1/4, Section 18, Township 64 North, Range 23 West;
- (5) N1/2SE1/4, Section 11, Township 65 North, Range 23 West;
- (6) W1/2SE1/4, Section 28, Township 66 North, Range 23 West;
- (7) W1/2NE1/4, Section 3, Township 65 North, Range 22 West;
- (8) Government Lots 3 and 4, Section 3, Township 65 North, Range 22 West;
- (9) S1/2SW1/4, Section 3, Township 65 North, Range 22 West;
- (10) S1/2SE1/4, Section 22, Township 64 North, Range 22 West;
- (11) Lots 2 and 3, Section 19, Township 64 North, Range 22 West;
- (12) Lot 2, Section 30, Township 64 North, Range 23 West;
- (13) Lot 3, Section 30, Township 64 North, Range 23 West;
- (14) W1/2NE1/4, Section 34, Township 66 North, Range 23 West;
- (15) E1/2SW1/4, Section 28, Township 66 North, Range 22 West;
- (16) SE1/4NE1/4 and NE1/4SE1/4, Section 25, Township 65 North, Range 23 West;
- (17) N1/2NE1/4, Section 7, Township 64 North, Range 22 West;
- (18) S1/2NE1/4, Section 4, Township 65 North, Range 23 West;
- (19) SE1/4NW1/4 and NE1/4SW1/4, Section 4, Township 65 North, Range 23 West;

- (20) S1/2NE1/4, Section 10, Township 65 North, Range 23 West;
- (21) W1/2SW1/4, Section 12, Township 65 North, Range 23 West;
- (22) SW1/4NW1/4 and NW1/4SW1/4, Section 11, Township 65 North, Range 23 West;
- (23) SW1/4NE1/4 and Government Lot 2, Section 6, Township 64 North, Range 22 West;
- (24) Lots 3 and 4, Section 4, Township 65 North, Township 23 West;
- (25) S1/2SE1/4, Section 33, Township 66 North, Range 23 West;
- (26) N1/2NE1/4, Section 20, Township 64 North, Range 23 West; and
- (27) Lot 13 and NW1/4SE1/4, Section 6, Township 64 North, Range 23 West.

(d) The county has determined that the county's land management interests would best be served if the fractional interests in the lands were consolidated and the lands were returned to private ownership.

Sec. 20. [PRIVATE SALE OF TAX-FORFEITED LAND; LAKE COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Lake county may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general for consideration no less than the appraised value of the land.

(c) The land to be sold is located in Lake county and is described as: the North 600 feet of the Westerly 150 feet of the SE 1/4 of the NE 1/4, Section 24, Township 55 North, Range 9 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 21. [LAND EXCHANGE; LAKE OF THE WOODS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.342, subdivision 3, and 94.343, subdivision 3, the commissioner of natural resources shall, with the approval of the land exchange board as required under the Minnesota Constitution, article XI, section 10, and according to the remaining provisions of Minnesota Statutes, sections 94.342 to 94.348, exchange the following land bordering on public waters for the land described in paragraph (b): the North 859.83 feet of the Southwest Quarter of the Southwest Quarter and the North 859.83 feet of Government Lot 7, Section 5, Township 167 North, Range 33 West.

(b) The land bordering on public waters to be obtained by the commissioner in the exchange under paragraph (a) is described as: the Northeast Quarter of the Southwest Quarter, Section 5, Township 167 North, Range 33 West.

Sec. 22. [CONVEYANCE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; LAKE OF THE WOODS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 94.09 to 94.16, or other law to the contrary, the commissioner of transportation may convey to the city of Baudette for no consideration the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and provide that the land reverts to the state if the city of Baudette stops using the land for the public purpose described in paragraph (d).

(c) The land to be conveyed is located in Lake of the Woods county, consists of approximately 6.04 acres, and is described as: tract in Government Lot 4, Section 35, Township 161, Range 31 (parcel number R60.35.43.02E).

(d) The commissioner has determined that the land is no longer needed for any state purpose and that the state's land management interests would best be served if the land was conveyed to and used by the city of Baudette as a rest area.

Sec. 23. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; NORMAN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Norman county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Norman county and is described as:

Parcel #18-6909000: a triangular piece or parcel of land beginning at the southeast corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section Nineteen (19) Township One Hundred Forty-six (146) North of Range Forty-eight (48) West of the Fifth Principal Meridian; thence running North on the quarter line fifty-six and one-half (56 1/2) rods; thence due West fifty-six and one-half (56 1/2) rods; thence in a southeasterly direction to the place of beginning, containing ten (10) acres, more or less.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 24. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell by public or private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of taxes due on the property and any penalties, interest, and costs. The conveyance must reserve fisheries easements of at least 75 feet on either side of the stream for the property described in paragraph (c), clauses (1) and (2), and at least 50 feet of shoreland for the property described in paragraph (c), clauses (3) and (4).

(c) The land to be sold is located in St. Louis county and is described as:

(1) the West 200 feet of W1/2 of S1/2 of NE1/4 of SE1/4, Section 9, Township 50, Range 14, consisting of 3.03 acres, Plat/Parcel Code: 10-2710-2750;

(2) the SW1/4SE1/4, except part southerly of center line of Sargent Creek, Section 4, Township 48, Range 15, consisting of 20.47 acres, Plat/Parcel Code: 10-2730-540;

(3) Lots 6 and 7, Erickson Beach, Section 27, Township 57, Range 17, consisting of .46 acre, Plat/Parcel Code: 340-90-60; and

(4) Lot 8, except easterly 50 feet and the easterly 50 feet of Lot 8, Erickson Beach, Section 27, Township 57, Range 17, consisting of .5 acre, Plat/Parcel Codes: 340-90-80, 340-90-85.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 25. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of taxes due on the property and any penalties, interest, and costs.

(c) The land to be sold is located in St. Louis county and is described as: Lots 54 and 55, Lake Nichols, town of Northland (parcel code 490-0020-00560).

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 26. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of the appraised value.

(c) The land to be sold is located in St. Louis county and is described as:

(1) Lot 7, Block E, Endion Division (10-1440-70);

(2) Lots 10-13, Block 1, Endion Division (10-1440-180) and Lot 7, Block 1, except part NW'y of NE'y extension of SE'y line of Lot 6, Endion Division (10-1440-150);

(3) Lot 9, Block 1, Endion Division (10-1440-170); and

(4) Lots 1-4, Block E, Endion Division (10-1440-10) and that part of the easterly 33 feet of 24th Avenue East lying south of Water Street.

(d) The county has determined that the county's land management interests would best be served if the lands were sold to the city of Duluth.

Sec. 27. [LAND EXCHANGE.]

Subdivision 1. [EXCHANGE REQUIRED.] The commissioner of natural resources shall exchange, according to Laws 1998, chapter 389, article 16, section 31, as amended by Laws 1999, chapter 184; Laws 2000, chapter 488, article 3, section 31; and Laws 2001, chapter 164, section 5, the following trust fund land in St. Louis county: Lot 11, Block 1 of Lake Leander Homesite Plat No. 1, Section 16, Township 60 North, Range 19 West, for county land.

Subd. 2. [DEADLINE.] The exchange required under subdivision 1 must be completed by June 30, 2004.

Sec. 28. [PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATERS; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale to adjacent landowners the surplus land bordering public waters that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and the consideration must be equal to the fair market value of the land plus the cost of appraisal.

(c) The land to be sold is in St. Louis county and is a parcel of land to be split from Government Lot 5, Section 1, Township 67 North, Range 17 West. The exact area to be sold will be determined by completion of a further site analysis.

(d) The conveyance is necessary for installation of a community septic system to benefit the adjacent land owners in Government Lot 6, Section 1, Township 67 North, Range 17 West.

(e) The commissioner has determined that the parcel needed for the purpose described in paragraph (d) is available for surplus, will not be necessary for natural resources purposes, and is best suited for the above-stated purpose.

Sec. 29. [PRIVATE SALE OF SURPLUS LAND BORDERING PUBLIC WATERS; SCOTT COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45; 94.09; 94.10; 97A.135, subdivision 2a; and 103F.535, the commissioner of natural resources shall sell by private sale the surplus land bordering public waters that is described in paragraph (e).

(b) The conveyance shall be in a form approved by the attorney general for consideration of no less than the appraised value of the land.

(c) The deed must contain a restrictive covenant that prohibits altering, disturbing vegetation in, draining, filling, or placing any material or structure of any kind on or in the existing wetland area located on the land; prohibits any increase in run-off rate or volume from the land or future buildings into said wetland; and prohibits diverting or appropriating water from said wetland.

(d) The consideration received for the conveyance shall be deposited in the state treasury and credited to the wildlife acquisition account in the game and fish fund. The money is appropriated to the commissioner of natural resources for wildlife land acquisition purposes.

(e) The land that may be sold is in the Prior Lake wildlife management area in Scott county and is described as:

The East 1200 feet of the South 800 feet of the Southwest Quarter of the Southeast Quarter of Section 22, Township 115 North, Range 22 West. Including the abandoned right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (formerly the Hastings and Dakota Railway Company). Containing 22 acres, more or less.

(f) This land no longer fits into the state wildlife management area system because of hunting limitations, its small size, and future development planned for the area. Proceeds from the sale will be used to purchase lands more suitable for wildlife management and public use.

Sec. 30. [FOND DU LAC RESERVATION LANDS.]

Before offering state-owned lands for public sale under Minnesota Statutes, sections 282.01 to 282.13, the county auditor shall first offer lands within the Fond du Lac Indian Reservation to the Fond du Lac Band of Chippewa Indians for sale at the appraised value. The costs of any survey or appraisal must be added to and made a part of the appraised value. To determine whether the band wants to buy the land, the county auditor shall give written notice to the band. If the band wants to buy the land, it shall submit a written offer to the county auditor within two weeks after receiving the notice. If the offer is for at least the appraised value, including costs, the county auditor shall accept it.

Sec. 31. [EFFECTIVE DATE; LOCAL APPROVAL.]

(a) Section 30 is effective the day after the governing body of Carlton county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Sections 5, 17, and 27 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; providing for certain state land acquisition; establishing Greenleaf Lake State Park; modifying the Mississippi whitewater trail; modifying provisions of the outdoor recreation system; establishing a mineral coordinating committee; modifying a 2001 appropriation for goose management; adding to and deleting from state parks, state recreation areas, state forests, and wildlife management areas; authorizing sales of certain

surplus state land in Beltrami, St. Louis, and Scott counties; providing for the reconveyance of land to Cook county free of a reversionary clause; requiring a land exchange in Lake of the Woods and St. Louis counties; authorizing conveyance of certain surplus state land bordering public water; authorizing private sale of certain tax-forfeited land in Aitkin, Crow Wing, Itasca, Koochiching, Lake, Norman, and St. Louis counties; providing for the first offer of tax-forfeited land within the Fond du Lac Indian Reservation to the Fond du Lac Band of Chippewa Indians; appropriating money; amending Minnesota Statutes 2002, sections 85.013, subdivision 1; 85.0156, subdivision 1; 86A.04; Laws 2001, First Special Session chapter 2, section 14, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 93."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 1097: A bill for an act relating to employment; mandatory retirement; deleting obsolete language; amending Minnesota Statutes 2002, section 181.81, subdivision 1; repealing Minnesota Statutes 2002, section 181.811.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 1121: A bill for an act relating to operation of state government; establishing the Minnesota False Claims Act; assessing penalties; proposing coding for new law as Minnesota Statutes, chapter 12A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary. Report adopted.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 242: A bill for an act relating to crime prevention; requiring the commissioner of corrections to develop and report on a plan to increase state correctional capacity.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, delete "report" and insert "submit an analysis"

Page 1, lines 11 and 14, delete "report" and insert "analysis"

Page 1, line 15, delete the first "a" and delete "facility" and insert "facilities"

Page 1, lines 22 and 24, delete "report" and insert "analysis"

Amend the title as follows:

Page 1, line 3, delete everything after "to" and insert "submit an analysis addressing"

Page 1, line 4, delete everything before "correctional"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 907: A bill for an act relating to corrections; authorizing Department of Corrections forensic pathologists to issue death certificates; amending Minnesota Statutes 2002, section 390.23.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 12 and 15, after "Corrections," insert "independent,"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 941: A bill for an act relating to public safety; modifying state hazardous materials team provisions; amending Minnesota Statutes 2002, sections 299A.49, subdivisions 2, 4; 299A.50, subdivision 1; 299A.51, subdivisions 1, 2; repealing Minnesota Statutes 2002, sections 299A.50, subdivisions 2, 3; Minnesota Rules, parts 7514.0100; 7514.0200; 7514.0300; 7514.0400; 7514.0500; 7514.0600; 7514.0700; 7514.0800; 7514.0900; 7514.1000; 7514.1100; 7514.1200; 7514.1300; 7514.1400; 7514.1500; 7514.1600; 7514.1700; 7514.1800; 7514.1900; 7514.2000.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 17, delete "mitigate" and insert "when possible, provide simple mitigation to"

Pages 2 and 3, delete section 3

Page 3, delete section 6

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "299A.50,"

Page 1, line 5, delete "subdivision 1;" and delete everything after "2" and insert a period

Page 1, delete lines 6 to 11

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was re-referred

S.F. No. 1044: A bill for an act relating to financing; public defense system; increasing the surcharge imposed on criminal and traffic offenders; requiring applicants for services of the public defender to pay certain co-payments; authorizing collection of co-payments through the Revenue Recapture Act; appropriating money; amending Minnesota Statutes 2002, sections 270A.03, subdivision 5; 357.021, subdivisions 6, 7; 611.17.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 244.05, is amended by adding a subdivision to read:

Subd. 3a. [SANCTIONS FOR VIOLATIONS; INMATES WITH SERIOUS AND PERSISTENT MENTAL ILLNESS.] When an inmate with a serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), violates the conditions of the

inmate's supervised release and the commissioner intends to revoke the release and reimprison the inmate, the commissioner, when consistent with public safety, may continue the inmate's supervised release term and require the inmate to successfully complete an appropriate supervised alternative living program having a mental health treatment component.

Sec. 2. Minnesota Statutes 2002, section 270A.03, subdivision 5, is amended to read:

Subd. 5. [DEBT.] "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125 and restitution. The term also includes the co-payment for the appointment of a district public defender imposed under section 611.17, paragraph (c). A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food stamps, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

- (1) for an unmarried debtor, an income of \$8,800 or less;
- (2) for a debtor with one dependent, an income of \$11,270 or less;
- (3) for a debtor with two dependents, an income of \$13,330 or less;
- (4) for a debtor with three dependents, an income of \$15,120 or less;
- (5) for a debtor with four dependents, an income of \$15,950 or less; and
- (6) for a debtor with five or more dependents, an income of \$16,630 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 2001 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 1(f) of the Internal Revenue Code of 1986, as amended through December 31, 2000, except that for the purposes of this subdivision the percentage increase shall be determined from the year starting September 1, 1999, and ending August 31, 2000, as the base year for adjusting for inflation for debts incurred after December 31, 2000.

Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the dollar amount of the premium authorized under section 256L.15, subdivision 1a.

Sec. 3. Minnesota Statutes 2002, section 357.021, subdivision 6, is amended to read:

Subd. 6. [SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.] (a) The court shall impose and the court administrator shall collect a \$35 ~~\$60~~ surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$3 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a

showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the state treasurer.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the state treasurer.

Sec. 4. Minnesota Statutes 2002, section 357.021, subdivision 7, is amended to read:

Subd. 7. [DISBURSEMENT OF SURCHARGES BY STATE TREASURER.] (a) Except as provided in paragraphs (b) and (c), the state treasurer shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the department of natural resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The state treasurer shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to a criminal justice special projects account in the special revenue fund. This account is available for appropriation to the commissioner of public safety for grants to law enforcement agencies and for other purposes authorized by the legislature.

(c) In addition to any amounts credited under paragraph (a), the state treasurer shall credit \$7 \$32 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$3 parking surcharge, to the general fund.

Sec. 5. [481.011] [SURCHARGE.]

(a) The supreme court is requested to impose an annual surcharge of \$200 to be added to the fee set by the supreme court under section 481.01 for attorney license renewals. Money collected under the surcharge must be paid into the fund established by section 481.01 and is appropriated annually to the supreme court for the support of the public defender system established by chapter 611 and civil legal aid.

(b) This section expires on June 30, 2007.

Sec. 6. [609.1055] [OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS; ALTERNATIVE PLACEMENT.]

When a court intends to commit an offender with a serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), to the custody of the commissioner of corrections for imprisonment at a state correctional facility, either when initially pronouncing a sentence or when revoking an offender's probation, the court, when consistent with public safety, may instead place the offender on probation or continue the offender's probation and require as a condition of the probation that the offender successfully complete an appropriate supervised alternative living program having a mental health treatment component. This section applies only to offenders who would have a remaining term of imprisonment after adjusting for credit for prior imprisonment, if any, of more than one year.

Sec. 7. Minnesota Statutes 2002, section 611.17, is amended to read:

611.17 [FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT.]

(a) Each judicial district must screen requests under paragraph (b).

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a \$28 co-payment for representation provided by a public defender, ~~unless the co-payment is, or has been, waived by the court.~~ The co-payment shall be according to the following schedule:

- (1) if the person was charged with a felony, \$200;
- (2) if the person was charged with a gross misdemeanor, \$100; or
- (3) if the person was charged with a misdemeanor, \$50.

If the person is a child and was appointed counsel under the provisions of section 260B.163, subdivision 4, the parents of the child shall pay to the court a co-payment of \$100. If the person is a parent of a child and the parent was appointed counsel under the provisions of section 260C.163, subdivision 3, the parent shall pay to the court a co-payment of \$200.

The co-payment shall be deposited in the state general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence. Collection of the co-payment may be made through the provisions of chapter 270A, the Revenue Recapture Act.

Sec. 8. [ALTERNATIVE LIVING PROGRAMS FOR CERTAIN OFFENDERS WITH MENTAL ILLNESS.]

The commissioner of corrections shall cooperate with nonprofit entities to establish supervised alternative living programs for offenders with serious and persistent mental illness, as defined in Minnesota Statutes, section 245.462, subdivision 20, paragraph (c). Each program must be structured to accommodate between eight and 13 offenders who are required to successfully complete the program as a sanction for violating their supervised release or as a condition of probation. Each program must provide a residential component and include mental health treatment and counseling, living and employment skills development, and supported employment. Program directors shall report program violations by participating offenders to the offender's correctional agent.

Sec. 9. [APPROPRIATION.]

\$..... is appropriated from the general fund to the board of public defense for the financing of the public defense system. The appropriation is available for the biennium ending June 30, 2005.

Sec. 10. [EFFECTIVE DATE.]

Sections 2, 3, 4, 7, and 9 are effective July 1, 2003, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to criminal justice; increasing the surcharge imposed on criminal and traffic offenders; establishing a surcharge on attorney license fees; requiring applicants for services of the public defender to pay certain co-payments; authorizing collection of co-payments through the Revenue Recapture Act; authorizing alternative placements for certain mentally ill offenders; appropriating money; amending Minnesota Statutes 2002, sections 244.05, by adding a subdivision; 270A.03, subdivision 5; 357.021, subdivisions 6, 7; 611.17; proposing coding for new law in Minnesota Statutes, chapters 481; 609."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Pogemiller from the Committee on Taxes, to which was referred

S.F. No. 232: A resolution memorializing Congress to require Internet sellers to collect state and local taxes.

Reports the same back with the recommendation that the resolution do pass and be re-referred to the Committee on Rules and Administration. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 829: A bill for an act relating to metropolitan government; eliminating certain reporting requirements; abolishing the metropolitan parks and open space commission; providing for the direct charging by the metropolitan council of industrial dischargers for certain wastewater treatment user fees; removing an obsolete requirement for metropolitan school districts to submit capital improvement plans to the metropolitan council for review; making conforming changes; amending Minnesota Statutes 2002, sections 352.01, subdivision 2a; 473.121, subdivision 5a; 473.13, subdivision 1; 473.143, subdivision 1; 473.147; 473.313, subdivision 2; 473.315, subdivision 1; 473.333; 473.351, subdivision 3; 473.517, by adding a subdivision; repealing Minnesota Statutes 2002, sections 473.121, subdivision 12; 473.1623; 473.301, subdivision 4; 473.303; 473.704, subdivision 19; 473.863.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 to 3, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 2002, section 473.123, subdivision 4, is amended to read:

Subd. 4. [CHAIR; APPOINTMENT, OFFICERS, SELECTION; DUTIES AND COMPENSATION.] (a) The chair of the metropolitan council shall be appointed by the governor as the 17th voting member thereof by and with the advice and consent of the senate to serve at the pleasure of the governor to represent the metropolitan area at large. Senate confirmation shall be as provided by section 15.066.

The chair of the metropolitan council shall, if present, preside at meetings of the council, have the primary responsibility for meeting with local elected officials, serve as the principal legislative liaison, present to the governor and the legislature, after council approval, the council's plans for regional governance and operations, serve as the principal spokesperson of the council, and perform other duties assigned by the council or by law.

(b) The metropolitan council shall elect other officers as it deems necessary for the conduct of its affairs for a one-year term. A secretary and treasurer need not be members of the metropolitan council. Meeting times and places shall be fixed by the metropolitan council and special meetings may be called by a majority of the members of the metropolitan council or by the chair. The chair

and each metropolitan council member shall be reimbursed for actual and necessary expenses. The annual budget of the council shall provide as a separate account anticipated expenditures for compensation, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted.

(c) Each member of the council shall attend and participate in council meetings and meet regularly with local elected officials and legislative members from the council member's district. Each council member shall serve on at least one division committee for transportation, environment, parks, or community development.

(d) In the performance of its duties the metropolitan council may adopt policies and procedures governing its operation, establish committees, and, when specifically authorized by law, make appointments to other governmental agencies and districts."

Pages 4 to 8, delete sections 4 to 9

Page 10, delete section 11

Page 10, line 15, delete "2 to 11" and insert "1 to 3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 3 and 4, delete "abolishing the metropolitan parks and open space commission" and insert "providing for a parks division committee on the metropolitan council"

Page 1, line 10, delete "making conforming changes;"

Page 1, line 11, delete "352.01,"

Page 1, line 12, delete everything before "473.13," and insert "473.123, subdivision 4;"

Page 1, line 13, delete "473.143, subdivision 1; 473.147;"

Page 1, delete line 14

Page 1, line 15, delete everything before "473.517,"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Hottinger, from the Committee on Rules and Administration, to which was referred

H.F. No. 741 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		741	718		

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 758: A bill for an act relating to family law; modifying provisions dealing with

distribution of certain pension plan assets or benefits; amending Minnesota Statutes 2002, section 518.58, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MARRIAGE DISSOLUTION, LEGAL SEPARATION, AND ANNULMENT

Section 1. Minnesota Statutes 2002, section 357.021, is amended by adding a subdivision to read:

Subd. 8. [MARITAL DISSOLUTION FEE.] (a) The court administrator shall collect in each proceeding in the district seeking a dissolution of a marriage or a legal separation, in the manner in which other fees are collected, a marital dissolution fee in the amount of \$..... from:

(1) the petitioner instituting the marital dissolution or legal separation, to be collected at the time of the filing of the first paper; and

(2) the respondent who appears, to be collected at the time of the filing of the first paper by the respondent or at the time when the respondent's appearance is entered in the case.

(b) The court administrator shall forward the marital dissolution fee to the state treasurer for deposit in the general fund.

(c) This subdivision sunsets June 30, 2005.

Sec. 2. [517A.36] [MAINTENANCE PAYMENT ENFORCEMENT.]

(a) Except as provided in paragraph (b), the enforcement requirements and procedures in chapter 517C apply to a maintenance obligation, including a maintenance obligation that is or was combined with a child support obligation and is part of a support order as defined in section 517A.02, subdivision 14.

(b) The enforcement requirements and procedures in sections 517C.04; 517C.10, subdivisions 1, 2, and 5; 517C.12, subdivision 4; 517C.13; 517C.22; 517C.23; 517C.27; 517C.28; 517C.30; 517C.63; 517C.73; 517C.80; and 517C.84, do not apply to a maintenance obligation whether or not the obligation is or was combined with a child support obligation.

Sec. 3. Minnesota Statutes 2002, section 518.002, is amended to read:

518.002 [USE TERM DISSOLUTION MEANING OF DIVORCE.]

~~Wherever the word "Divorce" is, as used in the statutes, it has the same meaning as "dissolution" or "dissolution of marriage."~~

Sec. 4. Minnesota Statutes 2002, section 518.003, subdivision 1, is amended to read:

~~Subdivision 1. [SCOPE.] For the purposes of The definitions in this section apply to this chapter, the following terms have the meanings provided in this section unless the context clearly requires otherwise.~~

Sec. 5. Minnesota Statutes 2002, section 518.005, is amended to read:

518.005 [RULES GOVERNING PROCEEDINGS.]

~~Subdivision 1. [APPLICABLE RULES.] Unless otherwise specifically provided, the rules of civil procedure for the district court apply to all proceedings under this chapter and chapters 517B and 517C.~~

Subd. 2. [TITLE.] A proceeding for dissolution of marriage, legal separation, or annulment

~~shall must~~ be entitled "In re the Marriage of and" ~~A custody or support proceeding shall be entitled "In re the (Custody) (Support) of"~~

Subd. 3. [NAMES OF PLEADINGS.] The initial pleading in all proceedings under sections 518.002 to 518.66 ~~shall this chapter and chapters 517B and 517C~~ must be denominated a petition. A responsive pleading ~~shall must be denominated an answer.~~ Other pleadings ~~shall must~~ be denominated as provided in the rules of civil procedure.

Subd. 4. [DECREE; JUDGMENT.] In sections 518.002 to 518.66 ~~this chapter and chapters 517B and 517C,~~ "decree" includes "judgment."

Subd. 5. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapters 517B and 517C, in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Subd. 6. [REQUIRED NOTICE.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain the notices required by section 517C.99.

Sec. 6. Minnesota Statutes 2002, section 518.01, is amended to read:

518.01 [VOID MARRIAGES.]

~~All marriages which are~~ A marriage prohibited by section 517.03 ~~shall be absolutely~~ is void, without any decree of dissolution or other legal proceedings; except if a person whose husband or wife has been absent for four successive years, without being known to the person to be living during that time, marries during the lifetime of the absent husband or wife, the ~~subsequent marriage shall be~~ is void only from the time that its nullity is duly adjudged. If the ~~absentee is~~ declared dead in accordance with section 576.142, the subsequent marriage ~~shall is~~ not be void.

Sec. 7. Minnesota Statutes 2002, section 518.02, is amended to read:

518.02 [VOIDABLE MARRIAGES.]

A marriage shall must be declared a nullity ~~under the following circumstances if:~~

~~(a)~~ (1) a party lacked capacity to consent to the marriage at the time the marriage was solemnized, ~~either because of:~~ (i) mental incapacity or infirmity ~~and if the other party at the time the marriage was solemnized did not know of the incapacity; or because of~~ (ii) the influence of alcohol, drugs, or other incapacitating substances; or ~~because~~ (iii) consent of either was party having been obtained by force or fraud and there was with no subsequent voluntary cohabitation of the parties;

~~(b)~~ (2) a party lacks the physical capacity to consummate the marriage by sexual intercourse and the other party at the time the marriage was solemnized did not know of the incapacity; or

~~(c)~~ (3) a party was under the age for marriage established by section 517.02 except as otherwise provided by section 517A.10.

Sec. 8. Minnesota Statutes 2002, section 518.03, is amended to read:

518.03 [ACTION TO ANNUL; DECREE.]

An annulment ~~shall~~ must be commenced ~~and~~, the complaint ~~shall~~ be filed, and proceedings had as in proceedings for dissolution. Upon due proof of the nullity of the marriage, ~~it shall~~ the marriage must be adjudged null and void.

The provisions of ~~sections 518.54 to 518.66~~ this chapter and chapters 517B and 517C relating to property rights of the spouses, maintenance, support, and custody of children on dissolution of marriage are applicable to proceedings for annulment.

Sec. 9. Minnesota Statutes 2002, section 518.04, is amended to read:

518.04 [INSUFFICIENT GROUNDS FOR ANNULMENT.]

No marriage ~~shall~~ may be adjudged a nullity on the ground that one of the parties was under the age of legal consent if it appears that the parties had voluntarily cohabited together as husband and wife after having attained ~~such~~ that age; ~~nor shall~~. The marriage of ~~any an~~ an insane person must not be adjudged void after restoration of the insane person to reason, if it appears that the parties freely cohabited together as husband and wife after ~~such~~ the restoration to reason.

Sec. 10. Minnesota Statutes 2002, section 518.05, is amended to read:

518.05 [ANNULMENT; WHEN TO BRING.]

An annulment may be sought by any of the following persons and must be commenced within the times specified, but in no event may an annulment be sought after the death of either party to the marriage:

~~(a) For a reason set forth in (1) under section 518.02, clause (a) (1), by either party or by the legal representative of the party who lacked capacity to consent, no later than 90 days after the petitioner obtained knowledge of the described condition;~~

~~(b) For the reason set forth in (2) under section 518.02, clause (b) (2), by either party no later than one year after the petitioner obtained knowledge of the described condition;~~

~~(c) For the reason set forth in (3) under section 518.02, clause (c) (3), by the underaged party, or the party's parent or guardian, before the time the underaged party reaches the age at which the party could have married without satisfying the omitted requirement.~~

Sec. 11. Minnesota Statutes 2002, section 518.055, is amended to read:

518.055 [PUTATIVE SPOUSE.]

Any person who has cohabited with another to whom the person is not legally married in the good faith belief that the person was married to the other is a putative spouse until knowledge of the fact that the person is not legally married terminates the status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of the status, whether or not the marriage is prohibited or declared a nullity. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court ~~shall~~ must apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

Sec. 12. Minnesota Statutes 2002, section 518.06, is amended to read:

518.06 [DISSOLUTION OF MARRIAGE; LEGAL SEPARATION; GROUNDS; UNCONTESTED LEGAL SEPARATION.]

Subdivision 1. ~~[MEANING AND EFFECT OF DECREES; GROUNDS.]~~ A dissolution of marriage is the termination of the marital relationship between a husband and wife. A decree of dissolution completely terminates the marital status of both parties. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation does not terminate the marital status of the parties.

A dissolution of a marriage ~~shall must~~ be granted by a county or district court when if the court finds that there has been an irretrievable breakdown of the marriage relationship. A decree of legal separation ~~shall must~~ be granted when if the court finds that one or both parties need a legal separation.

Defenses to divorce, dissolution and legal separation, including, but not limited to, condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

Subd. 3. [UNCONTESTED LEGAL SEPARATION.] If one or both parties petition for a decree of legal separation and neither party contests the granting of the decree nor petitions for a decree of dissolution, the court shall must grant a decree of legal separation.

Sec. 13. Minnesota Statutes 2002, section 518.07, is amended to read:

518.07 [RESIDENCE OF PARTIES.]

~~No~~ A dissolution ~~shall must~~ not be granted unless (1) one of the parties has resided in this state, or has been a member of the armed services stationed in this state, for ~~not less than~~ at least 180 days immediately preceding the commencement of the proceeding; or (2) one of the parties has been a domiciliary of this state for ~~not less than~~ at least 180 days immediately preceding commencement of the proceeding.

Sec. 14. Minnesota Statutes 2002, section 518.09, is amended to read:

518.09 [PROCEEDING; HOW AND WHERE BROUGHT; VENUE.]

A proceeding for dissolution or legal separation may be brought by either or both spouses and ~~shall be~~ is commenced by personal service of the summons and petition venued in the county where either spouse resides. ~~No summons is required if a joint petition is filed.~~ If neither party resides in the state and jurisdiction is based on the domicile of either spouse party, the proceeding may be brought in the county where either party is domiciled. If neither party resides or is domiciled in this state and jurisdiction is premised upon one of the parties being a member of the armed services stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, the proceeding may be brought in the county where the member is stationed. This venue ~~shall be~~ is subject to the court's power of the court to change the place of hearing by consent of the parties, ~~or when if it appears~~ to the court that an impartial hearing cannot be had in the county where the proceedings are pending, or ~~when if~~ the convenience of the parties or the ends of justice would be promoted by the change. ~~No summons shall be required if a joint petition is filed.~~

Sec. 15. Minnesota Statutes 2002, section 518.091, is amended to read:

518.091 [SUMMONS; TEMPORARY RESTRAINING PROVISIONS.]

(a) Every summons must include the notice in this paragraph.

NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE
RESOLUTION PROVISIONS

UNDER MINNESOTA LAW, SERVICE OF THIS SUMMONS MAKES THE FOLLOWING REQUIREMENTS APPLY TO BOTH PARTIES TO THIS ACTION, UNLESS THEY ARE MODIFIED BY THE COURT OR THE PROCEEDING IS DISMISSED:

(1) NEITHER PARTY MAY DISPOSE OF ANY ASSETS EXCEPT (i) FOR THE NECESSITIES OF LIFE OR FOR THE NECESSARY GENERATION OF INCOME OR PRESERVATION OF ASSETS, (ii) BY AN AGREEMENT IN WRITING, OR (iii) FOR RETAINING COUNSEL TO CARRY ON OR TO CONTEST THIS PROCEEDING;

(2) NEITHER PARTY MAY HARASS THE OTHER PARTY; AND

(3) ALL CURRENTLY AVAILABLE INSURANCE COVERAGE MUST BE MAINTAINED AND CONTINUED WITHOUT CHANGE IN COVERAGE OR BENEFICIARY DESIGNATION.

IF YOU VIOLATE ANY OF THESE PROVISIONS, YOU WILL BE SUBJECT TO SANCTIONS BY THE COURT.

(4) PARTIES TO A MARRIAGE DISSOLUTION PROCEEDING ARE ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR ABOUT RESOURCES IN YOUR AREA. IN SOME COUNTIES, IF YOU CANNOT PAY FOR MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION, ~~IN SOME COUNTIES,~~ ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR THREATS OF ABUSE AS DEFINED IN MINNESOTA STATUTES, CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

(b) Upon service of the summons, the restraining provisions contained in the notice apply by operation of law upon both parties until modified by further order of the court or dismissal of the proceeding, unless more than one year has passed since the last document was filed with the court.

Sec. 16. Minnesota Statutes 2002, section 518.10, is amended to read:

518.10 [REQUISITES OF PETITION.]

The A petition for dissolution of marriage or legal separation shall ~~shall~~ must state and allege:

(a) (1) the name, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(b) (2) the name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(c) (3) the place and date of the marriage of the parties;

(d) (4) in the case of a petition for dissolution, that either the petitioner or the respondent or both:

(1) (i) has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding; ~~or;~~

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

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

(e) (5) the name at the time of the petition and any prior or other name, social security number, age, and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) (6) whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) (7) in the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) (8) in the case of a petition for legal separation, that there is a need for a decree of legal separation;

(i) (9) any temporary or permanent maintenance, child support, child custody, disposition of

property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

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

The petition ~~shall~~ must be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 17. Minnesota Statutes 2002, section 518.11, is amended to read:

518.11 [SERVICE; ALTERNATE SERVICE; PUBLICATION.]

(a) Unless a proceeding is brought by both parties, copies of the summons and petition ~~shall~~ must be served on the respondent personally.

(b) ~~When Service is made out of this state and within the United States, it may be proved by the affidavit of the person making the same service. When Service is made without outside of the United States it may be proved by the affidavit of the person making the same service, taken before and certified:~~

(1) by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in ~~such the~~ country, including ~~all deputies a deputy~~ or other ~~representatives~~ representative of ~~such the~~ officer authorized to perform ~~their the officer's~~ duties; or

(2) before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country ~~wherein such~~ in which the affidavit is taken as to the identity and authority of the officer taking the ~~same~~ affidavit.

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

The court ~~shall~~ must consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court ~~shall~~ must order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent or, if no address so qualifies, then to the respondent's last known address.

If the petitioner seeks disposition of real estate located ~~within the state of in~~ Minnesota, the court ~~shall~~ must order that the summons, which ~~shall~~ must contain the legal description of the real estate, be published in the county where the real estate is located. The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service ~~shall be~~ is deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 18. Minnesota Statutes 2002, section 518.12, is amended to read:

518.12 [TIME FOR ANSWERING.]

The respondent ~~shall have~~ has 30 days in which to answer the petition. In case of service by publication, the 30 days ~~shall~~ does not begin to run until the expiration of the period allowed for publication. In the case of a counterpetition for dissolution or legal separation to a petition for dissolution or legal separation, no answer ~~shall be~~ is required to the counterpetition and the

original petitioner ~~shall be~~ is deemed to have denied each and every statement, allegation, and claim in the counterpetition.

Sec. 19. Minnesota Statutes 2002, section 518.13, is amended to read:

518.13 [FAILURE TO ANSWER; FINDINGS; HEARING.]

Subdivision 1. [DEFAULT.] If the respondent does not appear after service duly made and proved, the court may hear and determine the proceeding as a default matter.

Subd. 2. [DISPUTE OVER IRRETRIEVABLE BREAKDOWN.] If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court ~~shall~~ must consider all relevant factors, including the circumstances that gave rise to the commencement of the proceeding and the prospect of reconciliation, and ~~shall~~ make a finding whether the marriage is irretrievably broken.

A finding of irretrievable breakdown under this subdivision is a determination that there is no reasonable prospect of reconciliation. The finding must be supported by evidence that (i) the parties have lived separate and apart for a period of not less than 180 days immediately preceding the commencement of the proceeding, or (ii) there is serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage.

Subd. 3. [AGREEMENT OVER IRRETRIEVABLE BREAKDOWN.] If both parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, ~~shall~~ must make a finding that the marriage is irretrievably broken.

Subd. 4. [REFEREE; OPEN COURT.] The court or judge, upon application, may refer the proceeding to a referee to take and report the evidence ~~therein~~. Hearings for dissolution of marriage ~~shall~~ must be heard in open court or before a referee appointed by the court to receive the testimony of the witnesses, or depositions taken as in other equitable actions. However, the court may in its discretion close the hearing.

Subd. 5. [APPROVAL WITHOUT HEARING.] Proposed findings of fact, conclusions of law, order for judgment, and judgment and decree must be submitted to the court for approval and filing without a final hearing in the following situations:

(1) if there are no minor children of the marriage, and (i) the parties have entered into a written stipulation, or (ii) the respondent has not appeared after service duly made and proved by affidavit and at least 20 days have elapsed since the time for answering under section 518.12 expired; or

(2) if there are minor children of the marriage, the parties have signed and acknowledged a stipulation, and all parties are represented by counsel.

Notwithstanding clause (1) or (2), the court ~~shall~~ must schedule the matter for hearing ~~in any case where~~ if the proposed judgment and decree does not appear to be in the best interests of the minor children or is contrary to the interests of justice.

Sec. 20. Minnesota Statutes 2002, section 518.131, is amended to read:

518.131 [TEMPORARY ORDERS AND RESTRAINING ORDERS.]

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

(a) (1) temporary custody and parenting time regarding the minor children of the parties;

(b) (2) temporary maintenance of either spouse;

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

(d) (3) temporary costs and reasonable attorney fees;

(e) ~~Award the~~ (4) temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;

(f) (5) restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(g) (6) restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(h) (7) restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(i) (8) exclude a party from the family home of the parties or from the home of the other party; and

(j) (9) require one or both of the parties to perform or to not perform such additional acts as that will facilitate the just and speedy disposition of the proceeding; or will protect the parties or their children from physical or emotional harm.

Subd. 2. [IMPERMISSIBLE ORDERS.] ~~No~~ A temporary order ~~shall~~ must not:

(a) (1) deny parenting time to a parent unless the court finds that the parenting time is likely to cause physical or emotional harm to the child;

(b) (2) exclude a party from the family home of the parties unless the court finds that physical or emotional harm to one of the parties or to the children of the parties is likely to result, or that the exclusion is reasonable in the circumstances; or

(c) (3) vacate or modify an order granted under section 518B.01, subdivision 6, paragraph (a), clause (1), restraining an abusing party from committing acts of domestic abuse, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule ~~shall~~ must not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection ~~shall~~ must be issued.

Subd. 3. [EX PARTE RESTRAINING ORDER; LIMITATIONS.] A party may request and the court may make an ex parte restraining order ~~which may include~~ that includes any matter that may be included in a temporary order except it may not:

(a) ~~A restraining order may not~~ (1) exclude either party from the family home of the parties except upon a finding by the court of immediate danger of physical harm to the other party or the children of either party; ~~and~~ or

(b) ~~A restraining order may not~~ (2) deny parenting time to either party or grant custody of the minor children to either party except upon a finding by the court of immediate danger of physical harm to the minor children of the parties.

Subd. 4. [HEARING ON RESTRAINING ORDER; DURATION.] ~~A restraining order shall~~ order must be personally served upon the party to be restrained and shall be accompanied along with a notice of the time and place of a hearing for a temporary order for disposition of the matters contained in the restraining order at a hearing for a temporary order. When ~~If~~ if a restraining order has been issued, a hearing on the temporary order ~~shall~~ must be held at the earliest practicable date. The restrained party may upon written notice to the other party advance the hearing date to a time earlier than that noticed by the other party. The restraining order ~~shall continue~~ continues in full force and effect only until the hearing time noticed, unless the court, for good cause and upon notice, extends the time for hearing.

Subd. 5. [DURATION OF TEMPORARY ORDER.] A temporary order ~~shall continue~~ continues in full force and effect until the earlier of its amendment or vacation, dismissal of the main action, or entry of a final decree of dissolution or legal separation.

Subd. 6. [EFFECT OF DISMISSAL OF MAIN ACTION.] If a proceeding for dissolution or legal separation is dismissed, a temporary custody order is vacated unless one of the parties or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parties and the best interests of the child require that a custody order be issued.

Subd. 7. [GUIDING FACTORS.] The court ~~shall~~ must be guided by the factors set forth in sections ~~518.551 (concerning child support), 518.552 (concerning maintenance), 518.17 to 518.175 517B.17, 517B.18, and 517B.25 (concerning custody and parenting time), and 518.14 (concerning costs and attorney fees)~~ in making temporary orders and restraining orders.

Subd. 8. [BASIS FOR ORDER.] Temporary orders ~~shall~~ must be made solely on the basis of affidavits and argument of counsel except upon demand by either party in a motion or responsive motion made within the time limit for making and filing a responsive motion that the matter be heard on oral testimony before the court, or if the court in its discretion orders the taking of oral testimony.

Subd. 9. [PREJUDICIAL EFFECT, REVOCATION; MODIFICATION.] A temporary order or restraining order:

~~(a) Shall~~ (1) must not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding; and

~~(b) (2)~~ (2) may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Subd. 10. [MISDEMEANOR.] In addition to being punishable by contempt, a violation of a provision of a temporary order or restraining order granting the relief authorized in subdivision 1, clause ~~(g) (6), (h) (7), or (i) (8)~~, is a misdemeanor.

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

Sec. 21. Minnesota Statutes 2002, section 518.14, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] ~~(a) Except as provided in subdivision 2, in a proceeding under this chapter or chapter 517B or 517C, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided if it finds that:~~

~~(1) that the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;~~

~~(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and~~

~~(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.~~

(b) Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518.64. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency

of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay ~~the same~~ them may be enforced ~~as above provided~~ in the manner provided in this paragraph or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award ~~shall also survive~~ survives the proceeding and may be enforced in the same manner as last above provided in this paragraph.

Sec. 22. Minnesota Statutes 2002, section 518.148, is amended to read:

518.148 [CERTIFICATION OF DISSOLUTION.]

Subdivision 1. [CERTIFICATE OF DISSOLUTION.] An attorney or pro se party may prepare and submit to the court a separate certificate of dissolution to be attached to the judgment and decree at the time of granting the dissolution of marriage. Upon approval by the court and filing of the certificate of dissolution with the court administrator, the court administrator ~~shall~~ must provide to any party upon request certified copies of the certificate of dissolution.

Subd. 2. [REQUIRED INFORMATION.] The certificate ~~shall~~ must include the following information:

- (1) the full caption and file number of the case and the title "Certificate of Dissolution";
- (2) the names and any prior or other names of the parties to the dissolution;
- (3) the names of any living minor or dependent children as identified in the judgment and decree;
- (4) that the marriage of the parties is dissolved;
- (5) the date of the judgment and decree; and
- (6) the social security number of the parties to the dissolution and the social security number of any living minor or dependent children identified in the judgment and decree.

Subd. 3. [CERTIFICATION.] The certificate of dissolution ~~shall be~~ is conclusive evidence of the facts recited in the certificate.

Sec. 23. Minnesota Statutes 2002, section 518.191, subdivision 1, is amended to read:

Subdivision 1. [ABBREVIATED JUDGMENT AND DECREE.] If real estate is described in a judgment and decree of dissolution, the court may direct either of the parties or their legal counsel to prepare and submit to the court a proposed summary real estate disposition judgment. Upon approval by the court and filing of the summary real estate disposition judgment with the court administrator, the court administrator ~~shall~~ must provide to any party upon request certified copies of the summary real estate disposition judgment.

Sec. 24. Minnesota Statutes 2002, section 518.195, subdivision 2, is amended to read:

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

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

- (i) the demographic data required in section 518.10;
- (ii) verifying the qualifications set forth in subdivision 1;
- (iii) listing each party's nonmarital property;
- (iv) setting forth how the marital assets and debts will be apportioned;

- (v) verifying both parties' income and preserving their rights to spousal maintenance; and
- (vi) certifying that there has been no domestic abuse of one party by the other; and

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

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

Sec. 25. Minnesota Statutes 2002, section 518.195, subdivision 3, is amended to read:

Subd. 3. [FORMS.] The state court administrator shall must develop simplified forms and instructions for the summary process. District court administrators shall must make the forms for the summary process available upon request and shall must accept joint declarations for filing ~~on and after July 1, 1997.~~

Sec. 26. Minnesota Statutes 2002, section 518.24, is amended to read:

518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

~~In all cases when~~ If 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.

Sec. 27. Minnesota Statutes 2002, section 518.25, is amended to read:

518.25 [REMARRIAGE; REVOCATION.]

~~When a dissolution has been granted, and the parties afterward intermarry~~ If two people remarry each other after dissolution of their prior marriage, the court, upon their joint application, and ~~upon~~ satisfactory proof of such the marriage, may revoke all decrees and orders of dissolution, maintenance, and subsistence ~~which will that do~~ not affect the rights of third persons.

Sec. 28. Minnesota Statutes 2002, section 518.27, is amended to read:

518.27 [NAME OF PARTY.]

Except as provided in section 259.13, in the final decree of dissolution or legal separation the court shall must, if requested by a party, change the name of that party to another name as the party requests. The court shall must grant a request unless it finds that there is an intent to defraud or mislead, unless the name change is subject to section 259.13, in which case the requirements of that section apply. The court shall must notify the parties that use of a different surname after dissolution or legal separation ~~without complying with section 259.13, if applicable, is a gross misdemeanor.~~ The party's new name shall must be so designated in the final decree.

Sec. 29. Minnesota Statutes 2002, section 518.54, subdivision 1, is amended to read:

Subdivision 1. [TERMS SCOPE.] ~~For the purposes of sections 518.54 to 518.66, the terms defined~~ The definitions in this section shall have the meanings respectively ascribed to them apply to sections 517A.31 to 517A.41.

Sec. 30. Minnesota Statutes 2002, section 518.54, subdivision 5, is amended to read:

Subd. 5. [MARITAL PROPERTY; EXCEPTIONS.] "Marital property" means ~~property~~, real or personal ~~property~~, including vested public or private pension plan benefits or rights, acquired by one or both of the parties, ~~or either of them~~, to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before the valuation date is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse ~~shall be~~ is deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest ~~shall~~ must be determined and made final by the court pursuant to section 518.58. If a title interest in real property is held individually by only one spouse, the interest in the real property of the nontitled spouse is not subject to claims of creditors or judgment or tax liens until the time of entry of the decree awarding an interest to the nontitled spouse. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which:

(a) (1) is acquired as a gift, bequest, devise, or inheritance made by a third party to one but not to the other spouse;

(b) (2) is acquired before the marriage;

(c) (3) is acquired in exchange for or is the increase in value of property which is described in clauses (a), (b), (d), and (e) clause (1), (2), (4), or (5);

(d) (4) is acquired by a spouse after the valuation date; or

(e) (5) is excluded by a valid antenuptial contract.

Sec. 31. Minnesota Statutes 2002, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, unemployment benefits, and annuity, military and or naval retirement, pension and or disability payments. "Income" does not include benefits received under Title IV-A of the Social Security Act and or chapter 256J are not income under this section.

Sec. 32. Minnesota Statutes 2002, section 518.54, subdivision 7, is amended to read:

Subd. 7. [OBLIGEE.] "Obligee" means a person to whom payments for maintenance ~~or support~~ are owed.

Sec. 33. Minnesota Statutes 2002, section 518.54, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to pay maintenance ~~or support.~~ A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support under section 518.551 unless the court makes specific written findings to overcome this presumption.

Sec. 34. Minnesota Statutes 2002, section 518.55, is amended to read:

518.55 [MAINTENANCE OR SUPPORT MONEY.]

Subdivision 1. [CONTENTS OF ORDER.] Every award of maintenance or support money in a judgment of dissolution or legal separation ~~shall~~ must clearly designate whether ~~the same~~ it is maintenance or support money, or what part of the award is maintenance and what part is support money. An award of payments from future income or earnings of the parent with whom the child

resides is presumed to be maintenance and an award of payments from the future income or earnings of the parent with whom the child does not reside is presumed to be support money, unless otherwise designated by the court. In a judgment of dissolution or legal separation the court may determine, as one of the issues of the case, whether or not either spouse is entitled to an award of maintenance notwithstanding that no award is then made, or it may reserve jurisdiction of the issue of maintenance for determination at a later date.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] Every obligor shall ~~must~~ notify the obligee and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change. Every order for support or maintenance must contain a conspicuous notice complying with section ~~518.68, subdivision 2~~ 517C.99. The court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.

Subd. 4. [DETERMINATION OF CONTROLLING ORDER.] The public authority or a party may request the district court to determine a controlling order in situations in which more than one order involving the same obligor and child exists.

Sec. 35. Minnesota Statutes 2002, section 518.552, is amended to read:

518.552 [MAINTENANCE.]

Subdivision 1. [JURISDICTION; GROUNDS.] In a proceeding for dissolution of marriage or legal separation, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse and which has since acquired jurisdiction, the court may grant a maintenance order for either spouse if it finds that the spouse seeking maintenance:

(a) (1) lacks sufficient property, including marital property apportioned to the spouse, to provide for reasonable needs of the spouse considering the standard of living established during the marriage, especially, but not limited to, a period of training or education; or

(b) (2) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment; or is the custodian of

(3) if a child whose resides with the spouse and the child's condition or circumstances make it appropriate that the custodian spouse not be required to seek employment outside the home.

Subd. 2. [AMOUNT; DURATION.] The maintenance order shall ~~must~~ be in amounts and for periods of time, either temporary or permanent, as that the court deems just, without regard to marital misconduct, and after considering all relevant factors including:

(a) (1) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian caretaker;

(b) (2) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment, and the probability, given the party's age and skills, of completing education or training and becoming fully or partially self-supporting;

(c) (3) the standard of living established during the marriage;

(d) (4) the duration of the marriage and, in the case of a homemaker, the length of absence from employment and the extent to which any education, skills, or experience have become outmoded and earning capacity has become permanently diminished;

(e) (5) the loss of earnings, seniority, retirement benefits, and other employment opportunities forgone by the spouse seeking spousal maintenance;

(f) (6) the age, and the physical and emotional condition of the spouse seeking maintenance;

(g) (7) the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance; and

(h) (8) the contribution of each party in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker or in furtherance of the other party's employment or business.

Subd. 3. [PERMANENCY OF AWARD.] ~~Nothing in~~ This section shall ~~must not~~ be construed to favor a temporary award of maintenance over a permanent award, ~~where~~ if the factors under subdivision 2 justify a permanent award.

~~Where~~ If there is some uncertainty as to the necessity of a permanent award, the court shall ~~must~~ order a permanent award leaving its order open for later modification.

Subd. 4. [REOPENING MAINTENANCE AWARDS.] Section 518.145, subdivision 2, applies to maintenance awards of spousal maintenance.

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

Sec. 36. Minnesota Statutes 2002, section 518.58, is amended to read:

518.58 [DIVISION OF MARITAL PROPERTY.]

Subdivision 1. [GENERAL.] Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall ~~must~~ make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall ~~must~~ base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall ~~must~~ also consider the contribution of each in the acquisition, preservation, depreciation, or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It ~~shall be~~ is conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall ~~must~~ value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties; or ~~unless~~ the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution.

Subd. 1a. [TRANSFER, ENCUMBRANCE, CONCEALMENT, OR DISPOSITION OF MARITAL ASSETS.] In contemplation of commencing or during the pendency of a marriage dissolution, separation, or annulment proceeding, or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court shall ~~must~~ compensate the other party by placing both parties in the same position that they

would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. Use of a power of attorney, or the absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.

Subd. 2. [AWARD OF NONMARITAL PROPERTY.] If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5, are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.54, subdivision 5, clauses ~~(a)~~ (1) to ~~(d)~~ (4), to prevent the unfair hardship. If the court apportions property other than marital property, it shall must make findings in support of the apportionment. The findings shall must be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

Subd. 3. [SALE OR DISTRIBUTION WHILE PROCEEDING PENDING.] (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall must divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties, ~~provided that~~ as long as the court ~~shall fully protect~~ protects the interests of the other party.

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) ~~The~~ An individual retirement account ~~plans~~ plan established under chapter 354B may

provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 37. Minnesota Statutes 2002, section 518.581, is amended to read:

518.581 [SURVIVING SPOUSE BENEFIT.]

Subdivision 1. [AWARD OF BENEFIT.] If a current or former employee's marriage is dissolved, the court may order the employee, the employee's pension plan, or both, to pay amounts as part of the division of pension rights that the court may make under section 518.58, or as an award of maintenance in the form of a percentage of periodic or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a former spouse all or part of a survivor benefit unless the plan does not allow by law the payment of a surviving spouse benefit to a former spouse.

Subd. 2. [PAYMENT OF FUNDS BY RETIREMENT PLAN.] (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan; or to provide survivor benefits ordered by the court.

(b) The court may not order the pension plan to:

(1) pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit;

(2) pay surviving spouse benefits under circumstances where the plan member does not have a right to elect surviving spouse benefits;

(3) pay surviving spouse benefits to a former spouse if the former spouse would not be eligible for benefits under the terms of the plan; or

(4) order pay survivor benefits which, when combined with the annuity or benefit payable to the pension plan member, exceed the actuarial equivalent value of the normal retirement annuity form, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan.

(c) If more than one spouse or former spouse is entitled to a surviving spouse benefit, the pension plan shall must pay each spouse a portion of the benefit based on the ratio of the number of years the spouse was married to the plan member to the total number of years the plan member was married to spouses who are entitled to the benefit.

Subd. 3. [NOTICE TO FORMER SPOUSE.] A pension plan shall must notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

(1) a copy of the court order, including a withholding order, determining the former spouse's rights;

(2) the name and last known address of the employee; and

(3) the name and address of the former spouse.

A pension plan shall must comply with an order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, if the order states the name, last known address of the payees, and name and address of the former spouse, or if the names and addresses are provided to the pension plan with service of the order.

Subd. 4. [DEFINITIONS.] For purposes of The definitions in this subdivision apply to this section, the following terms have the meanings given in this subdivision.

(a) "Current or former employee" or "employee" means an individual who has an interest in a pension plan.

(b) "Surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the pension plan if the employee dies before retirement, or (2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the pension plan upon the death of the employee after retirement.

Sec. 38. Minnesota Statutes 2002, section 518.582, is amended to read:

518.582 [PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.]

Subdivision 1. [APPOINTMENT OF ACTUARY.] Each A court of this state ~~that has with~~ jurisdiction to decide marriage dissolution matters may appoint a qualified person experienced in the valuation of pension benefits and rights to function as an expert witness in valuing pension benefits or rights.

Subd. 2. [STANDARDS.] (a) A court appointed actuary ~~shall~~ must determine the present value of pension benefits or rights that are marital property of the parties to the action:

(1) based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable; or

(2) as specified by the court.

(b) The court appointed actuary ~~shall~~ must report to the court and to the parties the present value of the pension benefits or rights that are marital property.

Subd. 3. [COMPENSATION.] The court appointed actuary may be compensated at a rate established by the court. The compensation of the court appointed actuary ~~shall~~ must be allocated between the parties as the court directs.

Subd. 4. [STIPULATION.] In lieu of valuing pension benefits or rights through use of the court appointed actuary, the parties may stipulate the present value of pension benefits or rights that are marital property.

Sec. 39. Minnesota Statutes 2002, section 518.62, is amended to read:

518.62 [TEMPORARY ORDER; MAINTENANCE; HOMESTEAD.]

Temporary maintenance ~~and temporary support~~ may be awarded as provided in section 518.131. The court may also award to either party to the proceeding, having due regard to all the circumstances and the party awarded the custody of the children, the right to the exclusive use of the household goods and furniture of the parties pending the proceeding and the right to the use of the homestead of the parties, exclusive or otherwise, pending the proceeding. The court may order either party to remove from the homestead of the parties upon proper application to the court for an order pending the proceeding.

Sec. 40. Minnesota Statutes 2002, section 518.64, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] (a) After an order for temporary or permanent maintenance ~~or support money, temporary or permanent~~, or for the appointment of trustees to receive property awarded as maintenance ~~or support money~~, the court may from time to time, ~~on motion of either of the parties~~, either party or the public authority responsible for support enforcement may move for modification. A copy of ~~which is a motion by a party~~ must be served on the public authority responsible for child support enforcement if payments are made through it, ~~or on motion of the public authority responsible for support enforcement~~.

(b) The court may:

(1) modify the order respecting the amount of maintenance ~~or support money~~, and the its

payment of it, and also respecting the or appropriation and payment of the principal and income of property held in trust; and may

(2) make an order respecting these matters which it might have made in the original proceeding, except as herein otherwise provided subject to subdivisions 2 and 3.

(c) A party or the public authority also may bring a motion for contempt of court if the obligor is in arrears in support or maintenance payments.

Sec. 41. Minnesota Statutes 2002, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (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.

~~On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.~~

~~(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:~~

~~(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;~~

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

~~(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or~~

~~(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.~~

~~(e) (b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall must 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.~~

~~(d) (c) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:~~

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

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

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

~~(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court shall consider whether and when a request was made to the public authority for support modification.~~

~~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.~~

~~(e) (d) Except for an award of the right of occupancy of the homestead, provided in under section 518.63, all divisions of real and personal property provided by section 518.58 shall be are final, and may be revoked or modified only where if 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 under section 518.24.~~

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

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

Sec. 42. Minnesota Statutes 2002, section 518.641, is amended to read:

518.641 [COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE OR CHILD SUPPORT ORDER.]

Subdivision 1. [REQUIREMENT.] (a) An order establishing, modifying, or enforcing maintenance or child support shall must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall must specify the cost-of-living index to be applied and the date on which the cost-of-living

adjustment ~~shall become~~ becomes effective. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. Cost-of-living increases under this section ~~shall~~ must be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

(b) The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for a cost-of-living adjustment or that the order for maintenance ~~or child support~~ has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. ~~The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.~~ Notice of this statute must comply with section 518.68, subdivision 2.

Subd. 2. [NOTICE.] No adjustment under this section may be made unless the order provides for it and the notice provisions of this subdivision are followed. The public authority or the obligee, if the obligee is requesting the cost-of-living adjustment, ~~sends~~ must send notice of the intended adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice ~~shall~~ must inform the obligor of the date on which the adjustment ~~will become~~ becomes effective and the procedures for contesting the adjustment.

Subd. 2a. [PROCEDURES FOR CONTESTING ADJUSTMENT.] (a) To contest cost-of-living adjustments initiated by the public authority or an obligee who has applied for or is receiving ~~child support and~~ maintenance collection services from the public authority, other than income withholding only services, the obligor, before the effective date of the adjustment, must:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the public authority and the obligee.

The hearing ~~shall~~ must take place in the expedited child support process as governed by section 484.702.

(b) To contest cost-of-living adjustments initiated by an obligee who is not receiving ~~child support and~~ maintenance collection services from the public authority, or ~~for~~ by an obligee who receives income withholding only services from the public authority, the obligor must, before the effective date of the adjustment:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the obligee.

The hearing ~~shall~~ must take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-living adjustment ~~shall~~ must be stayed pending further order of the court.

(d) The court administrator ~~shall~~ must make available pro se motion forms for contesting a cost-of-living adjustment under this subdivision.

Subd. 3. [RESULT OF HEARING.] If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance ~~or child support~~ obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment ~~shall~~ must take effect as of the date it would have become effective had no hearing been requested.

Sec. 43. Minnesota Statutes 2002, section 518.642, is amended to read:

518.642 [OVERPAYMENTS.]

If ~~child support or~~ maintenance is not assigned under section 256.741, and an obligor has overpaid a ~~child support or~~ maintenance obligation because of a modification or error in the amount owed, the public authority shall must:

(1) apply the amount of the overpayment to reduce the amount of any ~~child support or~~ maintenance-related arrearages or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of any arrearage or debt, reduce the amount of the ~~child support~~ maintenance remitted to the obligee by an amount no greater than 20 percent of the current monthly ~~support or~~ maintenance obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 44. Minnesota Statutes 2002, section 518.646, is amended to read:

518.646 [NOTICE OF ORDER.]

~~Whenever these laws require~~ If a law requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu ~~thereof~~ of the order. The verified notice ~~shall must~~ contain the title of the action, the name of the court, the court file number, the date of the court order, and ~~shall recite~~ the operative provisions of the order.

Sec. 45. Minnesota Statutes 2002, section 518.65, is amended to read:

518.65 [PROPERTY; SALE, PARTITION.]

In order to effect a division or award of property as ~~is provided by~~ under section 518.58, the court may order property sold or partitioned. Personal property may be ordered sold in the manner directed by the court, and real estate may be partitioned in the manner provided by Minnesota Statutes 1949, chapter 558.

Sec. 46. Minnesota Statutes 2002, section 518.68, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in subdivision 2. ~~The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child~~ section 517C.99.

Sec. 47. [REVISOR'S INSTRUCTION.]

The revisor of statutes must renumber the sections in Minnesota Statutes listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

<u>A</u>	<u>B</u>
<u>518.002</u>	<u>517A.02, subd. 5</u>
<u>518.003</u>	<u>517A.01</u>
<u>518.005</u>	<u>517A.02</u>
<u>518.01</u>	<u>517A.07</u>
<u>518.02</u>	<u>517A.08</u>
<u>518.03</u>	<u>517A.09</u>
<u>518.04</u>	<u>517A.10</u>
<u>518.05</u>	<u>517A.11</u>
<u>518.055</u>	<u>517A.12</u>
<u>518.06</u>	<u>517A.15</u>

<u>518.07</u>	<u>517A.16</u>
<u>518.09</u>	<u>517A.18</u>
<u>518.091</u>	<u>517A.19</u>
<u>518.10</u>	<u>517A.20</u>
<u>518.11</u>	<u>517A.22</u>
<u>518.12</u>	<u>517A.23</u>
<u>518.13</u>	<u>517A.24</u>
<u>518.131</u>	<u>517A.03</u>
<u>518.14, subd. 1</u>	<u>517A.04</u>
<u>518.145</u>	<u>517A.28</u>
<u>518.146</u>	<u>517A.21</u>
<u>518.148</u>	<u>517A.26</u>
<u>518.191</u>	<u>517A.27</u>
<u>518.195</u>	<u>517A.17</u>
<u>518.25</u>	<u>517A.30</u>
<u>518.27</u>	<u>517A.25</u>
<u>518.54, subd. 1</u>	<u>517A.31, subd. 1</u>
<u>518.54, subd. 2a</u>	<u>517A.31, subd. 2</u>
<u>518.54, subd. 2b</u>	<u>517A.31, subd. 3</u>
<u>518.54, subd. 3</u>	<u>517A.31, subd. 4</u>
<u>518.54, subd. 4</u>	<u>517A.31, subd. 5</u>
<u>518.54, subd. 5</u>	<u>517A.31, subd. 6</u>
<u>518.54, subd. 6</u>	<u>517A.31, subd. 7</u>
<u>518.54, subd. 7</u>	<u>517A.31, subd. 8</u>
<u>518.54, subd. 8</u>	<u>517A.31, subd. 9</u>
<u>518.54, subd. 9</u>	<u>517A.31, subd. 10</u>
<u>518.54, subd. 10</u>	<u>517A.31, subd. 11</u>
<u>518.54, subd. 11</u>	<u>517A.31, subd. 12</u>
<u>518.54, subd. 12</u>	<u>517A.31, subd. 13</u>
<u>518.55, subd. 1</u>	<u>517A.32, subd. 4</u>
<u>518.55, subd. 3</u>	<u>517A.32, subd. 5</u>
<u>518.552, subd. 1</u>	<u>517A.32, subd. 1</u>
<u>518.552, subd. 2</u>	<u>517A.32, subd. 2</u>
<u>518.552, subd. 3</u>	<u>517A.32, subd. 3</u>
<u>518.552, subd. 4</u>	<u>517A.32, subd. 6</u>
<u>518.552, subd. 5</u>	<u>517A.32, subd. 7</u>
<u>518.58</u>	<u>517A.37</u>
<u>518.581</u>	<u>517A.39</u>
<u>518.582</u>	<u>517A.40</u>
<u>518.63</u>	<u>517A.41</u>
<u>518.64, subd. 1</u>	<u>517A.34, subd. 1</u>
<u>518.64, subd. 2</u>	<u>517A.34, subd. 2</u>
<u>518.64, subd. 3</u>	<u>517A.32, subd. 8</u>
<u>518.641, subd. 1</u>	<u>517A.33, subd. 1</u>
<u>518.641, subd. 2</u>	<u>517A.33, subd. 2</u>
<u>518.641, subd. 2a</u>	<u>517A.33, subd. 3</u>
<u>518.641, subd. 3</u>	<u>517A.43, subd. 4</u>
<u>518.642</u>	<u>517A.35</u>
<u>518.646</u>	<u>517A.05</u>
<u>518.65</u>	<u>517A.38</u>

Sec. 48. [REPEALER.]

Minnesota Statutes 2002, sections 518.14, subdivision 2; 518.24; 518.55, subdivision 4; 518.62; 518.64, subdivisions 4, 4a, and 5; and 518.68, are repealed.

ARTICLE 2

CUSTODY, PARENTING TIME, AND VISITATION

GENERAL 000000<IN> Section 1. [517B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Sec. 2. [517B.03] [TEMPORARY ORDERS RELATING TO CUSTODY AND PARENTING TIME.]

(a) A temporary order for custody or parenting time may be sought under section 517A.03.

(b) A party seeking a temporary custody order must submit with moving papers an affidavit setting forth facts supporting the requested order. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.

Sec. 3. [517B.04] [CUSTODY, PARENTING TIME, AND VISITATION NOTICES.]

A court order or judgment and decree concerning custody of or parenting time with a minor child must contain the notice set out in section 517C.99, subdivision 3.

Sec. 4. [517B.05] [ATTORNEY FEES, COSTS, AND DISBURSEMENTS.]

Attorney fees, costs, and disbursements must be awarded in a proceeding under this chapter as provided by section 517A.04.

Sec. 5. [517B.17] [CUSTODY OF CHILDREN.]

Subdivision 1. [CUSTODY ORDER.] Upon adjudging the nullity of a marriage, in a dissolution or legal separation proceeding, or in a child custody proceeding, the court must make a further order as it deems just and proper concerning:

(1) the legal custody of each minor child of the parties, which must be sole or joint; and

(2) their physical custody and residence.

Subd. 2. [STANDARD; PREFERENCE PROHIBITED.] In determining custody, the court must consider the best interests of the child and must not prefer one parent over the other solely on the basis of the sex of the parent.

Subd. 3. [THE BEST INTERESTS OF THE CHILD; FACTORS.] "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

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

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

(3) the child's primary caretaker;

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

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

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

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

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

(9) the mental and physical health of all individuals involved; except that a disability, as

defined in section 363.01, of a parent or the child is not determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;

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

(11) the child's cultural background;

(12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent;

(13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child; and

(14) evidence of a violation of section 609.507.

Subd. 4. [BEST INTERESTS DETERMINATION.] The court must make detailed findings on each of the factors in subdivision 3 and explain how the factors led to its conclusion and to the determination of the best interests of the child. In determining the best interests of a child, the court may not use one factor in subdivision 3 to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court shall not consider conduct of a parent that does not affect the parent's relationship to the child.

Sec. 6. [517B.18] [JOINT CUSTODY.]

Subdivision 1. [FACTORS WHEN JOINT CUSTODY IS SOUGHT.] In addition to the factors listed in section 517B.17, if either joint legal or joint physical custody is sought, the court must consider the following relevant factors:

(1) the ability of parents to cooperate in the rearing of their child;

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

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

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

Subd. 2. [PRESUMPTIONS; FINDINGS.] (a) The court must use a rebuttable presumption that upon request of either or both parents, joint legal custody is in the best interests of the child. However, the court must use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.

(b) If the court awards joint legal or physical custody over the objection of a parent, the court must make detailed findings on each of the factors in this section and explain how the factors led to its determination that joint custody would be in the best interests of the child.

Subd. 3. [JOINT CUSTODY; SUPPORT GUIDELINES.] An award of joint legal custody is not a reason for departure from the child support guidelines in sections 517C.12 to 517C.16.

Sec. 7. [517B.19] [CUSTODY; ACCESS RIGHTS OF PARENTS; LIMITATIONS.]

Subdivision 1. [ACCESS; LIMITATIONS.] (a) Whether sole or joint legal custody is ordered, the court must grant the following rights to each of the parties, unless specific findings are made under section 517C.99, subdivision 1. Each party:

(1) has the right of access to, and to receive copies of, a minor child's school, medical, dental, religious training, and other important records and information;

(2) has the right of access to information regarding health or dental insurance available to a minor child;

(3) must keep the other party informed as to the name and address of the school a minor child attends;

(4) must notify the other party of any accident or serious illness of a minor child, the name of the health care provider, and the place of treatment; and

(5) has the right to reasonable access and telephone contact with a minor child.

(b) Each party has the right to be informed by school officials about a child's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party.

(c) The court may waive any of the rights under this subdivision if it finds it is necessary to protect the welfare of a party or child.

Sec. 8. Minnesota Statutes 2002, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

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

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

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

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

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

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

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

Sec. 9. Minnesota Statutes 2002, section 518.155, is amended to read:

518.155 [CUSTODY DETERMINATIONS AND PARENTING TIME JURISDICTION.]

Notwithstanding any law to the contrary, a court in which a proceeding for dissolution, legal separation, or child custody has been commenced shall not issue, revise, modify or amend any order, pursuant to ~~sections 518.131, 518.165, 518.168, 518.17, 518.175 or 518.18, which section 517B.03, 517B.08, 517B.16, 517B.21, or 517B.25, that affects the custody of a minor child or the parenting time of a parent unless the court has jurisdiction over the matter pursuant to the provisions of under chapter 518D.~~

Sec. 10. Minnesota Statutes 2002, section 518.156, is amended to read:

518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. [PROCEDURE.] In a court of this state ~~which~~ that has jurisdiction to decide child custody matters, a child custody proceeding is commenced by a parent:

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

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

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

Sec. 11. Minnesota Statutes 2002, section 518.157, subdivision 1, is amended to read:

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

Sec. 12. Minnesota Statutes 2002, section 518.157, subdivision 2, is amended to read:

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

Sec. 13. Minnesota Statutes 2002, section 518.157, subdivision 3, is amended to read:

Subd. 3. [ATTENDANCE.] In a proceeding under this chapter or sections 257.51 to 257.75 where custody or parenting time is contested, the parents of a minor child ~~shall~~ must attend an orientation and education program that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or parenting time the court may order the parents of a minor child to attend a parent education program. The program ~~shall~~ must provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or parenting time proceeding may attend a parent education program without a court order. Participation in a parent education program must occur as early as possible. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court ~~shall~~ must not require the parties to attend the same parent education sessions and ~~shall~~ must enter an order setting forth the manner in which the parties may safely participate in the program.

Sec. 14. Minnesota Statutes 2002, section 518.157, subdivision 5, is amended to read:

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

Sec. 15. Minnesota Statutes 2002, section 518.157, subdivision 6, is amended to read:

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

Sec. 16. Minnesota Statutes 2002, section 518.165, is amended to read:

518.165 [GUARDIANS FOR MINOR CHILDREN.]

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

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

Subd. 2a. [RESPONSIBILITIES OF GUARDIAN AD LITEM.] A guardian ad litem shall must 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.

Subd. 3. [FEES.] (a) A guardian ad litem appointed under either subdivision 1 or 2 may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court shall must enter an order for costs, fees, and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying shall must be borne by the state courts. The costs of court-appointed counsel to the guardian ad litem shall must be paid by the county in which the proceeding is being held if a party is incapable of paying for them. Until the recommendations of the task force created in Laws 1999, chapter 216, article 7,

section 42, are implemented, the costs of court-appointed counsel to a guardian ad litem in the eighth judicial district shall must be paid by the state courts if a party is incapable of paying for them. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

(b) In each fiscal year, the state treasurer shall must deposit guardian ad litem reimbursements in the general fund and credit them to a separate account with the trial courts. The balance of this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator's office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district.

Sec. 17. Minnesota Statutes 2002, section 518.166, is amended to read:

518.166 [INTERVIEWS; RECOMMENDATIONS.]

The court may interview the child in chambers to ascertain the child's reasonable preference as to ~~custodian~~ regarding with which parent the child would reside, if the court deems the child to be of sufficient age to express preference. The court shall must permit counsel to be present at the interview and shall must permit counsel to propound reasonable questions to the child either directly or through the court. The court shall must cause a record of the interview to be made and to be made part of the record in the case unless waived by the parties.

In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may seek the recommendations of professional personnel whether or not they are employed on a regular basis by the court. The recommendations ~~given shall~~ must be in writing and shall must be made available by the court to counsel upon request. Counsel may call for cross-examination of professional personnel consulted by the court.

Sec. 18. Minnesota Statutes 2002, section 518.167, subdivision 3, is amended to read:

Subd. 3. [AVAILABILITY TO COUNSEL.] The court shall must mail the investigator's report to counsel and to any party not represented by counsel at least ten days before the hearing. The investigator shall must maintain and, upon request, make available to counsel and to a party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subdivision 2, and the names and addresses of all persons whom the investigator has consulted. ~~The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the right of cross-examination before the hearing.~~

Sec. 19. Minnesota Statutes 2002, section 518.167, subdivision 4, is amended to read:

Subd. 4. [USE AT DISCOVERY; HEARING.] The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not subject to discovery without written consent of both parties. A party to the proceeding may cross-examine at the hearing the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination before the hearing. The investigator's report may be received in evidence at the hearing.

Sec. 20. Minnesota Statutes 2002, section 518.167, subdivision 5, is amended to read:

Subd. 5. [COSTS.] The court shall must order all or part of the cost of the investigation and report to be paid by either or both parties, based on their ability to pay. Any part of the cost that the court finds the parties are incapable of paying must be borne by the ~~county welfare~~ local social services agency or department of court services that performs the investigation. The court may not order costs under this subdivision to be paid by a party receiving public assistance or legal

assistance from a qualified legal services program or by a party whose annual income falls below the poverty line under United States Code, title 42, section 9902(2).

Sec. 21. Minnesota Statutes 2002, section 518.168, is amended to read:

518.168 [HEARINGS.]

(a) Custody proceedings ~~shall~~ must receive priority in being set for hearing.

(b) The court may tax as costs the payment of necessary travel and other expenses incurred by a person whose presence at the hearing the court deems necessary to determine the best interests of the child.

(c) The court without a jury ~~shall~~ must determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct interest in the particular case.

(d) If the court finds it necessary for the protection of the child's welfare that the record of an interview, report, investigation, or testimony in a custody proceeding not be ~~kept secret~~ disclosed, the court may make an appropriate order sealing the record.

Sec. 22. Minnesota Statutes 2002, section 518.1705, subdivision 2, is amended to read:

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

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

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

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

Sec. 23. Minnesota Statutes 2002, section 518.1705, subdivision 6, is amended to read:

Subd. 6. [RESTRICTIONS ON PREPARATION AND CONTENT OF PARENTING PLAN.]

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

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

- (1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;
- (2) physical, sexual, or a pattern of emotional abuse of a child; or
- (3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

Sec. 24. Minnesota Statutes 2002, section 518.1705, subdivision 7, is amended to read:

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

- (1) both parents were represented by counsel when the parenting plan was approved; or
- (2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 25. Minnesota Statutes 2002, section 518.1705, subdivision 8, is amended to read:

Subd. 8. [ALLOCATION OF CERTAIN EXPENSES.] (a) Parents creating a parenting plan are subject to the requirements of the child support guidelines under ~~section 518.551~~ sections 517C.12 to 517C.18.

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

Sec. 26. Minnesota Statutes 2002, section 518.1705, subdivision 9, is amended to read:

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

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

- (1) both parties were represented by counsel when the parenting plan was approved; or
 - (2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.
- (c) If the parties do not agree to apply the best interests standard, section 518.18, paragraph (d), applies.

Sec. 27. Minnesota Statutes 2002, section 518.175, is amended to read:

518.175 [PARENTING TIME.]

Subdivision 1. [GENERAL.] (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court ~~shall~~ must, upon the request of either parent, grant ~~such~~ parenting time on behalf of the child and a parent as that will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

(b) If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court ~~shall~~ must restrict parenting time with that parent as to time, place, duration, or supervision and may ~~deny~~ deny parenting time entirely, as the circumstances warrant. The court ~~shall~~ must consider the age of the child and the child's relationship with the parent ~~prior to~~ before the commencement of the proceeding.

(c) A parent's failure to pay support because of the parent's inability to do so ~~shall~~ is not be sufficient cause for denial of parenting time.

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

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

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

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

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

Subd. 2. [RIGHTS OF CHILDREN AND PARENTS.] Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and each parent under the order or decree or any substantial amendment ~~thereof~~ of it. The parent with whom the child resides shall must present the child for parenting time with the other parent, at ~~such~~ the times as the court directs.

Subd. 3. [MOVE TO ANOTHER STATE.] The parent with whom the child resides shall must not move the child's residence ~~of the child~~ to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall must not permit the child's residence to be moved to another state.

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

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

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

(b) If a parent makes specific allegations that parenting time by the other parent places the parent or child in danger of harm, the court shall must hold a hearing at the earliest possible time to determine the need to modify the order granting parenting time. Consistent with subdivision ~~1a~~ 2, the court may require a third party, including the local social services agency, to supervise the parenting time or may restrict a parent's parenting time if necessary to protect the other parent or child from harm. If there is an existing order for protection governing the parties, the court shall must consider the use of an independent, neutral exchange location for parenting time.

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

(b) If the court finds that a ~~person~~ parent has been deprived of court-ordered parenting time, the court shall must order the parent who ~~has interfered~~ caused the deprivation to allow compensatory parenting time to the other parent or the court shall must make specific findings as to why a request for compensatory parenting time is denied. If compensatory parenting time is awarded, additional parenting time must be:

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

- (2) taken within one year after the deprived parenting time; and
- (3) at a time acceptable to the parent deprived of parenting time.

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

- (1) impose a civil penalty of up to \$500 on the party;
- (2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;
- (3) award reasonable attorney's fees and costs;
- (4) require the party who violated the parenting time order or binding agreement or decision of the parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement, or decision; or
- (5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

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

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

Subd. 8. [ADDITIONAL PARENTING TIME FOR CHILD CARE PARENT.] The court may allow additional parenting time to a parent to provide child care while the other 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 must consider:

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

Sec. 28. Minnesota Statutes 2002, section 518.1751, subdivision 1b, is amended to read:

Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a parenting time expeditor is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order and, if appropriate, to make a determination as to whether the existing parenting time order has been violated. A parenting time expeditor may be appointed to resolve a onetime parenting time dispute or to provide ongoing parenting time dispute resolution services. A parenting time expeditor must attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement. If it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor must make a decision resolving the dispute.

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

(c) A "parenting time expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve parenting time disputes. ~~A parenting time expeditor shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor shall make a decision resolving the dispute.~~

Sec. 29. Minnesota Statutes 2002, section 518.1751, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT.] (a) The parties may stipulate to the appointment of a parenting time expeditor or a team of two expeditors without appearing in court ~~by submitting. The parties may submit to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the parenting time expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court shall must review the agreement of the parties.~~

(b) If the parties cannot agree on a parenting time expeditor, the court ~~shall must provide to the parties them with a copy of the court administrator's roster of parenting time expeditors and require the parties to exchange the names of three potential parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a parenting time expeditor, the court shall must select the parenting time expeditor and, in its discretion, may appoint one expeditor or a team of two expeditors. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as parenting time expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them.~~

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

Sec. 30. Minnesota Statutes 2002, section 518.1751, subdivision 2a, is amended to read:

Subd. 2a. [FEES.] ~~Prior to Before~~ appointing the parenting time expeditor, the court shall must give the parties notice that the ~~expeditor's fees of the expeditor~~ will be apportioned among the parties. In its order appointing the expeditor, the court shall must apportion the expeditor's fees ~~of the expeditor~~ among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is not a an existing court order that provides for apportionment of apportioning the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the ~~expeditor's fees of the expeditor~~ in advance. Neither party may be required to submit a dispute to a ~~visitation~~ an expeditor if the party cannot afford to pay ~~for the fees of an expeditor~~ and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Sec. 31. Minnesota Statutes 2002, section 518.1751, subdivision 2b, is amended to read:

Subd. 2b. [ROSTER OF PARENTING TIME EXPEDITORS.] ~~Each~~ The court administrator shall must maintain and make available to judicial officers and the public and judicial officers a roster of individuals available to serve as parenting time expeditors, ~~including. The roster must include each individual's name, address, telephone number, and fee charged, if any. A court administrator shall must not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a parenting time an expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as an expeditor even if that~~

person has not completed the training described in subdivision 2c. The court may appoint a person to serve as an expeditor even if the person who is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of parenting time expeditors, an individual shall must annually submit to the court administrator proof of completion of continuing education requirements.

Sec. 32. Minnesota Statutes 2002, section 518.1751, subdivision 2c, is amended to read:

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

Sec. 33. Minnesota Statutes 2002, section 518.1751, subdivision 3, is amended to read:

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

(b) If the parties do not reach an agreement, the expeditor shall must make a decision resolving the dispute as soon as possible, but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. The expeditor is authorized to award compensatory parenting time under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the parenting time order has been violated. The expeditor ~~shall not lose~~ retains the authority to make a decision if circumstances beyond the expeditor's control make it impracticable to meet the five-day timelines.

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

(d) The expeditor shall must put an agreement or decision in writing and provide a copy to the parties. The expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court and shall must attach a copy of the parties' written agreement or the decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Sec. 34. Minnesota Statutes 2002, section 518.1752, is amended to read:

518.1752 [GRANDPARENT AND OTHERS; VISITATION.]

~~In all proceedings~~ During a proceeding for dissolution or legal separation, ~~after the commencement of the proceeding~~ or at any time after completion of the proceedings, and continuing during the child's minority ~~of the child~~, the court may make an order granting visitation rights to grandparents ~~under~~ and other individuals as provided by section 257C.08, subdivision 2.

Sec. 35. Minnesota Statutes 2002, section 518.176, is amended to read:

518.176 [JUDICIAL SUPERVISION.]

~~Subdivision 1. [LIMITS ON PARENT'S AUTHORITY; HEARING.] Except as otherwise agreed by the parties in writing at the time of the custody order, (a) The parent with whom the child resides may determine the child's upbringing, including education, health care, and religious training, unless:~~

~~(1) otherwise agreed by the parties in writing at the time of the custody order; or~~

~~(2) upon motion by the other parent, the court after hearing, finds, upon motion by the other parent, that in the absence of a specific limitation of the authority of the parent with whom the child resides, the child's physical or emotional health is likely to be endangered or the child's emotional development impaired.~~

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

Sec. 36. Minnesota Statutes 2002, section 518.177, is amended to read:

518.177 [NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.]

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

Sec. 37. Minnesota Statutes 2002, section 518.178, is amended to read:

518.178 [PARENTING TIME AND SUPPORT REVIEW HEARING.]

Upon motion of either party, the court shall must conduct a hearing to review compliance with the parenting time and child support provisions ~~set forth~~ in a decree of dissolution or legal separation or an order that establishes child custody, parenting time, and support rights and obligations of parents. The state court administrator shall must prepare, and each court administrator shall must make available, simplified pro se forms for reviewing parenting time and child support disputes. The court may impose any parenting time enforcement remedy available under ~~sections 518.175 and 518.1751~~ this section or section 517B.26, and any support enforcement remedy available under section 518.551.

Sec. 38. Minnesota Statutes 2002, section 518.179, subdivision 1, is amended to read:

Subdivision 1. [SEEKING CUSTODY OR PARENTING TIME.] (a) Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or parenting time who has been convicted of a crime described in subdivision 2, ~~the person seeking custody or parenting time~~ has the burden to prove that custody or parenting time by that person is in the best interests of the child if:

(1) the conviction occurred within the preceding five years;

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

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

(b) If this section applies, the court may not grant custody or parenting time to the person unless it finds that the custody or parenting time is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Sec. 39. Minnesota Statutes 2002, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

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

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

(1) if otherwise agreed to in writing by the parties; or

(2) in accordance with paragraph (c).

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

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

(i) (1) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) (2) both parties agree to the modification;

(iii) (3) the child has been integrated into the family of the petitioner with the consent of the other party; or

(iv) (4) 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,~~ (e) A court may modify a custody order or parenting plan under section 631.52.

(e) (f) In deciding whether to modify a prior joint custody order, the court ~~shall~~ must 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 parent has been granted sole physical custody of a minor and the child subsequently~~

~~lives with the other parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee;~~

(g) The court may suspend the obligor's child support obligation pending the a final custody determination if:

(1) the obligee has been granted sole physical custody of a child;

(2) the child subsequently lives with the obligor; and

(3) a temporary sole custody order has been approved by the court or a court-approved referee.

~~The court's~~ A court order denying the suspension of child support under this paragraph must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

(h) A party seeking modification of a custody order must submit with moving papers an affidavit setting forth facts supporting the requested modification. The party must give notice and a copy of the affidavit to other parties to the proceeding, who may file opposing affidavits.

Sec. 40. Minnesota Statutes 2002, section 518.612, is amended to read:

518.612 [INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.]

~~Failure by a party to make support payments is not a defense to:~~

~~(1) interference with parenting time; or~~

~~(2) without the permission of the court or the other parent, removing a child from this state.~~

~~Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support. If a party fails to make support payments, interferes with parenting time, or removes a child from the state without permission of the court or the other parent, the other party may petition the court for an appropriate order.~~

(a) An obligor may not assert as a defense to failure to pay child support that the obligee interfered with parenting time or removed the child from the state without permission of the obligor or the court.

(b) An obligee may not assert as a defense to interference with parenting time or removing the child from the state without permission of the obligor or the court, that the obligor failed to pay child support.

(c) A party may petition the court for an appropriate order if the other party:

(1) fails to make support payments;

(2) interferes with parenting time; or

(3) removes a child from this state without permission of the court or the other parent.

Sec. 41. Minnesota Statutes 2002, section 518.619, is amended to read:

518.619 [CUSTODY OR VISITATION PARENTING TIME; MEDIATION SERVICES.]

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

Subd. 2. [EXCEPTION.] If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by ~~the other a~~ party, the court ~~shall~~ must not require or refer the parties to mediation or any other process that requires parties to meet ~~and~~ confer without counsel, if any, present.

Subd. 3. [MEDIATOR APPOINTMENT.] In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. [MEDIATOR QUALIFICATIONS.] A mediator who performs mediation in contested child custody matters ~~shall~~ must meet the following minimum qualifications:

(a) (1) knowledge of the court system and the procedures used in contested child custody matters;

(b) (2) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;

(c) (3) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and

(d) (4) a minimum of 40 hours of certified mediation training.

Subd. 5. [RECORDS; PRIVATE DATA.] Mediation proceedings ~~shall~~ must be conducted in private. All records of a mediation proceeding ~~shall be~~ are private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before a hearing on the issues. The mediator may not conduct the investigation or evaluation unless: (1) the parties agree in a writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2) there is no other person reasonably available to conduct the investigation or evaluation. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 7. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation ~~shall~~ must be discussed by the parties with their attorneys, if any, ~~and~~. The approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8. [RULES.] Each court ~~shall~~ must adopt rules to implement this section, and ~~shall~~ must compile and maintain a list of mediators.

Sec. 42. Minnesota Statutes 2002, section 519.11, subdivision 1, is amended to read:

Subdivision 1. [ANTENUPTIAL CONTRACT.] A man and woman of legal age may enter into an antenuptial contract or settlement prior to solemnization of marriage which shall be valid and enforceable if (a) there is a full and fair disclosure of the earnings and property of each party, and (b) the parties have had an opportunity to consult with legal counsel of their own choice. An antenuptial contract or settlement made in conformity with this section may determine what rights each party has in the nonmarital property, defined in section 518.54, subdivision 5, clauses (a) (1) to (d) (4), upon dissolution of marriage, legal separation or after its termination by death and may bar each other of all rights in the respective estates not so secured to them by their agreement. This

section shall not be construed to make invalid or unenforceable any antenuptial agreement or settlement made and executed in conformity with this section because the agreement or settlement covers or includes marital property, if the agreement or settlement would be valid and enforceable without regard to this section.

Sec. 43. [REVISOR'S INSTRUCTION.]

The revisor of statutes must renumber the sections in Minnesota Statutes listed in column A as indicated in column B and correct cross-references to those sections throughout Minnesota Statutes and Minnesota Rules.

A	B
<u>518.003, subd. 2</u>	<u>517B.01, subd. 5</u>
<u>518.003, subd. 3</u>	<u>517B.01, subd. 2</u>
<u>518.003, subd. 4</u>	<u>517B.01, subd. 3</u>
<u>518.003, subd. 5</u>	<u>517B.01, subd. 4</u>
<u>518.155</u>	<u>517B.02</u>
<u>518.156</u>	<u>517B.13</u>
<u>518.157</u>	<u>517B.06</u>
<u>518.165, subd. 1</u>	<u>517B.08, subd. 1</u>
<u>518.165, subd. 2</u>	<u>518B.08, subd. 2</u>
<u>518.165, subd. 2a</u>	<u>517B.08, subd. 3</u>
<u>518.165, subd. 3</u>	<u>517B.08, subd. 4</u>
<u>518.166</u>	<u>517B.14</u>
<u>518.167</u>	<u>517B.15</u>
<u>518.168</u>	<u>517B.16</u>
<u>518.1705</u>	<u>517B.28</u>
<u>518.175, subd. 1</u>	<u>517B.25, subd. 1</u>
<u>518.175, subd. 1a</u>	<u>517B.25, subd. 2</u>
<u>518.175, subd. 2</u>	<u>517B.25, subd. 3</u>
<u>518.175, subd. 3</u>	<u>517B.25, subd. 4</u>
<u>518.175, subd. 5</u>	<u>517B.25, subd. 6</u>
<u>518.175, subd. 6</u>	<u>517B.25, subd. 7</u>
<u>518.175, subd. 8</u>	<u>517B.25, subd. 8</u>
<u>518.1751, subd. 1</u>	<u>517B.26, subd. 1</u>
<u>518.1751, subd. 1a</u>	<u>517B.26, subd.3</u>
<u>518.1751, subd. 1b</u>	<u>517B.26, subd. 2</u>
<u>518.1751, subd. 2</u>	<u>517B.26, subd. 6</u>
<u>518.1751, subd. 2a</u>	<u>517B.26, subd. 7</u>
<u>518.1751, subd. 2b</u>	<u>517B.26, subd. 4</u>
<u>518.1751, subd. 2c</u>	<u>517B.26, subd. 5</u>
<u>518.1751, subd. 3</u>	<u>517B.26, subd. 8</u>
<u>518.1751, subd. 4</u>	<u>517B.26, subd. 13</u>
<u>518.1751, subd. 4a</u>	<u>517B.26, subd. 9</u>
<u>518.1751, subd. 5</u>	<u>517B.26, subd. 10</u>
<u>518.1751, subd. 5a</u>	<u>517B.26, subd. 11</u>
<u>518.1751, subd. 6</u>	<u>517B.26, subd. 12</u>
<u>518.1752</u>	<u>517B.30</u>
<u>518.176</u>	<u>517B.20</u>
<u>518.177</u>	<u>517B.04 para. (b)</u>
<u>518.178</u>	<u>517B.25, subd. 5</u>
<u>518.179</u>	<u>517B.09</u>
<u>518.18</u>	<u>517B.21</u>
<u>518.183</u>	<u>517B.27</u>
<u>518.612</u>	<u>517B.10</u>

518.619517B.07

Sec. 44. [REPEALER.]

Minnesota Statutes 2002, sections 518.17; 518.1752; and 518.185; are repealed.

ARTICLE 3

CHILD SUPPORT

Section 1. [517C.01] [TITLE.]

This chapter may be cited as the "Minnesota Child Support Act."

Sec. 2. [517C.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.Subd. 2. [ARREARS.] "Arrears" means amounts owed under a support order that are past due. Arrears include:(1) child support;(2) the entire amount of court-ordered past support and pregnancy and confinement expenses if:(i) the order does not contain repayment terms; or(ii) the order contains repayment terms and the obligor fails to comply with the repayment terms; and(3) attorney fees and any other collection costs addressed in a support order under section 517C.84.Subd. 3. [BASIC SUPPORT.] "Basic support" means the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's private school tuition, child care expenses, and medical and dental expenses.Subd. 4. [BUSINESS DAY.] "Business day" means a day on which state offices are open for regular business.Subd. 5. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.Subd. 6. [CHILD SUPPORT.] "Child support" means an amount for basic support, child care support, and medical support pursuant to:(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support, and education of a child of the marriage or of the parties to the proceeding;(2) a contribution by parents ordered under section 256.87; or(3) support ordered under chapter 518B or 518C.Subd. 7. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.Subd. 8. [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.Subd. 9. [OBLIGEE.] "Obligee" means a person to whom payments for child support are owed.

Subd. 10. [OBLIGOR.] "Obligor" means a person obligated to pay child support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support unless the court makes specific written findings to overcome this presumption. For purposes of ordering medical support under section 517C.17, a custodial parent may be an obligor subject to income withholding under section 517C.17; a cost-of-living adjustment under section 517C.31; and a payment agreement under section 517C.71.

Subd. 11. [PAYMENT.] "Payment" means the payment of child support and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 12. [PAYOR OF FUNDS.] "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24 of the Internal Revenue Code, section 3401(d), an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution as defined in section 13B.06.

Subd. 13. [PUBLIC AUTHORITY.] "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the child support enforcement division of the department of human services.

Subd. 14. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction that:

(1) provides for the support of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living;

(2) provides for basic support, child care, medical support including expenses for confinement and pregnancy, arrears, or reimbursement; and

(3) may include related costs and fees, interest and penalties, income withholding, and other relief.

(b) The definition in paragraph (a) applies to orders issued under this chapter and chapters 256, 257, and 518C.

Subd. 15. [TRIBUNAL.] "Tribunal" has the meaning given in section 518C.101.

Subd. 16. [UNCLAIMED SUPPORT FUNDS.] "Unclaimed support funds" means any support payments collected by the public authority from the obligor, which have not been disbursed to the obligee or public authority.

Subd. 17. [IV-D CASE.] "IV-D case" means a case where a party assigns rights to child support to the state because the party receives public assistance, as defined in section 256.741, or applies for child support services under title IV-D of the Social Security Act, United States Code, title 42, section 654(4).

Sec. 3. [517C.04] [CHILD SUPPORT ORDERS.]

Subdivision 1. [ORDER.] (a) Upon dissolution of marriage, legal separation, annulment, establishment of paternity, or when otherwise required by statute, the court must order child support as provided by this chapter.

(b) Nothing contained in this chapter limits the power of the court to make appropriate, adequate orders for the support and education of a child of the parties to a dissolution, legal separation, or annulment action if the dissolution, legal separation, or annulment is denied.

Subd. 2. [PROVISIONS.] Child support orders must provide for general child rearing costs or basic support and must also specifically address child care costs and medical care, providing for those costs pursuant to this chapter.

Subd. 3. [AGREEMENTS.] If the parties stipulate or agree to a child support order, the court

must review the agreement to ensure it serves the best interests of the child. The Minnesota Supreme Court may promulgate rules regarding the review of stipulations and agreements. The court may refuse to accept or may alter an agreement that does not conform with the requirements of this chapter or that is otherwise not in the best interests of the child.

Subd. 4. [SPECIFIC DOLLAR AMOUNT.] (a) The court must order child support in a specific dollar amount.

(b) The court may order an 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.

Subd. 5. [PREFERENCE FOR MONTHLY PAYMENT.] There is a presumption in favor of ordering child support in an amount that reflects an obligor's monthly obligation.

Subd. 6. [PREFERENCE FOR STATIC PAYMENT.] There is a presumption in favor of ordering child support so that an obligor makes the same monthly payments throughout the year, as opposed to payment amounts that fluctuate by season or month. If the obligor is seasonally employed, it is generally the obligor's responsibility to budget income accordingly.

Subd. 7. [DEPARTURE.] The court may depart from a presumption in subdivision 5 or 6 if:

(1) all parties agree; or

(2) the presumption would impose an extreme hardship on the obligor and would not be in the best interests of the child.

Subd. 8. [CHILD SUPPORT TO BE DISTINGUISHED FROM MAINTENANCE.] In a judgment of dissolution or legal separation, the court must clearly distinguish between payments ordered for maintenance and payments ordered for child support. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the other parent is presumed to be child support, unless otherwise designated by the court.

Subd. 9. [OTHER CUSTODIANS.] If a child resides with a person other than a parent and the court approves of the custody arrangement, the court may order child support payments to be made to the custodian regardless of whether the person has legal custody.

Subd. 10. [EITHER PARENT LIABLE; MARITAL MISCONDUCT IRRELEVANT.] The court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

Sec. 4. [517C.05] [TEMPORARY ORDERS.]

Subdivision 1. [MOTION; SCOPE.] In a child support proceeding a party may, by motion, request that the court grant a temporary order pending the final disposition of the proceeding for temporary child support, costs, and reasonable attorney fees. Additionally, to facilitate the just and speedy disposition of the proceeding, the court may require a party to perform or refrain from performing additional acts.

Subd. 2. [DURATION.] A temporary order continues in full force and effect until:

(1) it is amended;

(2) it is vacated;

(3) the main action is dismissed; or

(4) a final decree of dissolution, legal separation, or other final order is entered.

Subd. 3. [FACTORS.] The court must consider the factors set forth in this chapter in making temporary orders.

Subd. 4. [EVIDENCE.] Temporary orders must be made solely on the basis of affidavits and argument of counsel unless:

(1) a party makes a timely motion or responsive motion to hear the matter on oral testimony before the court; or

(2) the court, in its discretion, orders the taking of oral testimony.

Subd. 5. [LIMITED EFFECT.] A temporary order does not prejudice the rights of the parties or the child that are to be adjudicated at subsequent hearings in the proceeding.

Subd. 6. [REVOCATION; MODIFICATION.] A temporary order may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Sec. 5. [517C.06] [DETERMINATION OF CONTROLLING ORDER.]

The public authority or a party may request the court to determine a controlling order when more than one order involving the same obligor and child exists.

Sec. 6. [517C.07] [ATTORNEY FEES; COSTS AND DISBURSEMENTS.]

Subdivision 1. [GENERAL.] (a) Except as provided in section 517C.84, in a proceeding under this chapter, the court must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding if:

(1) the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Fees, costs, and disbursements may be awarded at any point during or after a proceeding under this chapter, including if a proceeding is dismissed or abandoned.

(c) The court may assess costs and disbursements against either party.

Subd. 2. [UNREASONABLE ACTIONS.] The court may, in its discretion, assess additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding.

Subd. 3. [COLLECTION.] The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney fees survives the proceeding. If the award is not paid by the party directed to pay it, the award may be enforced as provided by this subdivision or by a separate civil action brought in the attorney's own name.

Sec. 7. [517C.10] [EXCHANGE OF INFORMATION.]

Subdivision 1. [DOCUMENTATION.] (a) The parties must timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation at least ten days before the prehearing conference.

(b) Documentation of earnings and income includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, W-2 forms, 1099 forms, unemployment insurance benefits statements, workers' compensation statements, and all other documents evidencing the receipt of income that provide verification of income over a longer period.

Subd. 2. [EXCHANGE OF TAX RETURNS.] At any time after a party commences an action seeking child support or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the other party's most recent federal tax returns that were filed with the Internal Revenue Service. The party must provide a copy of the tax returns within 30 days of receiving the request unless the request is not made in good faith. A party may not make a request under this subdivision more than once every two years, in the absence of good cause.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] An obligor must notify other parties of a change of address or residence within 60 days of the address or residence change.

Subd. 4. [NOTICE TO PUBLIC AUTHORITY; PUBLIC ASSISTANCE.] The petitioner must 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 public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates.

Subd. 5. [FAILURE OF NOTICE.] If the court in a dissolution, legal separation, or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court must set child support according to the guidelines in this chapter. In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is lower than the child support required by the guidelines in this chapter, it must move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

Sec. 8. [517C.11] [PRIVACY PROTECTION; PERSONAL PROTECTION.]

Subdivision 1. [SOCIAL SECURITY NUMBERS; TAX RETURNS.] The social security numbers and tax returns required under this chapter are not accessible to the public, except that they must be disclosed to the other parties to a proceeding as provided in section 517C.10.

Subd. 2. [MODIFICATION OF CERTAIN REQUIREMENTS.] The court may waive, modify, or limit the information exchange requirements of this chapter by order if necessary to protect a party from contact by another party.

Subd. 3. [ACCESS TO ADDRESS FOR SERVICE OF PROCESS.] (a) If the public authority is a party or is providing services in a child support case, a party may obtain an ex parte order under this subdivision. The party may obtain an ex parte order requiring the public authority to serve legal documents on the other party by mail if the party submits a sworn affidavit to the court stating that:

(1) the party needs to serve legal process in a support proceeding and does not have access to the address of the other party;

(2) the party has made reasonable efforts to locate the other party; and

(3) the other party is not represented by counsel.

(b) The public authority must serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The public authority must provide for appropriate service and must certify to all parties the date of service by mail. The public authority's proof of service must not include the place or address of service.

(c) The state court administrator must prepare and make available forms for use in seeking access to an address under this subdivision.

Sec. 9. [517C.12] [INCOME.]

Subdivision 1. [DEFINITION.] For purposes of calculating child support under this chapter, "income" means gross income.

Subd. 2. [SOURCES.] For purposes of this chapter, income includes any form of periodic payment to an individual including, but not limited to:

- (1) wages;
- (2) salaries;
- (3) payments to an independent contractor;
- (4) workers' compensation;
- (5) unemployment insurance benefits;
- (6) annuity;
- (7) military and naval retirement;
- (8) pension and disability payments; and

(9) 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.

Subd. 3. [COMMISSIONS; BONUSSES.] If the court finds that a party's commissions or bonuses are reliable and predictable, the court may include them in income calculations.

Subd. 4. [SELF-EMPLOYMENT; INDEPENDENT CONTRACTORS.] Income from self-employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses include what would otherwise be the employer's share of the contributions under the Federal Insurance Contributions Act (FICA), United States Code, title 26, subtitle C, chapter 21, subchapter A, sections 3101 to 3126. Ordinary and necessary expenses do not necessarily include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Income calculated under this section may be different from taxable income.

Subd. 5. [PUBLIC ASSISTANCE EXCLUSIONS.] Benefits received under chapter 256J and Title IV-A of the Social Security Act are not income under this section.

Subd. 6. [OVERTIME.] (a) Income does not include compensation received by a party for employment in excess of a 40-hour work week if:

- (1) the excess employment is not within the normal range of hours worked, given the party's employment history;
- (2) the excess employment is voluntary and not a condition of employment;
- (3) the excess employment is in the nature of additional, part-time, or overtime employment compensable by the hour or fraction of an hour; and
- (4) the party's compensation structure has not been changed for the purpose of affecting a child support obligation.

(b) The court may presume that a party with seasonal or intermittent income who works periods in excess of a 40-hour work week, but who works a substantially normal number of hours over the course of a year, is working within the normal range of hours worked.

Subd. 7. [INCOME OF A SPOUSE OR OTHER HOUSEHOLD MEMBER.] (a) Income must not include the income of a party's spouse or other household member. The court must not consider the income or resources provided by a spouse or other household member when determining all the earnings, income, and resources of a parent under sections 517C.25 to 517C.29.

(b) Notwithstanding paragraph (a), the court may issue an order permitting discovery of a spouse's or other household member's income information if there is probable cause to believe the spouse or other household member is being used to shelter income from a party. If the court finds that income was improperly or unfairly sheltered, it may impute income to the party or otherwise adjust the support amount in a just and proper manner. However, the court may not under any circumstances consider income or resources properly attributable to a spouse or other household member when setting support.

Subd. 8. [PRIOR CHILD SUPPORT OR MAINTENANCE ORDERS.] The amount of a child support or maintenance order, not including orders for child support or maintenance debts or arrears, must be deducted from income.

Subd. 9. [LEGALLY DEPENDENT CHILD.] (a) For purposes of this subdivision, a "legally dependent child" means a child:

(1) whose primary residence is with a parent eligible for a deduction from income under this subdivision;

(2) whom the parent has the legal duty to support;

(3) who is not a subject of the current child support action;

(4) for whom the parent is not ordered to pay child support; and

(5) for whom no other person has court-ordered sole physical custody.

(b) The court must deduct an amount from a parent's income for a legally dependent child. The amount deducted from income for each legally dependent child must be computed using the following method:

(1) determine 120 percent of the federal poverty guidelines for a family size equal to two parents plus each legally dependent child;

(2) divide the amount determined under clause (1) by the family size determined under clause (1);

(3) multiply the amount calculated under clause (2) by the number of legally dependent children; and

(4) divide the amount calculated under clause (3) by two to determine the deduction amount for one parent. The amount determined for one parent must be divided by 12 to determine the amount of the deduction from a parent's monthly income.

(c) The commissioner of human services must publish a table listing the amount of the deduction for each legally dependent child by family size and must update the table for changes to the federal poverty guidelines by July 1 of each year.

Sec. 10. [517C.13] [IMPUTED INCOME.]

Subdivision 1. [NONAPPEARANCE OF A PARENT.] If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court must set income for that parent based on credible evidence before the court or in accordance with subdivision 3. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of economic security under section 268.044.

Subd. 2. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a) The principles of income imputation apply equally to both parents.

(b) If the court finds that a parent is voluntarily unemployed or underemployed or was voluntarily unemployed or underemployed during the period for which past support is being sought, a court must calculate support based on a determination of imputed income.

(c) A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) the unemployment or underemployment is temporary and will ultimately lead to an increase in income;

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent’s diminished income on the child;

(3) the parent is a recipient of public assistance under section 256.741; or

(4) the parent is physically or mentally incapacitated.

(d) Imputed income means the estimated earning ability of a parent based on the parent’s prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent’s qualifications.

Subd. 3. [INSUFFICIENT INFORMATION.] If there is insufficient information to determine actual income or to impute income pursuant to subdivision 1 or 2, the court may calculate support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher.

Sec. 11. [517C.14] [PRESUMPTIVE CHILD SUPPORT ORDER; GENERAL.]

Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in sections 517C.12 to 517C.18 are a rebuttable presumption and must be used in all cases when establishing or modifying child support.

Subd. 2. [CHILD’S INSURANCE BENEFIT.] In establishing or modifying child support, if a child receives a child’s insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered must be offset by the amount of the child’s benefit. The court must make findings regarding the obligor’s income from all sources, the child support amount calculated under this chapter, the amount of the child’s benefit, and the obligor’s child support obligation. A benefit received by the child in a given month in excess of the child support obligation must not be treated as a payment of arrears or a future payment.

Sec. 12. [517C.15] [BASIC SUPPORT.]

Subdivision 1. [BASIC SUPPORT; SCHEDULE.] (a) Unless otherwise agreed to by the parents and approved by the court, the court must order that basic support be divided between the parents based on their proportionate share of the parents’ combined monthly income, as determined under section 517C.12.

(b) For parents with a combined monthly income less than or equal to 100 percent of the federal poverty guidelines amount for two people, the commissioner of human services must determine the percentages in this paragraph by taking two times the minimum basic support amount under section 517C.18, subdivision 2, divided by 100 percent of the federal poverty guidelines amount for two people. For all other parents, basic support must be computed using the following schedule, prepared based on 2001 United States Department of Agriculture expenditure data:

<u>Parents’ Combined Monthly Income</u>	<u>Number of Children</u>					
	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>Below \$1,000</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,000 - \$1,499</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,500 - \$1,999</u>	<u>19.4%</u>	<u>31.3%</u>	<u>36.2%</u>	<u>42.0%</u>	<u>48.7%</u>	<u>56.5%</u>
<u>\$2,000 - \$2,499</u>	<u>28.7%</u>	<u>46.3%</u>	<u>53.5%</u>	<u>62.1%</u>	<u>72.0%</u>	<u>83.5%</u>
<u>\$2,500 - \$2,999</u>	<u>25.0%</u>	<u>40.3%</u>	<u>46.5%</u>	<u>53.9%</u>	<u>62.6%</u>	<u>72.6%</u>

\$3,000 - \$3,499	22.5%	36.3%	41.9%	48.6%	56.4%	65.4%
\$3,500 - \$3,999	20.7%	33.4%	38.5%	44.7%	51.8%	60.1%
\$4,000 - \$4,499	19.4%	31.2%	36.1%	41.9%	48.6%	56.3%
\$4,500 - \$4,999	18.3%	29.6%	34.1%	39.6%	45.9%	53.2%
\$5,000 - \$5,499	17.5%	28.2%	32.6%	37.8%	43.9%	50.9%
\$5,500 - \$5,999	16.8%	27.1%	31.3%	36.3%	42.1%	48.9%
\$6,000 - \$6,400	16.2%	26.2%	30.2%	35.0%	40.6%	47.1%
\$6,500 - \$6,999	15.8%	25.4%	29.3%	34.0%	39.4%	45.7%
\$7,000 - \$7,499	15.4%	24.8%	28.6%	33.2%	38.5%	44.6%
\$7,500 - \$7,999	15.0%	24.2%	27.9%	32.4%	37.5%	43.5%
\$8,000 - \$8,499	14.7%	23.7%	27.3%	31.7%	36.7%	42.6%
\$8,500 - \$8,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$9,000 - \$9,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$9,500 - \$9,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$10,000 - \$10,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$10,500 - \$10,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$11,000 - \$11,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$11,500 - \$11,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$12,000 - \$12,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$12,500 - \$12,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$13,000 - \$13,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$13,500 - \$13,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$14,000 - \$14,499	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$14,500 - \$14,999	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%
\$15,000 or the amount in effect under subd. 4	14.4%	23.3%	26.8%	31.1%	36.1%	41.8%

(c) The commissioner of human services must compute and publish a schedule of basic support amounts calculated using the percentages in paragraph (b). The schedule must show basic support amounts for combined monthly income increments of not more than \$100. The commissioner must determine the percentages for each income increment by interpolating between the percentages in paragraph (b). The commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case the commissioner may increase the amount by \$1.

Subd. 2. [SEPARATE HOUSEHOLD ADJUSTMENT.] After determining each parent's basic support under subdivision 1, the court must reduce the basic support of each parent by 20 percent.

Subd. 3. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a) The basic support obligation for parents with a combined monthly income in excess of the income limit currently in effect under subdivision 1 must be the same dollar amount as provided for parties with a combined monthly income equal to the income limit in effect under subdivision 1.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 1 if it finds that a child has a disability or other substantial, demonstrated need for the additional support and that the additional support will directly benefit the child.

(c) The dollar amount for the cap in subdivision 1 must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court must select the index for the adjustment from the indices listed in section 517C.31. The state court administrator must make the changes in the dollar amounts 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.

Subd. 4. [MORE THAN SIX CHILDREN.] If a child support proceeding involves more than six children, the court may derive a support order without specifically following the guidelines. However, the court must consider the basic principles encompassed by the guidelines and must consider both parents' needs, resources, and circumstances.

Subd. 5. [REPORT TO LEGISLATURE.] By January 15 each year, the commissioner of human services must submit a report to the legislature on the basic support schedule. The report must include the following:

- (1) information on any changes to the United States Department of Agriculture expenditure data used in constructing the basic support schedule under subdivision 1;
- (2) information on any new sources of economic data that could be used to construct a basic support schedule; and
- (3) a summary of any problems or concerns with implementing or applying the basic support schedule, and recommendations on how to resolve those problems or concerns.

Sec. 13. [517C.16] [CHILD CARE SUPPORT.]

Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed to by the parties and approved by the court, the court must order that the child care costs be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's income as determined under section 517C.12 meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of children, families, and learning under chapter 119B, based on an obligor's monthly gross income as determined under section 517C.12 and the size of the obligor's household. For purposes of this subdivision, the obligor's household includes the obligor and the number of children for whom child support is being ordered; or

(2) the amount of the obligor's child care obligation under subdivision 1.

(b) The commissioner of human services must publish a table with the child care assistance basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year.

Subd. 3. [DETERMINING COSTS.] (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 517C.31.

(d) The court may allow the parent with whom the child does not reside to care for the child while the parent with whom the child resides is working or attending school, as provided in section 517B.25, subdivision 8. Allowing the parent with whom the child does not reside to care for the child under section 517B.25, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order provides for child care expenses and the public authority provides child support enforcement services, the public authority must suspend collecting the amount allocated for child care expenses when: (1) either party informs the public authority that no child care costs are being incurred; and (2) the public authority verifies the accuracy of the information. The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed.

(b) If the parties provide conflicting information to the public authority regarding whether child

care expenses are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension or resumption of the collection of child care expenses. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 517C.31.

Sec. 14. [517C.17] [MEDICAL SUPPORT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this chapter.

(a) "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan meeting the definition under section 62A.011, subdivision 3, a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to 43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N. Health plan includes plans: (1) provided on an individual and group basis, (2) provided by an employer or union, (3) purchased in the private market, and (4) available to a person eligible to carry insurance for the child. Health plan includes a plan providing for dependent-only, dental, or vision coverage and a plan provided through a party's spouse or parent.

(d) "Medical support" means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a child's reasonable and necessary health-related expenses if the child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a child's reasonable and necessary health-related expenses if a child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, prescription eyeglasses and contact lenses, and over-the-counter medicine.

Subd. 2. [ORDER.] (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and social security numbers of the parents and the child that is a subject of the order unless the court prohibits the inclusion of an address or social security number and orders the parents to provide the address and social security number to the administrator of the health plan;

- (2) whether appropriate health care coverage for the child is available and, if so, state:
- (i) which party must carry health care coverage;
 - (ii) the cost of premiums and how the cost is allocated between the parties;
 - (iii) how unreimbursed expenses will be allocated and collected by the parties; and
 - (iv) the circumstances, if any, under which the obligation to provide health care coverage for the child will shift from one party to the other;
- (3) if appropriate health care coverage is not available for the child, whether a contribution for medical support is required; and
- (4) whether the amount ordered for medical support is subject to a cost-of-living adjustment under section 517C.31.

Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE COVERAGE.] (a) In determining whether a party has appropriate health care coverage for the child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered child can obtain services from a health plan provider with reasonable effort by the parent with whom the child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the child's residence and specialty care coverage is available within 60 minutes or 60 miles of the child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is comprehensive if it includes, at a minimum, medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parties have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontia;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if a party's gross income is 150 percent of the federal poverty guidelines or more and the party's contribution to the health care coverage premium does not exceed five percent of the party's gross income. If a party's gross income is less than 150 percent of the federal poverty guidelines, it is presumed that the party is unable to contribute to the cost of health care coverage unless health care is available at no or low cost to that party; and

(4) the child's special medical needs, if any.

(b) If both parties have health care coverage available for a child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the appropriate health care coverage for the child.

Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child is presently enrolled in health care coverage, the court must order that the parent who currently has the child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a child is not presently enrolled in health care coverage, upon motion of a party or the public authority, the court must determine whether one or both parties have appropriate health care coverage for the child and order the party with appropriate health care coverage available to carry the coverage for the child.

(c) If only one party has appropriate health care coverage available, the court must order that party to carry the coverage for the child.

(d) If both parties have appropriate health care coverage available, the court must order the parent with whom the child resides to carry the coverage for the child, unless:

(1) either party expresses a preference for coverage available through the parent with whom the child does not reside;

(2) the parent with whom the child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the child does not reside extreme hardship; or

(3) the parents agree to provide coverage and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2) applies, the court must determine which party has the most appropriate coverage available and order that party to carry coverage for the child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the child is comparable with regard to accessibility and comprehensiveness, the court must order the party with the least costly health care coverage to carry coverage for the child.

(f) If neither party has appropriate health care coverage available, the court must order the parent with whom the child does not reside to contribute toward the cost of public coverage for the child or the child's uninsured medical expenses in an amount equal to the lesser of:

(1) five percent of gross income; or

(2) the monthly amount the parent with whom the child does not reside would pay for the child's premiums if the parent's income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, a parent's household size is equal to the parent plus the child who is the subject of the child support order. The court may order the parent with whom the child resides to apply for public coverage for the child.

(g) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

(b) If a party owes a child support obligation for a child and is ordered to carry health care coverage for the child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If a party's obligation for health care coverage premiums is greater than five percent of the party's gross income, the court may order the other party to contribute more for the cost of the premiums, if doing so would not result in extreme hardship to that party. If an additional contribution causes a party extreme hardship, the court must order the obligor to contribute the lesser of the two amounts under subdivision 4, paragraph (f).

(e) If the party ordered to carry health care coverage for the child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the child.

(f) If a party ordered to carry health care coverage for the child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined income, unless the parties agree otherwise.

(g) If a party ordered to carry health care coverage for the child is required to enroll in a health plan so that the child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the child must not be allocated between the parties.

Subd. 6. [NOTICE OR COURT ORDER SENT TO PARTY'S EMPLOYER, UNION, OR HEALTH CARRIER.] (a) The public authority must forward a copy of the national medical support notice or court order for health care coverage to the party's employer within two business days after the date the party is entered into the work reporting system under section 256.998.

(b) The public authority or a party seeking to enforce an order for health care coverage must forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier under the following circumstances:

(1) the party ordered to carry health care coverage for the child fails to provide written proof to the other party or the public authority, within 30 days of the effective date of the court order, that the party has applied for health care coverage for the child;

(2) the party seeking to enforce the order or the public authority gives written notice to the party ordered to carry health care coverage for the child of its intent to enforce medical support. The party seeking to enforce the order or public authority must mail the written notice to the last known address of the party ordered to carry health care coverage for the child; and

(3) the party ordered to carry health care coverage for the child fails, within 15 days after the date on which the written notice under clause (2) was mailed, to provide written proof to the other party or the public authority that the party has applied for health care coverage for the child.

(c) The public authority is not required to forward a copy of the national medical support notice or court order to the obligor's employer or union, or to the health carrier, if the court orders health care coverage for the child that is not employer-based or union-based coverage.

Subd. 7. [EMPLOYER OR UNION REQUIREMENTS.] (a) An employer or union must forward the national medical support notice or court order to its health plan within 20 business days after the date on the national medical support notice or after receipt of the court order.

(b) Upon determination by an employer's or union's health plan administrator that a child is eligible to be covered under the health plan, the employer or union and health plan must enroll the child as a beneficiary in the health plan, and the employer must withhold any required premiums from the income or wages of the party ordered to carry health care coverage for the child.

(c) If enrollment of the party ordered to carry health care coverage for a child is necessary to obtain dependent health care coverage under the plan, and the party is not enrolled in the health plan, the employer or union must enroll the party in the plan.

(d) Enrollment of dependents and, if necessary, the party ordered to carry health care coverage for the child must be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies under section 62A.048.

(e) Failure of the party ordered to carry health care coverage for the child to execute any documents necessary to enroll the dependent in the health plan does not affect the obligation of the employer or union and health plan to enroll the dependent in a plan. Information and authorization provided by the public authority, or by a party or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.

(f) An employer or union that is included under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), may not deny enrollment to the child or to the parent if necessary to enroll the child based on exclusionary clauses described in section 62A.048.

(g) A new employer or union of a party who is ordered to provide health care coverage for a child must enroll the child in the party's health plan as required by a national medical support notice or court order.

Subd. 8. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan administrator receives a completed national medical support notice or court order, the plan administrator must notify the parties, and the public authority if the public authority provides support enforcement services, within 40 business days after the date of the notice or after receipt of the court order, of the following:

(1) whether coverage is available to the child under the terms of the health plan and, if not, the reason why coverage is not available;

(2) whether the child is covered under the health plan;

(3) the effective date of the child's coverage under the health plan; and

(4) what steps, if any, are required to effectuate the child's coverage under the health plan.

(b) If the employer or union offers more than one plan and the national medical support notice or court order does not specify the plan to be carried, the plan administrator must notify the parents and the public authority if the public authority provides support enforcement services. When there is more than one option available under the plan, the public authority, in consultation with the parent with whom the child resides, must promptly select from available plan options.

(c) The plan administrator must provide the parents and public authority, if the public authority provides support enforcement services, with a notice of the child's enrollment, description of the coverage, and any documents necessary to effectuate coverage.

(d) The health plan must send copies of all correspondence regarding the health care coverage to the parents.

(e) An insured child's parent's signature is a valid authorization to a health plan for purposes of processing an insurance reimbursement payment to the medical services provider or to the parent, if medical services have been prepaid by that parent.

Subd. 9. [EMPLOYER OR UNION LIABILITY.] (a) An employer or union that willfully fails to comply with the order or notice is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order or notice.

(b) An employer or union that fails to comply with the order or notice is subject to a contempt finding, a \$250 civil penalty under section 517C.57, and is subject to a civil penalty of \$500 to be paid to the party entitled to reimbursement or the public authority. Penalties paid to the public authority are designated for child support enforcement services.

Subd. 10. [CONTESTING ENROLLMENT.] (a) A party may contest a child's enrollment in a health plan on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 517C.26.

(b) If the party chooses to contest the enrollment, the party must do so no later than 15 days after the employer notifies the party of the enrollment by doing the following:

(1) filing a motion in district court or according to section 484.702 and the expedited child support process rules if the public authority provides support enforcement services;

(2) serving the motion on the other party and public authority if the public authority provides support enforcement services; and

(3) securing a date for the matter to be heard no later than 45 days after the notice of enrollment.

(c) The enrollment must remain in place while the party contests the enrollment.

Subd. 11. [DISENROLLMENT; CONTINUATION OF COVERAGE; COVERAGE OPTIONS.] (a) Unless a court order provides otherwise, a child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the court, or as consistent with the terms of the coverage.

(b) The health carrier, employer, or union may not disenroll or eliminate coverage for the child unless:

(1) the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect;

(2) the child is or will be enrolled in comparable health care coverage through another health plan that will take effect no later than the effective date of the disenrollment;

(3) the employee is no longer eligible for dependent coverage; or

(4) the required premium has not been paid by or on behalf of the child.

(c) The health plan must provide 30 days' written notice to the child's parents, and the public authority if the public authority provides support enforcement services, before the health plan disenrolls or eliminates the child's coverage.

(d) A child enrolled in health care coverage under a qualified medical child support order, including a national medical support notice, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon expiration of the order, the child is entitled to the opportunity to elect continued coverage that is available under the health plan. The employer or union must provide notice to the parties and the public authority, if it provides support services, within ten days of the termination date.

(e) If the public authority provides support enforcement services and a plan administrator reports to the public authority that there is more than one coverage option available under the health plan, the public authority, in consultation with the parent with whom the child resides, must promptly select coverage from the available options.

Subd. 12. [SPOUSAL OR FORMER SPOUSAL COVERAGE.] The court must require the parent with whom the child does not reside to provide dependent health care coverage for the benefit of the parent with whom the child resides if the parent is ordered to provide dependent health care coverage for the parties' child and adding the other parent to the coverage results in no additional premium cost.

Subd. 13. [DISCLOSURE OF INFORMATION.] (a) If the public authority provides support enforcement services, the parties must provide the public authority with the following information:

(1) information relating to dependent health care coverage or public coverage available for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) verification that application for court-ordered health care coverage was made within 30 days of the court's order; and

(3) the reason that a child is not enrolled in court-ordered health care coverage, if a child is not enrolled in coverage or subsequently loses coverage.

(b) Upon request from the public authority under section 256.978, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the public authority the following information:

(1) information relating to dependent health care coverage available to a party for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section; and

(2) information that will enable the public authority to determine whether a health plan is appropriate for a child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

(c) The employer, union, or plan administrator must not release information regarding one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependent.

(d) The public authority is authorized to release to a party's employer, union, or health plan information necessary to verify availability of dependent health care coverage, or to establish, modify, or enforce medical support.

(e) An employee must disclose to an employer if medical support is required to be withheld under this section and the employer must begin withholding according to the terms of the order and under section 517C.52. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan.

Subd. 14. [CHILD SUPPORT ENFORCEMENT SERVICES.] The public authority must take necessary steps to establish and enforce an order for medical support if the child receives public assistance or a party completes an application for services from the public authority under section 517C.38, subdivision 2.

Subd. 15. [ENFORCEMENT.] (a) Remedies available for collecting and enforcing child support apply to medical support.

(b) For the purpose of enforcement, the following are additional support:

(1) the costs of individual or group health or hospitalization coverage;

(2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including health and dental insurance premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 517C.28.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Subd. 16. [INCOME WITHHOLDING; OFFSET.] (a) If a party owes no child support obligation for a child and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the child, the obligor is subject to an offset under subdivision 5 or income withholding under section 517C.52.

(b) If a party's court-ordered health care coverage for the child terminates and the child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to a party's child support obligation or terminate income withholding instituted against a party under section 517C.52. The public authority must provide notice to the parties of the action.

(c) A party may contest the public authority's action to remove the offset to the child support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing the offset or terminating income withholding is appropriate and, if appropriate, the effective date for the removal or termination.

(d) If the party does not request a hearing, the district court or child support magistrate must order the offset or income withholding termination effective the first day of the month following termination of the child's health care coverage.

Subd. 17. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) A party must initiate a request for reimbursement of unreimbursed and uninsured medical expenses within two years of the date that the party incurred the unreimbursed or uninsured medical expenses. The time period in this paragraph does not apply if the location of the other party is unknown.

(b) A party seeking reimbursement of unreimbursed and uninsured medical expenses must mail a written notice of intent to collect the expenses and a copy of an affidavit of health care expenses to the other party at the other party's last known address.

(c) The written notice must include a statement that the party has 30 days from the date the notice was mailed to (1) pay in full; (2) enter a payment agreement; or (3) file a motion requesting a hearing contesting the matter. If the public authority provides support enforcement services, the written notice also must include a statement that the requesting party must submit the amount due to the public authority for collection.

(d) The affidavit of health care expenses must itemize and document the child's unreimbursed or uninsured medical expenses and include copies of all bills, receipts, and insurance company explanations of benefits.

(e) If the public authority provides support enforcement services, the party seeking reimbursement must send to the public authority a copy of the written notice, the original affidavit, and copies of all bills, receipts, and insurance company explanations of benefits.

(f) If the party does not respond to the request for reimbursement within 30 days, the party seeking reimbursement or public authority, if the public authority provides support enforcement services, must commence an enforcement action against the party under subdivision 18.

(g) The public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must state that, unless the party (1) pays in full; (2) enters

into a payment agreement; or (3) files a motion contesting the matter within 14 days of service of the notice, the public authority will commence enforcement of the expenses as medical support arrears under subdivision 18.

(h) If the party files a timely motion for a hearing contesting the requested reimbursement, the contesting party must schedule a hearing in district court or in the expedited child support process if section 484.702 applies. The contesting party must provide the party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and the party at the party's last known address. The party seeking reimbursement must file the original affidavit of health care expenses with the court at least five days before the hearing. Based upon the evidence presented, the district court or child support magistrate must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as medical support arrears under subdivision 18.

Subd. 18. [ENFORCING AN ORDER FOR MEDICAL SUPPORT ARREARS.] (a) If a party liable for unreimbursed and uninsured medical expenses owes a child support obligation to the party seeking reimbursement of the expenses, the expenses must be collected as medical support arrears.

(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a child support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party basic support arrears, the liable party's medical support arrears must be deducted from the amount of the basic support arrears.

(c) If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:

(1) if the party seeking reimbursement owes a child support obligation to the liable party, the child support obligation must be reduced by 20 percent until the medical support arrears are satisfied;

(2) if the party seeking reimbursement does not owe a child support obligation to the liable party, the liable party's income must be subject to income withholding under section 517C.52 for an amount required under section 517C.71 until the medical support arrears are satisfied; or

(3) if the party seeking reimbursement does not owe a child support obligation, and income withholding under section 517C.52 is not available, payment of the medical support arrears must be required under a payment agreement under section 517C.71.

(d) If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

Sec. 15. [517C.18] [SELF-SUPPORT ADJUSTMENT.]

Subdivision 1. [ADJUSTMENT.] (a) If the sum of the obligor's basic support, child care support, and medical support obligation leaves the obligor with remaining income in an amount less than 120 percent of the federal poverty guidelines for one person, the court must reduce the obligor's child support obligation by an amount equal to the lesser of: (1) the difference between the obligor's remaining income and 120 percent of the federal poverty guidelines amount; or (2) the obligor's total child support obligation. If the self-support adjustment results in an order amount less than \$50 per month for one or two children or \$75 per month for three or more children, the court must order basic support under subdivision 2.

(b) The court must apply the reduction to the obligor's child support obligation in the following order:

(1) medical support obligation;

(2) child care support obligation; and

(3) basic support obligation.

Subd. 2. [MINIMUM BASIC SUPPORT AMOUNT.] (a) If the reduction under subdivision 1 equals the sum of the obligor's basic support, child care support, and medical support obligation, the court must order support as follows:

(1) for one or two children, the obligor's basic support obligation is \$50 per month; or

(2) for three or more children, the obligor's basic support obligation is \$75 per month.

(b) If the court orders the obligor to pay the minimum basic support amount under this subdivision, the obligor is presumed unable to pay child care support and medical support.

(c) If the court finds that an obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this subdivision does not apply.

Sec. 16. [517C.19] [WORKSHEET.]

The commissioner of human services must create and publish a worksheet to assist in calculating child support under sections 517C.12 to 517C.18. The worksheet must not impose substantive requirements other than requirements contained in sections 517C.12 to 517C.18. The commissioner must update the worksheet by July 1 of each year. The commissioner must make an interactive version of the worksheet available on the department of human services Web site.

Sec. 17. [517C.20] [DEVIATIONS.]

Subdivision 1. [GENERAL FACTORS.] In addition to the child support guidelines, the court must 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 section 517C.12, subdivision 6;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child 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 the financial benefit the parent receives from it;

(5) the parents' debts as provided in subdivision 2; and

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

Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

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

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court may 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 original debt

amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(b) A schedule prepared under paragraph (a), clause (3), must 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.

(c) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

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

Subd. 3. [EVIDENCE.] The court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.

Subd. 4. [NO DEVIATION WHEN PAYMENTS ARE ASSIGNED TO THE PUBLIC AUTHORITY EXCEPT FOR EXTREME HARDSHIP.] If the child support payments are assigned to the public authority under section 256.741, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

Subd. 5. [NO DEPARTURE BASED ON JOINT LEGAL CUSTODY.] An award of joint legal custody is not a reason for departure from the guidelines.

Sec. 18. [517C.21] [WRITTEN FINDINGS.]

Subdivision 1. [NO DEVIATION.] If the court does not deviate from the guidelines, the court must make written findings concerning the amount of the parties' income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the child support determination.

Subd. 2. [DEVIATION.] (a) If the court deviates from the guidelines, the court must make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and must specifically address the criteria in section 517C.20 and how the deviation serves the best interests of the child.

(b) 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 authority under section 256.741, the court may deviate downward only as provided in section 517C.20, subdivision 4. Nothing in this section prohibits the court from deviating in other cases.

Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity to the guidelines. The court is not required to conduct a hearing, but the parties must provide the documentation of earnings required under section 517C.10.

Sec. 19. [517C.22] [GUIDELINES REVIEW.]

No later than 2006 and every four years after that, the department of human services must conduct a review of the child support guidelines.

Sec. 20. [517C.23] [EDUCATION TRUST FUND.]

The parties may agree to designate a sum of money above court-ordered child support as a trust fund for the costs of postsecondary education.

Sec. 21. [517C.25] [MODIFICATION; GENERAL.]

Subdivision 1. [AUTHORITY.] After a child support order is established, the court may, on motion of a party or the public authority, modify the order respecting the amount and payment of support. The court may make an order respecting any matters it had authority to address in the original proceeding, except as otherwise provided in section 517C.29. A party or the public authority also may make a motion for contempt of court if the obligor is in arrears in support payments.

Subd. 2. [GUIDELINES REMAIN APPLICABLE.] On a motion for modification of support, the guidelines in this chapter remain applicable.

Subd. 3. [EVIDENTIARY HEARING NOT REQUIRED.] The court need not hold an evidentiary hearing on a motion for child support modification.

Subd. 4. [FORM.] The state court administrator must prepare and make available to courts, obligors, and obligees a form to be submitted in support of a motion for a child support modification or for contempt of court.

Sec. 22. [517C.26] [REOPENING AN ORDER.]

Subdivision 1. [FACTORS.] Upon a party's motion, the court may rescind a child support order or judgment and may order a new trial or grant other relief as may be just for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that could not have been discovered by due diligence in time to move for a new trial under the rules of civil procedure;
- (3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment or order is void;
- (5) the judgment has been satisfied, released, or discharged;
- (6) the judgment is based on a prior order that has been reversed or otherwise vacated; or
- (7) it is no longer equitable that the order should have prospective application.

Subd. 2. [PROCEDURE; EFFECT.] A party's motion must be made within a reasonable time, and, for a reason under subdivision 1, clause (1), (2), or (3), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under this section does not affect the finality of an order or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from an order or proceeding or to grant relief to a party not actually personally notified as provided in the Minnesota Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.

Sec. 23. [517C.27] [CHANGE IN CUSTODY OR PARENTING TIME.]

Subdivision 1. [OFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT SUSPENDED.] If an obligee has been granted sole physical custody of a child, the child subsequently lives with the obligor, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor'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.

Subd. 2. [UNOFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT OBLIGATION SATISFIED.] The court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the public authority.

Subd. 3. [30-DAY CHANGE; CHILD SUPPORT REDUCED.] A support order issued under this chapter may provide that, during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the support amount otherwise due under the order may be reduced.

Sec. 24. [517C.28] [SUBSTANTIAL CHANGE IN CIRCUMSTANCES, EARNINGS, OR NEEDS.]

Subdivision 1. [FACTORS.] (a) A court may modify the terms of a child support order 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 that is the subject of these proceedings;
- (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40 or chapter 256J or 256K;
- (4) a change in the cost of living for either party, as measured by the federal Bureau of Labor Statistics, that makes the terms unreasonable and unfair;
- (5) extraordinary medical expenses of the child not provided for under section 517C.17;
- (6) the addition of the obligee's work-related or education-related child care expenses or a substantial increase or decrease in existing work-related or education-related child care expenses;
or
- (7) upon the emancipation of a child if there is still a child under the order. 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 modified or until the emancipation of the last child for whose benefit the order was made.

(b) Implementation of this chapter is not a basis for modification unless the requirements under this section are met.

Subd. 2. [PRESUMPTIONS.] It is presumed that there has been a substantial change in circumstances under subdivision 1 and the terms of a current support order are rebuttably presumed to be unreasonable and unfair if:

- (1) when applied to the parties' current circumstances, the presumptive child support amount derived under this chapter is at least 20 percent and at least \$50 per month higher or lower than the current support order;
- (2) the medical support provisions of the order established under section 517C.17 are not enforceable by the public authority or the obligee;
- (3) health insurance coverage ordered under section 517C.17 is not available to the child for whom the order is established by the parent ordered to provide it; or
- (4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

Sec. 25. [517C.29] [MODIFICATION EFFECTIVE DATE.]

Subdivision 1. [DATE OF MOTION DETERMINATIVE.] A court may make a modification of support, including interest that accrued pursuant to section 548.091, effective no sooner than the date of service of notice of the motion for modification on the responding parties.

Subd. 2. [RETROACTIVE MODIFICATION PERMITTED ONLY IN LIMITED CIRCUMSTANCES.] Notwithstanding subdivision 1, a court may apply a modification to an earlier period if the court makes express findings that:

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

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

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

(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court must consider whether and when a request was made to the public authority for support modification.

Subd. 3. [CHILD CARE EXCEPTION.] 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.

Sec. 26. [517C.30] [TERMINATION OF CHILD SUPPORT.]

Subdivision 1. [DEATH OF OBLIGOR.] Unless otherwise agreed in writing or expressly provided in the order, provisions for a child's support 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. 2. [AUTOMATIC TERMINATION.] (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 child's emancipation.

(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 a child's emancipation if there are still minor children under the order. The court must determine the child support obligation based on the parties' income at the time the modification is sought.

Sec. 27. [517C.31] [COST-OF-LIVING ADJUSTMENTS.]

Subdivision 1. [GENERAL.] An order establishing, modifying, or enforcing child support must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. Cost-of-living adjustments are compounded.

Subd. 2. [WAIVER.] A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for child support has a provision such as a step increase that has the effect of a cost-of-living clause.

Subd. 3. [INDEX; AMOUNT.] (a) The court must specify the cost-of-living index to be applied in an order that provides for a cost-of-living adjustment. The court may use the Consumer Price Index for All Urban Consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for Wage Earners and Clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor that the court specifically finds is more appropriate.

(b) The court may increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

Subd. 4. [EFFECTIVE DATE.] If payment is made to the public authority, an adjustment is effective on May 1 of the year it is made. If payment is not made to the public authority, an adjustment may be made in any month but no adjustment may be made sooner than two years after the date of the dissolution decree. A support order must specify the effective date of cost-of-living adjustments.

Subd. 5. [NOTICE.] A cost-of-living adjustment may not be made unless:

(1) the support order requires it; and

(2) the obligee or public authority notifies the obligor of the adjustment by mail at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice must inform the obligor of the effective date of the adjustment, the right to contest the adjustment, and the procedures to contest the adjustment.

Subd. 6. [PROCEDURE FOR CONTESTING ADJUSTMENT.] (a) To contest a cost-of-living adjustment initiated by the public authority or an obligee who has applied for or is receiving child support collection services from the public authority, other than income withholding-only services, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first-class mail on the public authority and the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in the expedited child support process under section 484.702.

(b) To contest a cost-of-living adjustment initiated by an obligee who is not receiving child support collection services from the public authority, or for an obligee who receives income withholding-only services from the public authority, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first-class mail on the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the public authority or court must stay the cost-of-living adjustment pending further order of the court.

Subd. 7. [HEARING.] (a) At a hearing under this section, if the obligor establishes an insufficient increase in income to fulfill the adjusted child support obligation, the district court or child support magistrate may direct that all or part of the adjustment not take effect.

(b) At a hearing under this section, if the obligor does not establish an insufficient increase in income, the adjustment must take effect as of the date originally specified in the support order.

Subd. 8. [FORM.] The state court administrator must prepare and make available to the court and obligors a pro se motion form to be submitted in support of a request for a hearing under this section.

Subd. 9. [RULES.] The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 28. [517C.35] [ASSIGNMENT.]

Subdivision 1. [GENERAL.] The court must direct that all payments ordered for support be made to the public authority if the obligee is receiving or has applied for public assistance. Amounts received by the public authority greater than the amount granted to the obligee must be remitted to the obligee pursuant to federal requirements.

Subd. 2. [JUDGMENTS.] The court administrator must enter and docket a judgment obtained by operation of law under section 548.091, subdivision 1, in the name of the public authority to the extent that the obligation has been assigned. When arrears are reduced to judgment and section 548.091 is not applicable, the court must grant judgment in favor of, and in the name of, the public authority to the extent that the arrears are assigned. The public authority must file notice of an assignment with the court administrator, who must enter the notice in the docket. The public authority may then enforce a judgment entered before the assignment of rights as if the judgment were granted to it, and in its name, to the extent that the arrears in that judgment are assigned.

Subd. 3. [PROPERTY LIEN.] The court may make any child support order a lien or charge upon the obligor's property, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 29. [517C.36] [PARTY STATUS.]

Subdivision 1. [OBLIGEE RECEIVES PUBLIC ASSISTANCE; PUBLIC AUTHORITY IS A PARTY.] The public authority is joined as a party and is a real party in interest if the obligee is receiving, or subsequently applies for, public assistance and rights are assigned under section 256.741, subdivision 2.

Subd. 2. [NO PUBLIC ASSISTANCE; APPLICATION FOR SERVICES.] If the obligee is not receiving public assistance, but has applied for child support collection services, the public authority has a pecuniary interest, as well as an interest in the welfare of a child. The public authority may intervene as a matter of right in those cases to ensure that child support orders are obtained, enforced, and provide for an appropriate and accurate level of child, medical, and child care support. If the public authority participates in a case where the action taken by the public authority requires the use of an attorney's services, the public authority must be represented by an attorney consistent with the provisions in section 517C.37.

Sec. 30. [517C.37] [ROLE OF THE PUBLIC AUTHORITY.]

Subdivision 1. [PUBLIC AUTHORITY DOES NOT REPRESENT OBLIGOR OR OBLIGEE.] 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.

Subd. 2. [WRITTEN NOTICE.] The public authority must provide written notice to an applicant or recipient of services that:

- (1) no attorney-client relationship exists between the attorney and the applicant or recipient;
- (2) the rights of the individual as a subject of data are controlled by section 13.04, subdivision 2; and
- (3) the individual has a right to have an attorney represent the individual.

Subd. 3. [POWER TO REPRESENT OTHER PUBLIC AUTHORITIES.] The public authority may act on behalf of a public authority from another jurisdiction. This includes the authority to represent the legal interests of, or execute documents on behalf of, the other public authority in connection with the establishment, enforcement, and collection of child support and collection on judgments.

Sec. 31. [517C.38] [SERVICE FEES.]

Subdivision 1. [OBLIGOR FEE.] When the public authority provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance,

the public authority may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support ordered by the court. The public authority must deposit the fee in the county general fund. The service fee assessed is limited to ten percent of the monthly court-ordered child support and must not be assessed to obligors who are current in payment of the monthly court-ordered child support.

Subd. 2. [OBLIGEE FEE.] A \$25 application fee must be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of children, families, and learning.

Subd. 3. [TAX INTERCEPT FEES.] Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee must assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The public authority must withhold the fee before the release of the funds received from each interception and must deposit the fee in the general fund.

Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] The limitations of this section on the assessment of fees do not apply to the extent they are inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and 651 to 662.

Sec. 32. [517C.39] [PUBLIC AUTHORITY PROCEDURES FOR CHILD SUPPORT AND PARENTAGE ORDERS.]

The public authority may use the provisions of sections 517C.40 to 517C.44 when support rights are assigned under section 256.741, subdivision 2, or when the public authority is providing services under an application for child support collection services.

Sec. 33. [517C.40] [NONATTORNEY EMPLOYEE DUTIES.]

Subdivision 1. [DUTIES PERFORMED UNDER SUPERVISION OF COUNTY ATTORNEY.] (a) The county attorney must review and approve as to form and content all pleadings and other legal documents prepared by nonattorney employees of the public authority for use in the expedited child support process.

(b) Under the direction of, and in consultation with, the county attorney, nonattorney employees of the public authority may perform the following legal duties:

(1) meet and confer with parties by mail, telephone, electronic, or other means regarding legal issues;

(2) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding legal issues;

(3) prepare pleadings, including, but not limited to, summonses and complaints, notices, motions, subpoenas, orders to show cause, proposed orders, administrative orders, and stipulations and agreements;

(4) issue administrative subpoenas;

(5) prepare judicial notices;

(6) negotiate settlement agreements;

(7) attend and participate as a witness in hearings and other proceedings and, if requested by the

child support magistrate, present evidence, agreements and stipulations of the parties, and any other information deemed appropriate by the magistrate;

- (8) participate in other activities and perform other duties delegated by the county attorney; and
- (9) exercise other powers and perform other duties as permitted by statute or court rule.

Subd. 2. [DUTIES PERFORMED WITHOUT DIRECTION FROM COUNTY ATTORNEY.] Nonattorney employees of the public authority may perform the following duties without direction from the county attorney:

- (1) gather information on behalf of the public authority;
- (2) prepare financial worksheets;
- (3) obtain income information from the department of economic security and other sources;
- (4) serve documents on parties;
- (5) file documents with the court;
- (6) meet and confer with parties by mail, telephone, electronic, or other means regarding nonlegal issues;
- (7) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding nonlegal issues; and
- (8) perform other routine nonlegal duties as assigned.

Subd. 3. [PRACTICE OF LAW.] Performance of the duties prescribed in subdivisions 1 and 2 by nonattorney employees of the public authority does not constitute the unauthorized practice of law for purposes of section 481.02.

Sec. 34. [517C.41] [PLEADINGS; CASE INFORMATION SHEET.]

Subdivision 1. [PLEADINGS.] In cases involving establishment or modification of a child support order, the initiating party must include the following information, if known, in the pleadings:

- (1) the parties' names, addresses, and dates of birth;
- (2) social security numbers of the parties and the parties' minor children. This information is considered private information and is available only to the parties, the court, and the public authority;
- (3) number of members in each party's household and dependents of the parties;
- (4) the parties' other support obligations;
- (5) names and addresses of the parties' employers;
- (6) the parties' income as defined in section 517C.12;
- (7) amounts and sources of the parties' other earnings and income;
- (8) the parties' health insurance coverage;
- (9) types and amounts of public assistance the parties receive, including Minnesota family investment program, child care assistance, medical assistance, MinnesotaCare, title IV-E foster care, or other form of assistance as defined in section 256.741, subdivision 1; and
- (10) any other information relevant to the determination of child support under this chapter.

Subd. 2. [CASE INFORMATION SHEET.] For all matters scheduled in the expedited process, the nonattorney employee of the public authority must file with the court and serve on the parties the following information:

(1) income information available to the public authority from the department of economic security;

(2) a statement of the monthly amount of child support, child care, medical support, and arrears currently being charged the parties in Minnesota IV-D cases;

(3) a statement of the types and amount of any public assistance, as defined in section 256.741, subdivision 1, received by the parties; and

(4) any other information relevant to determining support that is known to the public authority and that the parties have not otherwise provided.

Subd. 3. [FILING INFORMATION.] The public authority must file the case information with the district court or child support magistrate at least five days before a hearing involving child support, medical support, or child care reimbursement issues.

Sec. 35. [517C.42] [NONCONTESTED MATTERS.]

Under the direction of the county attorney and based on agreement of the parties, nonattorney employees of the public authority may prepare a stipulation, findings of fact, conclusions of law, and proposed order. The county attorney must approve and sign the documents as to form and content before the nonattorney employees submit the documents to the district court or child support magistrate for approval.

Sec. 36. [517C.43] [ADMINISTRATIVE AUTHORITY; PARENTAGE; SUPPORT.]

Subdivision 1. [POWERS.] The public authority may take the following actions relating to establishing paternity or to establishing, modifying, or enforcing support orders, without the necessity of obtaining an order from a judicial or administrative tribunal:

(1) recognize and enforce orders of child support agencies of other states;

(2) upon request for genetic testing by a child, parent, or an alleged parent, and using the procedure in subdivision 2, order the child, parent, or alleged parent to submit to blood or genetic testing for the purpose of establishing paternity;

(3) subpoena financial or other information needed to establish, modify, or enforce a child support order and sanction a party for failure to respond to a subpoena;

(4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor or other payor to change the payee to the central collections unit under section 517C.50;

(5) order income withholding of child support under section 517C.52 and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failing to comply with an income withholding notice;

(6) secure assets to satisfy a support debt or arrears by:

(i) intercepting or seizing periodic or lump-sum payments from state or local agencies, including unemployment insurance benefits, workers' compensation payments, judgments, settlements, lotteries, and other lump-sum payments;

(ii) attaching and seizing the obligor's assets held in financial institutions or public or private retirement funds; and

(iii) imposing liens in accordance with section 548.091, and, in appropriate cases, forcing the sale of property and the distribution of proceeds;

(7) for the purpose of securing overdue support, increase the amount of the monthly support payments by an additional amount equal to 20 percent of the monthly support payment to include amounts for debts or arrears; and

(8) subpoena an employer or payor of funds to provide promptly information on the employment, compensation, and benefits of an individual employed by that employer as an employee or contractor, and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failure to respond to the subpoena as provided by law.

Subd. 2. [GENETIC TESTING.] (a) A child, parent, or alleged parent who requests genetic testing must support the request with a sworn statement that:

(1) alleges paternity and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(2) denies paternity and sets forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties.

(b) The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state.

(c) If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing.

(d) No results obtained through genetic testing done in response to an order issued under this section may be used in a criminal proceeding.

Subd. 3. [SUBPOENAS.] (a) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party record keeper, written notice of the subpoena must be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(b) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court may cancel or modify the subpoena, if appropriate. The public authority must pay the reasonable costs of producing the documents, if requested.

(c) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. A person who fails to comply with the court order may be subject to civil or criminal contempt of court.

Subd. 4. [DUE PROCESS.] The administrative actions under this section are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to a judge, judicial officer, or child support magistrate.

Sec. 37. [517C.44] [SHARING OF INFORMATION; DATA.]

Subdivision 1. [GENERAL.] The public authority may share available and relevant information on the parties in order to perform its duties under sections 517C.40 to 517C.43 or under supreme court rules governing the expedited child support hearing process under section 484.702, subject to the limitations of subdivision 3, section 256.87, subdivision 8, and section 257.70.

Subd. 2. [DATA DISCLOSED TO AN ATTORNEY OF THE PUBLIC AUTHORITY.] (a) 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 sections 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and 517C.11, subdivision 3, in order to obtain, modify, or enforce child support, medical support, and parentage determinations.

(b) 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.

Subd. 3. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapter 517A in which public assistance is assigned under section 256.741, or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, the public authority may not release information on the location of one party to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 38. [517C.45] [SUFFICIENCY OF NOTICE.]

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

Sec. 39. [517C.50] [CHILD SUPPORT PAYMENT CENTER; CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [CREATION.] (a) The commissioner of human services must create and maintain a central collections unit to receive, process, and disburse payments, and to maintain a record of payments in all cases when:

(1) the public authority is a party;

(2) the public authority provides child support enforcement services to a party; or

(3) payment is collected through income withholding.

(b) The commissioner may contract for services to carry out these provisions if the commissioner first meets and negotiates with the affected exclusive representatives.

Subd. 2. [CREDITOR COLLECTIONS.] The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and is not subject to creditor levy, attachment, or garnishment.

Subd. 3. [CREDIT FOR PAYMENT.] Payments made to the public authority that are not collected through income withholding must be credited as of the date the payment is received by the central collections unit.

Sec. 40. [517C.51] [MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [GENERAL.] All payments described in section 517C.50 must be made to the central collections unit.

Subd. 2. [LOCAL PAYMENT; TRANSMITTAL.] Each local child support agency must provide a location within the agency to receive payments. When the local agency receives a payment it must transmit the funds to the central collections unit within one working day of receipt of the payment.

Subd. 3. [INCENTIVES.] Notwithstanding a 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 must be used for county child support collection efforts.

Subd. 4. [ELECTRONIC FUNDS TRANSFER.] 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 must issue an income withholding order in conformity with section 517C.52. The automatic income withholding order must include the obligor's name, 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 PUBLIC AUTHORITY BY THE TRIBUNAL.] The tribunal must 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 child support magistrate 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 must identify the obligor on the check or remittance by name, payor number, and social security number, and must comply with section 517C.52.

Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT FUNDS.] A notice may be directed to a person or entity submitting a check drawn on insufficient funds stating that future payments must be made by cash or certified funds. The central collections unit and the public authority 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 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 must 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 before payments are redirected to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by the 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 must provide directions to submit future payments to the central collections unit.

Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. The commissioner must deposit appropriations for this purpose and all recoupments against payments from the account in the collections unit's recoupment account. The recoupments are appropriated to the commissioner. An unexpended balance in the account does not cancel, but is available until expended.

Subd. 12. [UNCLAIMED SUPPORT FUNDS.] (a) If the public authority cannot disburse support payments to an obligee because the obligee cannot be located, the public authority must continue its efforts to locate the obligee for one year from the date it determines that it cannot locate the obligee.

(b) If the public authority is unable to locate the obligee after one year, the public authority must mail a written notice to the obligee at the obligee's last known address giving the obligee 60 days to contact the public authority.

(c) If the obligee does not contact the public authority within 60 days from the date of notice, the public authority must:

(1) close the nonpublic assistance portion of the case;

(2) disburse unclaimed support funds to pay public assistance arrears. If public assistance arrears remain after disbursing the unclaimed support funds, the public authority may continue to enforce and collect child support until all public assistance arrears have been paid. If there are not public assistance arrears, or unclaimed support funds remain after the public assistance arrears have been paid, the public authority must return the remaining unclaimed support funds to the obligor; and

(3) when all public assistance arrears have been paid to the public authority, mail a written notice of termination of income withholding and case closure to the obligor at the obligor's last known address. The notice must indicate that the obligor's support obligation will remain in effect until further order of the court and that the obligor may contact the public authority for assistance to modify the order. The public authority must include a copy of the form prepared by the state court administrator's office under section 517C.25, subdivision 4, with the notice.

(d) If the public authority cannot locate the obligor to return unclaimed support funds, the public authority must continue its efforts to locate the obligor for one year from the date the public authority determines that the obligor cannot be located. If the public authority is unable to locate the obligor after one year, the public authority must treat the funds as unclaimed property according to federal law and chapter 345.

Sec. 41. [517C.52] [INCOME WITHHOLDING; GENERAL.]

Subdivision 1. [APPLICATION.] Sections 517C.52 to 517C.62 apply to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority according to section 517C.43, subdivision 1, clause (5).

Subd. 2. [ORDER.] (a) Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority. Sections 517C.51 to 517C.62 apply regardless of the source of income of the person obligated to pay the child support.

(b) Every order for child support must provide for a conspicuous notice of the provisions in this section that complies with section 517C.99, subdivision 3. An order without this notice remains subject to this section.

(c) A payor of funds must implement income withholding according to sections 517C.51 to 517C.62 upon receipt of an order for or notice of withholding. The notice of withholding must be on a form provided by the commissioner of human services.

Subd. 3. [NOTICE; INCOME WITHHOLDING AND COLLECTION SERVICES.] (a) The commissioner of human services must prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator must promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support collection services from the public authority, must apply to the public authority for either full child support collection services or for services only to withhold income.

(c) For those persons applying for services only to withhold income, the public authority must charge a monthly service fee of \$15 to the obligor. This fee is in addition to the amount of the support order and must be withheld through income withholding. The public authority must explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 4. [CONTRACT FOR SERVICE.] To carry out income withholding, the public authority may contract for services, including the use of electronic funds transfer.

Subd. 5. [ELECTRONIC TRANSMISSION.] Orders or notices for income withholding may be transmitted for enforcement purposes by electronic means.

Subd. 6. [TIMING OF AUTOMATED ENFORCEMENT REMEDIES.] The public authority must make reasonable efforts to ensure that automated enforcement remedies take into consideration the time periods allowed under sections 517C.51 to 517C.62.

Sec. 42. [517C.53] [WAIVER OF INCOME WITHHOLDING.]

(a) If child support is not assigned to the public authority under section 256.741, the court may waive income withholding requirements if it finds there are no arrears as of the date of the hearing and:

(1) one party demonstrates and the court finds there is good cause to waive the requirements of sections 517C.51 to 517C.62 or to terminate an order for or notice of income withholding previously entered; or

(2) all parties reach an agreement 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 paragraph must include a written explanation of the reasons why income withholding would not be in the child's best interests.

(b) In addition to the other requirements in this section, if the case involves a modification of support, the court must make a finding that support has been timely made.

(c) If the court waives income withholding, the obligee or obligor may at any time request subsequent income withholding under section 517C.59.

Sec. 43. [517C.54] [PAYOR OF FUNDS RESPONSIBILITIES.]

Subdivision 1. [ACTIVATION.] An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

Subd. 2. [PROCEDURE.] A payor of funds must withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under sections 517C.58 and 517C.63 and must remit the amounts withheld to the public authority within seven business days of the date the obligor is paid the remainder of the income. The payor of funds must include with the remittance the obligor's social security number, the case type indicator as provided by the public authority, and 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. A payor of funds may combine all amounts withheld from one pay period into one payment to each public authority, but must separately identify each obligor making payment.

Subd. 3. [RETALIATION PROHIBITED.] A payor of funds must not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this chapter.

Subd. 4. [UPDATED ORDERS.] If more than one order for or notice of withholding exists

involving the same obligor and child, the public authority must enforce the most recent order or notice. An order for or notice of withholding that was previously implemented according to this chapter ends as of the date of the most recent order. The public authority must notify the payor of funds to withhold under the most recent withholding order or notice.

Subd. 5. [NOTIFICATION OF TERMINATION.] When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds must notify the public authority of the termination within ten days of the termination date. The termination notice must include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

Subd. 6. [EXPENSES.] A payor of funds may deduct \$1 from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this chapter to cover the expenses of withholding.

Sec. 44. [517C.55] [LUMP-SUM PAYMENTS.]

Subdivision 1. [APPLICATION.] (a) This section applies to lump-sum payments of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits.

(b) The Consumer Credit Protection Act, United States Code, title 15, section 1673(b), does not apply to lump-sum payments.

Subd. 2. [PAYOR OF FUNDS RESPONSIBILITIES.] Before transmitting a lump-sum payment to an obligor, a payor of funds who has been served with an order for or notice of income withholding under this chapter or a sworn affidavit of arrears from the public authority must:

(1) notify the public authority of the lump-sum payment that is to be paid to the obligor; and

(2) hold the lump-sum payment for 30 days after the date the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota Rules, part 1415.2000, subpart 10.

Subd. 3. [PUBLIC AUTHORITY OPTIONS.] (a) The public authority may direct the payor of funds to pay the lump-sum payment, up to the amount of judgments or arrears, to the public authority if:

(1) the public authority serves by mail a sworn affidavit of arrears from the public authority or a court order upon the payor of funds;

(2) a judgment entered pursuant to section 548.09 or 548.091, subdivision 1a, exists against the obligor, or other support arrears exist; and

(3) a portion of the judgment or arrears remains unpaid.

(b) If no judgment or arrears exist, the public authority may seek a court order directing the payor of funds to transmit all or a portion of the lump-sum payment to the public authority for future support. To obtain a court order under this paragraph, the public authority must show an obligor's past willful nonpayment of support.

Sec. 45. [517C.56] [PAYOR OF FUNDS LIABILITY.]

Subdivision 1. [LIABILITY TO OBLIGEE.] A payor of funds is liable to the obligee for amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this chapter is 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. A payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this paragraph. A payor of funds that has failed to comply with the requirements of sections 517C.51 to 517C.62 is subject to contempt sanctions under section 517C.57. If the payor of funds is an employer or independent contractor and violates

this subdivision, a court may award the obligor twice the wages lost as a result of this violation. If a court finds a payor of funds violated this subdivision, the court must impose a civil fine of not less than \$500. The liabilities under this subdivision apply to intentional noncompliance by a payor of funds with the requirements of sections 517C.51 to 517C.62.

Subd. 2. [NONLIABILITY FOR COMPLIANCE.] A payor of funds is not subject to civil liability to any individual or agency for taking action in compliance with an income withholding order or notice of withholding that appears regular on its face according to this chapter or chapter 518C.

Sec. 46. [517C.57] [EMPLOYER CONTEMPT.]

Subdivision 1. [ORDERS BINDING.] Notices or orders for income withholding or medical support issued pursuant to this chapter are binding on the employer, trustee, or other payor of funds after the order or notice has been transmitted to the employer, trustee, or payor of funds.

Subd. 2. [CONTEMPT ACTION.] (a) An obligee or the public authority may initiate a contempt action against an employer, trustee, or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer, trustee, or payor of funds.

(b) The employer, trustee, or payor of funds is presumed to be in contempt:

(1) if the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order or notice for income withholding or notice of enforcement of medical support; or

(2) upon presentation of pay stubs or similar documentation showing that the employer, trustee, or payor of funds withheld support and demonstrating that the employer, trustee, or payor of funds intentionally failed to remit support to the public authority.

Subd. 3. [LIABILITY; SANCTIONS.] The employer, trustee, or payor of funds is liable to the obligee or the public authority for 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 must 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.

Sec. 47. [517C.58] [PRIORITY OF INCOME WITHHOLDING ORDERS; MAXIMUM WITHHOLDING.]

Subdivision 1. [PRIORITY.] An order for or notice of withholding under this chapter or execution or garnishment upon a judgment for child support arrears or preadjudicated expenses has priority over an attachment, execution, garnishment, or wage assignment and is not 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).

Subd. 2. [MULTIPLE ORDERS.] If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds must comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b), giving priority to amounts designated in each order or notice as current support as follows:

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

Sec. 48. [517C.59] [SUBSEQUENT INCOME WITHHOLDING.]

Subdivision 1. [APPLICATION.] This section applies to support orders that do not contain provisions for income withholding.

Subd. 2. [PUBLIC AUTHORITY PROVIDES CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority provides child support enforcement services to the parties, income withholding under this section takes effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding must be initiated when:

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

(2) the obligee or obligor 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; or

(3) the public authority commences withholding under section 517C.43.

Subd. 3. [PUBLIC AUTHORITY DOES NOT PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority does not provide child support enforcement services to the parties, income withholding under this section must be initiated when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

Subd. 4. [NOTICE.] Within two days after the public authority commences withholding under this section, the public authority must send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice must include the information provided to the payor of funds in the notice of withholding.

Subd. 5. [CONTEST.] (a) The obligor may contest withholding under this section on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. An obligor who chooses to contest the withholding must do so no later than 15 days after the employer commences withholding, by bringing a proper motion under section 484.702 and the expedited child support process rules.

(b) The income withholding must remain in place while the obligor contests the withholding.

(c) If the court finds a mistake in the amount of the arrears to be withheld, the court must continue the income withholding, but it must correct the amount of the arrears to be withheld.

Sec. 49. [517C.60] [INCOME WITHHOLDING; ARREARS ORDER.]

(a) In addition to ordering income withholding for current support the court may order the payor of funds to withhold amounts to satisfy the obligor's previous arrears in support order payments. Use of this remedy does not exclude the use of other remedies to enforce judgments. The employer or payor of funds must withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support obligation until the arrears are paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 517C.12, subdivision 1, whether periodic or lump-sum, are not exempt from attachment or execution upon a judgment for child support arrears.

(c) Absent an order to the contrary, if arrears exist at the time a support order would otherwise terminate, income withholding continues in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 50. [517C.61] [INTERSTATE INCOME WITHHOLDING.]

(a) Upon receipt of an order for support entered in another state and the specified documentation from an authorized agency, the public authority must implement income withholding. A payor of funds in this state must withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state must withhold and distribute the funds as directed in the withholding notice and must apply the law of the obligor's principal place of employment when determining:

- (1) the employer's fee for processing an income withholding notice;
- (2) the maximum amount permitted to be withheld from the obligor's income; and
- (3) deadlines for implementing and forwarding the child support payment.

(c) An obligor may contest withholding under this section pursuant to section 518C.506.

Sec. 51. [517C.62] [ORDER TERMINATING INCOME WITHHOLDING.]

Subdivision 1. [GENERAL PROCEDURE.] (a) An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation. A court must enter an order terminating income withholding if:

(1) the obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and serves a duplicate copy of the application on the public authority;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation; and

(3) the application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known.

(b) The obligee or the public authority may request a contested hearing on the issue of whether income withholding should continue. The request must be made within 20 days of receiving an application for termination of income withholding. The request must clearly specify the basis for continuing income withholding. The obligee or public authority may make an ex parte motion to stay the service of an order terminating income withholding upon the obligor's payor of funds pending the outcome of the contested hearing.

Subd. 2. [TERMINATION BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that income withholding is no longer applicable, the public authority must notify the obligee and the obligor of intent to terminate income withholding.

(b) Five days after notification to the obligee and obligor, the public authority must issue a notice to the payor of funds terminating income withholding. A court order is not required unless the obligee has requested an expedited child support hearing under section 484.702.

Sec. 52. [517C.63] [CHILD SUPPORT DEPOSIT ACCOUNT; FINANCIAL INSTITUTIONS.]

Subdivision 1. [APPLICATION.] If income withholding is ineffective due to the obligor's method of obtaining income, the court must order the obligor to identify a child support deposit

account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court must order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from the obligor's child support account payable to an account of the public authority. The court must order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court may order a financial institution to disclose to the court the account number and any other information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this subdivision, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of a preauthorized transfer is subject to contempt of court procedures under chapter 588.

Subd. 2. [TRANSFERS.] A financial institution must execute preauthorized transfers for the obligor's deposit accounts in the amount specified in the order and amounts required under this section as directed by the public authority. 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.

Sec. 53. [517C.64] [ESCROW ACCOUNT.]

Subdivision 1. [STAY OF SERVICE.] (a) If the court finds there is no arrearage in child support as of the date of the court hearing, the court must stay service of the income withholding order under sections 517C.51 to 517C.62 if the obligor:

(1) establishes a savings account for a sum equal to two months of the monthly child support obligation; and

(2) provides proof of establishing the savings account to the court and the public authority on or before the day of the court hearing determining the obligation.

(b) The obligor must hold the sum under paragraph (a) in a financial institution in an interest-bearing account with only the public authority authorized as drawer of funds. The obligor's proof of establishing the account must include the financial institution name and address, account number, and the deposit amount.

Subd. 2. [RELEASE OF STAY.] Within three working days of receipt of notice of default, the public authority must direct the financial institution to release to the public authority the sum held under this section when the following conditions are met:

(1) the obligor fails to pay the support amount to the obligee or the public authority within ten days of the date it is ordered to be paid;

(2) the obligee transmits a notice of default to the public authority and makes application to the public authority for child support and maintenance collection services. The obligee must verify the notice and the notice must contain the title of the action, the court file number, the obligee's full name and address, the obligor's name and last known address, the obligor's last known employer or other payor of funds, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid; and

(3) within three working days of receipt of notice from the obligee, the public authority sends a copy of the notice of default and a notice of intent to implement income withholding by mail to the obligor at the address given. The notice of intent must state that the public authority will serve the order establishing the child support or maintenance obligation on the obligor's employer or payor of funds unless, within 15 days after the mailing of the notice, the obligor requests a hearing on the

issue of whether payment was in default as of the date of the notice of default. The obligor must serve notice of the request for hearing on the public authority and the obligee.

Subd. 3. [DUTIES OF PUBLIC AUTHORITY.] Within three working days of receipt of sums released under subdivision 2, the public authority shall remit to the obligee all amounts not assigned under section 256.741 as current support or maintenance. The public authority must also serve a copy of the court's order and the provisions of this section and sections 517C.51 to 517C.62 on the obligor's employer or other payor of funds unless, within 15 days after mailing of the notice of intent to implement income withholding, the obligor makes a proper motion pursuant to section 484.702 and the rules of the expedited child support process. The public authority must inform the employer or payor of funds pursuant to sections 517C.51 to 517C.62 of the effective date on which the next support or maintenance payment is due. The withholding process must begin on that date and must reflect the total credits of principal and interest amounts received from the escrow account.

Subd. 4. [HEARING.] Within 30 days of the date of the notice of default under subdivision 2, clause (2), the court must hold a hearing if a motion is brought by the obligor as set forth in subdivision 2. If the court finds that there was a default, the court must order the immediate withholding of support or maintenance from the obligor's income. If the court finds that there was no default, the court must order either the obligor or obligee to reestablish the escrow account and continue the stay of income withholding.

Subd. 5. [TERMINATION OF STAY.] When the obligation for support of a child or for spousal maintenance ends under the terms of the order or decree establishing the obligation and the sum held under this section has not otherwise been released, the public authority must release the sum and interest to the obligor when the following conditions are met:

(1) the obligor transmits a notice of termination to the public authority. The obligor must verify the notice and the notice must contain the title of the action, the court file number, the full name and address of the obligee, specify the event that ends the support or maintenance obligation, the effective date of the termination of support or maintenance obligation, and the applicable provisions of the order or decree that established the support or maintenance obligation;

(2) the public authority sends a copy of the notice of termination to the obligee; and

(3) the obligee fails within 20 days after mailing of the notice under clause (2) to request a hearing on the issue of whether the support or maintenance obligation continues and serve notice of the request for hearing on the obligor and the public authority.

Sec. 54. [517C.65] [TRUSTEE.]

Subdivision 1. [APPOINTMENT.] Upon its own motion or upon motion of either party, the court may appoint a trustee, when it is deemed expedient, to receive money ordered to be paid as child support for remittance to the person entitled to receive the payments. The trustee may also receive property that is part of an award for division of marital property. The trustee must hold the property in trust to invest and pay over the income in the manner the court directs, or to pay over the principal sum in the proportions and at the times the court orders. In all cases, the court must consider the situation and circumstances of the recipient, and the children, if any. The trustee must give a bond, as the court requires, for the faithful performance of the trust. If it appears that the recipient of money ordered to be paid as support will receive public assistance, the court must appoint the public authority as trustee.

Subd. 2. [RECORDS.] The trustee must maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order.

Subd. 3. [COMMUNICATION.] The parties affected by the order must inform the trustee of a change of address or of other conditions that may affect the administration of the order.

Subd. 4. [LATE PAYMENT.] If a required support payment is not made within ten days of the due date, the trustee must send the obligor notice of the arrears by first-class mail. If payment of

the sum due is not received by the trustee within ten days after sending notice, the trustee must certify the amount due to the public authority, whenever that authority is not the trustee. If the public authority refers the arrears to the county attorney, the county attorney may initiate enforcement proceedings against the obligor for support.

Sec. 55. [517C.66] [OVERPAYMENTS.]

If child support is not assigned under section 256.741, and an obligor has overpaid a child support obligation because of a modification or error in the amount owed, the public authority must:

(1) apply the amount of the overpayment to reduce the amount of child support arrears or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of arrears or debt, reduce the amount of the child support remitted to the obligee by an amount no greater than 20 percent of the current monthly support obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 56. [517C.67] [ALTERNATE NOTICE OF COURT ORDER.]

Whenever this chapter requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu of the order. The verified notice must contain the title of the action, the name of the court, the court file number, the date of the court order, and must recite the operative provisions of the order.

Sec. 57. [517C.70] [CHILD SUPPORT AND PARENTING TIME ARE INDEPENDENT.]

(a) Failure by a party to make support payments is not a defense to:

(1) interference with parenting time; or

(2) removing a child from this state without the permission of the court or the other parent.

(b) Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support.

(c) If a party fails to make support payments, interferes with parenting time, or removes a child from this state without permission of the court or the other parent, the other party may petition the court for an appropriate order.

Sec. 58. [517C.71] [PAYMENT AGREEMENTS.]

Subdivision 1. [GENERAL REQUIREMENTS.] An obligor who has child support arrears may enter into a payment agreement that addresses payment of both current and overdue support. Payment agreements must:

(1) be in writing;

(2) address both current support and arrears; and

(3) be approved by the district court, a child support magistrate, or the public authority.

Subd. 2. [CONSIDERATIONS.] In proposing or approving proposed payment agreements for purposes of this chapter, the district court, a child support magistrate, or the public authority must take into consideration the amount of the arrears, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The district court, child support magistrate, or public authority must consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and must propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor. The district court, child support magistrate, or public authority also must consider a graduated payment plan tailored to the individual financial circumstances of each obligor.

Sec. 59. [517C.72] [SEEK EMPLOYMENT ORDERS.]

Subdivision 1. [COURT ORDER.] (a) When the public authority is enforcing a support order, the public authority may seek a court order requiring an obligor to seek employment if:

(1) the obligor's employment cannot be verified;

(2) the obligor has child support arrears amounting to at least three times the obligor's total monthly support payments; and

(3) the obligor is not in compliance with a payment agreement.

(b) Upon proper notice 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 or entered into a payment agreement.

Subd. 2. [CONTENTS OF ORDER.] The order to seek employment must:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority a weekly report of at least five new attempts to find employment or of having found employment. The report must include the names, addresses, and telephone numbers of the employers or businesses with whom the obligor attempted to obtain employment and the name of the individual contact at each employer or business 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 517C.74;

(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.

Sec. 60. [517C.73] [ORDER FOR COMMUNITY SERVICES.]

If the court finds that the obligor earns \$400 or less per month and does not have the ability to provide support based on the guidelines and factors in this chapter, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this section, the court must consider whether the obligor has the physical capability to perform community services, and must order community services that are appropriate for the obligor's abilities.

Sec. 61. [517C.74] [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, has child support arrears amounting to at least three times the obligor's total monthly support obligation and is not in compliance with a payment agreement, a court may cite and punish a person for contempt under section 517C.25, subdivision 1, chapter 588, or this section. An obligor's failure to comply with a seek employment order entered under section 517C.72 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.

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

Subd. 3. [RELEASE.] A person ordered to do community service work under subdivision 2 may, during the six-week period, apply to the district court, a child support magistrate, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the district court, a child support magistrate, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 517C.52;

(2) enters into a payment agreement under section 517C.71; or

(3) provides proof to the district court, a child support magistrate, or the public authority that, after 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. 4. [CONTINUING OBLIGATIONS.] An obligor's performance of community service work does not relieve the obligor of a current support obligation or arrears.

Sec. 62. [517C.745] [SECURITY; SEQUESTRATION; CONTEMPT.]

(a) In all cases when the court orders support payments, 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 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.

(b) The obligor is presumed to have an income from a source sufficient to pay the support order. A child support 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 517C.74, or chapter 588.

Sec. 63. [517C.75] [DRIVER'S LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's driver's license must be suspended if the court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY THE OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's driver's license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court. An obligee may not bring a motion under this subdivision within 12 months of a denial of a previous motion under this subdivision.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the commissioner of public safety to suspend the obligor's driver's license; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must suspend the obligor's driver's license.

Subd. 3. [SUSPENSION INITIATED BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's driver's license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's driver's license; and

(2) the obligor must make a written request for a hearing to contest the driver's license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.

(d) If a hearing is held and the court finds a factor under subdivision 1 exists, the court must order the commissioner of public safety to suspend the obligor's driver's license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to suspend the obligor's driver's license.

Subd. 4. [SUSPENSION FOR FAILURE TO COMPLY WITH A SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the commissioner of public safety to suspend an obligor's driver's license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend a driver's license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 5. [SUSPENSION FOR FAILURE TO REMAIN IN COMPLIANCE WITH A PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party or the public authority must serve notice upon the obligor of intent to suspend under this subdivision. The party or public authority must serve the notice upon the obligor by first class mail at the obligor's last known address not less than ten days before the hearing date. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the department of public safety to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the department of public safety to suspend the obligor's license.

Subd. 6. [REINSTATEMENT.] (a) An obligor whose driver's license or operating privileges are suspended may:

(1) provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71;

(2) bring a motion for reinstatement of the driver's license. At the hearing, the district court or child support magistrate must establish a payment agreement under section 517C.71 if the district court or child support magistrate orders reinstatement of the driver's license; or

(3) seek a limited license under section 171.30. A limited license issued to an obligor under section 171.30 expires 90 days after the date it is issued.

(b) Within 15 days of the receipt of the proof under paragraph (a), clause (1), or a court order, the public authority must inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

Subd. 7. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

Subd. 8. [REPORT TO THE LEGISLATURE.] On January 15, 2005, and every two years after that, the commissioner of human services must 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;

(6) the cost of implementation and operation of the requirements of this section; and

(7) the number of limited licenses issued and number of cases in which payment agreements are executed and cases are paid in full following issuance of a limited license.

Sec. 64. [517C.76] [OCCUPATIONAL LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's occupational license must be suspended if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupation license and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY THE OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's occupational license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the licensing board or agency to suspend the obligor's occupational license under section 214.101; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 257C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court order becomes effective and the licensing board or agency must suspend the obligor's occupational license.

(d) If the obligor is a licensed attorney, the court must comply with the procedure under subdivision 4 for notifying the lawyers professional responsibility board.

Subd. 3. [SUSPENSION INITIATED BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's occupational license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's occupational license; and

(2) the obligor must make a written request for a hearing to contest the occupational license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.

(d) If a hearing is held and the court finds a factor warranting suspension under subdivision 1 exists, the court must order the occupational licensing board or agency to suspend the obligor's occupational license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the occupational licensing board or agency to suspend the obligor's occupational license.

(f) If the obligor is a licensed attorney, the court or public authority must comply with the procedure under subdivision 4 for notifying the lawyers professional responsibility board.

Subd. 4. [OBLIGOR IS LICENSED ATTORNEY.] If an obligor is a licensed attorney and the court finds that a factor warranting suspension under subdivision 1 exists, the court or public authority must notify the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct or order the licensing board or agency to suspend the obligor's license if the court finds that the obligor:

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

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

(3) has not executed or is not in compliance with a payment agreement.

Subd. 5. [SUSPENSION FOR FAILURE TO COMPLY WITH A SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the occupational licensing board or agency to suspend an obligor's occupational license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend an occupational license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 6. [FAILURE TO REMAIN IN COMPLIANCE WITH AN APPROVED PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party must serve notice upon the obligor of an intent to suspend under this subdivision. A party must serve the notice by first class mail at the obligor's last known address not less than ten days before the date of the hearing. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the licensing board or agency to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the licensing board or agency to suspend the obligor's license.

Subd. 7. [REINSTATEMENT.] An obligor whose occupational license is suspended may provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of the receipt of that proof, the public authority must inform the licensing board or agency or the lawyer's professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this section.

Subd. 8. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

Sec. 65. [517C.77] [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.]

Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under section 517C.76 or a driver's license suspension under section 517C.75, that are transferred by the department of human services to the department of public safety or a state, county, or municipal occupational licensing agency respectively must have the same classification at the department of public safety or other receiving agency under section 13.02 as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the department of human services.

Sec. 66. [517C.78] [RECREATIONAL LICENSE SUSPENSION.]

Subdivision 1. [MOTION; FACTORS.] (a) An obligee or the public authority may bring a motion to suspend the recreational license or licenses of an obligor. An obligee or the public authority must serve the motion on the obligor in person or by first class mail at the obligor's last known address. There must be an opportunity for a hearing. The court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses if it finds that:

(1) the obligor has child support arrears amounting to at least six times the obligor's total monthly support payments and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) Before utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

Subd. 2. [AFFECTED LICENSES.] For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

Subd. 3. [REINSTATEMENT.] An obligor whose recreational license has been suspended or barred may provide proof to the court that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of receipt of that proof, the court must notify the commissioner of natural resources that the obligor's recreational license or licenses must no longer be suspended nor may receipt be barred.

Sec. 67. [517C.79] [MOTOR VEHICLE LIEN.]

Subdivision 1. [FACTORS WARRANTING LIEN.] A lien in the name of the obligee or the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, must be entered on any motor vehicle certificate of title subsequently issued in the obligor's name if the obligor:

(1) is a debtor for a judgment debt resulting from child support arrears in an amount at least three times the total monthly support obligation; and

(2) is not in compliance with a payment agreement under section 517C.71.

Subd. 2. [LIEN INITIATED BY THE OBLIGEE.] (a) An obligee may bring a motion for the entry of a lien on any motor vehicle certificate of title issued in the obligor's name. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that the factors under subdivision 1 exist, the court must:

(1) order the commissioner of public safety to enter a lien in the obligee's name or in the name of the state of Minnesota, as appropriate under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 3. [LIEN INITIATED BY THE PUBLIC AUTHORITY.] (a) If the public authority determines that the factors in subdivision 1 exist, the public authority must direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name.

(b) At least 90 days before directing the entry of a lien under this section, the public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) the obligor must make a written request for a hearing within 30 days of the date of the notice to contest the action.

(c) If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve the obligor personally or by mail at the obligor's last known address with a notice including the hearing time and place and the allegations against the obligor.

(d) If a hearing is held and the court finds the factors under subdivision 1 exist, the court must order the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

(e) If the obligor does not make a written request for a hearing within 30 days of the date of the

notice and has not entered into or is not in compliance with a payment agreement under section 517C.71 approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 4. [RELEASE.] An obligor may provide proof to the court or the public authority that the obligor is in compliance with all written payment agreements under section 517C.71 or that the motor vehicle's value is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority must:

(1) execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person; or

(2) in instances where a lien has not yet been entered, direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 5. [NONEXEMPT VALUE.] A lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the National Auto Dealers Association Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Subd. 6. [REMEDIES AVAILABLE.] The remedy available under this section is in addition to any other enforcement remedies available to the court or public authority.

Sec. 68. [517C.80] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Subdivision 1. [MAKING NAMES PUBLIC.] At least once each year, the commissioner of human services, in consultation with the attorney general, may publish a list of the names and other identifying information of no more than 25 persons who:

(1) are child support obligors;

(2) are at least \$10,000 in arrears;

(3) are not in compliance with a payment agreement regarding both current support and arrears approved by the district court, a child support magistrate, or the public authority;

(4) cannot currently be located by the public authority for the purposes of enforcing a support order; and

(5) have not made a support payment except tax intercept payments in the preceding 12 months.

Subd. 2. [IDENTIFYING INFORMATION.] Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The commissioner and attorney general may use posters, media presentations, electronic technology, and other means that the commissioner and attorney general determine are appropriate for dissemination of the information, including publication on the Internet. The commissioner and attorney general may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this section will only be made public after that person's selection by the commissioner and attorney general.

Subd. 3. [NOTICE.] (a) Before making the obligor's name public, the department of human services must send a notice to the obligor's last known address stating the department's intention to make public information on the obligor. The notice must also provide an opportunity to have

the obligor's name removed from the list by paying the arrears or by entering into an agreement to pay the arrears, or by providing information to the public authority that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.

(b) The department of human services must obtain the obligee's written consent to make the obligor's name public.

Subd. 4. [NAMES PUBLISHED IN ERROR.] If the commissioner makes a name public under subdivision 1 in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in the same medium and the same format as the original notice where the name was listed in error. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

Sec. 69. [517C.81] [COLLECTION; ARREARS.]

Subdivision 1. [COLLECTION OF ARREARS TO CONTINUE AFTER CHILD IS EMANCIPATED.] Remedies available for collecting and enforcing support in this chapter and chapters 256, 257, and 518C also apply to cases in which a child for whom support is owed is emancipated and the obligor owes past support or has accumulated arrears as of the date of the youngest child's emancipation. Child support arrears under this section include arrears for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 517C.15.

Subd. 2. [RETROACTIVE APPLICATION.] This section applies retroactively to support arrears that accrued on or before the date of enactment and to all arrears accruing after the date of enactment.

Subd. 3. [LIMITATIONS.] Past support or pregnancy and confinement expenses ordered for which the obligor has specific court-ordered terms for repayment may not be enforced using drivers' and occupational or professional license suspension, credit bureau reporting, and additional income withholding under section 517C.60, unless the obligor fails to comply with the terms of the court order for repayment.

Subd. 4. [PAYMENT OF ARREARS.] Absent a court order to the contrary, if an arrearage exists at the time a support order would otherwise terminate and section 517C.60 does not apply, the obligor must repay the arrearage in an amount equal to the current support order until all arrears have been paid in full.

Subd. 5. [PAYMENT AGREEMENT.] If arrears exist according to a support order which fails to establish a monthly support obligation in a specific dollar amount, the public authority, if it provides child support collection services, or the obligee may establish a payment agreement. The payment agreement must equal what the obligor would pay for current child support, plus an additional 20 percent of the current child support obligation, until all arrears are paid in full. If the obligor fails to enter into or comply with a payment agreement, the public authority, if it provides child support collection services, or the obligee may file a motion in district court or the expedited child support process, if section 484.702 applies, for a court order establishing repayment terms.

Sec. 70. [517C.82] [COLLECTION; REVENUE RECAPTURE.]

The public authority may submit debt under chapter 270A only if the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount greater than the obligor's total monthly support and maintenance payments or if the debt has been entered and docketed as a judgment.

Sec. 71. [517C.83] [CASE REVIEWER.]

The commissioner must make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the

collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

Sec. 72. [517C.84] [ATTORNEY FEES; COLLECTION COSTS.]

Subdivision 1. [GENERAL.] (a) A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this section if the child support arrears are:

- (1) at least \$500;
- (2) at least 90 days past due; and
- (3) docketed as a judgment under sections 548.09 and 548.091.

(b) If the obligor pays in full the judgment rendered under section 548.091 within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this section.

Subd. 2. [ENFORCEMENT.] Attorney fees and collection costs obtained under this section are considered child support and entitled to the applicable remedies for child support collection and enforcement.

Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] If the public authority is a party to a case, an obligee must provide written notice to the public authority within five days of:

- (1) contracting with an attorney or collection entity to enforce a child support judgment; or
- (2) receipting payments received on a child support judgment.

Subd. 4. [NOTICE TO OBLIGOR; HEARING.] (a) The obligee must serve notice of the obligee's intent to recover attorney fees and collection costs by certified or registered mail on the obligor at the obligor's last known address. The notice must itemize the attorney fees and collection costs being sought by the obligee. It must inform the obligor that the fees and costs will become an additional judgment for child support unless, within 20 days of mailing of the notice, the obligor requests a hearing:

- (1) on the reasonableness of the fees and costs; or
- (2) to contest the child support judgment on grounds limited to mistake of fact.

(b) If the obligor requests a hearing, the only issues to be determined by the court are:

(1) whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor; or

(2) the validity of the child support judgment on grounds limited to mistake of fact.

(c) The fees and costs may not exceed 30 percent of the arrears. The court may modify the amount of attorney fees and costs as appropriate and must enter judgment accordingly.

(d) If the obligor fails to request a hearing within 20 days of mailing of the notice under paragraph (a), the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

Subd. 5. [FORMS.] The state court administrator must prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this section.

Sec. 73. [517C.99] [REQUIRED NOTICES.]

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set

out in subdivision 3. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 3 relating to parental rights if it finds it is necessary to protect the welfare of a party or child.

Subd. 2. [COPIES OF LAWS AND FORMS.] The district court administrator must make copies of the sections referred to in subdivision 3 available at no charge and must provide forms to request or contest attorney fees and collection costs under section 517C.84, and cost-of-living increases under section 517C.31.

Subd. 3. [CONTENTS.] The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 517C.35, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

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

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If the obligor is laid off from employment or receives a pay reduction, support may be reduced, but only if the obligor or public authority serves and files a motion to reduce the support with the court. Any reduction will take effect only if ordered by the court and may only relate back to the time that the obligor files a motion. If the obligor or public authority does not file a motion, the support obligation will continue at the current level. The court is not

permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 517C.29.

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

(i) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

5. PARENTAL RIGHTS REGARDING INFORMATION AND CONTACT

Unless otherwise provided by the court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor child. Each party has the right of access to information regarding health or dental insurance available to the minor child. Presentation of a copy of this order to the custodian of a record or other information about the minor child constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party must keep the other informed as to the name and address of the school of attendance of the minor child. Each party has the right to be informed by school officials about the child's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party must notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor child.

6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 517C.52 to 517C.62, have been met. A copy of those sections is available from any district court clerk.

7. CHANGE OF ADDRESS OR RESIDENCE

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

8. COST-OF-LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 517C.31, are met. Cost-of-living increases are compounded. A copy of Minnesota Statutes, section 517C.31, and forms necessary to request or contest a cost-of-living increase are available from any district court clerk.

9. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain

entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

10. JUDGMENTS FOR UNPAID SPOUSAL MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 517C.84, are met. A copy of Minnesota Statutes, section 517C.84, and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

12. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 517B.26. A copy of that section and a description of the expeditor process is available from any district court clerk.

13. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 517B.25, subdivision 7. These include compensatory parenting time, civil penalties, bond requirements, contempt, and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 74. [APPROPRIATIONS.]

\$...... is appropriated in fiscal year 2004 and \$...... is appropriated in fiscal year 2005 from the general fund to the commissioner of human services to fund implementation of the Minnesota Child Support Act and to reimburse counties for their implementation costs. The commissioner of human services shall devise an equitable system to reimburse counties for their costs of implementing the Minnesota Child Support Act. This is a onetime appropriation.

\$...... is appropriated in fiscal year 2004 and \$...... is appropriated in fiscal year 2005 from the general fund to the supreme court administrator to fund implementation of the Minnesota Child Support Act. This is a onetime appropriation.

Sec. 75. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes must correct internal cross references to sections that are now in Minnesota Statutes, chapter 517C, throughout Minnesota Statutes and Minnesota Rules.

(b) If a provision of a section of Minnesota Statutes amended by this act is amended by the 2003 regular legislative session or 2003 special legislative session, if any, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary. In sections affected by this instruction, the revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 76. [REPEALER.]

Minnesota Statutes 2002, sections 518.111; 518.171; 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853;

518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; and 518.68, are repealed.

Sec. 77. [EFFECTIVE DATE.]

Articles 1 to 3 are effective January 1, 2005.

ARTICLE 4

MISCELLANEOUS CIVIL LAW PROVISIONS

Section 1. Minnesota Statutes 2002, section 484.76, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The supreme court shall establish a statewide alternative dispute resolution program for the resolution of civil cases filed with the courts. The supreme court shall adopt rules governing practice, procedure, and jurisdiction for alternative dispute resolution programs established under this section. Except for matters involving family law and harassment restraining order actions under section 609.748, the rules shall require the use of nonbinding alternative dispute resolution processes in all civil cases, except for good cause shown by the presiding judge, and must provide an equitable means for the payment of fees and expenses for the use of alternative dispute resolution processes.

Sec. 2. Minnesota Statutes 2002, section 517.05, is amended to read:

517.05 [CREDENTIALS OF MINISTER OR MEJ KOOB.]

Subdivision 1. [MINISTER.] Ministers of any religious denomination, before they are authorized to solemnize a marriage, shall file a copy of their credentials of license or ordination with the court administrator of the district court of a county in this state, who shall record the same and give a certificate thereof. The place where the credentials are recorded shall be endorsed upon and recorded with each certificate of marriage granted by a minister.

Subd. 2. [MEJ KOOB.] Before a Mej Koob is authorized to solemnize a marriage, the Mej Koob shall file a signed statement with the court administrator in any county in the state indicating the person's intent to solemnize Hmong marriages as provided in section 517.18, subdivision 4a. The court administrator shall record the statement and give the person a certificate indicating the person's authority to solemnize those marriages. The place where the statement is recorded must be endorsed upon and recorded with each certificate of marriage granted by the Mej Koob.

Sec. 3. Minnesota Statutes 2002, section 517.18, is amended to read:

517.18 [MARRIAGE SOLEMNIZATION.]

~~Subdivision 1. [FRIENDS.] All Marriages solemnized among the people called Friends or Quakers, in the form heretofore practiced and in use in their meetings, shall be valid and not affected by any of the foregoing provisions. The clerk of the meeting in which such marriage is solemnized, within one month after any such marriage, shall deliver a certificate of the same to the court administrator of the district court of the county where the marriage took place, under penalty of not more than \$100. Such certificate shall be filed and recorded by the court administrator under a like penalty. If such marriage does not take place in such meeting, such certificate shall be signed by the parties and at least six witnesses present, and shall be filed and recorded as above provided under a like penalty.~~

~~Subd. 2. [BAHA'I.] Marriages may be solemnized among members of the Baha'i faith by the chair of an incorporated local Spiritual Assembly of the Baha'is, according to the form and usage of such society.~~

~~Subd. 3. [BUDDHISTS; HINDUS; MUSLIMS.] Marriages may be solemnized among Buddhists, Hindus, or Muslims by the person chosen by a local Buddhist, Hindu, or Muslim association, according to the form and usage of their respective religions.~~

~~Subd. 4. [AMERICAN INDIANS.] Marriages may be solemnized among American Indians~~

according to the form and usage of their religion by an Indian Mide' or holy person chosen by the parties to the marriage.

Subd. 4a. [HMONG.] Marriages may be solemnized among Hmong by the Mej Koob, according to the form and usage of Hmong culture.

Subd. 5. Nothing in subdivisions 2 to 4 4a shall be construed to alter the requirements of section 517.01, 517.09, or 517.10.

Subd. 6. [FILING OF CERTIFICATE.] Within one month after a marriage is solemnized in any manner specified in subdivisions 2 to 4a, the solemnizer shall deliver a certificate of the marriage to the district court of the county where the marriage took place, under penalty of up to \$100 for failing to do so. The certificate must be filed and recorded by the court administrator, under penalty of up to \$100 for failing to do so.

For marriages solemnized under subdivision 1, the clerk of the meeting shall deliver the certificate. If the marriage does not take place in a meeting, the certificate must be signed by the parties and at least six witnesses present.

Subd. 7. [APPLICATION OF OTHER LAW.] Nothing in this section authorizes the solemnization of a marriage in violation of section 517.02 or any other provision of this chapter or solemnization of a marriage to which both parties do not voluntarily consent.

Sec. 4. Minnesota Statutes 2002, section 518.58, subdivision 4, is amended to read:

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 5. Minnesota Statutes 2002, section 518.64, is amended by adding a subdivision to read:

Subd. 7. [MILITARY SERVICE.] (a) An increase or decrease in an obligor's income because of active military service is grounds for a motion for a temporary modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for modification under this section.

(b) If an obligor who makes a motion to modify support is unable to appear at a proceeding because of being called into active military service, the court must, upon request of the obligor, stay further proceedings until the obligor returns from active military service or is able to appear

by alternate means. If the obligor chooses to proceed without appearing, the court may determine the current support obligation based upon documentary evidence of the obligor's income without requiring the obligor's appearance. The state court administrator shall prepare a form to allow an obligor to request a modification without appearance.

(c) If there has been a modification under this subdivision, the obligor's return from active military service is grounds for a motion for modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for a modification under this section.

(d) An obligor whose support obligation has been modified under this subdivision shall notify the obligee and the public authority, if the public authority is providing support enforcement services, within 30 days of the obligor's return from active military service.

(e) A modification under this subdivision is temporary and effective until the obligor returns from active military service or for two years after the modification takes effect under this subdivision, whichever occurs earlier.

(f) For purposes of this subdivision, "active military service" has the meaning given to the term "active service" in section 190.05, subdivision 5, when the obligor has been ordered to active military service for 30 or more days.

Sec. 6. Minnesota Statutes 2002, section 626.556, subdivision 2, is amended to read:

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

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

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

(c) "Neglect" means:

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

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so;

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

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.09, subdivision 3;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

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

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

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

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture; or

(10) allowing a child to enter into a marriage in violation of section 517.02, allowing a child to enter into a marriage without the child's consent, or otherwise allowing solemnization of a marriage in accordance with form and usage of a particular religion or culture in violation of these provisions, regardless of whether the marriage is solemnized under chapter 517.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

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

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

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

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

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

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

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

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (b), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

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

Sec. 7. Minnesota Statutes 2002, section 626.556, subdivision 3, is amended to read:

Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c); or

(3) a person who has authority to solemnize a marriage under chapter 517, who has received the information while engaged in the performance of that function.

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of children, families, and learning. Section 13.03, subdivision 4, applies to data received by the commissioner of children, families, and learning from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 8. [EFFECTIVE DATE.]

Section 5 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to civil law; reforming and recodifying the law relating to marriage

dissolution, child custody, child support, maintenance, and property division; changing a fee; making style and form changes; exempting harassment restraining order actions from mandatory alternative dispute resolution requirements; providing alternate forms of marriage solemnization; modifying provisions dealing with distribution of certain pension plan assets or benefits; providing for modification of support obligations of certain persons called into active military service; modifying provisions under the child maltreatment reporting act; appropriating money; amending Minnesota Statutes 2002, sections 357.021, by adding a subdivision; 484.76, subdivision 1; 517.05; 517.18; 518.002; 518.003, subdivisions 1, 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.091; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, 6; 518.165; 518.166; 518.167, subdivisions 3, 4, 5; 518.168; 518.1705, subdivisions 2, 6, 7, 8, 9; 518.175; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, 3; 518.1752; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.191, subdivision 1; 518.195, subdivisions 2, 3; 518.24; 518.25; 518.27; 518.54, subdivisions 1, 5, 6, 7, 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1, 2, by adding a subdivision; 518.641; 518.642; 518.646; 518.65; 518.68, subdivision 1; 519.11, subdivision 1; 626.556, subdivisions 2, 3; proposing coding for new law as Minnesota Statutes, chapters 517A; 517B; 517C; repealing Minnesota Statutes 2002, sections 518.111; 518.14, subdivision 2; 518.17; 518.171; 518.1752; 518.185; 518.24; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.55, subdivision 4; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; 518.62; 518.64, subdivisions 4, 4a, 5; 518.68."

And when so amended the bill do pass and be re-referred to the Committee on Health and Family Security. Amendments adopted. Report adopted.

Senator Kelley from the Committee on Education, to which was referred

S.F. No. 641: A bill for an act relating to higher education; requiring certain students enrolled in institutions of higher education to receive information regarding meningococcal disease and sign a written waiver; amending Minnesota Statutes 2002, section 135A.14, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 135A.14, is amended by adding a subdivision to read:

Subd. 6a. [MENINGITIS INFORMATION.] Each public and private postsecondary institution shall provide information on the risks of meningococcal disease and on the availability and effectiveness of any vaccine, to each individual who is a first-time enrollee and who resides in on-campus student housing. The institution may provide the information in an electronic format. The institution must consult with the department of health on the preparation of the informational materials provided under this subdivision.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective June 1, 2003."

Delete the title and insert:

"A bill for an act relating to higher education; requiring certain postsecondary students to receive information on meningococcal disease; amending Minnesota Statutes 2002, section 135A.14, by adding a subdivision."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Anderson from the Committee on Commerce and Utilities, to which was referred

S.F. No. 289: A bill for an act relating to real property; statutory home warranties; amending the exclusions for liability of the vendor and home improvement contractor; providing for a statutory cure of defects; specifying limitation of actions based on breach; amending Minnesota Statutes 2002, sections 327A.01, by adding a subdivision; 327A.03; 327A.05, by adding a subdivision; 515B.4-115; 541.051, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 327A.02, is amended by adding a subdivision to read:

Subd. 4. [ACTION ALLOWED; LIMITATION.] An owner or vendee has one year following the expiration of each of the warranty periods provided in subdivisions 1 and 3, to discover a defect which has occurred within the warranty period. An action under this section must be brought within two years of the discovery of the defect. Notwithstanding any law to the contrary, no action under this section may be brought more than three years after the expiration of each of the warranty periods provided in subdivisions 1 and 3."

Delete the title and insert:

"A bill for an act relating to real property; specifying limitation of actions based on breach; amending Minnesota Statutes 2002, section 327A.02, by adding a subdivision."

And when so amended the bill be re-referred to the Committee on Judiciary without recommendation. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 462: A bill for an act relating to local government; shooting ranges; defining generally accepted operation practices; providing for relation to ordinances, closing and relocation, and nuisance liability; proposing coding for new law as Minnesota Statutes, chapter 87A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [87A.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 87A.01 to 87A.08.

Subd. 2. [PERSON.] "Person" means an individual, association, proprietorship, partnership, corporation, club, political subdivision, or other legal entity.

Subd. 3. [SHOOTING RANGE OR RANGE.] "Shooting range" or "range" means an area or facility designated or operated for the use of firearms, as defined in section 97A.015, subdivision 19, or archery, and includes shooting preserves as described in section 97A.115 or any other Minnesota law.

Subd. 4. [GENERALLY ACCEPTED OPERATION PRACTICES.] "Generally accepted operation practices" means those voluntary guidelines adopted by the commissioner of natural resources under section 87A.02 for the safe operation of shooting ranges.

Subd. 5. [UNIT OF GOVERNMENT.] "Unit of government" means a home rule charter or statutory city, county, town, municipal corporation, or other political subdivision, or any of their instrumentalities.

Sec. 2. [87A.02] [GENERALLY ACCEPTED OPERATION PRACTICES.]

The commissioner of natural resources must develop and adopt generally accepted operation practices for shooting ranges. In developing generally accepted operation practices, the commissioner must consult with representatives of local units of government and range operators and any consultants the range operators provide. The practices must include the noise standards in section 87A.06. The practices must provide for operation of shooting preserves within their boundaries notwithstanding any discharge distance limitations provided by rule or otherwise concerning hunting on other land. The commissioner must review the generally accepted operation practices at least every five years and revise as the commissioner considers necessary for safe operation of a shooting range. The commissioner must adopt initial guidelines by July 1, 2003.

Sec. 3. [87A.03] [LOCAL ORDINANCES; EXISTING OPERATIONS.]

Subdivision 1. [COMPLIANT RANGES MAY CONTINUE OPERATING.] A shooting range that is in operation and is in substantial compliance with existing law at the time of the enactment of an ordinance of a unit of government affecting, directly or indirectly, operation or use of a shooting range must be permitted to continue in operation even if the operation of the shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

Subd. 2. [COMPLIANT RANGES MAY REPAIR, REMODEL, REPLACE, EXPAND.] A shooting range that operates in full compliance with generally accepted operation practices, even if not in compliance with an ordinance of a unit of government affecting, directly or indirectly, operation or use of a shooting range, must be permitted to do all of the following within its geographic boundaries if done in accordance with generally accepted operation practices:

(1) repair, remodel, improve, replace, construct, or reinforce any conforming or nonconforming building or structure as may be necessary or desirable in the interest of safety or to secure the continued use of the range, building, or structure;

(2) reconstruct, repair, restore, remodel, improve, replace, or resume the use of any conforming or nonconforming building or structure damaged by fire, collapse, erosion, wear and tear, obsolescence, explosion, act of God, or act of war;

(3) expand or increase its membership or opportunities for public participation;

(4) make those repairs or improvements necessary or desirable under generally accepted operation practices;

(5) expand or increase events, facilities, and activities directly related to the primary activity of the shooting range; and

(6) conduct shooting activities and discharge firearms between 8:00 a.m. and 8:00 p.m., or sunset, whichever is later. A local unit of government with jurisdiction over a shooting range may extend the hours of operation by the issuance of a conditional use permit.

Nothing in this subdivision exempts any newly constructed or remodeled building on a shooting range from compliance with fire safety, handicapped accessibility, elevator safety, bleacher safety, or other provisions of the State Building Code that have mandatory statewide application.

Sec. 4. [87A.04] [CLOSING OR RELOCATING SHOOTING RANGES; PAYMENT OF CERTAIN COSTS.]

Subdivision 1. [CLOSURE OR RELOCATION CRITERIA.] A shooting range either may be closed under subdivision 3, or relocated under subdivision 4, by a state agency or unit of government only if, because of new, permitted development of adjacent land, the range becomes a clear, immediate, and proven safety hazard to the adjacent population and it cannot be brought into full compliance with generally accepted operation practices concerning range safety with range or operation improvements.

Subd. 2. [PROCEDURE.] The clear and immediate safety hazard must be proven at a

declaratory judgment proceeding in district court. The plaintiff must provide in the complaint a clear and precise statement of the complete factual basis for alleging a safety hazard. The court must make written findings and conclusions as to the hazard alleged in the complaint and whether range improvements are available to bring the range into full compliance with the generally accepted operation practices concerning range safety. If the court concludes that there is a clear and immediate safety hazard and the operation of the shooting range can be brought into full compliance with the generally accepted operation practices concerning range safety with range or operation improvements, the state agency that controls the state-owned land or the local government unit that has land use planning and zoning authority for the development of the adjacent land must pay for the range or operation improvements.

Subd. 3. [CLOSURE.] If a clear and immediate safety hazard is proven as required under subdivisions 1 and 2, a shooting range may be closed by the state agency or the unit of government if the agency or unit of government closing the shooting range pays the fair market value of the range operation as a going concern to the operators and the fair market value of the land, including improvements, to the owner of the land.

Subd. 4. [RELOCATION.] If a clear and immediate safety hazard is proven as required under subdivisions 1 and 2, upon request by the operator of the shooting range, the agency or unit of government must relocate the shooting range to a suitable new location. The agency or unit of government may use its power of eminent domain to acquire the new location. If a range is relocated, the state agency or unit of government must pay the operator the fair market value of the range as a going concern, minus the fair market value of the range as a going concern at the new location, and the owner the fair market value of the land and improvements, minus all reasonable, additional direct costs incurred by the state agency or unit of government in acquiring the new location and moving the range to the new site.

Subd. 5. [TRANSFER OF TITLE.] The shooting range owner and operator must transfer their interests in the property to the agency or unit of government after full and final payment under subdivision 3 or after the relocation is completed under subdivision 4.

Sec. 5. [87A.05] [NOISE BUFFERING OR ATTENUATION.]

(a) If a shooting range is operated in full compliance with generally accepted operation practices and if property located within one mile of the exterior property boundary of the range is rezoned or developed, the unit of government must provide for noise buffers, attenuation devices, safety improvements, or equivalent measures that are:

(1) within the new development as a condition for developing the property or as supplied by the unit of government; or

(2) supplied or funded by the unit of government for location in the range.

(b) Property owners, developers, units of government, and ranges may negotiate and provide for noise buffers or attenuation devices located on or off the range.

(c) Any noise buffering or attenuation under this section must comply with the noise standards prescribed by section 87A.06.

Sec. 6. [87A.06] [NOISE STANDARDS.]

Subdivision 1. [NOISE STANDARDS.] (a) A person who owns or operates or uses a shooting range in this state is subject only to the noise standards and procedures in Minnesota Rules, parts 7030.0010 to 7030.0080, in effect on March 1, 1999. The noise area classifications shall be utilized as well as the provisions for daytime and nighttime standards within those classifications. The steady state noise L10 and L50 standards for each period of the day or night within each noise area classification shall be replaced by a single Leq(h) standard for impulsive noise that is two dBA lower than that of the L10 level for steady state noise.

(b) This section and the standards in paragraph (a) shall be applied in the same manner as a generally accepted operation practice for all of the provisions of this chapter.

Subd. 2. [ACTIONS BASED ON NOISE.] Any action brought against a range on the basis of noise or disturbance by impulsive noise from a shooting range must be dismissed unless such action is initially supported by affidavit of a qualified or licensed noise consultant stating that noise measurements were taken by proper instruments, which were calibrated properly, and according to the procedures and standards in Minnesota Rules, parts 7030.0010 to 7030.0080.

Sec. 7. [87A.07] [NUISANCE ACTIONS; SUBSTANTIAL COMPLIANCE WITH GENERALLY ACCEPTED OPERATION PRACTICES.]

A person who owns, operates, or uses a shooting range in this state that is in full compliance with generally accepted operation practices is not subject to any action for nuisance and no court of this state may enjoin or restrain the use or operation of such a range. This section does not prohibit an action that seeks monetary damages for personal injury or tangible property damage caused by recklessness or negligence in the operation of the range or by a person using the range in a reckless or negligent manner.

Sec. 8. [87A.08] [PUBLIC ACCESS TO SHOOTING RANGES.]

Shooting ranges maintained or operated, in whole or in part, with public funds must be reasonably available for public use. A reasonable fee in an amount not to exceed the actual additional direct costs caused by public use may be charged.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to local government; shooting ranges; defining generally accepted operation practices; providing for relation to ordinances, closing and relocation, noise standards, public access, and nuisance liability; proposing coding for new law as Minnesota Statutes, chapter 87A."

And when so amended the bill do pass.

Senator Betzold questioned the reference thereon and, under Rule 21, the bill was referred to the Committee on Rules and Administration.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 666: A bill for an act relating to lawful gambling; providing for linked bingo games; amending Minnesota Statutes 2002, sections 349.12, subdivisions 4, 18, by adding subdivisions; 349.151, subdivision 4; 349.153; 349.155, subdivision 3; 349.163, subdivision 3; 349.166, subdivisions 1, 2; 349.167, subdivision 6; 349.17, subdivisions 3, 6, 7, by adding a subdivision; 349.18, subdivision 1; 349.19, by adding a subdivision; 349.191, subdivisions 1, 1a; 349.211, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 349.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 304: A bill for an act relating to professions; establishing the board of licensed professional counseling; requiring professional counselors to be licensed; abolishing the office of unlicensed mental health practitioners; requiring rulemaking; appropriating money; amending Minnesota Statutes 2002, sections 116J.70, subdivision 2a; 148A.01, subdivision 5; 214.01, subdivision 2; 214.04, subdivision 3; 214.10, subdivision 9; 609.341, subdivision 17; proposing

coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; 148B.71.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 537, 1054, 1097, 907 and 941 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 51 and 710 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Murphy moved that S.F. No. 954 be withdrawn from the Committee on Agriculture, General Legislation and Veterans Affairs and returned to its author. The motion prevailed.

Senator Hottinger moved that S.F. No. 986 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Finance. The motion prevailed.

Pursuant to Rule 5.1, Senator Hottinger, with the concurrence of the first author, moved that S.F. No. 733 be withdrawn from the Committee on Commerce and Utilities and re-referred to the Committee on Rules and Administration. The motion prevailed.

Pursuant to Rule 5.1, Senator Hottinger, with the concurrence of the first author, moved that S.F. No. 794 be withdrawn from the Committee on Commerce and Utilities and re-referred to the Committee on Rules and Administration.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 36 and nays 30, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Marko	Rest	Stumpf
Bakk	Hottinger	Marty	Sams	Tomassoni
Berglin	Johnson, D.E.	Metzen	Saxhaug	Vickerman
Betzold	Kelley	Moua	Scheid	Wiger
Chaudhary	Kubly	Murphy	Skoe	
Cohen	Langseth	Pappas	Skoglund	
Dibble	Larson	Pogemiller	Solon	
Foley	Lourey	Ranum	Sparks	

Those who voted in the negative were:

Bachmann	Gaither	Kleis	Neuville	Reiter
Belanger	Hann	Knutson	Nienow	Robling
Day	Johnson, D.J.	LeClair	Olson	Rosen
Dille	Jungbauer	Limmer	Ortman	Ruud
Fischbach	Kierlin	McGinn	Ourada	Senjem
Frederickson	Kiscaden	Michel	Pariseau	Wergin

The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 5.1, Senator Kleis, first author, moved that S.F. No. 87 be withdrawn from the Committee on Crime Prevention and Public Safety, given a second reading, and placed at the top of General Orders.

CALL OF THE SENATE

Senator Rest imposed a call of the Senate for the balance of the proceedings on S.F. No. 87. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Kleis motion.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Larson	Olson	Ruud
Belanger	Johnson, D.J.	LeClair	Ortman	Senjem
Day	Jungbauer	Limmer	Ourada	Wergin
Dille	Kierlin	McGinn	Pariseau	
Fischbach	Kiscaden	Michel	Reiter	
Frederickson	Kleis	Neuville	Robling	
Gaither	Knutson	Nienow	Rosen	

Those who voted in the negative were:

Anderson	Foley	Lourey	Pogemiller	Skoglund
Bakk	Higgins	Marko	Ranum	Solon
Berglin	Hottinger	Marty	Rest	Sparks
Betzold	Johnson, D.E.	Metzen	Sams	Stumpf
Chaudhary	Kelley	Moua	Saxhaug	Tomassoni
Cohen	Kubly	Murphy	Scheid	Vickerman
Dibble	Langseth	Pappas	Skoe	Wiger

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 5.1, Senator Kleis, first author, moved that S.F. No. 87 be withdrawn from the Committee on Crime Prevention and Public Safety and re-referred to the Committee on Rules and Administration.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Larson	Olson	Ruud
Belanger	Johnson, D.J.	LeClair	Ortman	Senjem
Day	Jungbauer	Limmer	Ourada	Wergin
Dille	Kierlin	McGinn	Pariseau	
Fischbach	Kiscaden	Michel	Reiter	
Frederickson	Kleis	Neuville	Robling	
Gaither	Knutson	Nienow	Rosen	

Those who voted in the negative were:

Anderson	Cohen	Johnson, D.E.	Marko	Pappas
Bakk	Dibble	Kelley	Marty	Pogemiller
Berglin	Foley	Kubly	Metzen	Ranum
Betzold	Higgins	Langseth	Moua	Rest
Chaudhary	Hottinger	Lourey	Murphy	Sams

Saxhaug
Scheid

Skoe
Skoglund

Solon
Sparks

Stumpf
Tomassoni

Vickerman
Wiger

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Sams moved that S.F. No. 653, No. 97 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senator Wiger introduced--

S.F. No. 1450: A bill for an act relating to economic development; providing for riverboat gambling; authorizing the director of the state lottery to establish gaming machines and imposing a tax on adjusted gross revenue; providing for sharing of revenue generated by gaming machines; authorizing a person with a gaming machine location contract to establish a card club with certain conditions; providing powers and duties to the director; amending Minnesota Statutes 2002, sections 299L.07, subdivisions 2, 2a; 340A.410, subdivision 5; 349A.01, subdivision 10, by adding subdivisions; 349A.10, subdivision 3; 349A.13; 541.20; 541.21; 609.75, subdivision 3; 609.761, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 297A; 349A.

Referred to the Committee on State and Local Government Operations.

Senators Scheid, Langseth, Michel, Sparks and Knutson introduced--

S.F. No. 1451: A bill for an act relating to education; requiring schools to allocate funds to certain uncommon schools; amending Minnesota Statutes 2002, section 124D.69, subdivision 3.

Referred to the Committee on Finance.

Senators Gaither, Olson and Limmer introduced--

S.F. No. 1452: A bill for an act relating to retirement; Plymouth volunteer firefighter's relief association; making various ancillary benefits subject to general law; amending Laws 1978, chapter 685, sections 1, as amended, 2, 3, 6; repealing Laws 1978, chapter 685, section 5.

Referred to the Committee on State and Local Government Operations.

Senators Tomassoni, Kleis, Frederickson, Solon and Scheid introduced--

S.F. No. 1453: A bill for an act relating to higher education; modifying financial aid for postsecondary students; appropriating money; amending Minnesota Statutes 2002, sections 136A.101, subdivision 4; 136A.121, subdivision 6; 136A.125, subdivisions 1, 3; 136A.232; 136A.233; proposing coding for new law in Minnesota Statutes, chapters 136A; 136F; 137; repealing Minnesota Statutes 2002, sections 136A.1211; 136A.122.

Referred to the Committee on Finance.

Senator Olson introduced--

S.F. No. 1454: A bill for an act relating to education; allowing the board of teaching to grant

annual waivers allowing licensed teachers in alternative schools to provide instruction in a content area for which the teacher is not licensed; amending Minnesota Statutes 2002, section 122A.09, subdivision 10.

Referred to the Committee on Education.

Senators Ortman; Kleis; Johnson, D.E. and Betzold introduced--

S.F. No. 1455: A bill for an act relating to administrative penalty orders; authorizing administrative powers, penalties, and remedies for public safety purposes; proposing coding for new law in Minnesota Statutes, chapter 299A.

Referred to the Committee on Judiciary.

Senator Rest introduced--

S.F. No. 1456: A bill for an act relating to the state lottery; establishing an oversight council for the state lottery; providing powers and duties; requiring a report; amending Minnesota Statutes 2002, section 349A.08, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 349A.

Referred to the Committee on State and Local Government Operations.

Senators McGinn and Gaither introduced--

S.F. No. 1457: A bill for an act relating to the legislature; establishing a schedule for meeting and consideration of bills; forbidding meetings of the legislature in even-numbered years; amending Minnesota Statutes 2002, section 3.011.

Referred to the Committee on Rules and Administration.

Senators Sams, Scheid and Frederickson introduced--

S.F. No. 1458: A bill for an act relating to workforce development; providing for the calculation of the workforce development assessment; amending Minnesota Statutes 2002, section 268.022, subdivision 1.

Referred to the Committee on Jobs, Housing and Community Development.

Senators Betzold and Larson introduced--

S.F. No. 1459: A bill for an act relating to state employment; modifying salary provisions for certain officials; amending Minnesota Statutes 2002, sections 11A.07, subdivision 1; 15A.0815, subdivisions 2, 3; 352.03, subdivision 4; 353.03, subdivision 3a; 354.06, subdivision 2.

Referred to the Committee on State and Local Government Operations.

Senators Betzold and Larson introduced--

S.F. No. 1460: A bill for an act relating to retirement; Minnesota state retirement system general plan, correctional plan, legislators plan, state patrol plan, judges plan, and various other plans covered by combined service annuity provisions; enhancing legislators plan service-in-more-than-one-fund provision; expanding use of combined service annuity provision by retirees of public safety plans; expanding entitlement to dependent child benefits in legislators plan and state patrol plan; creating financial incentives for Minnesota state retirement system general plan disabilitants to return to work; clarifying disability definitions in various plans; requiring disabilitant study; permitting earlier retirement in elected state officers plan and judges plan; reducing early retirement penalties in judges plan; clarifying Minnesota state retirement system

excluded employee provision; requiring daily compounding of refund interest in various plans; enhancing judges plan refund interest rate; creating six year term certain annuity in Minnesota state retirement system general plan and unclassified plan; revising unclassified plan payout options; revising state patrol plan dependent child benefits; creating account in Minnesota state retirement system funded by increased unclassified plan employer contributions to reimburse Minnesota state retirement system general plan for losses from transfers from unclassified plan to general plan; amending Minnesota Statutes 2002, sections 3A.01, subdivision 2; 3A.03, subdivision 2; 3A.12, subdivision 1; 352.01, subdivisions 2b, 13; 352.113, by adding a subdivision; 352.12, subdivisions 1, 2a, 6, 7, 8, 11; 352.22, subdivisions 2, 3; 352.95, subdivisions 1, 2; 352B.01, subdivisions 10, 11; 352B.10; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352C.031, subdivision 2; 352D.02, subdivision 3; 352D.04, subdivision 2; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 356.30, subdivision 1; 356.441; 490.121, subdivision 10; 490.124, subdivisions 3, 12; repealing Minnesota Statutes 2002, sections 352.01, subdivision 13a; 352D.02, subdivision 5; 490.11.

Referred to the Committee on State and Local Government Operations.

Senators Knutson, Belanger and Pariseau introduced--

S.F. No. 1461: A bill for an act relating to taxation; providing for a municipal aggregate material removal tax; proposing coding for new law in Minnesota Statutes, chapters 298; 366; 394; 462.

Referred to the Committee on Taxes.

Senator Betzold introduced--

S.F. No. 1462: A bill for an act relating to civil action; regulating actions involving fault; regulating actions involving certain insurance practices; amending Minnesota Statutes 2002, sections 604.01, subdivision 1; 604.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 604.

Referred to the Committee on Judiciary.

MEMBERS EXCUSED

Senator Koering was excused from the Session of today.

ADJOURNMENT

Senator Hottinger moved that the Senate do now adjourn until 10:00 a.m., Monday, April 14, 2003. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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