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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1500

March 1, 2007

Authored by Smith

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to family law; making child support policy clarifications and
1.3 improvements; amending Minnesota Statutes 2006, sections 518.68, subdivision
1.4 2; 518A.28; 518A.32, subdivisions 1, 3, 5, 6; 518A.39, subdivision 2; 518A.40,
1.5 subdivisions 1, 4; 518A.41, subdivisions 1, 2, 3, 4, 5, 12, 15, 16; 518A.75,
1.6 subdivision 3.

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

1.8 Section 1. Minnesota Statutes 2006, section 518.68, subdivision 2, is amended to read:

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

1.10 IMPORTANT NOTICE

1.11 1. PAYMENTS TO PUBLIC AGENCY

1.12 According to Minnesota Statutes, section 518A.50, payments ordered for
1.13 maintenance and support must be paid to the public agency responsible for child
1.14 support enforcement as long as the person entitled to receive the payments is
1.15 receiving or has applied for public assistance or has applied for support and
1.16 maintenance collection services. MAIL PAYMENTS TO:

1.17 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS – A FELONY

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

1.22 3. NONSUPPORT OF A SPOUSE OR CHILD – CRIMINAL PENALTIES

1.23 A person who fails to pay court-ordered child support or maintenance may be
1.24 charged with a crime, which may include misdemeanor, gross misdemeanor, or

2.1 felony charges, according to Minnesota Statutes, section 609.375. A copy of that  
2.2 section is available from any district court clerk.

#### 2.3 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

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

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

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

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

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

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

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

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

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

2.29 (j) The public authority may remove or resume a medical support offset if the  
2.30 conditions of section 518A.41, subdivision 16, are met.

2.31 (k) The public authority may suspend or resume interest charging on child support  
2.32 judgments if the conditions of section 548.091, subdivision 1a, are met.

#### 2.33 5. MODIFYING CHILD SUPPORT

2.34 If either the obligor or obligee is laid off from employment or receives a pay  
2.35 reduction, child support may be modified, increased, or decreased. Any modification  
2.36 will only take effect when it is ordered by the court, and will only relate back to the

3.1 time that a motion is filed. Either the obligor or obligee may file a motion to modify  
3.2 child support, and may request the public agency for help. UNTIL A MOTION  
3.3 IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE  
3.4 CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT  
3.5 RETROACTIVELY.

3.6 6. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,  
3.7 SUBDIVISION 3

3.8 Unless otherwise provided by the Court:

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

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

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

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

3.26 7. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

3.27 Child support and/or spousal maintenance may be withheld from income, with or  
3.28 without notice to the person obligated to pay, when the conditions of Minnesota  
3.29 Statutes, section 518A.53 have been met. A copy of those sections is available  
3.30 from any district court clerk.

3.31 8. CHANGE OF ADDRESS OR RESIDENCE

3.32 Unless otherwise ordered, each party shall notify the other party, the court, and  
3.33 the public authority responsible for collection, if applicable, of the following  
3.34 information within ten days of any change: the residential and mailing address,

4.1 telephone number, driver's license number, Social Security number, and name,  
4.2 address, and telephone number of the employer.

4.3 9. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

4.4 ~~Child~~ Basic support and/or spousal maintenance may be adjusted every two years  
4.5 based upon a change in the cost of living (using Department of Labor Consumer  
4.6 Price Index ....., unless otherwise specified in this order) when the conditions  
4.7 of Minnesota Statutes, section 518A.75, are met. Cost of living increases are  
4.8 compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary  
4.9 to request or contest a cost of living increase are available from any district court  
4.10 clerk.

4.11 10. JUDGMENTS FOR UNPAID SUPPORT

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

4.20 11. JUDGMENTS FOR UNPAID MAINTENANCE

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

4.24 12. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF  
4.25 CHILD SUPPORT

4.26 A judgment for attorney fees and other collection costs incurred in enforcing a child  
4.27 support order will be entered against the person responsible to pay support when the  
4.28 conditions of section 518A.735, are met. A copy of sections 518.14 and 518A.735  
4.29 and forms necessary to request or contest these attorney fees and collection costs are  
4.30 available from any district court clerk.

4.31 13. PARENTING TIME EXPEDITOR PROCESS

4.32 On request of either party or on its own motion, the court may appoint a parenting  
4.33 time expeditor to resolve parenting time disputes under Minnesota Statutes, section  
4.34 518.1751. A copy of that section and a description of the expeditor process is  
4.35 available from any district court clerk.

## 5.1 14. PARENTING TIME REMEDIES AND PENALTIES

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

5.7 Sec. 2. Minnesota Statutes 2006, section 518A.28, is amended to read:

5.8 **518A.28 PROVIDING INCOME INFORMATION.**

5.9 (a) In any case where the parties have joint children for which a child support  
5.10 order must be determined, the parties shall serve and file with their initial pleadings  
5.11 or motion documents, a financial affidavit, disclosing all sources of gross income for  
5.12 purposes of section 518A.29. The financial affidavit shall include relevant supporting  
5.13 documentation necessary to calculate the parental income for child support under section  
5.14 518A.26, subdivision 15, including, but not limited to, pay stubs for the most recent three  
5.15 months, employer statements, or statements of receipts and expenses if self-employed.  
5.16 Documentation of earnings and income also include relevant copies of each parent's  
5.17 most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit  
5.18 statements, workers' compensation statements, and all other documents evidencing  
5.19 earnings or income as received that provide verification for the financial affidavit. The  
5.20 ~~commissioner of human services~~ state court administrator shall prepare a financial  
5.21 affidavit form that ~~must~~ may be used by the parties for disclosing information under  
5.22 this section. The parties may provide the information required under this section in a  
5.23 substantially similar affidavit form.

5.24 (b) In addition to the requirements of paragraph (a), at any time after an action  
5.25 seeking child support has been commenced or when a child support order is in effect, a  
5.26 party or the public authority may require the other party to give them a copy of the party's  
5.27 most recent federal tax returns that were filed with the Internal Revenue Service. The  
5.28 party shall provide a copy of the tax returns within 30 days of receipt of the request unless  
5.29 the request is not made in good faith. A request under this paragraph may not be made  
5.30 more than once every two years, in the absence of good cause.

5.31 (c) If a parent under the jurisdiction of the court does not serve and file the financial  
5.32 affidavit with the parent's initial pleading or motion documents, the court shall set income  
5.33 for that parent based on credible evidence before the court or in accordance with section  
5.34 518A.32. Credible evidence may include documentation of current or recent income,  
5.35 testimony of the other parent concerning recent earnings and income levels, and the

6.1 parent's wage reports filed with the Minnesota Department of Employment and Economic  
 6.2 Development under section 268.044. The court may consider credible evidence from one  
 6.3 party that the financial affidavit submitted by the other party is false or inaccurate.

6.4 (d) If the court determines that a party does not have access to documents that are  
 6.5 required to be disclosed under this section, the court may consider the testimony of that  
 6.6 party as credible evidence of that party's income.

6.7 Sec. 3. Minnesota Statutes 2006, section 518A.32, subdivision 1, is amended to read:

6.8 Subdivision 1. **General.** This section applies to child support orders, including  
 6.9 orders for past support or reimbursement of public assistance, issued under this chapter,  
 6.10 chapter 256, 257, 518B, or 518C. If a parent is voluntarily unemployed, underemployed, or  
 6.11 employed on a less than full-time basis, or there is no direct evidence of any income, child  
 6.12 support must be calculated based on a determination of potential income. For purposes of  
 6.13 this determination, it is rebuttably presumed that a parent can be gainfully employed on  
 6.14 a full-time basis. As used in this section, "full time" means 40 hours of work in a week  
 6.15 except in those industries, trades, or professions in which most employers, due to custom,  
 6.16 practice, or agreement, use a normal work week of more or less than 40 hours in a week.

6.17 Sec. 4. Minnesota Statutes 2006, section 518A.32, subdivision 3, is amended to read:

6.18 Subd. 3. **Parent not considered voluntarily unemployed ~~or~~, underemployed,**  
 6.19 **or employed on a less than full-time basis.** A parent is not considered voluntarily  
 6.20 unemployed ~~or~~, underemployed, or employed on a less than full-time basis upon a  
 6.21 showing by the parent that:

6.22 (1) the unemployment ~~or~~, underemployment, or employment on a less than full-time  
 6.23 basis is temporary and will ultimately lead to an increase in income; ~~or~~

6.24 (2) the unemployment ~~or~~, underemployment, or employment on a less than full-time  
 6.25 basis represents a bona fide career change that outweighs the adverse effect of that parent's  
 6.26 diminished income on the child; or

6.27 (3) the unemployment, underemployment, or employment on a less than full-time  
 6.28 basis is because a parent is physically or mentally incapacitated or due to incarceration,  
 6.29 except where the reason for incarceration is the parent's nonpayment of support.

6.30 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2007.

6.31 Sec. 5. Minnesota Statutes 2006, section 518A.32, subdivision 5, is amended to read:

6.32 Subd. 5. **Caretaker.** If a parent stays at home to care for a child who is subject to  
 6.33 the child support order, the court may consider the following factors when determining

7.1 whether the parent is voluntarily unemployed ~~or~~, underemployed, or employed on a less  
7.2 than full-time basis:

7.3 (1) the parties' parenting and child care arrangements before the child support action;

7.4 (2) the stay-at-home parent's employment history, recency of employment, earnings,  
7.5 and the availability of jobs within the community for an individual with the parent's  
7.6 qualifications;

7.7 (3) the relationship between the employment-related expenses, including, but not  
7.8 limited to, child care and transportation costs required for the parent to be employed,  
7.9 and the income the stay-at-home parent could receive from available jobs within the  
7.10 community for an individual with the parent's qualifications;

7.11 (4) the child's age and health, including whether the child is physically or mentally  
7.12 disabled; and

7.13 (5) the availability of child care providers.

7.14 This subdivision does not apply if the parent stays at home only to care for other  
7.15 nonjoint children.

7.16 Sec. 6. Minnesota Statutes 2006, section 518A.32, subdivision 6, is amended to read:

7.17 Subd. 6. **Economic conditions.** A self-employed parent is not considered to be  
7.18 voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis if  
7.19 that parent can show that the parent's net self-employment income is lower because of  
7.20 economic conditions that are directly related to the source or sources of that parent's  
7.21 income.

7.22 Sec. 7. Minnesota Statutes 2006, section 518A.39, subdivision 2, is amended to read:

7.23 Subd. 2. **Modification.** (a) The terms of an order respecting maintenance or support  
7.24 may be modified upon a showing of one or more of the following substantial changes of  
7.25 circumstances, any of which makes the terms unreasonable and unfair: (1) substantially  
7.26 increased or decreased gross income of an obligor or obligee; (2) substantially increased  
7.27 or decreased need of an obligor or obligee or the child or children that are the subject of  
7.28 these proceedings; (3) receipt of assistance under the AFDC program formerly codified  
7.29 under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4)  
7.30 a change in the cost of living for either party as measured by the Federal Bureau of  
7.31 Labor Statistics; (5) extraordinary medical expenses of the child not provided for under  
7.32 section 518A.41; (6) a change in the availability of appropriate health care coverage  
7.33 or a substantial increase or decrease in health care coverage costs; (7) the addition of  
7.34 work-related or education-related child care expenses of the obligee or a substantial

8.1 increase or decrease in existing work-related or education-related child care expenses; or  
8.2 ~~(7)~~(8) upon the emancipation of the child, as provided in subdivision 5.

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

8.6 (1) the application of the child support guidelines in section 518A.35, to the current  
8.7 circumstances of the parties results in a calculated court order that is at least 20 percent  
8.8 and at least \$75 per month higher or lower than the current support order or, if the current  
8.9 support order is less than \$75, it results in a calculated court order that is at least 20  
8.10 percent per month higher or lower;

8.11 (2) the medical support provisions of the order established under section 518A.41  
8.12 are not enforceable by the public authority or the obligee;

8.13 (3) health coverage ordered under section 518A.41 is not available to the child for  
8.14 whom the order is established by the parent ordered to provide;

8.15 (4) the existing support obligation is in the form of a statement of percentage and  
8.16 not a specific dollar amount; or

8.17 (5) the gross income of an obligor or obligee has decreased by at least 20 percent  
8.18 through no fault or choice of the party.

8.19 (c) A child support order is not presumptively modifiable solely because an obligor  
8.20 or obligee becomes responsible for the support of an additional nonjoint child, which is  
8.21 born after an existing order. Section 518A.33 shall be considered if other grounds are  
8.22 alleged which allow a modification of support.

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

8.27 (1) shall apply section 518A.35, and shall not consider the financial circumstances of  
8.28 each party's spouse, if any; and

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

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

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

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

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

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

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

9.6 (e) A modification of support or maintenance, including interest that accrued  
9.7 pursuant to section 548.091, may be made retroactive only with respect to any period  
9.8 during which the petitioning party has pending a motion for modification but only from the  
9.9 date of service of notice of the motion on the responding party and on the public authority  
9.10 if public assistance is being furnished or the county attorney is the attorney of record.

9.11 (f) Except for an award of the right of occupancy of the homestead, provided in  
9.12 section 518.63, all divisions of real and personal property provided by section 518.58  
9.13 shall be final, and may be revoked or modified only where the court finds the existence  
9.14 of conditions that justify reopening a judgment under the laws of this state, including  
9.15 motions under section 518.145, subdivision 2. The court may impose a lien or charge on  
9.16 the divided property at any time while the property, or subsequently acquired property, is  
9.17 owned by the parties or either of them, for the payment of maintenance or support money,  
9.18 or may sequester the property as is provided by section 518A.71.

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

9.21 (h) Sections 518.14 and 518A.735 shall govern the award of attorney fees for  
9.22 motions brought under this subdivision.

9.23 (i) Except as expressly provided, an enactment, amendment, or repeal of law does  
9.24 not constitute a substantial change in the circumstances for purposes of modifying a  
9.25 child support order.

9.26 (j) There may be no modification of an existing child support order during the first  
9.27 year following January 1, 2007, except as follows:

9.28 (1) there is at least a 20 percent change in the gross income of the obligor;

9.29 (2) there is a change in the number of joint children for whom the obligor is legally  
9.30 responsible and actually supporting;

9.31 (3) a parent or another caregiver of the child who is supported by the existing support  
9.32 order begins to receive public assistance, as defined in section 256.741;

9.33 (4) there are additional work-related or education-related child care expenses of the  
9.34 obligee or a substantial increase or decrease in existing work-related or education-related  
9.35 child care expenses;

10.1 (5) there is a change in the availability of health care coverage, as defined in section  
 10.2 518A.41, subdivision 1, paragraph (a), or a substantial increase or decrease in the cost  
 10.3 of existing health care coverage;

10.4 (6) the child supported by the existing child support order becomes disabled; or

10.5 (7) both parents consent to modification of the existing order under section 518A.34.

10.6 A modification under clause (4) may be granted only with respect to child care  
 10.7 support. A modification under clause (5) may be granted only with respect to medical  
 10.8 support. This paragraph expires January 1, 2008.

10.9 (k) On the first modification under the income shares method of calculation, the  
 10.10 modification of basic support may be limited if the amount of the full variance would  
 10.11 create hardship for either the obligor or the obligee.

10.12 Sec. 8. Minnesota Statutes 2006, section 518A.40, subdivision 1, is amended to read:

10.13 Subdivision 1. **Child care costs.** Unless otherwise agreed to by the parties and  
 10.14 approved by the court, the court must order that work-related or education-related child  
 10.15 care costs of joint children be divided between the obligor and obligee based on their  
 10.16 proportionate share of the parties' combined monthly PICS. The amount of work-related or  
 10.17 education-related child care costs required by this subdivision to be divided between the  
 10.18 obligor and obligee is the total amount received by the child care provider from the obligee  
 10.19 and any public agency for the joint child or children. Child care costs shall be adjusted by  
 10.20 the amount of the estimated federal and state child care credit payable on behalf of a joint  
 10.21 child. The Department of Human Services shall develop tables to calculate the applicable  
 10.22 credit based upon the custodial parent's PICS.

10.23 Sec. 9. Minnesota Statutes 2006, section 518A.40, subdivision 4, is amended to read:

10.24 Subd. 4. **Change in child care.** (a) When a court order provides for child care  
 10.25 expenses, and child care support is not assigned under section 256.741, the public  
 10.26 authority, if the public authority provides child support enforcement services, ~~the public~~  
 10.27 ~~authority~~ must suspend collecting the amount allocated for child care expenses when:

10.28 (1) either party informs the public authority that no child care costs are being  
 10.29 incurred; and

10.30 (2) the public authority verifies the accuracy of the information with the ~~other~~  
 10.31 party obligee.

10.32 The suspension is effective as of the first day of the month following the date that the  
 10.33 public authority received the verification. The public authority will resume collecting  
 10.34 child care expenses when either party provides information that child care costs have

11.1 resumed, or when a child care support assignment takes effect under section 256.741,  
11.2 subdivision 4. The resumption is effective as of the first day of the month after the date  
11.3 that the public authority received the information.

11.4 (b) If the parties provide conflicting information to the public authority regarding  
11.5 whether child care expenses are being incurred, or if the public authority is unable to  
11.6 verify with the obligee that no child care costs are being incurred, the public authority will  
11.7 continue or resume collecting child care expenses. Either party, by motion to the court,  
11.8 may challenge the suspension, continuation, or resumption of the collection of child care  
11.9 expenses under this subdivision. If the public authority suspends collection activities  
11.10 for the amount allocated for child care expenses, all other provisions of the court order  
11.11 remain in effect.

11.12 (c) In cases where there is a substantial increase or decrease in child care expenses,  
11.13 the parties may modify the order under section 518A.39.

11.14 Sec. 10. Minnesota Statutes 2006, section 518A.41, subdivision 1, is amended to read:

11.15 Subdivision 1. **Definitions.** The definitions in this subdivision apply to this chapter  
11.16 and chapter 518.

11.17 (a) "Health care coverage" means medical, dental, or other health care benefits that  
11.18 are provided by a one or more health ~~plan~~ plans. Health care coverage does not include  
11.19 any form of ~~medical assistance under chapter 256B or MinnesotaCare under chapter~~  
11.20 ~~256E~~ public coverage.

11.21 (b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision  
11.22 2, and 62L.02, subdivision 16.

11.23 (c) "Health plan" means a plan ~~meeting the definition under section 62A.011,~~  
11.24 ~~subdivision 3, a group health plan governed under the federal Employee Retirement~~  
11.25 ~~Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to~~  
11.26 ~~43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated~~  
11.27 ~~service network licensed under chapter 62N. Health plan includes plans, other than any~~  
11.28 form of public coverage, that provides medical, dental, or other health care benefits and is:

11.29 (1) provided on an individual ~~and~~ or group basis;

11.30 (2) provided by an employer or union;

11.31 (3) purchased in the private market; ~~and~~ or

11.32 (4) available to a person eligible to carry insurance for the joint child, including a  
11.33 party's spouse or parent.

11.34 Health plan includes, but is not limited to, a plan ~~providing for dependent-only dental~~  
11.35 ~~or vision coverage and a plan provided through a party's spouse or parent~~ meeting the

12.1 definition under section 62A.011, subdivision 3, except that the exclusion of coverage  
12.2 designed solely to provide dental or vision care under section 62A.011, subdivision 3,  
12.3 clause (6), does not apply to the definition of health plan under this section; a group  
12.4 health plan governed under the federal Employee Retirement Income Security Act of  
12.5 1974 (ERISA); a self-insured plan under sections 43A.23 to 43A.317 and 471.617; and a  
12.6 policy, contract, or certificate issued by a community-integrated service network licensed  
12.7 under chapter 62N.

12.8 (d) "Medical support" means providing health care coverage for a joint child by  
12.9 carrying health care coverage for the joint child or by contributing to the cost of health  
12.10 care coverage, public coverage, unreimbursed medical expenses, and uninsured medical  
12.11 expenses of the joint child.

12.12 (e) "National medical support notice" means an administrative notice issued by the  
12.13 public authority to enforce health insurance provisions of a support order in accordance  
12.14 with Code of Federal Regulations, title 45, section 303.32, in cases where the public  
12.15 authority provides support enforcement services.

12.16 (f) "Public coverage" means health care benefits provided by any form of medical  
12.17 assistance under chapter 256B or MinnesotaCare under chapter 256L.

12.18 (g) "Uninsured medical expenses" means a joint child's reasonable and necessary  
12.19 health-related expenses if the joint child is not covered by a health plan or public coverage  
12.20 when the expenses are incurred.

12.21 (h) "Unreimbursed medical expenses" means a joint child's reasonable and necessary  
12.22 health-related expenses if a joint child is covered by a health plan or public coverage and  
12.23 the plan or coverage does not pay for the total cost of the expenses when the expenses  
12.24 are incurred. Unreimbursed medical expenses do not include the cost of premiums.  
12.25 Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments,  
12.26 and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not  
12.27 over-the-counter medications if coverage is under a health plan.

12.28 Sec. 11. Minnesota Statutes 2006, section 518A.41, subdivision 2, is amended to read:

12.29 Subd. 2. **Order.** (a) A completed national medical support notice issued by the  
12.30 public authority or a court order that complies with this section is a qualified medical  
12.31 child support order under the federal Employee Retirement Income Security Act of 1974  
12.32 (ERISA), United States Code, title 29, section 1169(a).

12.33 (b) Every order addressing child support must state:

12.34 (1) the names, last known addresses, and Social Security numbers of the parents and  
12.35 the joint child that is a subject of the order unless the court prohibits the inclusion of an

13.1 address or Social Security number and orders the parents to provide the address and Social  
 13.2 Security number to the administrator of the health plan;

13.3 (2) if a joint child is not presently enrolled in health care coverage, whether  
 13.4 appropriate health care coverage for the joint child is available and, if so, state:

13.5 (i) ~~which parent must carry~~ the parents' responsibilities for carrying health care  
 13.6 coverage;

13.7 (ii) the cost of premiums and how the cost is allocated between the parents;

13.8 ~~(iii) how unreimbursed expenses will be allocated and collected by the parents;~~ and

13.9 ~~(iv)~~ (iii) the circumstances, if any, under which ~~the~~ an obligation to provide health  
 13.10 care coverage for the joint child will shift from one parent to the other; ~~and~~

13.11 (3) if appropriate health care coverage is not available for the joint child, whether a  
 13.12 contribution for medical support is required; and

13.13 (4) how unreimbursed or uninsured medical expenses will be allocated between  
 13.14 the parents.

13.15 Sec. 12. Minnesota Statutes 2006, section 518A.41, subdivision 3, is amended to read:

13.16 Subd. 3. **Determining appropriate health care coverage.** ~~(a)~~ In determining  
 13.17 whether a parent has appropriate health care coverage for the joint child, the court must  
 13.18 ~~evaluate the health plan using~~ consider the following factors:

13.19 ~~(1) accessible coverage. Dependent health care coverage is accessible if the covered~~  
 13.20 ~~joint child can obtain services from a health plan provider with reasonable effort by the~~  
 13.21 ~~parent with whom the joint child resides. Health care coverage is presumed accessible if:~~

13.22 ~~(i) primary care coverage is available within 30 minutes or 30 miles of the joint~~  
 13.23 ~~child's residence and specialty care coverage is available within 60 minutes or 60 miles of~~  
 13.24 ~~the joint child's residence;~~

13.25 ~~(ii) the coverage is available through an employer and the employee can be expected~~  
 13.26 ~~to remain employed for a reasonable amount of time; and~~

13.27 ~~(iii) no preexisting conditions exist to delay coverage unduly;~~

13.28 ~~(2)~~ (1) comprehensive comprehensiveness of health care coverage providing  
 13.29 medical benefits. Dependent health care coverage providing medical benefits is presumed  
 13.30 comprehensive if it includes medical and hospital coverage and provides for preventive,  
 13.31 emergency, acute, and chronic care. If both parents have health care coverage providing  
 13.32 medical benefits that meets the minimum requirements is presumed comprehensive under  
 13.33 this paragraph, the court must determine which ~~health care~~ parent's coverage is more  
 13.34 comprehensive by considering ~~whether~~ what other benefits are included in the coverage  
 13.35 includes;

- 14.1 ~~(i) basic dental coverage;~~  
 14.2 ~~(ii) orthodontia;~~  
 14.3 ~~(iii) eyeglasses;~~  
 14.4 ~~(iv) contact lenses;~~  
 14.5 ~~(v) mental health services; or~~  
 14.6 ~~(vi) substance abuse treatment;~~  
 14.7 (2) accessibility. Dependent health care coverage is accessible if the covered joint  
 14.8 child can obtain services from a health plan provider with reasonable effort by the parent  
 14.9 with whom the joint child resides. Health care coverage is presumed accessible if:  
 14.10 (i) primary care is available within 30 minutes or 30 miles of the joint child's  
 14.11 residence and specialty care is available within 60 minutes or 60 miles of the joint child's  
 14.12 residence;  
 14.13 (ii) the health care coverage is available through an employer and the employee can  
 14.14 be expected to remain employed for a reasonable amount of time; and  
 14.15 (iii) no preexisting conditions exist to unduly delay enrollment in health care  
 14.16 coverage;  
 14.17 ~~(3) affordable coverage. Dependent health care coverage is affordable if it is~~  
 14.18 ~~reasonable in cost; and~~  
 14.19 ~~(4) (3) the joint child's special medical needs, if any; and~~  
 14.20 ~~(b) (4) affordability. Dependent health care coverage is affordable if it is reasonable~~  
 14.21 ~~in cost. If both parents have health care coverage available for a joint child, and the~~  
 14.22 ~~court determines under paragraph (a), clauses (1) and (2), that the available coverage~~  
 14.23 ~~is comparable with regard to accessibility and comprehensiveness of medical benefits,~~  
 14.24 ~~accessibility, and the joint child's special needs, the least costly health care coverage is the~~  
 14.25 ~~presumed to be the most appropriate health care coverage for the joint child.~~

14.26 Sec. 13. Minnesota Statutes 2006, section 518A.41, subdivision 4, is amended to read:

14.27 Subd. 4. **Ordering health care coverage.** (a) If a joint child is presently enrolled  
 14.28 in health care coverage, the court must order that the parent who currently has the joint  
 14.29 child enrolled continue that enrollment unless the ~~parents~~ parties agree otherwise or a  
 14.30 ~~parent~~ party requests a change in coverage and the court determines that other health  
 14.31 care coverage is more appropriate.

14.32 (b) If a joint child is not presently enrolled in health care coverage providing medical  
 14.33 benefits, upon motion of a parent or the public authority, the court must determine whether  
 14.34 one or both parents have appropriate health care coverage providing medical benefits for

15.1 the joint child and order the parent with appropriate health care coverage available to carry  
15.2 the coverage for the joint child.

15.3 (c) If only one parent has appropriate health care coverage providing medical  
15.4 benefits available, the court must order that parent to carry the coverage for the joint child.

15.5 (d) If both parents have appropriate health care coverage providing medical benefits  
15.6 available, the court must order the parent with whom the joint child resides to carry the  
15.7 coverage for the joint child, unless:

15.8 (1) ~~either parent~~ a party expresses a preference for health care coverage providing  
15.9 medical benefits available through the parent with whom the joint child does not reside;

15.10 (2) the parent with whom the joint child does not reside is already carrying  
15.11 dependent health care coverage providing medical benefits for other children and the cost  
15.12 of contributing to the premiums of the other parent's coverage would cause the parent with  
15.13 whom the joint child does not reside extreme hardship; or

15.14 (3) the ~~parents parties~~ agree as to provide which parent will carry health care  
15.15 coverage providing medical benefits and agree on the allocation of costs.

15.16 (e) If the exception in paragraph (d), clause (1) or (2), applies, the court must  
15.17 determine which parent has the most appropriate coverage providing medical benefits  
15.18 available and order that parent to carry coverage for the joint child. ~~If the court~~  
15.19 ~~determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parents'~~  
15.20 ~~health care coverage for the joint child is comparable with regard to accessibility and~~  
15.21 ~~comprehensiveness, the court must presume that the parent with the least costly health~~  
15.22 ~~care coverage to carry coverage for the joint child.~~

15.23 (f) If neither parent has appropriate health care coverage available, the court must  
15.24 order the parents to:

15.25 (1) contribute toward the actual health care costs of the joint children based on  
15.26 a pro rata share; or

15.27 (2) if the joint child is receiving any form of ~~medical assistance under chapter 256B~~  
15.28 ~~or MinnesotaCare under chapter 256L~~ public coverage, the parent with whom the joint  
15.29 child does not reside shall contribute a monthly amount toward the actual cost of ~~medical~~  
15.30 ~~assistance under chapter 256B or MinnesotaCare under chapter 256L~~ public coverage.

15.31 The amount of ~~contribution of the noncustodial parent~~ parent's contribution is ~~the amount~~  
15.32 ~~the noncustodial parent would pay for the child's premiums if the noncustodial parent's~~  
15.33 ~~PICS income meets the eligibility requirements for public coverage.~~ determined by  
15.34 applying the noncustodial parent's PICS to the premium schedule for public coverage. If  
15.35 the noncustodial parent's PICS meets the eligibility requirements for public coverage, the  
15.36 contribution is the amount the noncustodial parent would pay for the child's premium. If

16.1 the noncustodial parent's PICS exceeds the eligibility requirements for public coverage,  
16.2 the contribution is the amount of the premium for the highest eligible income on the  
16.3 appropriate premium schedule for public coverage. For purposes of determining the  
16.4 premium amount, the noncustodial parent's household size is equal to one parent plus  
16.5 the child or children who are the subject of the child support order. ~~If the noncustodial~~  
16.6 ~~parent's PICS income exceeds the eligibility requirements for public coverage, the court~~  
16.7 ~~must order the noncustodial parent's contribution toward the full premium cost of the~~  
16.8 ~~child's or children's coverage.~~ The custodial parent's obligation is determined under the  
16.9 requirements for public coverage as set forth in chapter 256B or 256L. ~~The court may~~  
16.10 ~~order the parent with whom the child resides to apply for public coverage for the child.~~

16.11 (g) If neither parent has appropriate health care coverage available, the court may  
16.12 order the parent with whom the child resides to apply for public coverage for the child.

16.13 (h) The commissioner of human services must publish a table with the premium  
16.14 schedule for public coverage and update the chart for changes to the schedule by July  
16.15 1 of each year.

16.16 (i) If a joint child is not presently enrolled in health care coverage providing dental  
16.17 benefits, upon motion of a parent or the public authority, the court must determine whether  
16.18 one or both parents have appropriate dental health care coverage for the joint child, and the  
16.19 court may order a parent with appropriate dental health care coverage available to carry  
16.20 the coverage for the joint child.

16.21 (j) If a joint child is not presently enrolled in available health care coverage  
16.22 providing benefits other than medical benefits or dental benefits, upon motion of a parent  
16.23 or the public authority, the court may determine whether that other health care coverage  
16.24 for the joint child is appropriate, and the court may order a parent with that appropriate  
16.25 health care coverage available to carry the coverage for the joint child.

16.26 Sec. 14. Minnesota Statutes 2006, section 518A.41, subdivision 5, is amended to read:

16.27 Subd. 5. **Medical support costs; unreimbursed and uninsured medical expenses.**

16.28 (a) Unless otherwise agreed to by the parties and approved by the court, the court must  
16.29 order that the cost of health care coverage and all unreimbursed and uninsured medical  
16.30 expenses under the health plan be divided between the obligor and obligee based on  
16.31 their proportionate share of the parties' combined monthly PICS. The amount allocated  
16.32 for medical support is considered child support but is not subject to a cost-of-living  
16.33 adjustment under section 518A.75.

16.34 (b) If a party owes a joint child support obligation for a child and is ordered to carry  
16.35 health care coverage for the joint child, and the other party is ordered to contribute to the

17.1 carrying party's cost for coverage, the carrying party's child support payment must be  
17.2 reduced by the amount of the contributing party's contribution.

17.3 (c) If a party owes a joint child support obligation for a child and is ordered to  
17.4 contribute to the other party's cost for carrying health care coverage for the joint child,  
17.5 the contributing party's child support payment must be increased by the amount of the  
17.6 contribution.

17.7 (d) If the party ordered to carry health care coverage for the joint child already  
17.8 carries dependent health care coverage for other dependents and would incur no additional  
17.9 premium costs to add the joint child to the existing coverage, the court must not order the  
17.10 other party to contribute to the premium costs for coverage of the joint child.

17.11 (e) If a party ordered to carry health care coverage for the joint child does not already  
17.12 carry dependent health care coverage but has other dependents who may be added to the  
17.13 ordered coverage, the full premium costs of the dependent health care coverage must be  
17.14 allocated between the parties in proportion to the party's share of the parties' combined  
17.15 PICS, unless the parties agree otherwise.

17.16 (f) If a party ordered to carry health care coverage for the joint child is required to  
17.17 enroll in a health plan so that the joint child can be enrolled in dependent health care  
17.18 coverage under the plan, the court must allocate the costs of the dependent health care  
17.19 coverage between the parties. The costs of the health care coverage for the party ordered  
17.20 to carry the coverage for the joint child must not be allocated between the parties.

17.21 Sec. 15. Minnesota Statutes 2006, section 518A.41, subdivision 12, is amended to read:

17.22 Subd. 12. **Spousal or former spousal coverage.** The court must require the parent  
17.23 with whom the joint child does not reside to provide dependent health care coverage for the  
17.24 benefit of the parent with whom the joint child resides if the parent with whom the child  
17.25 does not reside is ordered to provide dependent health care coverage for the parties' joint  
17.26 child and adding the other parent to the coverage results in no additional premium cost.

17.27 Sec. 16. Minnesota Statutes 2006, section 518A.41, subdivision 15, is amended to read:

17.28 Subd. 15. **Enforcement.** (a) Remedies available for collecting and enforcing child  
17.29 support apply to medical support.

17.30 (b) For the purpose of enforcement, the following are additional support:

17.31 (1) the costs of individual or group health or hospitalization coverage;

17.32 (2) dental coverage;

18.1 (3) medical costs ordered by the court to be paid by either party, including ~~health~~  
18.2 ~~and dental insurance~~ health care coverage premiums paid by the obligee because of the  
18.3 obligor's failure to obtain coverage as ordered; and

18.4 (4) liabilities established under this subdivision.

18.5 (c) A party who fails to carry court-ordered dependent health care coverage is liable  
18.6 for the joint child's uninsured medical expenses unless a court order provides otherwise.  
18.7 A party's failure to carry court-ordered coverage, or to provide other medical support as  
18.8 ordered, is a basis for modification of a support order under section 518A.39, subdivision 2.

18.9 (d) Payments by the health carrier or employer for services rendered to the  
18.10 dependents that are directed to a party not owed reimbursement must be endorsed over  
18.11 to and forwarded to the vendor or appropriate party or the public authority. A party  
18.12 retaining insurance reimbursement not owed to the party is liable for the amount of the  
18.13 reimbursement.

18.14 Sec. 17. Minnesota Statutes 2006, section 518A.41, subdivision 16, is amended to read:

18.15 Subd. 16. **Offset.** (a) If a party is the parent with primary physical custody as  
18.16 defined in section 518A.26, subdivision 17, and is an obligor ordered to contribute to the  
18.17 other party's cost for carrying health care coverage for the joint child, the other party's  
18.18 child support ~~obligation is~~ and spousal maintenance obligations are subject to an offset  
18.19 under subdivision 5.

18.20 (b) The public authority, if the public authority provides child support enforcement  
18.21 services, may remove the offset to a party's child support obligation when:

- 18.22 (1) the party's court-ordered health care coverage for the joint child terminates;  
18.23 (2) the party does not enroll the joint child in other health care coverage; and  
18.24 (3) a modification motion is not pending.

18.25 The public authority must provide notice to the parties of the action. If neither party  
18.26 requests a hearing, the public authority must remove the offset effective the first day of the  
18.27 month following termination of the joint child's health care coverage.

18.28 (c) The public authority, if the public authority provides child support enforcement  
18.29 services, may resume the offset when the party ordered to provide health care coverage  
18.30 for the joint child has resumed the court-ordered health care coverage or enrolled the  
18.31 joint child in other health care coverage. The public authority must provide notice to  
18.32 the parties of the action. If neither party requests a hearing, the public authority must  
18.33 resume the offset effective the first day of the month following certification that health  
18.34 care coverage is in place for the joint child.

19.1           ~~(c)~~ (d) A party may contest the public authority's action to remove or resume the  
19.2 offset to the child support obligation if the party makes a written request for a hearing  
19.3 within 30 days after receiving written notice. If a party makes a timely request for a  
19.4 hearing, the public authority must schedule a hearing and send written notice of the  
19.5 hearing to the parties by mail to the parties' last known addresses at least 14 days before  
19.6 the hearing. The hearing must be conducted in district court or in the expedited child  
19.7 support process if section 484.702 applies. The district court or child support magistrate  
19.8 must determine whether removing or resuming the offset is appropriate and, if appropriate,  
19.9 the effective date for the removal or resumption.

19.10           ~~(d) If the party does not request a hearing, the public authority will remove the~~  
19.11 ~~offset effective the first day of the month following termination of the joint child's health~~  
19.12 ~~care coverage.~~

19.13           Sec. 18. Minnesota Statutes 2006, section 518A.75, subdivision 3, is amended to read:

19.14           Subd. 3. **Result of hearing.** If, at a hearing pursuant to this section, the obligor  
19.15 establishes an insufficient cost of living or other increase in income that prevents  
19.16 fulfillment of the adjusted maintenance or ~~child~~ basic support obligation, the court or  
19.17 child support magistrate may direct that all or part of the adjustment not take effect. If,  
19.18 at the hearing, the obligor does not establish this insufficient increase in income, the  
19.19 adjustment shall take effect as of the date it would have become effective had no hearing  
19.20 been requested.