

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 775

(SENATE AUTHORS: GOODWIN, Eaton, Carlson and Dziedzic)

DATE	D-PG	OFFICIAL STATUS
02/12/2015	272	Introduction and first reading Referred to Judiciary
03/11/2015		Comm report: To pass as amended and re-refer to Finance

A bill for an act

1.1 relating to family law; modifying provision related to the effect of a recognition
1.2 of parentage; making changes to the recognition form; modifying the definition
1.3 of obligor; modifying basic support under certain circumstances; modifying
1.4 a method for determining potential income for purposes of child support
1.5 determinations; establishing consumer reporting agency requirements for
1.6 nonpayment of child support; amending Minnesota Statutes 2014, sections
1.7 257.75, subdivisions 3, 5; 518A.26, subdivision 14; 518A.32, subdivision 2;
1.8 518A.43, by adding a subdivision; proposing coding for new law in Minnesota
1.9 Statutes, chapter 518A.
1.10

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

1.12 Section 1. Minnesota Statutes 2014, section 257.75, subdivision 3, is amended to read:

1.13 Subd. 3. **Effect of recognition.** (a) Subject to subdivision 2 and section 257.55,
1.14 subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or
1.15 order determining the existence of the parent and child relationship under section 257.66. If
1.16 the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition
1.17 creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Once a
1.18 recognition has been properly executed and filed with the state registrar of vital statistics,
1.19 if there are no competing presumptions of paternity, a judicial or administrative court may
1.20 not allow further action to determine parentage regarding the signator of the recognition.
1.21 An action to determine custody and parenting time may be commenced pursuant to
1.22 chapter 518 without an adjudication of parentage. Until an a temporary or permanent
1.23 order is entered granting custody to another, the mother has sole custody.

1.24 (b) Following commencement of an action to determine custody or parenting time
1.25 under chapter 518, the court may, pursuant to section 518.131, grant temporary parenting
1.26 time rights and temporary custody to either parent.

1.27 (c) The recognition is:

- 2.1 (1) a basis for bringing an action for the following:
- 2.2 (i) to award temporary custody or parenting time pursuant to section 518.131;
- 2.3 (ii) to award permanent custody or parenting time to either parent;
- 2.4 (iii) establishing a child support obligation which may include up to the two years
- 2.5 immediately preceding the commencement of the action;
- 2.6 (iv) ordering a contribution by a parent under section 256.87, ~~or;~~
- 2.7 (v) ordering a contribution to the reasonable expenses of the mother's pregnancy and
- 2.8 confinement, as provided under section 257.66, subdivision 3₂; or
- 2.9 (vi) ordering reimbursement for the costs of blood or genetic testing, as provided
- 2.10 under section 257.69, subdivision 2;
- 2.11 (2) determinative for all other purposes related to the existence of the parent and
- 2.12 child relationship; and
- 2.13 (3) entitled to full faith and credit in other jurisdictions.

2.14 Sec. 2. Minnesota Statutes 2014, section 257.75, subdivision 5, is amended to read:

2.15 Subd. 5. **Recognition form.** (a) The commissioner of human services shall prepare

2.16 a form for the recognition of parentage under this section. In preparing the form, the

2.17 commissioner shall consult with the individuals specified in subdivision 6. The recognition

2.18 form must be drafted so that the force and effect of the recognition, the alternatives to

2.19 executing a recognition, and the benefits and responsibilities of establishing paternity, and

2.20 the limitations of the recognition of parentage for purposes of exercising and enforcing

2.21 custody or parenting time are clear and understandable. ~~The form must include a notice~~

2.22 regarding the finality of a recognition and the revocation procedure under subdivision

2.23 2. The form must include a provision for each parent to verify that the parent has read

2.24 or viewed the educational materials prepared by the commissioner of human services

2.25 describing the recognition of paternity. The individual providing the form to the parents

2.26 for execution shall provide oral notice of the rights, responsibilities, and alternatives to

2.27 executing the recognition. Notice may be provided by audiotape, videotape, or similar

2.28 means. Each parent must receive a copy of the recognition.

2.29 (b) The form must include the following:

- 2.30 (1) a notice regarding the finality of a recognition and the revocation procedure
- 2.31 under subdivision 2;
- 2.32 (2) a notice, in large print, that the recognition does not establish an enforceable right
- 2.33 to legal custody, physical custody, or parenting time until such rights are awarded pursuant
- 2.34 to a court action to establish custody and parenting time;

3.1 (3) a notice stating that when a court awards custody and parenting time under
 3.2 chapter 518, there is no presumption for or against joint physical custody, except when
 3.3 domestic abuse, as defined in section 518B.01, subdivision 2, paragraph (a), has occurred
 3.4 between the parties;

3.5 (4) a notice that the recognition of parentage is a basis for:

3.6 (i) bringing a court action to award temporary or permanent custody or parenting time;

3.7 (ii) establishing a child support obligation that may include the two years
 3.8 immediately preceding the commencement of the action;

3.9 (iii) ordering a contribution by a parent under section 256.87;

3.10 (iv) ordering a contribution to the reasonable expenses of the mother's pregnancy
 3.11 and confinement, as provided under section 257.66, subdivision 3; and

3.12 (v) ordering reimbursement for the costs of blood or genetic testing, as provided
 3.13 under section 257.69, subdivision 2; and

3.14 (5) a provision for each parent to verify that the parent has read or viewed the
 3.15 educational materials prepared by the commissioner of human services describing the
 3.16 recognition of paternity.

3.17 (c) The individual providing the form to the parents for execution shall provide oral
 3.18 notice of the rights, responsibilities, and alternatives to executing the recognition. Notice
 3.19 may be provided in audio or video format, or by other similar means. Each parent must
 3.20 receive a copy of the recognition.

3.21 Sec. 3. Minnesota Statutes 2014, section 518A.26, subdivision 14, is amended to read:

3.22 Subd. 14. **Obligor.** "Obligor" means a person obligated to pay maintenance or
 3.23 support. ~~A person who has primary physical custody of a child is presumed not to be~~
 3.24 ~~an obligor for purposes of a child support order under section 518A.34, unless section~~
 3.25 ~~518A.36, subdivision 3, applies or the court makes specific written findings to overcome~~
 3.26 ~~this presumption.~~ For purposes of ordering medical support under section 518A.41, a
 3.27 parent who has primary physical custody of a child may be an obligor subject to a payment
 3.28 agreement under section 518A.69.

3.29 Sec. 4. Minnesota Statutes 2014, section 518A.32, subdivision 2, is amended to read:

3.30 Subd. 2. **Methods.** Determination of potential income must be made according
 3.31 to one of three methods, as appropriate:

3.32 (1) the parent's probable earnings level based on employment potential, recent
 3.33 work history, and occupational qualifications in light of prevailing job opportunities and
 3.34 earnings levels in the community;

4.1 (2) if a parent is receiving unemployment compensation or workers' compensation,
4.2 that parent's income may be calculated using the actual amount of the unemployment
4.3 compensation or workers' compensation benefit received; or

4.4 (3) the amount of income a parent could earn working ~~full-time at 150~~ 30 hours per
4.5 week at 100 percent of the current federal or state minimum wage, whichever is higher.

4.6 Sec. 5. Minnesota Statutes 2014, section 518A.43, is amended by adding a subdivision
4.7 to read:

4.8 Subd. 1a. **Income disparity between parties.** The court may elect not to order a
4.9 party who has between ten and 45 percent parenting time to pay basic support where such
4.10 a significant disparity of income exists between the parties that an order directing payment
4.11 of basic support would be detrimental to the parties' joint child.

4.12 Sec. 6. [518A.685] CONSUMER REPORTING AGENCY; REPORTING
4.13 ARREARS.

4.14 (a) If a public authority determines that an obligor (1) is in arrears for court-ordered
4.15 child support in an amount greater than three times the monthly support obligation, and
4.16 (2) is not in compliance with a written payment plan, the public authority must report this
4.17 information to a consumer reporting agency.

4.18 (b) Prior to reporting that an obligor is in arrears for court-ordered child support
4.19 under paragraph (a), the public authority must:

4.20 (1) provide written notice to the obligor that the public authority intends to report the
4.21 arrears to a consumer agency; and

4.22 (2) mail the written notice to the obligor's last known mailing address 30 days prior
4.23 to the public authority reporting the arrears to a consumer agency.

4.24 (c) After receiving notice under paragraph (b), the obligor may, within 21 days of
4.25 receipt of the notice, enter into a payment plan with the public authority or pay the arrears
4.26 in full in order to prevent the public authority from reporting the arrears to a consumer
4.27 reporting agency.

4.28 (d) If a public authority has reported that an obligor is in arrears for court-ordered
4.29 child support under paragraph (a) and subsequently determines that the obligor (1) has
4.30 paid the court-ordered child support arrears in full, or (2) is in compliance with a written
4.31 payment plan for three consecutive months, the public agency must report to the consumer
4.32 reporting agency that the obligor is paying child support as ordered by the court.

4.33 (e) A public authority that reports arrearage information under this section is
4.34 required to make monthly reports to a consumer reporting agency.

5.1 (f) For purposes of this section, "consumer reporting agency" has the meaning
5.2 given in section 13C.001, subdivision 4.

5.3 (g) For purposes of this section, a "written payment plan" includes a payment plan
5.4 under sections 518A.46, subdivision 5, paragraph (a), clause (7); and 518A.69.