

3.736, subdivision 4. This section does not apply if the conduct of a facility was intentional or grossly negligent.

Subd. 2. EFFECT OF EXCESS LIABILITY INSURANCE. Notwithstanding subdivision 1, if a treatment facility has insurance coverage in excess of the liability limits under section 3.736, subdivision 4, the procurement of that insurance constitutes a waiver of those limits but only to the extent that valid and collectible insurance exceeds those limits and covers a claim. The purchase of excess insurance has no other effect on the liability of the treatment facility.

Sec. 2. EFFECTIVE DATE; APPLICATION.

Section 1 is effective August 1, 1998, and applies to claims arising from incidents occurring on or after that date.

Presented to the governor March 23, 1998

Signed by the governor March 25, 1998, 9:45 a.m.

CHAPTER 337—S.F.No. 2493

An act relating to civil actions; limiting liability of financial institutions providing data for the criminal alert network; amending Minnesota Statutes 1996, section 299A.61, by adding a subdivision.

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

Section 1. Minnesota Statutes 1996, section 299A.61, is amended by adding a subdivision to read:

Subd. 3. LIMIT ON LIABILITY OF FINANCIAL INSTITUTIONS. A financial institution that provides or reasonably attempts to provide stolen, forged, or fraudulent check information for use by the crime alert network or law enforcement agencies investigating a crime is not liable to any person for disclosing the information, provided that the financial institution is acting in good faith.

Presented to the governor March 23, 1998

Signed by the governor March 25, 1998, 9:50 a.m.

CHAPTER 338—S.F.No. 2040

An act relating to family law; modifying provisions dealing with the procedure for proceeding directly to hearing in the administrative process; modifying terminology to comport with the rules of court; amending Minnesota Statutes 1997 Supplement, sections 518.5511, subdivisions 1, 3, 3a, and 4; and 518.5512, subdivisions 2, 3, and 4; repealing Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 3a.

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

Section 1. Minnesota Statutes 1997 Supplement, section 518.5511, subdivision 1, is amended to read:

New language is indicated by underline, deletions by strikeout.

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

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and enforcing 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. Cases in which there is no assignment of support or in which the public authority is not providing services may not be conducted in the administrative process. 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 enforcement 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. The initiating party may serve a copy of the written request on the noninitiating party in accordance with the rules of civil procedure. If the public authority denies the request, the public authority shall issue a notice of denial which denies the request for relief within 30 days of receiving the written request, states the reasons for the denial, and notifies the party of the right to proceed directly to a ~~contested administrative proceeding hearing before an administrative law judge~~ according to subdivision 3a, ~~paragraph (a)~~. If the party proceeds directly to a contested hearing and files the requisite documents, ~~as provided by the commissioner,~~ with the court administrator 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~~ served on the public authority noninitiating party. If the initiating party did not serve the written request on the noninitiating party, modification may be made retroactive as provided in section 518.64, subdivision 2, paragraph (d). If the public authority accepts the request and proceeds with the uncontested administrative process, any order or modification may be retroactive to the date the written request was ~~received by~~ served on the public authority noninitiating party. If the initiating party did not serve the written request on the noninitiating party, an order or modification may be made retroactive to the date the public authority serves the proposed order on the noninitiating party as provided in subdivision 2, paragraph (a).

(d) The public authority may initiate actions in the administrative process.

(e) For the purpose of the administrative process, all powers, duties, and responsibilities conferred on judges of district court to obtain and enforce child and medical support and parentage and maintenance obligations, subject to the limitations of this section are conferred on administrative law judges, including the power to determine controlling in-

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

terstate orders, and to issue subpoenas, orders to show cause, and bench warrants for failure to appear.

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

(f) Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary notices, proposed orders, default orders, consent orders, orders for blood or genetic tests, and other documents related to the administrative process for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to enforce maintenance if combined with a child support order. The nonattorney employee may issue administrative subpoenas, 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. The nonattorney employees may act subject to the limitations of section 518.5512.

(g) Any party may make a written request to the office of administrative hearings for a subpoena compelling the attendance of a witness or the production of books, papers, records, or other documents relevant to the administrative process. Subpoenas are enforceable through the district court. The public authority may also request a subpoena from the office of administrative hearings for the production of a witness or documents. The nonattorney employee of the public authority may issue subpoenas subject to the limitations in section 518.5512, subdivision 6, paragraph (a), clause (2).

(h) At all stages of the administrative process, the county attorney, or other attorney under contract, shall act as the legal adviser for the public authority.

(i) The commissioner of human services shall:

(1) provide training to child support officers and other persons involved in the administrative process;

(2) timely prepare simple and easy to understand and make available to the public authority forms, in consultation with the office of administrative hearings, for all notices and orders prescribed in this section, including a support order worksheet form, with the exception of orders issued by the district court or the office of administrative hearings under subdivision 4 subdivisions 2 and 3; and

(3) distribute money 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.

(j) The commissioner of human services, in consultation with the office of administrative hearings, is responsible for the supervision of the administrative process.

(k) The public authority, the office of administrative hearings, court administrators, and other entities involved in the administrative process shall use the forms prepared by the commissioner for use in the uncontested administrative process.

(l) The office of administrative hearings may reject orders that have not been submitted by the public authority under subdivisions 2 and 3 if they are not prepared using

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

the commissioner's forms or on forms that have not been developed or approved by the commissioner.

(m) The office of administrative hearings is responsible for training and monitoring shall:

(1) train and monitor the performance of administrative law judges, maintaining maintain records of proceedings, providing provide transcripts upon request, and maintaining maintain the integrity of the district court file.; and

(2) prepare and make available to court administrators and the public authority forms that conform with requirements of the rules of court that may be used by parties who proceed directly to hearing under subdivision 3a.

Sec. 2. Minnesota Statutes 1997 Supplement, section 518.5511, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATIVE CONFERENCE.** (a) If a party contacts the public authority within 30 days of the date of service of the proposed order, and the public authority does not choose to proceed directly to a contested administrative proceeding hearing, the public authority shall schedule a conference, and shall send serve on the parties written notice of the date, time, and place of the conference and the date, time, and place of a contested administrative proceeding. At its option, the public authority may at the same time schedule a hearing in the event the administrative conference fails to resolve all of the issues on the parties. The public authority may request any additional information necessary to establish child support. The public authority may choose to go directly to a contested administrative proceeding hearing and is not required to conduct an administrative conference. The date of the contested administrative proceeding hearing must be set within 31 days of the administrative conference or not more than 60 days from the date of the notice of the administrative conference. A request for a continuance must be made to the chief administrative law judge according to Minnesota Rules, part 1400.7500.

(b) The purpose of the conference is to review all available information and seek an agreement to a consent order. The notice shall state the purpose of the conference, and that the proposed order will be entered as a final and binding default order if both parties fail to appear at the conference. The notice must also state that if only one party appears at the conference and there is no new information provided, the matter shall proceed by default. 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. All available and relevant information must be shared with the parties at the conference subject to the limitations of sections 256.87, subdivision 8, 257.70, and 518.005, subdivision 5. If a conference is not held, information which would have been shared at the conference by the public authority must be provided to a party or the party's attorney within 15 days of receipt of a written request.

(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 all parties appear at the conference and agree to all issues, and the public authority approves the agreement, the public authority shall prepare a consent order for the parties and the public authority to sign. The public authority shall submit the consent or-

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

der to the administrative law judge. Upon signature, the order is a final order and must be served on the parties by first class mail.

(e) ~~If only one party appears at the conference and there is no new information available that party agrees to the terms of the proposed order, or if both of the parties fail to appear at the conference, the public authority may submit a default order through the uncontested administrative process. If only one party appears at the conference and there is new information available that party does not agree to the terms of the proposed order, the matter shall proceed directly to the scheduled contested administrative proceeding a hearing before an administrative law judge.~~

(f) ~~If the parties appear at the conference and do not reach agreement to the entry of a consent order, the public authority shall advise the parties that the matter remains scheduled of the date, time, and place for a contested administrative proceeding hearing, and that the public authority will seek the establishment of child support at the proceeding in accordance with the child support guidelines.~~

(g) ~~If one or both of the parties appear at the administrative conference and there is new information that makes the proposed order unreasonable or inappropriate, the public authority may issue a revised proposed order pursuant to subdivision 2, paragraph (c), or proceed directly to a contested administrative proceeding hearing.~~

Sec. 3. Minnesota Statutes 1997 Supplement, section 518.5511, subdivision 3a, is amended to read:

Subd. 3a. **INTERIM ALTERNATIVE ADMINISTRATIVE RESOLUTIONS.**
~~(a)(1) In any case within the jurisdiction of the administrative process, the public authority or any party may proceed directly to a contested administrative proceeding hearing under subdivision 4 by making a written request to the public authority. After the public authority receives a written request, the public authority shall request or schedule a contested administrative proceeding and inform the requester of the date, time, and place of the hearing. The public authority shall also provide the requester with the contested administrative documents necessary for the proceeding. These documents must be completed by the requester, served on the other party and the public authority, and filed with the court administrator at least 21 days before the hearing. If the documents are not filed with the court administrator, the contested administrative proceeding must be canceled unless the public authority or a party objects. serving pleadings on the other party or parties and the public authority and filing the pleadings with the court administrator. The form and content of the pleadings and the manner of service and filing must conform with the requirements of the rules of court. The office of administrative hearings shall provide to court administrators and the public authority forms that may be used by parties who elect to proceed directly to hearing under this subdivision, as set out in subdivision 1, paragraph (m), clause (2). Nothing in this subdivision requires a party or an attorney filing pleadings on behalf of a party to use forms that have been prepared by the office of administrative hearings.~~

~~(2) The public authority may also proceed directly to a contested administrative proceeding.~~

(b) At any time in the administrative process, including prior to the issuance of the proposed order, if the parties and the public authority are in agreement, the public authority shall prepare a consent order to be signed by the public authority and the parties. The

New language is indicated by underline, deletions by strikeout.

parties must waive any of their rights to the notices and time frames required by this section. The public authority shall submit the order to the administrative law judge. Upon signature by the court, the order is a final order and must be filed with the court administrator and served by first class mail on the parties.

Sec. 4. Minnesota Statutes 1997 Supplement, section 518.5511, subdivision 4, is amended to read:

Subd. 4. **CONTESTED ADMINISTRATIVE PROCEEDING PROCESS.** (a) All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. ~~No county shall be required to participate in the contested administrative process until after the county has been trained. The contested administrative process shall be in operation in all counties no later than July 1, 1998.~~

~~In counties designated by the commissioner, contested administrative proceedings 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 administrative proceedings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court.~~

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

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

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

(e) ~~The contested administrative~~ Hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts ~~1400.5275, 1400.5500, 1400.6000 to 1400.6400, 1400.6600 to, 1400.6700, 1400.7000, 1400.7100 to, 1400.7300, 1400.7400, 1400.7500, 1400.7700, 1400.7800, and 1400.8100, as adopted by the chief administrative law judge. To the extent the time requirements under Minnesota Rules conflict with time requirements under the rules of family court, rules of civil procedure, or this chapter, the requirements of the rules of family court, rules of civil procedure, or this chapter control.~~ For matters not initiated under subdivision 2, documents from the moving party shall be served and filed at least 14 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior

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

to the hearing. In all contested administrative proceedings, according to the rules of court. The administrative law judge may limit the extent and timing of discovery. Except as provided under this section, other aspects of the case, including, but not limited to, discovery, shall be conducted under the rules of family court, the rules of civil procedure, and this chapter 518.

(f) Following 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 administrative proceeding hearing, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties that have been provided to all parties, in addition to any documents filed under subdivision 2, paragraph (d). These documents may be used as evidence by the judge in deciding the case without need for further foundation testimony. For matters scheduled for a contested administrative proceeding hearing which were not initiated under subdivision 2, the public authority shall obtain any income information available to the public authority through the department of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

(h) If only one party appears at the contested administrative proceeding hearing, a hearing must be conducted. The administrative law judge shall prepare an order and file it with the district court. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(i) If neither party appears at the contested administrative proceeding hearing and no new information has been submitted or made available to the court or public authority, the public authority shall submit the default order to the administrative law judge for signature. If neither party appears and new information is available to the court or public authority, the administrative law judge shall prepare an order based on the new information. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(j) 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.

Sec. 5. Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 2, is amended to read:

Subd. 2. **PATERNITY.** (a) After service of the notice and proposed order, a nonattorney employee of the public authority may order the child, mother, or alleged father to submit to blood or genetic tests. In a case with multiple alleged fathers, a nonattorney employee of the public authority may order the child, mother, and alleged fathers to submit to blood or genetic tests after service of the notice of the parentage proceeding. The order for genetic tests must be served by personal service. The order of the public authority shall be effective unless, within 20 days of the date of the order, the child, mother, or an alleged father requests a contested administrative proceeding hearing under section 518.5511, subdivision 3a. If a contested administrative proceeding hearing is requested and held, any order issued by an administrative law judge supersedes the order issued by the public authority. In all other cases, the order of the public authority is controlling.

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

Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

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

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

Sec. 6. Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 3, is amended to read:

Subd. 3. **COST-OF-LIVING ADJUSTMENT.** The public authority shall send notice of its application for a cost-of-living adjustment on the obligor in accord with section 518.641. The public authority shall, pending further order of the court, temporarily stay the adjustment of support upon receipt by the public authority of a request motion by the obligor to proceed directly to a contested administrative proceeding hearing under section 518.5511, subdivision 4.

Sec. 7. Minnesota Statutes 1996, section 518.5512, subdivision 4, is amended to read:

Subd. 4. **TERMINATION OF INTEREST CHARGING.** The public authority or a party bringing a motion under section 548.091, subdivision 1a, may proceed immediately to a contested administrative proceeding hearing under section 518.5511, subdivision 4.

Sec. 8. EVALUATION AND RECOMMENDATIONS.

The commissioner of human services, in consultation with the commissioner's advisory committee for child support enforcement, shall evaluate the extent to which the administrative process has met the legislative mandate to develop and implement an administrative process that is simple, streamlined, informal, uniform throughout the state, and accessible to parties without counsel. The commissioner shall present recommendations for further progress towards these mandates. The evaluation and recommendations shall be presented to the legislature by December 15, 1999.

Sec. 9. REPEALER.

Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 3a, is repealed.

Presented to the governor March 27, 1998

Signed by the governor March 31, 1998, 10:54 a.m.

CHAPTER 339—S.F.No. 2267

An act relating to insurance; regulating terminations of workers' compensation self-insurance authority and commercial workers' compensation self-insurance groups; providing investment, funding, reporting, and transfer requirements; providing permanent health plan coverage for

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