CHAPTER 518

MARRIAGE DISSOLUTION

518.001 [Repealed, 1978 c 699 s 17]

518.002 MEANING OF DIVORCE.

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

History: *1974 c 107 s 28*

518.003 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter and chapter 518A, the following terms have the meanings provided in this section unless the context clearly requires otherwise.

Subd. 2. [Renumbered subd 9]

Subd. 3. **Custody.** Unless otherwise agreed by the parties:

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

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

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

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

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

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

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

Subd. 3a. **Maintenance.** "Maintenance" means an award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support and maintenance of the other.

Subd. 3b. **Marital property; exceptions.** "Marital property" means property, real or personal, including vested public or private pension plan benefits or rights, acquired by the parties, or either of them, to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before the valuation date is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse shall be deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest shall be determined and made final by the court pursuant to section 518.58. If a title interest in real property is held individually by only one spouse, the interest in the real property of the nontitled spouse is not subject to claims of creditors or judgment or tax liens until the time of entry of the decree awarding an interest to the nontitled spouse. The presumption of marital property is overcome by a showing that the property is nonmarital property.

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

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

(b) is acquired before the marriage;

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

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

(e) is excluded by a valid antenuptial contract.

Subd. 4. **Mediation.** "Mediation" means a process in which an impartial third party facilitates an agreement between two or more parties in a proceeding.

Subd. 5. **Parenting time.** "Parenting time" means the time a parent spends with a child regardless of the custodial designation regarding the child.

Subd. 6. **Pension plan benefits or rights.** "Pension plan benefits or rights" means a benefit or right from a public or private pension plan accrued to the end of the month in which marital assets are valued, as determined under the terms of the laws or other plan document provisions governing the plan, including section 356.30.

Subd. 7. **Private pension plan.** "Private pension plan" means a plan, fund, or program maintained by an employer or employee organization that provides retirement income to em-

ployees or results in a deferral of income by employees for a period extending to the termination of covered employment or beyond.

Subd. 8. **Public pension plan.** "Public pension plan" means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, the deferred compensation plan specified in section 352.96, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or from other public sources.

Subd. 9. **Residence.** "Residence" means the place where a party has established a permanent home from which the party has no present intention of moving.

History: *1951 c 551 s 1; 1969 c 1028 s 2,3; 1973 c 725 s 74; 1974 c 107 s 18; 1978 c 772 s 48; 1979 c 259 s 2,23,34; 1981 c 349 s 2; 1981 c 360 art 2 s 45; 1982 c 464 s 1; 1983 c 144 s 1; 1986 c 444; 1987 c 157 s 14–16; 1988 c 590 s 1; 1988 c 668 s 15,16; 1989 c 282 art 2 s 189; 1990 c 568 art 2 s 68,69; 1990 c 574 s 6,7; 1992 c 463 s 29; 1993 c 340 s 31; 1994 c 488 s 8; 1995 c 202 art 1 s 25; 1997 c 203 art 6 s 40,41; 1997 c 245 art 3 s 9; 1998 c 382 art 1 s 3–5; 1999 c 107 s 66; 1999 c 196 art 1 s 5; 2000 c 343 s 4; 2000 c 444 art 1 s 1; art 2 s 15; 2005 c 116 s 1–3; 2005 c 164 s 5,29,31; 1Sp2005 c 7 s 26,28; 2006 c 280 s 21,43*

518.005 RULES GOVERNING PROCEEDINGS.

Subdivision 1. **Applicable.** Unless otherwise specifically provided, the Rules of Civil Procedure for the district court apply to all proceedings under this chapter.

Subd. 2. **Title.** A proceeding for dissolution of marriage, legal separation, or annulment shall be entitled "In re the Marriage of ..... and ..... ." A custody or support proceeding shall be entitled "In re the (Custody) (Support) of ..... ."

Subd. 3. **Names of pleadings.** The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated an answer. Other pleadings shall be denominated as provided in the Rules of Civil Procedure.

Subd. 4. **Decree; judgment.** In this chapter and chapter 518A, "decree" includes "judgment."

Subd. 5. **Prohibited disclosure.** In all proceedings under this chapter and chapter 518A in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority to the other party if:

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

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

Subd. 6. **Filing fee.** The first paper filed for a party in all proceedings for dissolution of marriage, legal separation, or annulment or proceedings to establish child support obligations shall be accompanied by a filing fee of $50. The fee is in addition to any other prescribed by law or rule.

History: *1978 c 772 s 16; 1979 c 50 s 66,67; 1979 c 259 s 3; 1997 c 203 art 6 s 35; 2005 c 164 s 3,29; 1Sp2005 c 7 s 28; 2006 c 280 s 9*

518.01 VOID MARRIAGES.

All marriages which are prohibited by section 517.03 shall be absolutely void, without any decree of dissolution or other legal proceedings; except if a person whose husband or wife has been absent for four successive years, without being known to the person to be living during that time, marries during the lifetime of the absent husband or wife, the marriage shall

be void only from the time that its nullity is duly adjudged. If the absentee is declared dead in accordance with section 576.142, the subsequent marriage shall not be void.

History: *(8580) RL s 3569; 1937 c 407 s 2; 1963 c 795 s 4; 1974 c 107 s 2; 1974 c 447 s 3; 1978 c 772 s 17*

518.02 VOIDABLE MARRIAGES.

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

(a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity and the other party at the time the marriage was solemnized did not know of the incapacity; or because of the influence of alcohol, drugs, or other incapacitating substances; or because consent of either was obtained by force or fraud and there was no subsequent voluntary cohabitation of the parties;

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

(c) A party was under the age for marriage established by section 517.02.

History: *(8581) RL s 3570; 1978 c 772 s 18*

518.03 ACTION TO ANNUL; DECREE.

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

The provisions of this chapter and chapter 518A relating to property rights of the spouses, maintenance, support and custody of children on dissolution of marriage are applicable to proceedings for annulment.

History: *(8582) RL s 3571; 1974 c 107 s 3; 1978 c 772 s 19; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.04 INSUFFICIENT GROUNDS FOR ANNULMENT.

No marriage shall be adjudged a nullity on the ground that one of the parties was under the age of legal consent if it appears that the parties had voluntarily cohabited together as husband and wife after having attained such age; nor shall the marriage of any insane person be adjudged void after restoration to reason, if it appears that the parties freely cohabited together as husband and wife after such restoration.

History: *(8583) RL s 3572; 1986 c 444*

518.05 ANNULMENT; WHEN TO BRING.

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

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

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

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

History: *(8584) RL s 3573; 1978 c 772 s 20; 1986 c 444*

518.055 PUTATIVE SPOUSE.

Any person who has cohabited with another to whom the person is not legally married in the good faith belief that the person was married to the other is a putative spouse until knowl-

edge of the fact that the person is not legally married terminates the status and prevents acquisition of further rights. A putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of the status, whether or not the marriage is prohibited or declared a nullity. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, maintenance, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

History: *1978 c 772 s 21; 1986 c 444*

PROCEEDINGS

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

Subdivision 1. **Meaning and effect; grounds.** A dissolution of marriage is the termination of the marital relationship between a husband and wife. A decree of dissolution completely terminates the marital status of both parties. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation does not terminate the marital status of the parties. A dissolution of a marriage shall be granted by a county or district court when the court finds that there has been an irretrievable breakdown of the marriage relationship.

A decree of legal separation shall be granted when the court finds that one or both parties need a legal separation.

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

Subd. 2. [Repealed, 1978 c 772 s 63]

Subd. 3. **Uncontested legal separation.** If one or both parties petition for a decree of legal separation and neither party contests the granting of the decree nor petitions for a decree of dissolution, the court shall grant a decree of legal separation.

History: *(8585) RL s 3574; 1909 c 443 s 1; 1927 c 304 s 1; 1933 c 262 s 1; 1933 c 324; Ex1934 c 78 s 1; 1935 c 295 s 1; 1941 c 406 s 1; 1951 c 637 s 1; 1969 c 764 s 1; 1971 c 177 s 1; 1974 c 107 s 4; 1978 c 772 s 22,23; 1979 c 259 s 4,5*

518.07 RESIDENCE OF PARTIES.

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

History: *(8586) RL s 3575; 1974 c 107 s 5; 1978 c 772 s 24; 1979 c 259 s 6*

518.08 [Repealed, 1974 c 107 s 29]

518.09 PROCEEDING; HOW AND WHERE BROUGHT; VENUE.

A proceeding for dissolution or legal separation may be brought by either or both spouses and shall be commenced by personal service of the summons and petition venued in the county where either spouse resides. If neither party resides in the state and jurisdiction is based on the domicile of either spouse, the proceeding may be brought in the county where either party is domiciled. If neither party resides or is domiciled in this state and jurisdiction is premised upon one of the parties being a member of the armed services stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, the proceeding may be brought in the county where the member is stationed. This venue shall be subject to the power of the court to change the place of hearing by consent of the parties, or

when it appears to the court that an impartial hearing cannot be had in the county where the proceedings are pending, or when the convenience of the parties or the ends of justice would be promoted by the change. No summons shall be required if a joint petition is filed.

History: *(8588) RL s 3577; 1931 c 226 s 1; 1974 c 107 s 6; 1978 c 772 s 25; 1979 c 259 s 7; 1981 c 349 s 3*

518.091 SUMMONS; TEMPORARY RESTRAINING PROVISIONS; NOTICE REGARDING PARENT EDUCATION PROGRAM REQUIREMENTS.

Subdivision 1. **Temporary restraining orders.** (a) Every summons must include the notice in this subdivision.

NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

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

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

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

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

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

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

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

Subd. 2. **Parent education program requirements.** Every summons involving custody or parenting time of a minor child must include the notice in this subdivision.

NOTICE OF PARENT EDUCATION PROGRAM REQUIREMENTS

UNDER MINNESOTA STATUTES, SECTION 518.157, IN A CONTESTED PROCEEDING INVOLVING CUSTODY OR PARENTING TIME OF A MINOR CHILD, THE PARTIES MUST BEGIN PARTICIPATION IN A PARENT EDUCATION PROGRAM THAT MEETS MINIMUM STANDARDS PROMULGATED BY THE MINNESOTA SUPREME COURT WITHIN 30 DAYS AFTER THE FIRST FILING WITH THE COURT. IN SOME DISTRICTS, PARENTING EDUCATION MAY BE REQUIRED IN ALL CUSTODY OR PARENTING PROCEEDINGS. YOU MAY CONTACT THE DIS-

TRICT COURT ADMINISTRATOR FOR ADDITIONAL INFORMATION REGARDING THIS REQUIREMENT AND THE AVAILABILITY OF PARENT EDUCATION PROGRAMS.

History: *1991 c 271 s 1; 1999 c 104 s 1; 2004 c 273 s 10*

518.10 REQUISITES OF PETITION.

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

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

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

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

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

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

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

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

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

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

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

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

(i) any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

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

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

History: *(8589) RL s 3578; 1955 c 688 s 1; 1974 c 107 s 7; 1978 c 772 s 26; 1979 c 259 s 8; 1983 c 308 s 14; 1991 c 161 s 2; 1997 c 203 art 6 s 36; 1997 c 239 art 7 s 7; 1999 c 245 art 7 s 7*

518.11 SERVICE; ALTERNATE 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.

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

The court shall 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 or, if no address so qualifies, then to the respondent's last known address.

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

History: *(8590) RL s 3579; 1909 c 434; 1913 c 57 s 1; 1974 c 107 s 8; 1978 c 772 s 27; 1994 c 630 art 12 s 2; 1997 c 9 s 5*

518.111 [Renumbered 518A.48]

518.12 TIME FOR ANSWERING.

The respondent shall have 30 days in which to answer the petition. In case of service by publication, the 30 days shall not begin to run until the expiration of the period allowed for publication. In the case of a counterpetition for dissolution or legal separation to a petition for dissolution or legal separation, no answer shall be required to the counterpetition and the original petitioner shall be deemed to have denied each and every statement, allegation and claim in the counterpetition.

History: *(8591) RL s 3580; 1945 c 7 s 1; 1974 c 107 s 9; 1979 c 259 s 9*

518.13 FAILURE TO ANSWER; FINDINGS; HEARING.

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

Subd. 2. **Dispute over irretrievable breakdown.** If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to the commencement of the proceeding and the prospect of reconciliation, and shall make a finding whether the marriage is irretrievably broken.

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

Subd. 3. **Agreement over irretrievable breakdown.** If both parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or

one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding that the marriage is irretrievably broken.

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

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

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

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

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

History: *(8592) RL s 3581; 1974 c 107 s 10; 1978 c 772 s 28; 1979 c 259 s 10; 1991 c 271 s 2*

518.131 TEMPORARY ORDERS AND RESTRAINING ORDERS.

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

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

(b) Temporary maintenance of either spouse;

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

(d) Temporary costs and reasonable attorney fees;

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

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

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

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

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

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

Subd. 2. **Impermissible orders.** No temporary order shall:

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

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

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

Subd. 3. **Ex parte restraining order; limitations.** A party may request and the court may make an ex parte restraining order which may include any matter that may be included in a temporary order except:

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

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

Subd. 4. **Hearing on restraining order; duration.** Restraining orders shall be personally served upon the party to be restrained and shall be accompanied with a notice of the time and place of hearing for disposition of the matters contained in the restraining order at a hearing for a temporary order. When a restraining order has been issued, a hearing on the temporary order shall be held at the earliest practicable date. The restrained party may upon written notice to the other party advance the hearing date to a time earlier than that noticed by the other party. The restraining order shall continue in full force and effect only until the hearing time noticed, unless the court, for good cause and upon notice extends the time for hearing.

Subd. 5. **Duration of temporary order.** A temporary order shall continue in full force and effect until the earlier of its amendment or vacation, dismissal of the main action or entry of a final decree of dissolution or legal separation.

Subd. 6. **Effect of dismissal of main action.** If a proceeding for dissolution or legal separation is dismissed, a temporary custody order is vacated unless one of the parties or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parties and the best interests of the child require that a custody order be issued.

Subd. 7. **Guiding factors.** The court shall be guided by the factors set forth in chapter 518A (concerning child support), and sections 518.552 (concerning maintenance), 518.17 to 518.175 (concerning custody and parenting time), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

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

Subd. 9. **Prejudicial effect; revocation; modification.** A temporary order or restraining order:

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

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

Subd. 10. **Misdemeanor.** In addition to being punishable by contempt, a violation of a provision of a temporary order or restraining order granting the relief authorized in subdivision 1, clause (g), (h), or (i), is a misdemeanor.

Subd. 11. **Temporary support and maintenance.** Temporary support and maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.

History: *1979 c 259 s 11; 1986 c 444; 1987 c 237 s 1; 1987 c 403 art 3 s 76; 1990 c 574 s 8,9; 2000 c 444 art 1 s 2; art 2 s 16–19; 2001 c 7 s 85; 2001 c 51 s 1; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.135 [Repealed, 1979 c 259 s 35]

518.14 COSTS AND DISBURSEMENTS; ATTORNEY FEES; COLLECTION COSTS.

Subdivision 1. **General.** Except as provided in section 518A.735, in a proceeding under this chapter or chapter 518A, 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 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 or section 518A.735 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 and section 518A.735 may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518A.39. 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. [Renumbered 518A.735]

History: *(8593) RL s 3582; 1955 c 687 s 1; 1974 c 107 s 11; 1978 c 772 s 30; 1986 c 444; 1990 c 574 s 10; 1993 c 340 s 20; 1994 c 630 art 11 s 5; 1997 c 187 art 2 s 10; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.145 DECREE, FINALITY AND REOPENING.

Subdivision 1. **Appeal.** A decree of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. When entered, the findings of fact and conclusions of law may constitute the judgment and decree. An appeal from the decree of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree which dissolves the marriage beyond the time for appealing from that provision. A party may remarry before the time for appeal has run if it is not contested that the marriage is irretrievably broken or if a stipulation that the marriage is irretrievably broken is incorporated in the decree of dissolution.

Subd. 2. **Reopening.** On motion and upon terms as are just, the court may relieve a party from a judgment and decree, order, or proceeding under this chapter, except for provisions dissolving the bonds of marriage, annulling the marriage, or directing that the parties are legally separated, and may order a new trial or grant other relief as may be just for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under the Rules of Civil Procedure, rule 59.03;

(3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;

(4) the judgment and decree or order is void; or

(5) the judgment has been satisfied, released, or discharged, or a prior judgment and decree or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment and decree or order should have prospective application.

The motion must be made within a reasonable time, and for a reason under clause (1), (2), or (3), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment and decree or order or suspend its operation. This subdivision does not limit the power of a court to entertain an independent action to relieve a party from a judgment and decree, order, or proceeding or to grant relief to a party not actually personally notified as provided in the Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.

History: *1978 c 772 s 31; 1979 c 259 s 12; 1981 c 349 s 4; 1988 c 668 s 11*

518.146 SOCIAL SECURITY NUMBERS; TAX RETURNS; IDENTITY PROTECTION.

The Social Security numbers and tax returns required under this chapter and chapter 518A are not accessible to the public, except that they must be disclosed to the other parties to a proceeding as provided in section 518A.28.

History: *1999 c 227 s 20; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.147 [Repealed, 2000 c 372 s 3]

518.148 CERTIFICATION OF DISSOLUTION.

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

Subd. 2. **Required information.** The certificate shall include the following information:

(1) the full caption and file number of the case and the title "Certificate of Dissolution";

(2) the names and any prior or other names of the parties to the dissolution;

(3) the names of any living minor or dependent children as identified in the judgment and decree;

(4) that the marriage of the parties is dissolved;

(5) the date of the judgment and decree; and

(6) the Social Security number of the parties to the dissolution and the Social Security number of any living minor or dependent children identified in the judgment and decree.

Subd. 3. **Certification.** The certificate of dissolution shall be conclusive evidence of the facts recited in the certificate.

History: *1991 c 161 s 3; 1997 c 203 art 6 s 37*

518.15 [Repealed, 1978 c 772 s 63]

518.155 CUSTODY DETERMINATIONS.

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

History: *1977 c 8 s 26; 1978 c 772 s 32; 1979 c 259 s 13; 1Sp1981 c 4 art 1 s 179; 1999 c 74 art 3 s 19; 2000 c 444 art 2 s 20; 2001 c 51 s 2*

518.156 COMMENCEMENT OF CUSTODY PROCEEDING.

Subdivision 1. **Procedure.** In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced by a parent:

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

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

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

History: *1978 c 772 s 33; 1979 c 259 s 14; 1980 c 598 s 4; 1986 c 444; 1990 c 574 s 11; 1992 c 529 s 1; 1Sp1993 c 1 art 6 s 43; 2000 c 444 art 2 s 21; 2002 c 304 s 8*

518.157 PARENT EDUCATION PROGRAM IN PROCEEDINGS INVOLVING CHILDREN.

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

Subd. 2. **Minimum standards; plan.** The Minnesota Supreme Court should promulgate minimum standards for the implementation and administration of a parent education program.

Subd. 3. **Attendance.** In a proceeding under this chapter where custody or parenting time is contested, the parents of a minor child shall attend a minimum of eight hours in an orientation and education program that meets the minimum standards promulgated by the Minnesota Supreme Court. In all other proceedings involving custody, support, or parenting time the court may order the parents of a minor child to attend a parent education program. The program shall provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or parenting time proceeding may attend a parent education program without a court order. Unless otherwise ordered by the court, participation in a parent education program must begin within 30 days after the first filing with the court or as soon as practicable after that time based on the reasonable availability of classes for the program for the parent. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court shall not require the parties to attend the same parent education sessions and shall enter an order setting forth the manner in which the parties may safely participate in the program.

Subd. 4. **Sanctions.** The court may impose sanctions upon a parent for failure to attend or complete a parent education program as ordered.

Subd. 5. **Confidentiality.** Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any pur-

pose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors shall not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

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

History: *1995 c 127 s 1; 1997 c 245 art 2 s 1; 2000 c 444 art 2 s 22,23; 2004 c 273 s 11; 2006 c 260 art 5 s 47*

518.158 [Repealed, 2002 c 304 s 12]

518.16 [Repealed, 1979 c 259 s 35]

518.165 GUARDIANS FOR MINOR CHILDREN.

Subdivision 1. **Permissive appointment of guardian ad litem.** In all proceedings for child custody or for dissolution or legal separation where custody or parenting time with a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem shall advise the court with respect to custody, support, and parenting time.

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

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

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

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

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

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

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

Subd. 3. **Fees.** (a) A guardian ad litem appointed under either subdivision 1 or 2 may be appointed either as a volunteer or on a fee basis. If a guardian ad litem is appointed on a fee basis, the court shall enter an order for costs, fees, and disbursements in favor of the child's

guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying shall be borne by the state courts. The costs of court–appointed counsel to the guardian ad litem shall be paid by the county in which the proceeding is being held if a party is incapable of paying for them. Until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented, the costs of court–appointed counsel to a guardian ad litem in the Eighth Judicial District shall be paid by the state courts if a party is incapable of paying for them. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

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

Subd. 4. **Background study of guardian ad litem.** (a) The court shall initiate a background study through the commissioner of human services under section 245C.32 on every guardian ad litem appointed under this section if a background study has not been completed on the guardian ad litem within the past three years. The background study must be completed before the court appoints the guardian ad litem, unless the court determines that it is in the best interest of the child to appoint a guardian ad litem before a background study can be completed by the commissioner. The court shall initiate a subsequent background study under this paragraph once every three years after the guardian has been appointed as long as the individual continues to serve as a guardian ad litem.

(b) The background study must include criminal history data from the Bureau of Criminal Apprehension, other criminal history data held by the commissioner of human services, and data regarding whether the person has been a perpetrator of substantiated maltreatment of a minor or a vulnerable adult. When the information from the Bureau of Criminal Apprehension indicates that the subject of a study under paragraph (a) is a multistate offender or that the subject's multistate offender status is undetermined, the court shall require a search of the National Criminal Records Repository, and shall provide the commissioner a set of classifiable fingerprints of the subject of the study.

(c) The Minnesota Supreme Court shall pay the commissioner a fee for conducting a background study under section 245C.32.

(d) Nothing precludes the court from initiating background studies using court data on criminal convictions.

Subd. 5. **Procedure, criminal history, and maltreatment records background study.** (a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

(b) When the court requests a search of the National Criminal Records Repository, the court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint card provided by the commissioner of human services.

(c) The commissioner of human services shall provide the court with information from the Bureau of Criminal Apprehension's Criminal Justice Information System, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under section 626.556, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section 626.556, subdivision 10f, or the public portion of the investiga-

tion memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data. When the commissioner finds no criminal history or substantiated maltreatment on a background study subject, the commissioner shall make these results available to the court electronically through the secure online background study system.

(d) Notwithstanding section 626.556, subdivision 10f, or 626.557, subdivision 12b, if the commissioner or county lead agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

Subd. 6. **Rights.** The court shall notify the subject of a background study that the subject has the following rights:

(1) the right to be informed that the court will request a background study on the subject for the purpose of determining whether the person's appointment or continued appointment is in the best interests of the child;

(2) the right to be informed of the results of the study and to obtain from the court a copy of the results; and

(3) the right to challenge the accuracy and completeness of the information contained in the results to the agency responsible for creation of the data except to the extent precluded by section 256.045, subdivision 3.

History: *1974 c 33 s 1; 1978 c 772 s 35; 1979 c 259 s 15; 1986 c 469 s 1; 1995 c 226 art 6 s 10; 1999 c 139 art 4 s 2; 1999 c 216 art 7 s 35; 2000 c 444 art 2 s 24,25; 2003 c 112 art 2 s 50; 1Sp2005 c 4 art 1 s 50–52*

518.166 INTERVIEWS.

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

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

History: *1978 c 772 s 36; 1979 c 259 s 16; 1986 c 444*

518.167 INVESTIGATIONS AND REPORTS.

Subdivision 1. **Court order.** In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may order an investigation and report concerning custodial arrangements for the child. If the county elects to conduct an investigation, the county may charge a fee. The investigation and report may be made by the county welfare agency or department of court services.

Subd. 2. **Preparation.** (a) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the potential custodial arrangements except for persons involved in mediation efforts between the parties. Mediation personnel may disclose to investigators and evaluators information collected during mediation only if agreed to in writing by all parties. Upon order of the court, the investigator may

refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, school personnel, or other expert persons who have served the child in the past after obtaining the consent of the parents or the child's custodian or guardian.

(b) The report submitted by the investigator must consider and evaluate the factors in section 518.17, subdivision 1, and include a detailed analysis of all information considered for each factor. If joint custody is contemplated or sought, the report must consider and evaluate the factors in section 518.17, subdivision 2, state the position of each party and the investigator's recommendation and the reason for the recommendation, and reference established means for dispute resolution between the parties.

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

Subd. 4. **Use at hearing.** The investigator's report may be received in evidence at the hearing.

Subd. 5. **Costs.** The court shall order all or part of the cost of the investigation and report to be paid by either or both parties, based on their ability to pay. Any part of the cost that the court finds the parties are incapable of paying must be borne by the county welfare agency or department of court services that performs the investigation. The court may not order costs under this subdivision to be paid by a party receiving public assistance or legal assistance from a qualified legal services program or by a party whose annual income falls below the poverty line under United States Code, title 42, section 9902(2).

History: *1978 c 772 s 37; 1984 c 635 s 1; 1986 c 444; 1990 c 574 s 12; 1991 c 271 s 3; 1Sp2003 c 14 art 6 s 57*

518.168 HEARINGS.

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

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

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

(d) If the court finds it necessary for the protection of the child's welfare that the record of an interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record.

History: *1978 c 772 s 38*

518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.

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 363A.03, 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;

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

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.

Subd. 1a. **Evidence of false allegations of child abuse.** The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

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.

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.

(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.

Subd. 4. [Repealed, 1986 c 406 s 9]

Subd. 5. [Repealed, 1986 c 406 s 9]

Subd. 6. **Departure from guidelines based on joint custody.** An award of joint legal custody is not a reason for departure from the guidelines in section 518A.35.

History: *(8596) RL s 3585; 1969 c 1030 s 1; 1971 c 173 s 1; 1974 c 107 s 14; 1974 c 330 s 2; 1978 c 772 s 39; 1979 c 259 s 17; 1981 c 349 s 5; 1983 c 308 s 15; 1984 c 547 s 16; 1984 c 655 art 1 s 73; 1986 c 406 s 1,2; 1986 c 444; 1987 c 106 s 1; 1988 c 662 s 1; 1988 c 668 s 12; 1989 c 248 s 2,3; 1990 c 574 s 13,14; 1991 c 271 s 4; 1992 c 557 s 8; 1993 c 322 s 7; 1994 c 630 art 12 s 4; 1997 c 203 art 9 s 16; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.1705 PARENTING PLANS.

Subdivision 1. **Definition.** "Domestic abuse" for the purposes of this section has the meaning given in section 518B.01, subdivision 2.

Subd. 2. **Plan elements.** (a) A parenting plan must include the following:

(1) a schedule of the time each parent spends with the child;

(2) a designation of decision–making responsibilities regarding the child; and

(3) a method of dispute resolution.

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

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

Subd. 3. **Creating parenting plan; restrictions on creation; alternative.** (a) Upon the request of both parents, a parenting plan must be created in lieu of an order for child custody and parenting time unless the court makes detailed findings that the proposed plan is not in the best interests of the child.

(b) If both parents do not agree to a parenting plan, the court may create one on its own motion, except that the court must not do so if it finds that a parent has committed domestic abuse against a parent or child who is a party to, or subject of, the matter before the court. If the court creates a parenting plan on its own motion, it must not use alternative terminology unless the terminology is agreed to by the parties.

(c) If an existing order does not contain a parenting plan, the parents must not be required to create a parenting plan as part of a modification order under section 518A.39.

(d) A parenting plan must not be required during an action under section 256.87.

(e) If the parents do not agree to a parenting plan and the court does not create one on its own motion, orders for custody and parenting time must be entered under sections 518.17 and 518.175 or section 257.541, as applicable.

Subd. 4. **Custody designation.** A final judgment and decree that includes a parenting plan using alternate terms to designate decision-making responsibilities or allocation of residential time between the parents must designate whether the parents have joint legal custody or joint physical custody or which parent has sole legal custody or sole physical custody, or both. This designation is solely for enforcement of the final judgment and decree where this designation is required for that enforcement and has no effect under the laws of this state, any other state, or another country that do not require this designation.

Subd. 5. **Role of court.** If both parents agree to the use of a parenting plan but are unable to agree on all terms, the court may create a parenting plan under this section. If the court is considering a parenting plan, it may require each parent to submit a proposed parenting plan at any time before entry of the final judgment and decree. If parents seek the court's assistance in deciding the schedule for each parent's time with the child or designation of decision-making responsibilities regarding the child, the court may order an evaluation and should consider the appointment of a guardian ad litem. Parenting plans, whether entered on the court's own motion, following a contested hearing, or reviewed by the court pursuant to a stipulation, must be based on the best interests factors in section 518.17 or 257.025, as applicable.

Subd. 6. **Restrictions on preparation of parenting plan.** (a) Dispute resolution processes other than the judicial process may not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In these cases, the court shall consider the appointment of a guardian ad litem and a parenting plan evaluator.

(b) The court may not require a parenting plan that provides for joint legal custody or use of dispute resolution processes, other than the judicial process, if the court finds that section 518.179 applies or the court finds that either parent has engaged in the following toward a parent or child who is a party to, or subject of, the matter before the court:

(1) acts of domestic abuse, including physical harm, bodily injury, and infliction of fear of physical harm, assault, terroristic threats, or criminal sexual conduct;

(2) physical, sexual, or a pattern of emotional abuse of a child; or

(3) willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions.

Subd. 7. **Moving the child to another state.** Parents may agree upon the legal standard that will govern a decision concerning removal of a child's residence from this state, provided that:

(1) both parents were represented by counsel when the parenting plan was approved; or

(2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Subd. 8. **Allocation of certain expenses.** (a) Parents creating a parenting plan are subject to the requirements of the child support guidelines under chapter 518A.

(b) Parents may include in the parenting plan an allocation of expenses for the child. The allocation is an enforceable contract between the parents.

Subd. 9. **Modification of parenting plans.** (a) Parents may modify the schedule of the time each parent spends with the child or the decision-making provisions of a parenting plan by agreement. To be enforceable, modifications must be confirmed by court order. A motion to modify decision-making provisions or the time each parent spends with the child may be made only within the time limits provided by section 518.18.

(b) The parties may agree, but the court must not require them, to apply the best interests standard in section 518.17 or 257.025, as applicable, for deciding a motion for modification that would change the child's primary residence, provided that:

(1) both parties were represented by counsel when the parenting plan was approved; or

(2) the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications.

(c) If the parties do not agree to apply the best interests standard, section 518.18, paragraph (d), applies.

History: *2000 c 444 art 1 s 3; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2006 c 280 s 10*

518.171 [Repealed, 2005 c 164 s 31; 2006 c 280 s 43]

518.175 PARENTING TIME.

Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(c) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

(d) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(e) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Subd. 1a. **Domestic abuse; supervised parenting time.** (a) If a parent requests supervised parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the other parent to protect the parent with whom the child resides or the child, the judge or judicial officer must consider the order for protection in making a decision regarding parenting time.

(b) The state court administrator, in consultation with representatives of parents and other interested persons, shall develop standards to be met by persons who are responsible for supervising parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise parenting time.

Subd. 2. **Rights of children and parents.** Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and each parent under the order or decree or

any substantial amendment thereof. The parent with whom the child resides shall present the child for parenting time with the other parent, at such times as the court directs.

Subd. 3. **Move to another state.** (a) The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.

(b) The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to:

(1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;

(2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration special needs of the child;

(3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of the life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation; and

(8) the effect on the safety and welfare of the child, or of the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01.

(c) The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds that the person requesting permission to move has been a victim of domestic abuse by the other parent, the burden of proof is upon the parent opposing the move. The court must consider all of the factors in this subdivision in determining the best interests of the child.

Subd. 4. [Repealed, 1996 c 391 art 1 s 6]

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. 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.

Subd. 6. **Remedies.** (a) The court may provide for one or more of the following remedies for denial of or interference with court–ordered parenting time as provided under this subdivision. All parenting time orders must include notice of the provisions of this subdivision.

(b) If the court finds that a person has been deprived of court–ordered parenting time, the court shall order the parent who has interfered to allow compensatory parenting time to the other parent or the court shall make specific findings as to why a request for compensatory parenting time is denied. If compensatory parenting time is awarded, additional parenting time must be:

(1) at least of the same type and duration as the deprived parenting time and, at the discretion of the court, may be in excess of or of a different type than the deprived parenting time;

(2) taken within one year after the deprived parenting time; and

(3) at a time acceptable to the parent deprived of parenting time.

(c) If the court finds that a party has wrongfully failed to comply with a parenting time order or a binding agreement or decision under section 518.1751, the court may:

(1) impose a civil penalty of up to $500 on the party;

(2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;

(3) award reasonable attorney's fees and costs;

(4) require the party who violated the parenting time order or binding agreement or decision of the parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or

(5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied parenting time and has incurred expenses in connection with the denied parenting time, the court may require the party who denied parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with upcoming planned parenting time.

(e) Proof of an unwarranted denial of or interference with duly established parenting time may constitute contempt of court and may be sufficient cause for reversal of custody.

Subd. 7. [Renumbered 518.1752]

Subd. 8. **Additional parenting time for child care parent.** The court may allow additional parenting time to a parent to provide child care while the other parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court shall consider:

(1) the ability of the parents to cooperate;

(2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and

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

History: *1971 c 172 s 1; 1974 c 107 s 15; 1978 c 772 s 40–42; 1979 c 259 s 18,19; 1982 c 537 s 1; 1986 c 406 s 3; 1986 c 444; 1988 c 668 s 14; 1989 c 248 s 4,5; 1990 c 574 s 15; 1993 c 62 s 2; 1993 c 322 s 9; 1994 c 631 s 31; 1995 c 257 art 1 s 20; 1996 c 391 art 1 s 1,2; 1997 c 239 art 7 s 8,9; 1997 c 245 art 2 s 2; 2000 c 444 art 1 s 4; art 2 s 26–31; 2001 c 51 s 8,17; 2006 c 280 s 11–13*

518.1751 PARENTING TIME DISPUTE RESOLUTION.

Subdivision 1. **Parenting time expeditor.** Upon request of either party, the parties' stipulation, or upon the court's own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes that occur under a parenting time order while a matter is pending under this chapter, chapter 257 or 518D, or after a decree is entered.

Subd. 1a. **Exceptions.** A party may not be required to refer a parenting time dispute to a parenting time expeditor under this section if:

(1) one of the parties claims to be the victim of domestic abuse by the other party;

(2) the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party; or

(3) the party is unable to pay the costs of the expeditor, as provided under subdivision 2a.

If the court is satisfied that the parties have been advised by counsel and have agreed to use the parenting time expeditor process and the process does not involve face–to–face meeting of the parties, the court may direct that the parenting time expeditor process be used.

Subd. 1b. **Purpose; definitions.** (a) The purpose of a parenting time expeditor is to resolve parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing parenting time order and, if appropriate, to make a determination as to whether the existing parenting time order has been violated. A parenting time expeditor may be appointed to resolve a onetime parenting time dispute or to provide ongoing parenting time dispute resolution services.

(b) For purposes of this section, "parenting time dispute" means a disagreement among parties about parenting time with a child, including a dispute about an anticipated denial of future scheduled parenting time. "Parenting time dispute" includes a claim by a parent that the other parent is not spending time with a child as well as a claim by a parent that the other parent is denying or interfering with parenting time.

(c) A "parenting time expeditor" is a neutral person authorized to use a mediation–arbitration process to resolve parenting time disputes. A parenting time expeditor shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the parenting time expeditor shall make a decision resolving the dispute.

Subd. 2. **Appointment.** (a) The parties may stipulate to the appointment of a parenting time expeditor or a team of two expeditors without appearing in court by submitting to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the parenting time expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court shall review the agreement of the parties.

(b) If the parties cannot agree on a parenting time expeditor, the court shall provide to the parties a copy of the court administrator's roster of parenting time expeditors and require the parties to exchange the names of three potential parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a parenting time expeditor, the court shall select the parenting time expeditor and, in its discretion, may appoint one expeditor or a team of two expeditors. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as parenting time expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them.

(c) An order appointing a parenting time expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the assistance of the expeditor, the expeditor is authorized to make a

decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Subd. 2a. **Fees.** Prior to appointing the parenting time expeditor, the court shall give the parties notice that the fees of the expeditor will be apportioned among the parties. In its order appointing the expeditor, the court shall apportion the fees of the expeditor among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is not a court order that provides for apportionment of the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the fees of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the fees of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Subd. 2b. **Roster of parenting time expeditors.** Each court administrator shall maintain and make available to the public and judicial officers a roster of individuals available to serve as parenting time expeditors, including each individual's name, address, telephone number, and fee charged, if any. A court administrator shall not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a parenting time expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as an expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint a person to serve as an expeditor even if the person is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of parenting time expeditors, an individual shall annually submit to the court administrator proof of completion of continuing education requirements.

Subd. 2c. **Training and continuing education requirements.** To qualify for listing on a court administrator's roster of parenting time expeditors, an individual shall complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota supreme court, which must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. To maintain one's listing on a court administrator's roster of parenting time expeditors, an individual shall annually attend three hours of continuing education about alternative dispute resolution subjects.

Subd. 3. **Agreement or decision.** (a) Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting time expeditor shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. If a parenting time dispute requires immediate resolution, the parenting time expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. The expeditor is authorized to award compensatory parenting time under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the parenting time order has been violated. The expeditor shall not lose authority to make a decision if circumstances beyond the expeditor's control make it impracticable to meet the five–day timelines.

(c) Unless the parties mutually agree, the parenting time expeditor shall not make a decision that is inconsistent with an existing parenting time order, but may make decisions interpreting or clarifying a parenting time order, including the development of a specific schedule when the existing court order grants "reasonable parenting time."

(d) The expeditor shall put an agreement or decision in writing and provide a copy to the parties. The expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court and shall attach a copy of the parties' written agreement or decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Subd. 4. **Other agreements.** This section does not preclude the parties from voluntarily agreeing to submit their parenting time dispute to a neutral third party or from otherwise resolving parenting time disputes on a voluntary basis.

Subd. 4a. **Confidentiality.** (a) Statements made and documents produced as part of the parenting time expeditor process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment.

(b) Sworn testimony may be used in subsequent proceedings for any purpose for which it is admissible under the Rules of Evidence. Parenting time expeditors, and lawyers for the parties to the extent of their participation in the parenting time expeditor process, must not be subpoenaed or called as witnesses in court proceedings.

(c) Notes, records, and recollections of parenting time expeditors are confidential and must not be disclosed to the parties, the public, or anyone other than the parenting time expeditor unless:

(1) all parties and the expeditor agree in writing to the disclosure; or

(2) disclosure is required by law or other applicable professional codes.

Notes and records of parenting time expeditors must not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Those notes or records must not be released by the court unless it determines that they disclose information showing illegal violation of the criminal law of the state.

Subd. 5. **Immunity.** A parenting time expeditor is immune from civil liability for actions taken or not taken when acting under this section.

Subd. 5a. **Removal.** If a parenting time expeditor has been appointed on a long–term basis, a party or the expeditor may file a motion seeking to have the expeditor removed for good cause shown.

Subd. 6. **Mandatory parenting time dispute resolution.** Subject to subdivision 1a, a judicial district may establish a mandatory parenting time dispute resolution program as provided in this subdivision. In a district where a program has been established, parties may be required to submit parenting time disputes to a parenting time expeditor as a prerequisite to a motion on the dispute being heard by the court, or either party may submit the dispute to an expeditor. A party may file a motion with the court for purposes of obtaining a court date, if necessary, but a hearing may not be held until resolution of the dispute with the parenting time expeditor. The appointment of an expeditor must be in accordance with subdivision 2. Expeditor fees must be paid in accordance with subdivision 2a.

Subd. 7. [Repealed by amendment, 1997 c 245 art 2 s 3]

History: *1989 c 248 s 6; 1996 c 391 art 1 s 3; 1997 c 245 art 2 s 3; 2000 c 444 art 2 s 32; 2001 c 51 s 9; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.1752 GRANDPARENT VISITATION.

In all proceedings for dissolution or legal separation, after the commencement of the proceeding or at any time after completion of the proceedings, and continuing during the mi-

nority of the child, the court may make an order granting visitation rights to grandparents under section 257C.08, subdivision 2.

History: *1971 c 172 s 1; 1974 c 107 s 15; 1978 c 772 s 40–42; 1979 c 259 s 18,19; 1982 c 537 s 1; 1986 c 406 s 3; 1986 c 444; 1988 c 668 s 14; 1989 c 248 s 4,5; 1990 c 574 s 15; 1993 c 62 s 2; 1993 c 322 s 9; 1994 c 631 s 31; 1995 c 257 art 1 s 20; 1996 c 391 art 1 s 1,2; 1997 c 239 art 7 s 8,9; 1997 c 245 art 2 s 2; 2000 c 444 art 1 s 4; art 2 s 26–31; 2001 c 51 s 8,17; 2002 c 304 s 13*

518.176 JUDICIAL SUPERVISION.

Subdivision 1. **Limits on parent's authority; hearing.** Except as otherwise agreed by the parties in writing at the time of the custody order, the parent with whom the child resides may determine the child's upbringing, including education, health care, and religious training, unless the court after hearing, finds, upon motion by the other parent, that in the absence of a specific limitation of the authority of the parent with whom the child resides, the child's physical or emotional health is likely to be endangered or the child's emotional development impaired.

Subd. 2. **Court order.** If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical or emotional health is likely to be endangered or the child's emotional development impaired, the court may order the local social services agency or the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or parenting time terms of the decree are carried out.

History: *1978 c 772 s 43; 1979 c 259 s 20; 1986 c 444; 1994 c 631 s 31; 2000 c 444 art 2 s 33; 2001 c 51 s 10*

518.177 NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.

Every court order and judgment and decree concerning custody of or parenting time or visitation with a minor child shall contain the notice set out in section 518.68, subdivision 2.

History: *1984 c 484 s 1; 1993 c 322 s 10; 2000 c 444 art 2 s 34*

518.178 PARENTING TIME AND SUPPORT REVIEW HEARING.

Upon motion of either party, the court shall conduct a hearing to review compliance with the parenting time and child support provisions set forth in a decree of dissolution or legal separation or an order that establishes child custody, parenting time, and support rights and obligations of parents. The state court administrator shall prepare, and each court administrator shall make available, simplified pro se forms for reviewing parenting time and child support disputes. The court may impose any parenting time enforcement remedy available under sections 518.175 and 518.1751, and any support enforcement remedy available under chapter 518A.

History: *1999 c 196 art 1 s 4; 2000 c 444 art 2 s 35; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.1781 SIX–MONTH REVIEW.

(a) A request for a six–month review hearing form must be attached to a decree of dissolution or legal separation or an order that initially establishes child custody, parenting time, or support rights and obligations of parents. The state court administrator is requested to prepare the request for review hearing form. The form must include information regarding the procedures for requesting a hearing, the purpose of the hearing, and any other information regarding a hearing under this section that the state court administrator deems necessary.

(b) The six–month review hearing shall be held if any party submits a written request for a hearing within six months after entry of a decree of dissolution or legal separation or order that establishes child custody, parenting time, or support.

(c) Upon receipt of a completed request for hearing form, the court administrator shall provide notice of the hearing to all other parties and the public authority. The court administrator shall schedule the six–month review hearing as soon as practicable following the receipt of the hearing request form.

(d) At the six–month hearing, the court must review:

(1) whether child support is current; and

(2) whether both parties are complying with the parenting time provisions of the order.

(e) At the six–month hearing, the obligor has the burden to present evidence to establish that child support payments are current. A party may request that the public authority provide information to the parties and court regarding child support payments. A party must request the information from the public authority at least 14 days before the hearing. The commissioner of human services must develop a form to be used by the public authority to submit child support payment information to the parties and court.

(f) Contempt of court and all statutory remedies for child support and parenting time enforcement may be imposed by the court at the six–month hearing for noncompliance by either party pursuant to this chapter, chapters 518A and 588, and the Minnesota Court Rules.

(g) A request for a six–month review hearing form must be attached to a decree or order signed on or after January 1, 2007, that initially establishes child support rights and obligations.

History: *2005 c 164 s 4,29; 1Sp2005 c 7 s 26,28; 2006 c 280 s 20*

518.179 PARTICIPATION IN A PARENTING PLAN WHEN PERSON CONVICTED OF CERTAIN OFFENSES.

Subdivision 1. **Seeking custody or parenting time.** Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or parenting time has been convicted of a crime described in subdivision 2, the person seeking custody or parenting time has the burden to prove that custody or parenting time by that person is in the best interests of the child if:

(1) the conviction occurred within the preceding five years;

(2) the person is currently incarcerated, on probation, or under supervised release for the offense; or

(3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

If this section applies, the court may not grant custody or parenting time to the person unless it finds that the custody or parenting time is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Subd. 2. **Applicable crimes.** This section applies to the following crimes or similar crimes under the laws of the United States, or any other state:

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(2) manslaughter in the first degree under section 609.20;

(3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(4) kidnapping under section 609.25;

(5) depriving another of custodial or parental rights under section 609.26;

(6) soliciting, inducing, promoting, or receiving profit derived from prostitution involving a minor under section 609.322;

(7) criminal sexual conduct in the first degree under section 609.342;

(8) criminal sexual conduct in the second degree under section 609.343;

(9) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

(10) solicitation of a child to engage in sexual conduct under section 609.352;

(11) incest under section 609.365;

(12) malicious punishment of a child under section 609.377;

(13) neglect of a child under section 609.378;

(14) terroristic threats under section 609.713; or

(15) felony harassment or stalking under section 609.749, subdivision 4.

History: *1990 c 574 s 16; 1997 c 239 art 7 s 10; 1997 c 245 art 2 s 4; 1998 c 367 art 2 s 2; 2000 c 444 art 2 s 36*

518.18 MODIFICATION OF ORDER.

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except 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 or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

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

(iv) 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; or

(v) the court has denied a request of the primary custodial parent to move the residence of the child to another state, and the primary custodial parent has relocated to another state despite the court's order.

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

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

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

History: *(8597) RL s 3586; 1978 c 772 s 44; 1979 c 259 s 21; 1986 c 444; 1990 c 574 s 17; 1991 c 266 s 1; 1994 c 630 art 11 s 8; 1995 c 257 art 1 s 21; 2000 c 444 art 1 s 5; 2001 c 51 s 11; 2006 c 280 s 14*

518.183 REPLACING CERTAIN ORDERS.

Upon request of both parties the court must modify an order entered under section 518.17 or 518.175 before January 1, 2001, by entering a parenting plan that complies with section 518.1705, unless the court makes detailed findings that entering a parenting plan is not in the best interests of the child. If only one party makes the request, the court may modify the order by entering a parenting plan that complies with section 518.1705. The court must apply the standards in section 518.18 when considering a motion to enter a parenting plan that would change the child's primary residence. The court must apply the standards in section 518.17 when considering a motion to enter a parenting plan that would:

(1) change decision–making responsibilities of the parents; or

(2) change the time each parent spends with the child, but not change the child's primary residence.

History: *2000 c 444 art 1 s 6; 2000 c 499 s 4*

518.185 AFFIDAVIT PRACTICE.

A party seeking a temporary custody order or modification of a custody order shall submit together with moving papers an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of the affidavit, to other parties to the proceeding, who may file opposing affidavits.

History: *1978 c 772 s 45; 1986 c 444*

518.19 [Repealed, 1951 c 551 s 15]

518.191 SUMMARY REAL ESTATE DISPOSITION JUDGMENT.

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

Subd. 2. **Required information.** A summary real estate disposition judgment must contain the following information:

(1) the full caption and file number of the case and the title "Summary Real Estate Disposition Judgment";

(2) the dates of the parties' marriage and of the entry of the judgment and decree of dissolution;

(3) the names of the parties' attorneys or if either or both appeared pro se;

(4) the name of the judge and referee, if any, who signed the order for judgment and decree;

(5) whether the judgment and decree resulted from a stipulation, a default, or a trial and the appearances at the default or trial;

(6) if the judgment and decree resulted from a stipulation, whether the real property was described by a legal description;

(7) if the judgment and decree resulted from a default, whether the petition contained the legal description of the property and whether disposition was made in accordance with the request for relief;

(8) whether the summons and petition were served personally upon the respondent pursuant to the Rules of Civil Procedure, Rule 4.03(a), or section 543.19;

(9) if the summons and petition were served on the respondent only by publication, the name of each legal newspaper and county in which the summons and petition were published and the dates of publications;

(10) whether either party changed the party's name through the judgment and decree;

(11) the legal description of each parcel of real estate;

(12) the name or names of the persons awarded an interest in each parcel of real estate and a description of the interest awarded;

(13) liens, mortgages, encumbrances, or other interests in the real estate described in the judgment and decree; and

(14) triggering or contingent events set forth in the judgment and decree affecting the disposition of each parcel of real estate.

Subd. 2a. **Amended summary real estate disposition judgment.** (a) On the court's own motion or on application by an interested person, the court shall issue an order authorizing the court administrator to issue an amended summary real estate disposition judgment to correct an erroneous legal description of real estate contained in the judgment and decree of dissolution.

(b) An application to correct a legal description under this subdivision must contain:

(1) the erroneous legal description contained in the judgment and decree;

(2) the correct legal description of the real estate;

(3) written evidence satisfactory to the court to show the correct legal description, or a request for an evidentiary hearing to produce evidence of the correct legal description; and

(4) a proposed amended summary real estate disposition judgment.

(c) The court shall consider an application under this subdivision on an expedited basis. The court's order must be based on the evidence provided in the application, the evidence produced at an evidentiary hearing, or the evidence already in the record of the proceeding. If the court is satisfied that an erroneous legal description should be corrected under this subdivision, the court may issue its order without a hearing or notice to any person. A filing fee is not required for an application under this subdivision. The court's order must be treated as an amendment of the court's findings of fact regarding the legal description of the property in question, without the need to amend the original judgment and decree. The court shall issue the order if the court specifically finds that the court had jurisdiction over the respondent in the dissolution proceeding and that the property was sufficiently identified in the original proceedings to prevent prejudice to the rights of either party to the dissolution and that the amendment will not prejudice their rights. The court's order is effective retroactive to the date of entry of the original judgment and decree of dissolution.

(d) An amended summary real estate disposition judgment must be treated the same as the prior summary real estate disposition judgment for all purposes.

(e) On request by any interested person, the court administrator shall provide a certified copy of an amended summary real estate disposition judgment showing the correct legal description of the real property affected by the judgment and decree.

(f) This subdivision may not be used to add omitted property to a judgment and decree of dissolution, unless the court determines that the omitted property is an integral or appurtenant part of real property already properly included in the judgment and decree.

Subd. 3. **Court order.** An order or provision in a judgment and decree that provides that the judgment and decree must be recorded in the office of the county recorder or filed in the office of the registrar of titles means, if a summary real estate disposition judgment has been approved by the court, that the summary real estate disposition judgment, rather than the

judgment and decree, must be recorded in the office of the county recorder or filed in the office of the registrar of titles.

Subd. 4. **Transfer of property.** The summary real estate disposition judgment operates as a conveyance and transfer of each interest in the real estate in the manner and to the extent described in the summary real estate disposition judgment. A summary real estate disposition judgment, or an amended summary real estate disposition judgment that supersedes an earlier judgment, is prima facie evidence of the facts stated in the summary real estate disposition judgment. A purchaser for value without notice of any defect in the dissolution proceedings may rely on a summary real estate disposition judgment or a later amended summary real estate disposition judgment to establish the facts stated in the judgment.

Subd. 5. **Conflict.** If a conflict exists between the judgment and decree and the summary real estate disposition judgment, the summary real estate disposition judgment recorded in the office of the county recorder or filed in the office of the registrar of titles controls as to the interest acquired in real estate by any subsequent purchaser in good faith and for a valuable consideration, who is in possession of the interest or whose interest is recorded with the county recorder or registrar of titles, before the recording of the judgment and decree in the same office.

History: *1990 c 575 s 7; 2006 c 221 s 17–19*

518.195 SUMMARY DISSOLUTION PROCESS.

Subdivision 1. **Criteria.** A couple desirous of dissolving their marriage may use the streamlined procedure in this section if:

(1) no living minor children have been born to or adopted by the parties before or during the marriage, unless someone other than the husband has been adjudicated the father;

(2) the wife is not pregnant;

(3) they have been married fewer than eight years as of the date they file their joint declaration;

(4) neither party owns any real estate;

(5) there are no unpaid debts in excess of $8,000 incurred by either or both of the parties during the marriage, excluding encumbrances on automobiles;

(6) the total fair market value of the marital assets does not exceed $25,000, including net equity on automobiles;

(7) neither party has nonmarital assets in excess of $25,000; and

(8) neither party has been a victim of domestic abuse by the other.

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

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

(i) the demographic data required in section 518.10;

(ii) verifying the qualifications set forth in subdivision 1;

(iii) listing each party's nonmarital property;

(iv) setting forth how the marital assets and debts will be apportioned;

(v) verifying both parties' income and preserving their rights to spousal maintenance; and

(vi) certifying that there has been no domestic abuse of one party by the other; and

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

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

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

Subd. 4. [Repealed by amendment, 1997 c 245 art 2 s 5]

History: *1991 c 271 s 5,9; 1996 c 408 art 11 s 9; 1997 c 245 art 2 s 5; 1999 c 37 s 1*

518.20 [Repealed, 1951 c 551 s 15]

518.21 [Repealed, 1951 c 551 s 15]

518.22 [Repealed, 1951 c 551 s 15]

518.23 [Repealed, 1951 c 551 s 15]

518.24 [Renumbered 518A.71]

518.25 REMARRIAGE; REVOCATION.

When a dissolution has been granted, and the parties afterward intermarry, the court, upon their joint application, and upon satisfactory proof of such marriage, may revoke all decrees and orders of dissolution, maintenance, and subsistence which will not affect the rights of third persons.

History: *(8605) RL s 3594; 1974 c 107 s 16; 1978 c 772 s 62*

518.255 [Renumbered 518A.47]

518.26 [Repealed, 1974 c 107 s 29]

518.27 NAME OF PARTY.

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

History: *(8607) RL s 3596; 1974 c 107 s 17; 1975 c 52 s 5; 1978 c 772 s 47; 1979 c 259 s 22; 2000 c 311 art 3 s 6*

518.28 [Repealed, 1974 c 107 s 29]

518.29 [Repealed, 1978 c 772 s 63]

518.41 [Repealed, 1982 c 436 s 37]

518.42 [Repealed, 1982 c 436 s 37]

518.43 [Repealed, 1982 c 436 s 37]

518.44 [Repealed, 1982 c 436 s 37]

518.45 [Repealed, 1982 c 436 s 37]

518.46 [Repealed, 1982 c 436 s 37]

518.47 [Repealed, 1982 c 436 s 37]

518.48 [Repealed, 1982 c 436 s 37]

518.49 [Repealed, 1982 c 436 s 37]

518.491 [Repealed, 1982 c 436 s 37]

518.50 [Repealed, 1982 c 436 s 37]

518.51 [Repealed, 1982 c 436 s 37]

518.52 [Repealed, 1982 c 436 s 37]

518.53 [Repealed, 1982 c 436 s 37]

MAINTENANCE, SUPPORT, PROPERTY

518.54 Subdivision 1. [Renumbered 518A.26, subdivision 1]
Subd. 2. [Renumbered 518A.26, subd 5]
Subd. 2a. [Renumbered 518A.26, subd 6]
Subd. 2b. [Renumbered 518A.26, subd 7]
Subd. 3. [Renumbered 518.003, subd 3a]
Subd. 4. [Renumbered 518A.26, subd 20]
Subd. 4a. [Renumbered 518A.26, subd 21]
Subd. 5. [Renumbered 518.003, subd 3b]
Subd. 6. [Repealed, 2006 c 280 s 47]
Subd. 7. [Renumbered 518A.26, subd 13]
Subd. 8. [Renumbered 518A.26, subd 14]
Subd. 9. [Renumbered 518A.26, subd 18]
Subd. 10. [Renumbered 518.003, subd 6]
Subd. 11. [Renumbered 518.003, subd 8]
Subd. 12. [Renumbered 518.003, subd 7]
Subd. 13. [Renumbered 518A.26, subd 3]
Subd. 14. [Renumbered 518A.26, subd 10]
Subd. 15. MS 2005 Supp [Renumbered subd 18a]
Subd. 15. [Renumbered 518A.26, subd 15]
Subd. 16. [Renumbered 518A.26, subd 2]
Subd. 17. [Renumbered 518A.26, subd 4]
Subd. 18. [Renumbered 518A.26, subd 8]
Subd. 18a. [Renumbered 518A.26, subd 9]
Subd. 19. [Renumbered 518A.26, subd 11]
Subd. 20. [Renumbered 518A.26, subd 12]
Subd. 21. [Renumbered 518A.26, subd 16]
Subd. 22. [Renumbered 518A.26, subd 17]
Subd. 23. [Renumbered 518A.26, subd 19]
Subd. 24. [Renumbered 518A.26, subd 22]

518.55 Subdivision 1. [Renumbered 518A.27, subdivision 1]
Subd. 2. [Repealed, 1993 c 322 s 21]
Subd. 2a. [Repealed, 1993 c 322 s 21]
Subd. 3. [Renumbered 518A.27, subd 2]
Subd. 4. [Renumbered 518A.27, subd 3]

518.551 POSTSECONDARY EDUCATION TRUST FUND.
Subdivision 1. [Repealed, 2005 c 164 s 31; 2006 c 280 s 43]
Subd. 1a. [Renumbered 518A.50]
Subd. 2. [Repealed, 1983 c 308 s 32]
Subd. 3. [Repealed, 1983 c 308 s 32]
Subd. 4. [Repealed, 1983 c 308 s 32]
Subd. 5. [Renumbered 518A.44]
Subd. 5a. [Repealed, 2005 c 164 s 31; 2006 c 280 s 43]
Subd. 5b. [Renumbered 518A.28]
Subd. 5c. [Repealed, 2005 c 164 s 31; 2006 c 280 s 43]

Subd. 5d. **Education trust fund.** The parties may agree to designate a sum of money above any court-ordered child support as a trust fund for the costs of postsecondary education.

Subd. 5e. [Renumbered 518A.38, subd 5]

Subd. 5f. [Repealed, 2005 c 164 s 31; 2006 c 280 s 43]

Subd. 6. [Renumbered 518A.45]

Subd. 7. [Renumbered 518A.51]

Subd. 8. [Repealed, 1986 c 404 s 20]

Subd. 9. [Renumbered 518A.49]

Subd. 10. [Repealed, 1994 c 630 art 10 s 3]

Subd. 11. [Renumbered 518A.38, subd 6]

Subd. 12. [Renumbered 518A.66]

Subd. 13. [Renumbered 518A.65]

Subd. 13a. [Renumbered 518A.70]

Subd. 14. [Renumbered 518A.67]

Subd. 15. [Renumbered 518A.68]

History: *1971 c 961 s 21; 1974 c 107 s 20; 1977 c 282 s 29; 1978 c 772 s 50; 1979 c 259 s 25; 1981 c 349 s 6; 1981 c 360 art 2 s 46; 3Sp1981 c 3 s 19; 1982 c 488 s 4,5; 1983 c 308 s 16–20; 1984 c 547 s 18,19; 1985 c 131 s 7; 1986 c 406 s 4; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 403 art 3 s 79,80; 1988 c 593 s 8; 1988 c 668 s 17,18; 1989 c 282 art 2 s 190,191; 1990 c 568 art 2 s 70–72; 1990 c 574 s 18; 1991 c 266 s 2; 1991 c 292 art 5 s 75–78; 1992 c 513 art 8 s 53,54; 1993 c 34 s 1; 1993 c 322 s 12; 1993 c 340 s 32–38; 1Sp1993 c 1 art 6 s 44; 1994 c 483 s 1; 1994 c 488 s 8; 1994 c 630 art 11 s 9,10; 1995 c 186 s 94; 1995 c 257 art 1 s 23–26; 1997 c 66 s 79; 1997 c 203 art 6 s 42,43; 1997 c 245 art 1 s 13–17; art 3 s 10; 1998 c 382 art 1 s 7–11; 1999 c 107 s 66; 1999 c 159 s 136; 1999 c 196 art 1 s 6; art 2 s 9–11; 1999 c 245 art 7 s 8; 2000 c 343 s 4; 2000 c 444 art 2 s 37; 2001 c 51 s 13,14; 2001 c 134 s 1; 2001 c 158 s 1; 2002 c 344 s 13–16; 2003 c 130 s 12; 1Sp2003 c 14 art 6 s 58; art 10 s 5,6; 2005 c 116 s 4; 2005 c 164 s 7,8,29; 1Sp2005 c 7 s 28; 2006 c 280 s 15,16,22; 2006 c 282 art 18 s 3*

518.5511 [Repealed, 1999 c 196 art 2 s 24]

518.5512 [Repealed, 1999 c 196 art 2 s 24]

518.5513 [Renumbered 518A.46]

518.552 MAINTENANCE.

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

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

(b) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment, or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

Subd. 2. **Amount; duration.** The maintenance order shall be in amounts and for periods of time, either temporary or permanent, as the court deems just, without regard to marital misconduct, and after considering all relevant factors including:

(a) the financial resources of the party seeking maintenance, including marital property apportioned to the party, and the party's ability to meet needs independently, including the

extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

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

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

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

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

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

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

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

Subd. 3. **Permanency of award.** Nothing in this section shall be construed to favor a temporary award of maintenance over a permanent award, where the factors under subdivision 2 justify a permanent award.

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

Subd. 4. **Reopening maintenance awards.** Section 518.145, subdivision 2, applies to awards of spousal maintenance.

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

History: *1978 c 772 s 51; 1979 c 259 s 26; 1982 c 535 s 1; 1985 c 266 s 2; 1986 c 444; 1988 c 668 s 19; 1989 c 248 s 7*

518.553 [Renumbered 518A.69]

518.56 [Repealed, 1969 c 1028 s 9]

518.561 [Repealed, 1995 c 257 art 1 s 36]

518.57 [Renumbered 518A.38]

518.575 [Renumbered 518A.74]

518.58 DIVISION OF MARITAL PROPERTY.

Subdivision 1. **General.** Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preserva-

tion, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties, or unless the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution.

Subd. 1a. **Transfer, encumbrance, concealment, or disposition of marital assets.** During the pendency of a marriage dissolution, separation, or annulment proceeding, or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court shall compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. Use of a power of attorney, or the absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.

Subd. 2. **Award of nonmarital property.** If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.003, subdivision 3b, are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.003, subdivision 3b, clauses (a) to (d), to prevent the unfair hardship. If the court apportions property other than marital property, it shall make findings in support of the apportionment. The findings shall be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

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

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the

request of both parties, provided that the court shall fully protect the interests of the other party.

Subd. 4. **Pension plans.** (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

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

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

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

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

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

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

History: *1951 c 551 s 5; 1974 c 107 s 22; 1978 c 772 s 53; 1979 c 259 s 27; 1979 c 289 s 8; 1981 c 349 s 7; 1982 c 464 s 2; 1986 c 444; 1987 c 157 s 17; 1988 c 590 s 2; 1988 c 668 s 20; 1989 c 248 s 8; 1991 c 266 s 4,5; 1992 c 548 s 6; 1993 c 239 art 4 s 1; 2005 c164 s 29; 1Sp2005 c 7 s 28; 2006 c 280 s 18*

518.581 SURVIVING SPOUSE BENEFIT.

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

Subd. 2. **Payment of funds by retirement plan.** (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan, or to provide survivor benefits ordered by the court.

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

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

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

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

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

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

Subd. 3. **Notice to former spouse.** A pension plan shall notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

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

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

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

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

Subd. 4. **Definitions.** For purposes of this section, the following terms have the meanings given in this subdivision.

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

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

History: *1987 c 157 s 18; 1988 c 668 s 21; 1994 c 386 s 1*

518.582 PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.

Subdivision 1. **Appointment of actuary.** Each court of this state that has jurisdiction to decide marriage dissolution matters may appoint a qualified person experienced in the valuation of pension benefits and rights to function as an expert witness in valuing pension benefits or rights.

Subd. 2. **Standards.** A court appointed actuary shall determine the present value of pension benefits or rights that are marital property of the parties to the action based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable, or as specified by the court. The court appointed actuary shall report to the court and to the parties the present value of the pension benefits or rights that are marital property.

Subd. 3. **Compensation.** The court appointed actuary may be compensated at a rate established by the court. The compensation of the court appointed actuary shall be allocated between the parties as the court directs.

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

History: *1987 c 157 s 19; 1988 c 619 s 1*

518.583 [Repealed, 2000 c 372 s 3]

518.585 [Renumbered 518A.59]

518.5851 [Renumbered 518A.54]

518.5852 [Renumbered 518A.55]

518.5853 [Renumbered 518A.56]

518.59 [Repealed, 1978 c 772 s 63]

518.60 [Repealed, 1969 c 1028 s 9]

518.61 [Renumbered 518A.63]

518.611 [Repealed, 1997 c 203 art 6 s 93]

518.6111 [Renumbered 518A.53]

518.612 INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.

Failure by a party to make support payments is not a defense to:

(1) interference with parenting time; or

(2) without the permission of the court or the other parent, removing a child from this state.

Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support. If a party fails to make support payments, interferes with parenting time, or removes a child from the state without permission of the court or the other party, the other party may petition the court for an appropriate order.

History: *1978 c 772 s 56; 1979 c 259 s 29; 2000 c 444 art 2 s 38; 2001 c 51 s 15*

518.613 [Repealed, 1997 c 203 art 6 s 93]

518.614 [Renumbered 518A.58]

518.615 [Renumbered 518A.73]

518.616 [Renumbered 518A.64]

518.617 [Renumbered 518A.72]

518.618 [Renumbered 518A.76]

518.619 CUSTODY OR VISITATION; MEDIATION SERVICES.

Subdivision 1. **Mediation proceeding.** Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody or parenting time is contested, or that any issue pertinent to a custody or parenting time determination, including parenting time rights, is unresolved, the matter may be set for mediation of the contested issue prior to, concurrent with, or subsequent to the setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement that is supportive of the child's best interests. The mediator shall use best efforts to effect a settlement of the custody or parenting time dispute, but shall have no coercive authority.

Subd. 2. **Exception.** If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by the other party, the court shall not require or refer the parties to mediation or any other process that requires parties to meet and confer without counsel, if any, present.

Subd. 3. **Mediator appointment.** In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. **Mediator qualifications.** A mediator who performs mediation in contested child custody matters shall meet the following minimum qualifications:

(a) knowledge of the court system and the procedures used in contested child custody matters;

(b) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;

(c) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and

(d) a minimum of 40 hours of certified mediation training.

Subd. 5. **Records; private data.** Mediation proceedings shall be conducted in private. All records of a mediation proceeding shall be private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. **Mediator recommendations.** When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may not conduct the investigation or evaluation unless: (1) the parties agree in writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2) there is no other person reasonably available to conduct the investigation or evaluation. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well–being of the children involved in the controversy.

Subd. 7. **Mediation agreement.** An agreement reached by the parties as a result of mediation shall be discussed by the parties with their attorneys, if any, and the approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8. **Rules.** Each court shall adopt rules to implement this section, and shall compile and maintain a list of mediators.

History: *1986 c 406 s 7; 1990 c 574 s 21; 1991 c 266 s 6; 2000 c 444 art 2 s 39*

518.6195 [Renumbered 518A.60]

518.6196 [Renumbered 518A.61]

518.6197 [Renumbered 518A.62]

518.62 TEMPORARY MAINTENANCE.

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

History: *1951 c 551 s 9; 1969 c 1028 s 7; 1974 c 107 s 24; 1978 c 772 s 57; 1979 c 259 s 30*

518.63 HOMESTEAD, OCCUPANCY.

The court, having due regard to all the circumstances and the custody of children of the parties, may award to either party the right of occupancy of the homestead of the parties, exclusive or otherwise, upon a final decree of dissolution or legal separation or proper modification of it, for a period of time determined by the court. An award of the right of occupancy of the homestead, whether exclusive or otherwise, may be in addition to the maximum amounts awarded under sections 518.58, 518A.53, and 518A.63.

History: *1951 c 551 s 10; 1969 c 1028 s 8; 1974 c 107 s 25; 1978 c 772 s 58; 1997 c 203 art 6 s 92; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.64 Subdivision 1. [Renumbered 518A.39, subdivision 1]
Subd. 2. [Renumbered 518A.39, subd 2]
Subd. 3. [Renumbered 518A.39, subd 3]
Subd. 4. [Renumbered 518A.39, subd 4]
Subd. 4a. [Renumbered 518A.39, subd 5]
Subd. 5. [Renumbered 518A.39, subd 6]
Subd. 6. [Repealed, 1995 c 257 art 3 s 17]
Subd. 7. [Renumbered 518A.39, subd 7]
Subd. 8. [Repealed, 2006 c 280 s 47]

518.641 Subdivision 1. [Renumbered 518A.75, subdivision 1]
Subd. 2. [Renumbered 518A.75, subd 2]
Subd. 2a. [Renumbered 518A.75, subd 2a]
Subd. 3. [Renumbered 518A.75, subd 3]
Subd. 4. [Repealed, 1Sp2001 c 9 art 12 s 20]
Subd. 5. [Repealed, 1Sp2001 c 9 art 12 s 20]

518.642 [Renumbered 518A.52]

518.645 [Repealed, 1997 c 203 art 6 s 93]

518.646 [Renumbered 518A.57]

518.65 PROPERTY; SALE, PARTITION.

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

History: *1951 c 551 s 12; 1978 c 772 s 60*

518.66 POWER OF COURT NOT LIMITED.

Nothing contained in this chapter or chapter 518A shall be construed as limiting the power of the court in appropriate cases to make adequate provision for the support and education of any children of the parties to any dissolution, legal separation or annulment action where such dissolution, legal separation or annulment is denied.

History: *1951 c 551 s 13; 1974 c 107 s 27; 1979 c 259 s 32; 1Sp1981 c 4 art 1 s 180; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

518.67 [Repealed, 1978 c 772 s 63]

518.68 REQUIRED NOTICES.

Subdivision 1. **Requirement.** Every court order or judgment and decree under this chapter or chapter 518A that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child.

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

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or

has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

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

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

3. NONSUPPORT OF A SPOUSE OR CHILD — CRIMINAL PENALTIES

A person who fails to pay court–ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

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

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

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

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

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

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

(g) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(h) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

(i) The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of section 518A.40, subdivision 4, are met.

5. MODIFYING CHILD SUPPORT

If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

6. 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.

(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.

7. 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, section 518A.53 have been met. A copy of those sections is available from any district court clerk.

8. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, Social Security number, and name, address, and telephone number of the employer.

9. 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 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

10. JUDGMENTS FOR UNPAID SUPPORT

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

11. JUDGMENTS FOR UNPAID MAINTENANCE

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

12. 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 518A.735, are met. A copy of sections 518.14 and 518A.735 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

13. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

14. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Subd. 3. **Copies of law and forms.** The district court administrator shall make available at no charge copies of the sections referred to in subdivision 2, and shall provide forms to request or contest attorney fees and collection costs or a cost–of–living increase under section 518A.735 or 518A.75.

History: *1993 c 322 s 16; 1994 c 630 art 11 s 13–15; 1996 c 391 art 1 s 4,5; 1997 c 203 art 6 s 49,92; 1997 c 245 art 2 s 6; 2000 c 444 art 2 s 40,41; 2000 c 458 s 6; 2001 c 158 s 4; 2005 c 164 s 13,29; 1Sp2005 c 7 s 28*

518.7123 [Renumbered 518A.29]

518.7124 [Renumbered 518A.32]

518.7125 [Renumbered 518A.30]

518.713 [Renumbered 518A.34]

518.714 [Renumbered 518A.43]

518.715 [Renumbered 518A.37]

518.716 [Renumbered 518A.77]

518.717 [Renumbered 518A.33]

518.718 [Renumbered 518A.31]

518.719 [Renumbered 518A.41]

518.72 [Renumbered 518A.40]

518.722 [Renumbered 518A.36]

518.724 [Renumbered 518A.42]

518.725 [Renumbered 518A.35]

518.729 [Renumbered 518A.78]