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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 1003

February 19, 2009

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

A bill for an act

relating to family law; changing a rebuttable presumption of minimum parenting time; specifying factors for rebuttal; changing a parenting expense adjustment; amending Minnesota Statutes 2008, sections 518.175, subdivision 1; 518A.36, subdivision 2.

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

Section 1. Minnesota Statutes 2008, section 518.175, subdivision 1, is amended to read:

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

2.1 duration of visitation and visitation during holidays and vacations, unless parenting time
2.2 is restricted, denied, or reserved.

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

2.9 (e) In the absence of other evidence, there is a rebuttable presumption that a parent is
2.10 entitled to receive at least ~~25~~ 40 percent of the parenting time for the child. For purposes
2.11 of this paragraph, the percentage of parenting time may be determined by calculating the
2.12 number of overnights that a child spends with a parent or by using a method other than
2.13 overnights if the parent has significant time periods on separate days when the child is in
2.14 the parent's physical custody but does not stay overnight. The court may consider the age
2.15 of the child in determining whether a child is with a parent for a significant period of time.

2.16 (f) If the court finds the presumption of 40 percent parenting time has been
2.17 successfully rebutted, the court must make written findings specifically identifying
2.18 the factors that led to this finding and the evidence used by the court in making this
2.19 determination.

2.20 Sec. 2. Minnesota Statutes 2008, section 518A.36, subdivision 2, is amended to read:

2.21 Subd. 2. **Calculation of parenting expense adjustment.** The obligor is entitled to
2.22 a parenting expense adjustment calculated as provided in this subdivision. The court shall:

2.23 (1) find the adjustment percentage corresponding to the percentage of parenting
2.24 time allowed to the obligor below:

	Percentage Range of Parenting Time	Adjustment Percentage
2.25 (i)	less than 10 percent	no adjustment
2.26 (ii)	10 percent to 45 <u>or more, but less than 30</u> percent	12 percent
2.27 (iii)	<u>30 percent or more, but less than 45.1 percent</u>	<u>30 percent</u>
2.28 (iv)	45.1 percent to 50 percent	presume parenting time is equal

2.29 (2) multiply the adjustment percentage by the obligor's basic child support obligation
2.30 to arrive at the parenting expense adjustment; and

2.31 (3) subtract the parenting expense adjustment from the obligor's basic child support
2.32 obligation. The result is the obligor's basic support obligation after parenting expense
2.33 adjustment.