

(AMENDED AUGUST 1, 1988)

APPENDIX A: NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. THAT PURSUANT TO MINNESOTA STATUTES §518.611, THE AMOUNT OF CHILD SUPPORT OR SPOUSAL MAINTENANCE AS DETERMINED BY COURT ORDER SHALL BE WITHHELD FROM INCOME, REGARDLESS OF SOURCE, AFTER ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:

1. The person entitled to receive the payment, or the public authority, determines that the person responsible to make the payments is at least 30 days in arrears;
2. The person entitled to receive the payment, or public authority serves written notice of determination of income withholding, showing arrearage, on the person responsible to make the payment at least 15 days before the service of the notice of income withholding on the payor of funds;
3. Within the 15 day period, the person responsible to make the payment fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of notice of income withholding, or on other grounds limited to mistakes of fact and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard. Within 45 days from the date of notice of income withholding, the court shall hold the hearing on the motion to deny withholding and notify the parties of its decision; and
4. The person entitled to receive the payment or the public authority, serves a copy of the notice of income withholding and a copy of the court's withholding order on the payor of funds;
5. The person entitled to receive the payment serves on the public authority a copy of the notice of income withholding, a copy of the court's withholding order, an application to use the public authority's collection services, and the fee for such services.

A. THAT PURSUANT TO MINNESOTA STATUTE §518.611, THE FOLLOWING LAW APPLIES TO COURT ORDERS FOR CHILD SUPPORT OR SPOUSAL MAINTENANCE:

- (1) To pay the arrearage specified in the notice of income withholding, the employer or payor of funds shall withhold from the income of the person responsible to make the payment an additional 20 percent of the monthly child support or maintenance until the arrearage is paid.
- (2) The person responsible to make the payment may, at any time, waive the written notice required by this subdivision.
- (3) The person responsible to make the payment may move the court, under §518.64, to modify the amount of maintenance or support.
- (4) The parties and the employer or other payor of funds are further notified that no employer may discharge or refuse to hire or otherwise discipline an employee because the employer must withhold support or maintenance money. Minnesota Statutes, § 518.611.
- (5) Every order for support or maintenance shall provide for a conspicuous notice of §518.611, subd. 2. An order without this notice remains subject to §518.611, subd. 2.
- (6) Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of funds when service has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold income according to court order for withholding issued by other states or territories. The payor shall withhold from the income payable to the person responsible to make the payment the amount specified in the order and amounts required under A(1) and shall remit within 10 days of the date the person responsible to make the payment is paid the remainder of the income, the amounts withheld to the

public authority. Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each person responsible to make the payment. The employer or other payor of funds shall be liable to the person entitled to receive the payment for any amounts required to be withheld.

- (7) An order for withholding takes priority over any attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against income of the person responsible to make the payment. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, Title 15, §1673(b)(2). If there is more than one withholding order on the person responsible to make the payment, the employer or other payor of funds shall put them into effect giving priority first to amounts currently due and not in arrears and then to other amounts in the sequence in which the withholding orders were received up to the maximum allowed under the Consumer Credit Protection Act.
- (8) When the employment of the person responsible to make the payment is terminated or the periodic payment ends, the employer or other payor of funds is required to notify the public authority within 30 days of the termination date. The notice must include the home address of the person responsible to make the payment and, if known, the name and address of the person's new employer or other payor of funds.
- (9) Upon the transmittal of the last reimbursement payment to the employee, where lump sum severance pay, accumulated sick pay or vacation pay is paid upon termination of employment, and where the employee is in arrears in making court ordered child support payments, the employer shall withhold an amount which is the lesser of (1) the amount in arrears or (2) that portion of the arrearages which is the product of the person responsible to make the payment's monthly court ordered support amount multiplied by the number of months of net income that the lump sum payment represents.

II. THE CHILD SUPPORT AND SPOUSAL MAINTENANCE ORDERED HEREIN SHALL BE ADJUSTED EVERY TWO YEARS BASED UPON A CHANGE IN THE COST-OF-LIVING EFFECTIVE ON THE FIRST DAY OF MAY OF THIS YEAR, AS PROVIDED IN MINNESOTA STATUTES §518.641. THE AMOUNT OF THE ADJUSTMENT SHALL BE DETERMINED BY USING THE U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX, MINNEAPOLIS-ST. PAUL, FOR ALL URBAN CONSUMERS (CPI-U). ANY COST-OF-LIVING PROVIDED FOR HEREIN SHALL BE COMPOUNDED. NO ADJUSTMENT SHALL BE MADE UNLESS THE FOLLOWING CONDITIONS ARE MET:

1. The person entitled to receive the payment or the public authority serves a notice of its application for adjustment by mail on the person responsible to make the payment at his last known address at least 20 days before the effective date of the cost-of-living adjustment;
2. Said notice shall inform the person responsible to make the child support payments that an adjustment in payment shall become effective on the first day of May; and
3. The cost-of-living adjustment shall be automatic unless the person responsible to make the payment requests a court hearing to determine whether the adjustment should take effect and to stay imposition of the adjustment pending the outcome of the hearing. Notice of said court hearing shall be served on the person entitled to receive the payment and the public authority involved, if any.

III. WHEN 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 AND 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 UNDER THE PROVISIONS OF MINNESOTA STATUTES §548.091.

IV. A JUDGMENT FOR UNPAID SPOUSAL MAINTENANCE WILL BE ENTERED AGAINST THE PERSON RESPONSIBLE TO MAKE THE PAYMENT, AS PROVIDED BY MINNESOTA STATUTES §548.091, ONLY AFTER ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:

1. The person entitled to receive payment determines that the person responsible to make the payment is at least 30 days in arrears;

2. The person entitled to receive the payment serves a copy of an affidavit of default and notice of intent to enter judgment on the person responsible to make the payment by mail at his last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state full name, occupation, place of residence, and last known post office address of the person responsible to make the payment, the name and post office address of the person entitled to receive the payment, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid.
3. The person responsible to make the payment fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and
4. Not less than 20 days after service on the person responsible to make the payment in the manner provided, the person entitled to receive the payment files with the clerk the affidavit of default together with proof of service and, if payments have been received by the person entitled to receive payment or public authority since execution of the affidavit of default, a supplemental affidavit setting forth the amount of the payment received.

V. IF OBLIGOR FAILS TO MAKE THE MAINTENANCE PAYMENTS, THE OBLIGEE OR A PUBLIC AGENCY RESPONSIBLE FOR MAINTENANCE ENFORCEMENT MAY OBTAIN DOCKETING OF A JUDGMENT FOR THE UNPAID AMOUNT UNDER THE PROVISIONS OF §518.091. SUCH JUDGMENT SHALL BE ENTERED AND DOCKETED BY THE COURT ADMINISTRATOR ONLY WHEN ORDERED BY THE COURT OR WHEN THE FOLLOWING CONDITIONS ARE MET:

1. The obligee determines that the obligor is at least thirty (30) days in arrears;
2. The obligee serves a copy of an affidavit of default and notice of intent to enter judgment on the obligor by mail at the obligor's last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid;
3. The obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and
4. Not less than 20 days after service on the obligor in the manner provided, the obligee files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee since execution of the affidavit of default, a supplemental affidavit setting for the amount of payment received.

VI. A JUDGMENT FOR UNPAID CHILD SUPPORT BECOMES A JUDGMENT BY OPERATION OF LAW ON OR AFTER THE DATE PAYMENT IS DUE AND THE OBLIGEE OR A PUBLIC AGENCY RESPONSIBLE FOR SUPPORT ENFORCEMENT MAY OBTAIN ENTRY ON DOCKETING OF THE JUDGMENT FOR THE UNPAID AMOUNT UNDER THE PROVISIONS OF MINNESOTA STATUTES §548.091 AS FOLLOWS:

ON OR AFTER THE DATE AN UNPAID AMOUNT BECOMES A JUDGMENT BY OPERATION OF LAW, THE OBLIGEE OR THE PUBLIC AUTHORITY MAY FILE WITH THE COURT ADMINISTRATOR:

1. A statement identifying copy or a copy of the judgment or decree of dissolution or legal separation, determination of parentage, order under Chapter 519(c) and order under §256.87 or an order under §260.251 which provides an installment or periodic payments of child support;
2. An affidavit of default. The affidavit of default must state the full name, occupation, place of residence and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, in the total

amount of the judgments; and

3. An affidavit of service of a notice of entry of judgment on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated.

VII. A CHILD SUPPORT OBLIGOR MAY REQUEST A HEARING UNDER THE RULES OF CIVIL PROCEDURE ON THE ISSUE OF WHETHER THE JUDGMENT AMOUNT OR AMOUNTS HAVE BEEN PAID AND THEY MOVE THE COURT FOR AN ORDER DIRECTING THE COURT ADMINISTRATOR TO VACATE THE JUDGMENT OR JUDGMENTS ON THE DOCKET AND REGISTER IN ANY COUNTY OR OTHER JURISDICTION IN WHICH JUDGMENT OR JUDGMENTS WERE ENTERED PURSUANT TO THIS ACTION.

AN OBLIGOR WHOSE PROPERTY IS SUBJECT TO THE LIEN OF A JUDGMENT FOR INSTALLMENT OF PERIODIC PAYMENTS OF MAINTENANCE UNDER §548.09, AND WHO CLAIMS THAT NO AMOUNT OF MAINTENANCE IS IN ARREARS, MAY MOVE THE COURT EX PARTE FOR AN ORDER DIRECTING THE COURT ADMINISTRATOR TO VACATE THE LIEN OF THE JUDGMENT ON THE DOCKET AND REGISTER OF THE ACTION WHERE IT WAS ENTERED. THE OBLIGOR SHALL FILE WITH THE MOTION AN AFFIDAVIT STATING THAT:

1. The lien attached upon the docketing of a judgment or decree of dissolution or separate maintenance;
2. The docketing was made while no installment or periodic payment of maintenance was unpaid or overdue; and
3. No installment or periodic payment of maintenance that was due prior to the filing of the motion remains unpaid or overdue.

The court shall grant the obligor's motion as soon as possible if the pleadings and affidavit show that there is and has been no default.

VIII. NOTICE OF ADDRESS OR RESIDENCE CHANGE, AS PROVIDED BY MINNESOTA STATUTES §518.55, SUBDIVISION 3.

1. The person responsible to make the payment shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

IX. MEDICAL SUPPORT, AS PROVIDED BY MINNESOTA STATUTES §518.171

1. Order - Unless the person entitled to receive the payment has comparable or better group dependent health insurance coverage available at a more reasonable cost the Court shall order the person responsible to make the payment to name the minor child as beneficiary on any health and dental insurance plan that is available to the person responsible to make the payment on a group basis or through an employer or union.

If the Court finds that dependent health or dental insurance is not available to the person responsible to make the payment on a group basis or through an employer or union, or that the group insurer is not accessible to the person entitled to receive the payment, the Court may require the person responsible to make the payment to obtain dependent health or dental insurance, or to be liable for reasonable and necessary medical or dental expenses of the child.

If the Court finds that the dependent health or dental insurance required to be obtained by the person responsible to make the payment does not pay all the reasonable and necessary medical expenses of the child, and the Court finds that the person responsible to make the payments has the financial ability to contribute to the payment of these medical or dental expenses, the Court shall require the person responsible to make the payment to be liable for all or a portion of the medical or dental expenses of the child not covered by the dental or health plan.

2. Spousal Coverage - The Court shall require the person responsible to make the payment to provide dependent health and dental insurance for the benefit of the person entitled to receive the payment if it is available at no additional cost to the person responsible to make the payment and in this case the

provisions of this section apply.

3. **Implementation** - A copy of the court order for insurance coverage shall be forwarded to the person responsible to make the payment's employer or union by the person entitled to receive the payment or the public authority responsible for support enforcement only when ordered by the Court or when the following conditions are met:
 - a. The person responsible to make the payment fails to provide written proof to the person entitled to receive the payment or the public authority, within 30 days of receiving effective notice of the court order, that the insurance has been obtained or that application for insurability has been made;
 - b. The person entitled to receive the payment or the public authority serves written notice of its intent to enforce medical support on the person responsible to make the payment by mail at his or her last known address; and
 - c. The person responsible to make the payment fails within 15 days after the mailing of the notice to provide written proof to the person entitled to receive the payment or the public authority that the insurance coverage existed as of the date of mailing
4. **Effect of Order** - The order is binding on the employer or union when service under 3 above has been made. Upon receipt of the order, or upon application of the person responsible to make the payment pursuant to the order, the employer or union shall enroll the minor child as beneficiary in the group insurance plan and withhold any required premium from the person responsible to make the payment's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the insurance plan in which the person responsible to make the payment is enrolled or the least costly plan otherwise available to the person responsible to make the payment that is comparable to a number two qualified plan. The insurance coverage for a child under 5 below shall not be terminated except as authorized in section 5.
5. **Eligible Child** - A minor child that the person responsible to make the payment is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the person responsible to make the payment until the child is emancipated or until further order of the Court.
6. **Insurer Notice** - The signature of the custodial parent of the insured dependent is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of medical services. When an order for dependent coverage is in effect and the person responsible to make the payment's employment is terminated, or the insurance coverage is terminated, the insurer shall notify the person entitled to receive the payment within 10 days of the termination date with notice of conversion privileges.
7. **Release of information** - When an order for dependent insurance coverage is in effect, the person responsible to make the payment's employer or union shall release to the person entitled to receive the payment or the public authority, upon request, information on the dependent coverage, including the name of the insurer. Notwithstanding any other law, information reported pursuant to §268.21 shall be released to the public agency responsible for support enforcement that is enforcing an order for medical or dental insurance coverage under this section.
8. **The person responsible to make the payment's liability** - The person responsible to make the payment that fails to maintain the medical or dental insurance benefit for the children as ordered shall be liable to the person entitled to receive the payment for any medical or dental expenses incurred from the date of the court order. Proof of failure to maintain the medical insurance constitutes a showing of increased need by the person entitled to receive the payment pursuant to §518.64 and provides a basis for modification of the person responsible to make the payment's child support order.

9. **Application for Service** - The public agency responsible for support enforcement shall take necessary steps to implement and enforce an order for dependent health and dental insurance whenever the children public assistance, or upon application of the person entitled to receive the payment to the public agency and payment by the person responsible to make the payment of any fees required by §518.551.
10. **Enforcement** - Remedies available for the collection and enforcement of child support apply to medical support. For the purpose of enforcement, the costs of individual or group health or hospitalization coverage or liabilities established pursuant to §518.171, subd. 8, are additional child support.

X. PURSUANT TO MINN. STAT. §518.177, NOTICE IS GIVEN OF MINN. STAT. §609.26, DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS, WHICH STATES:

Subd. 1. Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

1. Conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the rights to visitation or custody where action manifests an intent to substantially deprive that person of rights to visitation or custody;
2. Takes, obtains, retains or fails to return a minor child in violation of a court order which has transferred legal custody under Chapter 260 to the commissioner of human services, a child placing agency, or the county welfare board;
3. Takes, obtains, or fails to return a minor child from or to the parent in violation of a court order where the action manifests an intent substantially to deprive that parent of rights to visitation or custody; or
4. Takes, obtains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent substantially to deprive that parent of parental rights.

Subd. 2. **DEFENSES.** It is an affirmative defense if a person charged under subdivision 1 proves that:

1. The person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;
2. The person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;
3. The action taken is consented to by the parent, step-parent or legal custodian seeking prosecution, but consent to custody or specific visitation is not consent to the action of failing to return or concealing a minor child; or
4. The action taken is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter of Chapter 611.

Subd. 1. **VENUE.** A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed, or detained or in the county of lawful residence of the child.

Subd. 4. **RETURN OF CHILD; COSTS.** A child who has been concealed, obtained, or retained in violation of this

section shall be returned to the person having lawful custody of the child or shall be taken into custody pursuant to §260.165, subd. 1, para. (c), clause (2). In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section. The court may direct the appropriate county welfare agency to provide counseling services to a child who has been returned pursuant to this subdivision.

Subd. 5. **DISMISSAL OF CHARGE.** A felony charge brought under this section shall be dismissed if:

- (a) The person voluntarily returns the child within 14 days after he takes, detains, or fails to return the child in violation of this section; or
- (b) (1) The person taking the action and the child have not left the State of Minnesota; and (2) within a period of 14 days after taking the action, (i) a motion or proceeding under Chapters 518, 518A, 518B or 518C is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to Chapters 518, 518A, 518B or 518C.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

This subdivision does not prohibit the filing of felony charges or an offense report before the expiration of 14 days.

Subd. 6. **PENALTY.** Except as otherwise provided in subdivision 5, whoever violates this section may be sentenced to imprisonment for not more than two years or to payment of a fine of \$4,000 or both.

XI. PURSUANT TO MINNESOTA STATUTES §518.17, SUBDIVISION 3, THE FOLLOWING NOTICE IS HEREBY GIVEN TO THE PARTIES:

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. 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.
2. 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.
3. 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.
4. Each party has the right to reasonable access and telephone contact with the minor children.

XII. PURSUANT TO RULE 7.01 OF THE MINNESOTA RULES OF FAMILY COURT PROCEDURE, BOTH PARTIES ARE NOTIFIED THAT:

1. Payment of support and/or spousal maintenance is to be as ordered herein, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
2. Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is not an excuse for non-payment, but the aggrieved party must seek relief through a proper motion filed with the court.
3. The payment of support and/or spousal maintenance takes priority over payment of debts and other

obligations.

4. A party who remarries after dissolution and accepts additional obligations of support does so with full knowledge of his or her prior obligations under this proceeding.
5. Child support and/or spousal 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 regularly throughout the year as ordered.