

proposed delegation of authority. The rulemaking note shall contain any of the following information requested by the governor or the chair of the standing committee: the reasons for the grant of authority; the person or groups the rules would impact; estimated cost of the rule for affected persons; estimated cost to the agency of adopting the rules; and any areas of controversy anticipated by the agency. The rulemaking note must be delivered to the governor and to the chair of the standing committee to which the bill delegating the rulemaking authority has been referred.

Sec. 5. Minnesota Statutes 1992, section 10A.02, is amended by adding a subdivision to read:

Subd. 12a. RULES. If the board intends to apply principles of law or policy announced in an advisory opinion issued under subdivision 12 more broadly than to the individual or association to whom the opinion was issued, the board must adopt these principles or policies as rules under chapter 14.

Sec. 6. **REPEALER.**

Minnesota Statutes 1993 Supplement, section 3.984, is repealed.

Sec. 7. **EFFECTIVE DATE.**

Section 5 is effective July 1, 1995.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 3:52 p.m.

CHAPTER 630—S.F.No. 1662

An act relating to family; adopting the uniform interstate family support act; repealing the revised uniform reciprocal enforcement of support act; establishing certain administrative procedures; authorizing a public education campaign; changing enforcement procedures; changing certain calculations; establishing a child support assurance program; requiring reports; prohibiting certain discriminatory practices; authorizing temporary custody orders; clarifying certain terms; imposing penalties; appropriating money; amending Minnesota Statutes 1992, sections 214.101, as amended; 518.11; 518.17, subdivision 1; 518.18; 518B.01, subdivision 8; 548.091, subdivision 2a; and 609.375, by adding subdivisions; Minnesota Statutes 1993 Supplement, sections 13.46, subdivision 2; 256.87, subdivision 5; 363.03, subdivision 3; 518.14; 518.171, subdivisions 1 and 6; 518.551, subdivisions 5 and 12; 518.64, subdivision 2; 518.68, subdivisions 1, 2, and 3; and 609.375, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 8; 518; and 518C; repealing Minnesota Statutes 1992, sections 518C.01; 518C.02; 518C.03; 518C.04; 518C.05; 518C.06; 518C.07; 518C.08; 518C.09; 518C.10; 518C.11; 518C.12; 518C.13; 518C.14; 518C.15; 518C.16; 518C.17; 518C.18; 518C.19; 518C.20; 518C.21; 518C.22; 518C.23; 518C.24; 518C.25; 518C.26;

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518C.27; 518C.28; 518C.29; 518C.30; 518C.31; 518C.32; 518C.33; 518C.34; 518C.35; and 518C.36; Minnesota Statutes 1993 Supplement, section 518.551, subdivision 10.

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

UNIFORM INTERSTATE FAMILY SUPPORT ACT

ARTICLE 1

GENERAL PROVISIONS

Section 1. [518C.101] DEFINITIONS.

In this chapter:

(a) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(b) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(c) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(d) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(e) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(f) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor under section 518.611 or 518.613, to withhold support from the income of the obligor.

(g) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act is filed for forwarding to a responding state.

(h) "Initiating tribunal" means the authorized tribunal in an initiating state.

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(i) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(j) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(k) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(l) "Obligee" means:

(1) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(2) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(3) an individual seeking a judgment determining parentage of the individual's child.

(m) "Obligor" means an individual, or the estate of a decedent:

(1) who owes or is alleged to owe a duty of support;

(2) who is alleged but has not been adjudicated to be a parent of a child; or

(3) who is liable under a support order.

(n) "Petition" means a petition or comparable pleading used pursuant to section 518.551, subdivision 10.

(o) "Register" means to file a support order or judgment determining parentage in the office of the court administrator.

(p) "Registering tribunal" means a tribunal in which a support order is registered.

(q) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(r) "Responding tribunal" means the authorized tribunal in a responding state.

(s) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(t) "State" means a state of the United States, the District of Columbia, the

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Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe and a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

(u) "Support enforcement agency" means a public official or agency authorized to:

(1) seek enforcement of support orders or laws relating to the duty of support;

(2) seek establishment or modification of child support;

(3) seek determination of parentage; or

(4) locate obligors or their assets.

(v) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, spouse, or former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(w) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 2. [518C.102] TRIBUNAL OF THIS STATE.

A court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage are tribunals of this state.

Sec. 3. [518C.103] REMEDIES CUMULATIVE.

Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

ARTICLE 2

JURISDICTION

PART A. EXTENDED PERSONAL JURISDICTION

Section 1. [518C.201] BASES FOR JURISDICTION OVER NONRESIDENT.

In a proceeding to establish, enforce, or modify a support order or to deter-

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mine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with a summons or comparable document within this state;

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

(4) the individual resided in this state and provided prenatal expenses or support for the child;

(5) the child resides in this state as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage under sections 257.51 to 257.75; or

(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Sec. 2. [518C.202] PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT.

A tribunal of this state exercising personal jurisdiction over a nonresident under section 518C.201 may apply section 518C.316 to receive evidence from another state, and section 518C.318 to obtain discovery through a tribunal of another state. In all other respects, articles 3 to 7 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

Sec. 3. [518C.203] INITIATING AND RESPONDING TRIBUNAL OF THIS STATE.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Sec. 4. [518C.204] SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

(a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

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(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.

Sec. 5. [518C.205] CONTINUING, EXCLUSIVE JURISDICTION.

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this chapter.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

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(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 6. [518C.206 ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.

(a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 518C.316 to receive evidence from another state and section 518C.318 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

Sec. 7. [518C.207] RECOGNITION OF CHILD SUPPORT ORDERS.

(a) If a proceeding is brought under this chapter, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the

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current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under paragraph (a) is the tribunal having continuing, exclusive jurisdiction.

Sec. 8. [518C.208] MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.

In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Sec. 9. [518C.209] CREDIT FOR PAYMENTS.

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

Section 1. [518C.301] PROCEEDINGS UNDER THIS CHAPTER.

(a) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(b) This chapter provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to article 4;

(2) enforcement of a support order and income-withholding order of another state without registration pursuant to article 5;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to article 6;

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(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to article 2, part B;

(5) registration of an order for child support of another state for modification pursuant to article 6;

(6) determination of parentage pursuant to article 7; and

(7) assertion of jurisdiction over nonresidents pursuant to article 2, part A.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

Sec. 2. [518C.302] ACTION BY MINOR PARENT.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Sec. 3. [518C.303] APPLICATION OF LAW OF THIS STATE.

Except as otherwise provided by this chapter, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Sec. 4. [518C.304] DUTIES OF INITIATING TRIBUNAL.

Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

Sec. 5. [518C.305] DUTIES AND POWERS OF RESPONDING TRIBUNAL.

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

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

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

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

(3) order income withholding;

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

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

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

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

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

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

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

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

(12) grant any other available remedy.

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

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

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

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Sec. 6. [518C.306] INAPPROPRIATE TRIBUNAL.

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

Sec. 7. [518C.307] DUTIES OF SUPPORT ENFORCEMENT AGENCY.

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

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

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

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

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

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

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

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

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

Sec. 8. [518C.308] DUTY OF ATTORNEY GENERAL.

If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

Sec. 9. [518C.309] PRIVATE COUNSEL.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

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Sec. 10. [518C.310] DUTIES OF STATE INFORMATION AGENCY.

(a) The unit within the department of human services that receives and disseminates incoming interstate actions under title IV-D of the Social Security Act from section 518C.02, subdivision 1a, is the state information agency under this chapter.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 11. [518C.311] PLEADINGS AND ACCOMPANYING DOCUMENTS.

(a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under section 518C.312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 12. [518C.312] NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.

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Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

Sec. 13. [518C.313] COSTS AND FEES.

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under article 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 14. [518C.314] LIMITED IMMUNITY OF PETITIONER.

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

Sec. 15. [518C.315] NONPARENTAGE AS DEFENSE.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

Sec. 16. [518C.316] SPECIAL RULES OF EVIDENCE AND PROCEDURE.

(a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

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(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

Sec. 17. [518C.317] COMMUNICATIONS BETWEEN TRIBUNALS.

A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

Sec. 18. [518C.318] ASSISTANCE WITH DISCOVERY.

A tribunal of this state may:

(1) request a tribunal of another state to assist in obtaining discovery; and

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(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Sec. 19. **[518C.319] RECEIPT AND DISBURSEMENT OF PAYMENTS.**

A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

ARTICLE 4

ESTABLISHMENT OF SUPPORT ORDER

Section 1. **[518C.401] PETITION TO ESTABLISH SUPPORT ORDER.**

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 518C.305.

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ARTICLE 5

DIRECT ENFORCEMENT OF ORDER
OF ANOTHER STATE WITHOUT REGISTRATIONSection 1. [518C.501] RECOGNITION OF INCOME-WITHHOLDING
ORDER OF ANOTHER STATE.

(a) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under section 518.611 or 518.613 without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 518C.604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) the person or agency designated to receive payments in the income-withholding order; or

(2) if no person or agency is designated, the obligee.

Sec. 2. [518C.502] ADMINISTRATIVE ENFORCEMENT OF ORDERS.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

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ARTICLE 6

ENFORCEMENT AND MODIFICATION
OF SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

Section 1. [518C.601] REGISTRATION OF ORDER FOR ENFORCEMENT.

A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

Sec. 2. [518C.602] PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

(a) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the registering tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

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

Sec. 3. **[518C.603] EFFECT OF REGISTRATION FOR ENFORCEMENT.**

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 4. **[518C.604] CHOICE OF LAW.**

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT

Sec. 5. **[518C.605] NOTICE OF REGISTRATION OF ORDER.**

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

(b) The notice must inform the nonregistering party:

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

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

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

(4) of the amount of any alleged arrearages.

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

Sec. 6. [518C.606] PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

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

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

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

Sec. 7. [518C.607] CONTEST OF REGISTRATION OR ENFORCEMENT.

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under section 518C.604 precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under paragraph (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

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(c) If the contesting party does not establish a defense under paragraph (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 8. [518C.608] CONFIRMED ORDER.

If a contesting party has received notice of registration under section 518C.605, confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order based upon facts that were known by the contesting party at the time of registration with respect to any matter that could have been asserted at the time of registration.

**PART C. REGISTRATION AND MODIFICATION
OF CHILD SUPPORT ORDER**

**Sec. 9. [518C.609] PROCEDURE TO REGISTER CHILD SUPPORT
ORDER OF ANOTHER STATE FOR MODIFICATION.**

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

**Sec. 10. [518C.610] EFFECT OF REGISTRATION FOR MODIFICA-
TION.**

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 518C.611 have been met.

**Sec. 11. [518C.611] MODIFICATION OF CHILD SUPPORT ORDER
OF ANOTHER STATE.**

(a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

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(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

Sec. 12. [518C.612] RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.

A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

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ARTICLE 7

DETERMINATION OF PARENTAGE

Section 1. [518C.701] PROCEEDING TO DETERMINE PARENTAGE.

(a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the parentage act, sections 257.51 to 257.74, and the rules of this state on choice of law.

ARTICLE 8

INTERSTATE RENDITION

Section 1. [518C.801] GROUNDS FOR RENDITION.

(a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 2. [518C.802] CONDITIONS OF RENDITION.

(a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated

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proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(b) If, under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9

MISCELLANEOUS PROVISIONS

Section 1. [518C.901] UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 2. [518C.9011] EXISTING REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT ACTIONS.

Any action or proceeding under the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) pending on the effective date of this section shall continue under the provisions of RURESA until the court makes a decision on the action or proceeding.

Sec. 3. [518C.902] SHORT TITLE.

This chapter may be cited as the "uniform interstate family support act."

Sec. 4. REPEALER.

Minnesota Statutes 1992, sections 518C.01; 518C.02; 518C.03; 518C.04; 518C.05; 518C.06; 518C.07; 518C.08; 518C.09; 518C.10; 518C.11; 518C.12; 518C.13; 518C.14; 518C.15; 518C.16; 518C.17; 518C.18; 518C.19; 518C.20; 518C.21; 518C.22; 518C.23; 518C.24; 518C.25; 518C.26; 518C.27; 518C.28; 518C.29; 518C.30; 518C.31; 518C.32; 518C.33; 518C.34; 518C.35; and 518C.36, are repealed.

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Sec. 5. EFFECTIVE DATE.

Articles 1 to 9 are effective January 1, 1995.

ARTICLE 10**ADMINISTRATIVE PROCESS****Section 1. [518.5511] ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.**

Subdivision 1. GENERAL. (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and modify maintenance if combined with a child support proceeding.

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

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

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

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

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

(c) Following the submission of information or following the date when the information was due, the public authority shall, on the basis of all information available, complete and sign a proposed child support order and notice. In preparing the proposed child support order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). The notice shall state that the proposed child support order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 within 14 days following the date of service of the proposed child support order. The method for requesting the conference shall be stated in the notice. The notice and proposed child support order shall be served under the rules of civil procedure. For the purposes of the contested hearing, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to this paragraph shall be deemed to have commenced a proceeding and the judge, including an administrative law judge or a referee, shall have jurisdiction over the contested hearing.

(d) If a conference under subdivision 3 is not requested by a party within 14 days after the date of service of the proposed child support order, the public authority may enter the proposed order as the default order. The default order becomes effective 30 days after the date of service of the notice in paragraph (c). The public authority may also prepare and serve a new notice and proposed child support order if new information is subsequently obtained. The default child support order shall be a final order, and shall be served under the rules of civil procedure.

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

Subd. 3. ADMINISTRATIVE CONFERENCE. (a) If a party requests a conference within 14 days of the date of service of the proposed order, the public authority shall schedule a conference, and shall serve written notice of the date, time, and place of the conference on the parties.

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

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

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

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

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

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

Subd. 4. CONTESTED ADMINISTRATIVE PROCEEDING. (a) The commissioner of human services is authorized to designate counties to use the contested administrative hearing process based upon federal guidelines for

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county performance. The contested administrative hearing process may also be initiated upon request of a county board. The administrative hearing process shall be implemented in counties designated by the commissioner.

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

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

(c) For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the district court to obtain and enforce child and medical support and maintenance obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue subpoenas, to issue orders to show cause, and to issue bench warrants for failure to appear.

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

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. Except as provided under this section, other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

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

(g) At the time the matter is scheduled for a contested hearing, the public authority shall file in the district court copies of all relevant documents sent to

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or received from the parties, in addition to the documents filed under subdivision 2, paragraph (e).

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

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

Subd. 6. SUBPOENAS. After the commencement of the administrative process, any party or the public authority may request a subpoena, and the administrative law judge shall have the authority to issue subpoenas.

Subd. 7. PUBLIC AUTHORITY LEGAL ADVISOR. At all stages of the administrative process prior to the contested hearing, the county attorney, or other attorney under contract, shall act as the legal advisor for the public authority, but shall not play an active role in the review of information and the preparation of default and consent orders.

Subd. 8. COSTS ASSOCIATED WITH THE ADMINISTRATIVE PROCESS. The commissioner of human services shall distribute money for this purpose to counties to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

Subd. 9. TRAINING AND RESTRUCTURING. The commissioner of human services shall provide training to child support officers and other employees of the public authority involved in the administrative process. The commissioner of human services shall prepare simple and easy to understand forms for all notices and orders prescribed in this subdivision, and the public authority shall use them.

Sec. 2. INSTRUCTION TO REVISOR.

In the next edition of Minnesota Statutes, the revisor of statutes shall delete the term "518.551, subdivision 10" and replace it with "518.5511" where it appears in Minnesota Statutes, sections 357.021, subdivision 1a, and 518C.05.

Sec. 3. REPEALER.

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

Minnesota Statutes 1993 Supplement, section 518.551, subdivision 10, is repealed.

Sec. 4. EFFECTIVE DATE.

This article is effective August 1, 1994.

ARTICLE 11

CHILD SUPPORT ADMINISTRATION AND ENFORCEMENT

Section 1. [8.35] PUBLIC EDUCATION CAMPAIGN.

The attorney general, in consultation with the commissioner of human services, may establish a public service campaign designed to educate the public about the necessity of the payment of child support to the well-being of the state's children and taxpayers. The commissioner shall enter into a contract with the attorney general pursuant to section 24, subdivision 2, for implementation of the campaign. The campaign may include public service announcements for broadcast through television, radio, and billboard media.

Sec. 2. Minnesota Statutes 1993 Supplement, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon

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request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children, medical assistance, general assistance, work readiness, or general assistance medical care may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties; ~~or~~

(16) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c); or

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(17) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data pursuant to section 518.575.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15) or (16); or (b) are investigative data and are confidential or protected non-public while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 3. Minnesota Statutes 1992, section 214.101, as amended by Laws 1993, chapters 322, sections 1 and 2, and 340, section 2, is amended to read:

214.101 CHILD SUPPORT; SUSPENSION OF LICENSE.

Subdivision 1. **COURT ORDER; HEARING ON SUSPENSION.** (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

(b) If a licensing board receives an order from a court or a notice from a public child support enforcement agency under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court or the public agency to be in arrears in child support or maintenance payments, or both, the board shall, within 30 days of receipt of the court order or public agency notice, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court or the public agency is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order or public agency notice is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the ~~court~~ underlying child support order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments and maintenance.

Subd. 2. **PROBATION.** If the board determines that the suspension of the license would create an extreme hardship to either the licensee or to persons whom the licensee serves, the board may, in lieu of suspension, allow the licensee to continue to practice the occupation on probation. Probation must be conditioned upon full compliance with the court order or public agency notice that referred the matter to the board. The probation period may not exceed two years, and the terms of probation must provide for automatic suspension of the

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license if the licensee does not provide monthly proof to the board of full compliance with the court order or public agency notice that referred the matter to the board or a further court order or public agency notice if the original order is modified by the court or the public agency.

Subd. 3. REVOCATION OR REINSTATEMENT OF PROBATION. If the licensee has a modification petition pending before the court or the public agency, the board may, without a hearing, defer a revocation of probation and institution of suspension until receipt of the court's ruling on the modification order. A licensee who was placed on probation and then automatically suspended may be automatically reinstated upon providing proof to the board that the licensee is currently in compliance with the court order or public agency notice.

Subd. 4. VERIFICATION OF PAYMENTS. Before a board may terminate probation, remove a suspension, issue, or renew a license of a person who has been suspended or placed on probation under this section, it shall contact the court or public agency that referred the matter to the board to determine that the applicant is not in arrears for child support or maintenance or both. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments and maintenance.

Subd. 5. APPLICATION. This section applies to support obligations ordered by any state, territory, or district of the United States.

Sec. 4. Minnesota Statutes 1993 Supplement, section 256.87, subdivision 5, is amended to read:

Subd. 5. CHILD NOT RECEIVING ASSISTANCE. A person or entity having physical ~~and legal~~ custody of a dependent child not receiving assistance under sections 256.72 to 256.87 has a cause of action for child support against the child's absent parents. ~~Upon an order to show cause and a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.~~

Sec. 5. Minnesota Statutes 1993 Supplement, section 518.14, is amended to read:

518.14 COSTS AND DISBURSEMENTS ~~AND~~; ATTORNEY FEES; COLLECTION COSTS.

Subdivision 1. GENERAL. Except as provided in subdivision 2, in a proceeding under this chapter, 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 it finds:

- (1) that the fees are necessary for the good-faith assertion of the party's

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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.

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 may be enforced as above provided 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 the proceeding and may be enforced in the same manner as last above provided.

Subd. 2. ENFORCEMENT OF CHILD SUPPORT. (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 subdivision. In order to recover collection costs under this subdivision, the arrearages must be at least \$500 and must be at least 90 days past due. In addition, the arrearages must be a docketed judgment under sections 548.09 and 548.091. 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 subdivision.

(b) Written notice must be provided by any obligee contracting with an attorney or collection entity to enforce a child support judgment to the public authority responsible for child support enforcement, if the public authority is a party or provides services to a party, within five days of signing a contract for services and within five days of receipting any payments received on a child support judgment. Attorney fees and collection costs obtained under this subdivision are considered child support and entitled to the applicable remedies for collection and enforcement of child support.

(c) The obligee shall serve notice of the obligee's intent to recover attorney fees and collections costs by certified or registered mail on the obligor at the obligor's last known address. The notice must include an itemization of the attorney fees and collection costs being sought by the obligee and inform the

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obligor that the fees and costs will become an additional judgment for child support unless the obligor requests a hearing on the reasonableness of the fees and costs or to contest the child support judgment on grounds limited to mistake of fact within 20 days of mailing of the notice.

(d) If the obligor requests a hearing, the only issues to be determined by the court are 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 the validity of the child support judgment on grounds limited to mistake of fact. The fees and costs may not exceed 30 percent of the arrearages. The court may modify the amount of attorney fees and costs as appropriate and shall enter judgment accordingly.

(e) 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.

(f) The commissioner of human services shall prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this subdivision. The rulemaking provisions of chapter 14 do not apply to the forms.

Sec. 6. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 1, is amended to read:

Subdivision 1. **ORDER.** (a) Every child support order must expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs. The court shall order the party with the better group dependent health and dental insurance coverage or health insurance plan to name the minor child as beneficiary on any health and dental insurance plan that is ~~comparable to or better than a number two qualified plan~~ and available to the party on:

(i) a group basis; or

(ii) through an employer or union; or

(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2.

“Health insurance” or “health insurance coverage” as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2. “Health insurance” or “health insurance coverage” as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union,

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or that the group ~~insurer~~ insurance is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than \$50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

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

(d) If the obligor is employed by a self-insured employer subject only to the federal Employee Retirement Income Security Act (ERISA) of 1974, and the insurance benefit plan meets the above requirements, the court shall order the obligor to enroll the dependents within 30 days of the court order effective date or be liable for all medical and dental expenses occurring while coverage is not in effect. If enrollment in the ERISA plan is precluded by exclusionary clauses, the court shall order the obligor to obtain other coverage or make payments as provided in paragraph (b) or (e).

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

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

Sec. 7. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 6, is amended to read:

Subd. 6. **INSURER PLAN REIMBURSEMENT; CORRESPONDENCE AND NOTICE.** (a) The signature of the custodial parent of the insured dependent is a valid authorization to the ~~insurer a~~ health or dental insurance plan for purposes of processing an insurance reimbursement payment to the provider of the medical services or to the custodial parent if medical services have been prepaid by the custodial parent.

(b) The ~~insurer~~ health or dental insurance plan shall send copies of all correspondence regarding the insurance coverage to both parents. When an order for

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dependent insurance coverage is in effect and the obligor's employment is terminated, or the insurance coverage is terminated, the ~~insurer~~ health or dental insurance plan shall notify the obligee within ten days of the termination date with notice of conversion privileges.

Sec. 8. Minnesota Statutes 1992, 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 may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

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

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

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement established by the prior order unless:

(i) both parties agree to the modification;

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

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

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

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

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

Sec. 9. Minnesota Statutes 1993 Supplement, section 518.551, subdivision 5, is amended to read:

Subd. 5. NOTICE TO PUBLIC AUTHORITY; GUIDELINES. (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (i). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

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

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%

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\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 5000	25%	30%	35%	39%	43%	47%	50%

or the amount in effect under paragraph (k)

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

Net Income defined as:

- Total monthly income less
 - *(i) Federal Income Tax
 - *(ii) State Income Tax
 - (iii) Social Security Deductions
 - (iv) Reasonable Pension Deductions
- *Standard Deductions apply- use of tax tables recommended
 - (v) Union Dues
 - (vi) Cost of Dependent Health Insurance Coverage
 - (vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
 - (viii) A Child Support or Maintenance Order that is Currently Being Paid.

“Net income” does not include:

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

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

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

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

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

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

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

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

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

The court shall review the work-related and education-related child care costs of the ~~custodial parent~~ paid and shall allocate the costs to each parent in proportion to each parent's net income, as determined under this subdivision, after the transfer of child support and spousal maintenance, unless the allocation would be substantially unfair to either parent. There is a presumption of substantial unfairness if after the sum total of child support, spousal maintenance, and child care costs is subtracted from the noncustodial parent's income, the income is at or below 100 percent of the federal poverty guidelines. The cost of child care for purposes of this section paragraph is determined by subtracting the amount of any federal and state income tax credits available to a parent from 75 percent of the actual cost paid for child care, to reflect the approximate value of state and federal tax credits available to the custodial parent. The actual cost paid for child care is the total amount received by the child care provider for the child or children from the obligee or any public agency. The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518.641. The amount allocated for child care expenses terminates when the child care costs end.

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

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

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

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

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

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

(6) the obligor's receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40.

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

(1) the right to support has not been assigned under section 256.74;

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

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

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

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

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

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

(i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The

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provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

(j) If the child support payments are assigned to the public agency under section 256.74, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

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

Sec. 10. Minnesota Statutes 1993 Supplement, section 518.551, subdivision 12, is amended to read:

Subd. 12. **OCCUPATIONAL LICENSE SUSPENSION.** (a) Upon petition of an obligee ~~or public agency responsible for child support enforcement~~, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both, the court may direct the licensing board or other licensing agency to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public agency responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both, the public agency may direct the licensing board or other licensing agency to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the public agency may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

Sec. 11. **[518.575] PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.**

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Every three months the department of human services shall publish in the newspaper of widest circulation in each county a list of the names and last known addresses of each person who (1) is a child support obligor, (2) resides in the county, (3) is at least \$3,000 in arrears, and (4) has not made a child support payment, or has made only partial child support payments that total less than 25 percent of the amount of child support owed, for the last 12 months including any payments made through the interception of federal or state taxes. The rate charged for publication shall be the newspaper's lowest classified display rate, including all available discounts. An obligor's name may not be published if the obligor claims in writing, and the department of human services determines, there is good cause for the nonpayment of child support. The list must be based on the best information available to the state at the time of publication.

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

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

Sec. 12. Minnesota Statutes 1993 Supplement, section 518.64, subdivision 2, is amended to read:

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

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

(b) On a motion for modification of maintenance, including a motion for

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

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

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

(i) the excess employment began after entry of the existing support order;

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

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

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

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

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

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

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

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

Sec. 13. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 1, is amended to read:

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

Sec. 14. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

Pursuant to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS — A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), pursuant to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

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(b) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for non-payment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

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

(d) ~~(e)~~ A party who ~~remarries after dissolution and~~ accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(e) ~~(f)~~ Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

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

4. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

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(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, pursuant to Minnesota Statutes, section 548.091, subdivision 1a.

9. JUDGMENTS FOR UNPAID MAINTENANCE

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A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

10. ~~MEDICAL INSURANCE AND EXPENSES~~

~~The person responsible to pay support and the person's employer or union are ordered to provide medical and dental insurance and pay for uncovered expenses under the conditions of Minnesota Statutes, section 518.171, unless otherwise provided in this order or the statute. A copy of this statute is available from any district court clerk.~~

10. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

Sec. 15. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 3, is amended to read:

Subd. 3. **COPIES OF LAW AND FORMS.** The district court administrator shall make available at no charge copies of sections 518.14, 518.17, 518.611, 518.613, 518.641, 548.091, and 609.26, and shall provide forms to request or contest attorney fees and collection costs or a cost-of-living increase under section 518.14, subdivision 2, or 518.641.

Sec. 16. Minnesota Statutes 1992, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. **DOCKETING OF CHILD SUPPORT JUDGMENT.** On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518C, an order under section 256.87, or an order under section 260.251, which provides for installment or periodic payments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, and the total amount of the judgments; and

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(3) an affidavit of service of a notice of entry of judgment or notice of intent to recover attorney fees and collection costs on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated.

Sec. 17. Minnesota Statutes 1993 Supplement, section 609.375, subdivision 2, is amended to read:

Subd. 2. If the violation of subdivision 1 continues for a period in excess of 90 days but not more than 180 days, the person is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 18. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 2a. If the violation of subdivision 1 continues for a period in excess of 180 days, the person is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

Sec. 19. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 5. VENUE. A person who violates this section may be prosecuted and tried in the county in which the support obligor resides or in the county in which the obligee or the child resides.

Sec. 20. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 6. DISMISSAL OF CHARGE. A felony charge brought under subdivision 2a of this section shall be dismissed if:

(1) the support obligor provides the county child support enforcement agency with an affidavit attesting the obligor's present address, occupation, employer, and current income, and consents to service of an order for automatic income withholding; or

(2) the support obligor makes satisfactory arrangements for payment with the county child support enforcement agency of all accumulated arrearages and any ongoing support obligations. For purposes of this section, satisfactory arrangements shall be reasonably consistent with the obligor's ability to pay.

In any case for which dismissal is sought under this subdivision, the felony charge shall be continued for dismissal for a period of six months. If the obligor meets all requirements of the payment plan within that six-month period, the felony charge shall be dismissed.

Sec. 21. **INCOME SHARES MODEL CHILD SUPPORT GUIDELINE.**

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The department of human services, in consultation with the commissioner's advisory committee for child support enforcement, shall develop an income shares model child support guideline and present it to the legislature for consideration, in addition to the plan for including contested hearings in the simple, statewide administrative process no later than February 1, 1995.

Sec. 22. MINNESOTA CHILD SUPPORT ASSURANCE PROGRAM.

Subdivision 1. AUTHORIZATION TO DESIGN DEMONSTRATION. The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, the director of the higher education coordinating board, and the attorney general, is authorized to proceed with planning and designing the Minnesota child support assurance program. The commissioner shall not proceed with the program plan if, at any point, the federal government informs the state that the federal government will not be seeking demonstration projects of child support assurance or will not be providing enhanced federal funding. The plan and design shall include an assessment of the feasibility of the state guaranteeing a minimum level of support from a noncustodial parent and shall further provide that the state will provide that level of support to the child in instances where it is not provided by the child's noncustodial parent. The program plan shall specifically determine whether and the extent to which benefits received by a family under the Minnesota child support assurance program will reduce benefits paid to the family through the aid to families with dependent children program. The program plan shall also provide that the receipt of child support assurance benefits does not negatively affect any existing eligibility for child care assistance under existing programs and shall consider how the receipt of child support assurance benefits affects eligibility under other government benefit programs, including housing assistance, energy assistance, and food stamps.

Subd. 2. GOALS OF THE MINNESOTA CHILD SUPPORT ASSURANCE PROGRAM. The commissioner shall design the program to meet the following goals:

(1) to support parents in their efforts to provide financial support for their children;

(2) to encourage parents to meet their legal obligations of support;

(3) to prevent long-term dependence on public assistance; and

(4) to allow the state to compare the cost-effectiveness and the efficacy of child support assurance to the Minnesota family investment program in attempting to restructure the existing system of public assistance.

Subd. 3. PROGRAM DATA. As part of planning and designing the Minnesota child support assurance program, the commissioner shall study and make recommendations on:

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(1) the amount of the guaranteed child support assurance benefit;

(2) the anticipated reduction in the aid to families with dependent children caseload which should result from the implementation of a child support assurance program;

(3) the anticipated cost of the program on a demonstration basis;

(4) the selection of counties to serve as field trial or comparison sites based on criteria which will ensure reliable evaluation of the program. This selection shall be made so that an adverse impact on the Minnesota family investment program is avoided; and

(5) the waivers of all applicable federal requirements needed to implement the Minnesota child support assurance program in a manner consistent with the goals of the program.

In order to make recommendations on the amount of the guaranteed child support assurance benefit, the commissioner shall conduct a study of and make detailed findings on the actual cost in Minnesota of items necessary to adequately meet a child's basic needs.

The commissioner shall report the findings and recommendations to the legislature by January 15, 1995.

Sec. 23. REPORT TO LEGISLATURE.

The department of human services shall report to the legislature by January 31, 1996, in the department of human services annual report to the legislature, the fiscal implications of the program, established in Minnesota Statutes, section 518.575, which publishes the names of delinquent child support obligors, including related costs and savings.

Sec. 24. APPROPRIATION.

Subdivision 1. \$150,000 is appropriated from the general fund to the commissioner of human services to plan and design the child support assurance program provided for by section 22, to be available until June 30, 1995.

Subd. 2. \$75,000 is appropriated from the general fund to the commissioner of human services for the child support public education campaign provided for by section 1, to be available until June 30, 1995. The commissioner shall enter into a \$75,000 contract with the attorney general for the implementation of the campaign.

Subd. 3. The appropriations in this section must not be included in the budget base for the 1996-1997 biennium.

Sec. 25. EFFECTIVE DATE; APPLICATION.

Section 5 (518.14) is effective August 1, 1994, and applies to attorney fees and collection costs incurred on and after that date, regardless of when the arrearages accrued.

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Section 7 (518.171, subdivision 6) is effective retroactive to July 1, 1993.

Sections 17 to 20 (609.375) are effective the day following final enactment and apply to crimes committed on and after that date.

ARTICLE 12

MISCELLANEOUS FAMILY LAW

Section 1. Minnesota Statutes 1993 Supplement, section 363.03, subdivision 3, is amended to read:

Subd. 3. **PUBLIC ACCOMMODATIONS.** (a) It is an unfair discriminatory practice:

(1) to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, marital status, sexual orientation, or sex, or for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person's disability; or

(2) for a place of public accommodation not to make reasonable accommodation to the known physical, sensory, or mental disability of a disabled person. In determining whether an accommodation is reasonable, the factors to be considered may include:

(i) the frequency and predictability with which members of the public will be served by the accommodation at that location;

(ii) the size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees;

(iii) the extent to which disabled persons will be further served from the accommodation;

(iv) the type of operation;

(v) the nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation; and

(vi) the extent to which any persons may be adversely affected by the accommodation.

State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

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(b) This paragraph lists general prohibitions against discrimination on the basis of disability. For purposes of this paragraph "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enter into the contractual, licensing, or other arrangement.

(1) It is discriminatory to:

(i) subject an individual or class of individuals on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity;

(ii) afford an individual or class of individuals on the basis of the disability of that individual or class, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other individuals; and

(iii) provide an individual or class of individuals, on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others.

(2) Goods, services, facilities, privileges, advantages, and accommodations must be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(3) Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, the individual with a disability may not be denied the opportunity to participate in the programs or activities that are not separate or different.

(4) An individual or entity may not, directly or through contractual or other arrangements, use standards or criteria and methods of administration:

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(c) This paragraph lists specific prohibitions against discrimination on the basis of disability. For purposes of this paragraph, discrimination includes:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges,

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advantages, or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations;

(2) failure to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations;

(3) failure to take all necessary steps to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered and would result in an undue burden;

(4) failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable; and

(5) if an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable or cannot be considered a reasonable accommodation, a failure to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means are readily achievable.

(d) Nothing in this chapter requires an entity to permit an individual to participate in and benefit from the goods, services, facilities, privileges, advantages, and accommodations of the entity if the individual poses a direct threat to the health or safety of others. "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

(e) No individual may be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce. For purposes of this paragraph, it is an unfair discriminatory practice for a private entity providing public transportation to engage in one or more of the following practices:

(1) imposition or application of eligibility criteria that screen out, or tend to screen out, an individual with a disability or a class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless the criteria can be shown to be necessary for the provision of the services being offered;

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(2) failure to make reasonable modifications, provide auxiliary aids and services, and remove barriers, consistent with section 363.03, subdivision 3, paragraph (c);

(3) the purchase or lease of a new vehicle, other than an automobile or van with a seating capacity of fewer than eight passengers, including the driver, or an over-the-road bus, that is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that a new vehicle need not be readily accessible to and usable by individuals with disabilities if the vehicle is to be used solely in a demand responsive system and if the private entity can demonstrate that the system, when viewed in its entirety, provides a level of services to individuals with disabilities equivalent to the level of service provided to the general public;

(4) purchase or lease a new railroad passenger car that is to be used to provide specified public transportation if the car is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or to manufacture railroad passenger cars or purchase used cars that have been remanufactured so as to extend their usable life by ten years or more, unless the remanufactured car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that compliance with this clause is not required to the extent that compliance would significantly alter the historic or antiquated character of historic or antiquated railroad passenger cars or rail stations served exclusively by those cars;

(5) purchase or lease a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, for use on a fixed route public transportation system, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If a private entity that operates a fixed route public transportation system purchases or leases a new, used, or remanufactured vehicle with a seating capacity of 16 passengers or fewer, including the driver, for use on the system which is not readily accessible to and usable by individuals with disabilities, it is an unfair discriminatory practice for the entity to fail to operate the system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; or

(6) to fail to operate a demand responsive system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. It is an unfair discriminatory practice for the entity to purchase or lease for use on a demand responsive system a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the

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entity can demonstrate that the system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(f) It is an unfair discriminatory practice to construct a new facility or station to be used in the provision of public transportation services, unless the facilities or stations are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. It is an unfair discriminatory practice for a facility or station currently used for the provision of public transportation services defined in this subdivision to fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of facilities or stations readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If the private entity is undertaking an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function, the entity shall make the alterations so that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, drinking fountains, and telephones serving the altered area, are readily accessible to and usable by individuals with disabilities if the alterations to the path of travel or to the functions mentioned are not disproportionate to the overall alterations in terms of cost and scope. The entity raising this defense has the burden of proof, and the department shall review these cases on a case-by-case basis.

Sec. 2. Minnesota Statutes 1992, section 518.11, is amended to read:

518.11 SERVICE; PUBLICATION.

(a) Unless a proceeding is brought by both parties, copies of the summons and petition shall 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. When service is made without the United States it may be proved by the affidavit of the person making the same, taken before and certified by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such country, including all deputies or other representatives of such officer authorized to perform their duties; or before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country wherein such affidavit is taken as to the identity and authority of the officer taking the same. ~~But,~~

(c) If personal service cannot be made, the court may order service of the summons by ~~publication, which publication shall be made as in other actions-~~ 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.

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The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 3. [518.158] GRANDPARENT EX PARTE TEMPORARY CUSTODY ORDER.

Subdivision 1. FACTORS. It is presumed to be in the best interests of the child for the court to grant temporary custody to a grandparent under subdivision 2 if a minor child has resided with the grandparent for a period of 12 months or more and the following circumstances exist without good cause:

(1) the parent has had no contact with the child on a regular basis and no demonstrated, consistent participation in the child's well-being for six months; or

(2) the parent, during the time the child resided with the grandparent, has refused or neglected to comply with the duties imposed upon the parent by the parent and child relationship, including but not limited to providing the child necessary food, clothing, shelter, health care, education, and other care and control necessary for the child's physical, mental, or emotional health and development.

Subd. 2. EMERGENCY CUSTODY HEARING. If the parent seeks to remove the child from the home of the grandparent and the factors in subdivision 1 exist, the grandparent may apply for an ex parte temporary order for custody of the child. The court shall grant temporary custody if it finds, based on the application, that the factors in subdivision 1 exist. If it finds that the factors in subdivision 1 do not exist, the court shall order that the child be returned to the parent. An ex parte temporary custody order under this subdivision is good for a fixed period not to exceed 14 days. A temporary custody hearing under this chapter must be set for not later than seven days after issuance of the ex parte temporary custody order. The parent must be promptly served with a copy of the ex parte order and the petition and notice of the date for the hearing.

Subd. 3. FURTHER PROCEEDINGS. If the court orders temporary physical custody to the grandparent under subdivision 2 and the grandparent or parent seeks to pursue further temporary or permanent custody of the child, the custody issues must be determined pursuant to a petition under this chapter and the other standards and procedures of this chapter apply. This section does not affect any rights or remedies available under other law.

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Subd. 4. RETURN TO PARENT. If the court orders permanent custody to a grandparent under this section, the court shall set conditions the parent must meet in order to obtain custody. The court may notify the parent that the parent may request assistance from the local social service agency in order to meet the conditions set by the court.

Sec. 4. Minnesota Statutes 1992, section 518.17, subdivision 1, is amended to read:

Subdivision 1. **THE BEST INTERESTS OF THE CHILD.** (a) "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 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 custodial home;
- (9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the child shall not be 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; ~~and~~
- (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; and
- (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.

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The court may not use one factor 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 must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

Sec. 5. Minnesota Statutes 1992, section 518B.01, subdivision 8, is amended to read:

Subd. 8. **SERVICE OF ORDER; ALTERNATE SERVICE; PUBLICATION.** (a) The petition and any order issued under this section shall be personally served upon on the respondent personally.

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

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

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

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

Sec. 6. STUDY OF WAYS TO NURTURE THE FAMILY.

The children's cabinet shall study ways to promote, support, protect, and nurture the family. They shall recommend changes in government and nongovernment programs and Minnesota Statutes that will encourage the preservation of the family. The children's cabinet shall report the findings to the legislature by February 1, 1995.

Sec. 7. EFFECTIVE DATE.

Section 3 (518.158) is effective the day after final enactment.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 3:58 p.m.

CHAPTER 631—S.F.No. 2129

An act relating to adoption; regulating certain advertising and payments in connection with adoption; regulating agencies; providing for direct adoptive placement; providing for the enforceability of postadoption contact agreements; providing penalties; amending Minnesota Statutes 1992, sections 144.227, subdivision 1, and by adding a subdivision; 245A.03, subdivision 1; 245A.04, by adding a subdivision; 245A.07, by adding a subdivision; 259.21, by adding subdivisions; 259.22, subdivisions 1, 2, and by adding a subdivision; 259.24, by adding a subdivision; 259.27, subdivisions 1, 2, 5, and by adding a subdivision; 259.31; and 317A.907, subdivision 6; Minnesota Statutes 1993 Supplement, section 245A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 259.

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

Section 1. Minnesota Statutes 1992, section 144.227, subdivision 1, is amended to read:

Subdivision 1. **FALSE STATEMENTS.** Whoever intentionally makes any false statement in a certificate, record, or report required to be filed under sections 144.211 to 144.214 or 144.216 to 144.227, or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who supplies false information intending that the information be used in the preparation of any report, record, certificate, or amendment thereof, is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 1992, section 144.227, is amended by adding a subdivision to read:

Subd. 3. BIRTH REGISTRATION. Whoever intentionally makes a false statement in a registration required under section 144.215 or in an application for an amendment to such a registration, or intentionally supplies false informa-

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