A bill for an act

relating to family law; changing certain child custody and support provisions and presumptions; amending Minnesota Statutes 2008, sections 518.17, subdivisions 2, 3; 518.175, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 518.

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

Section 1. Minnesota Statutes 2008, section 518.17, subdivision 2, is amended to read:

Subd. 2. **Factors when joint custody is sought.** In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

(a) the ability of parents to cooperate in the rearing of their children;

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

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

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

~~The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.~~

~~If the court awards joint legal or physical custody over the objection of a party, the court shall make detailed findings on each of the factors in this subdivision and explain~~

~~how the factors led to its determination that joint custody would be in the best interests of the child.~~

Sec. 2. Minnesota Statutes 2008, section 518.17, subdivision 3, is amended to read:

Subd. 3. **Custody order.** (a) Upon adjudging the nullity of a marriage, or in a dissolution or separation proceeding, or in a child custody proceeding, the court shall make such further order as it deems just and proper concerning:

(1) the legal custody of the minor children of the parties which shall be sole or joint;

(2) their physical custody and residence; and

(3) their support. In determining custody, the court shall consider the best interests of each child and shall not prefer one parent over the other solely on the basis of the sex of the parent. In determining custody, there is no presumption for sole or joint physical or legal custody. The court shall make detailed findings on each of the factors in this section and explain how the factors led to its determination that the legal and physical custody grant would be in the best interests of the child.

(b) The court shall grant the following rights to each of the parties, unless specific findings are made under section 518.68, subdivision 1. 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. Each party shall keep the other party 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. 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. Each party has the right to reasonable access and telephone contact with the minor children. The court may waive any of the rights under this section if it finds it is necessary to protect the welfare of a party or child.

Sec. 3. Minnesota Statutes 2008, section 518.175, subdivision 5, is amended to read:

Subd. 5. **Modification of parenting plan or order for parenting time.** If modification would serve the best interests of the child, the court shall modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the child's primary residence. The court shall consider modification of parenting time to serve the best interests of the child if there

has been a significant change in circumstances. A significant change in circumstances may include a significant change in the child's age and developmental needs. Except as provided in section 631.52, the court may not restrict parenting time unless it finds that:

(1) parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the parent has chronically and unreasonably failed to comply with court-ordered parenting time.

If a parent makes specific allegations that parenting time by the other parent places the parent or child in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting parenting time. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the parenting time or may restrict a parent's parenting time if necessary to protect the other parent or child from harm. If there is an existing order for protection governing the parties, the court shall consider the use of an independent, neutral exchange location for parenting time.

A motion to modify the time each parent spends with the child may be made only within the time limits provided by section 518.18.

Sec. 4. **[518.186] AGREEMENT BY PARTIES.**

In a proceeding under this chapter, if the parties have a full or partial agreement as to custody or parenting time or both, the parties may submit the agreement to the court. The court shall consider the agreement as soon as possible without requiring the parties to submit to any other program as a prerequisite to court consideration.