Statutes

518.005 RULES GOVERNING PROCEEDINGS; FORMAL REQUIREMENTS; FEE.
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Subdivision 1.**Applicable.**

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

Subd. 2.**Title.**

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

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

Subdivision 1.**Temporary restraining orders.**

(a) Every summons must include the notice in this subdivision.

NOTICE OF TEMPORARY RESTRAINING AND ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

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

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

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

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

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

(4) PARTIES TO A MARRIAGE DISSOLUTION PROCEEDING ARE ENCOURAGED TO ATTEMPT ALTERNATIVE DISPUTE RESOLUTION PURSUANT TO MINNESOTA LAW. ALTERNATIVE DISPUTE RESOLUTION INCLUDES MEDIATION, ARBITRATION, AND OTHER PROCESSES AS SET FORTH IN THE DISTRICT COURT RULES. YOU MAY CONTACT THE COURT ADMINISTRATOR ABOUT RESOURCES IN YOUR AREA. IF YOU CANNOT PAY FOR MEDIATION OR

ALTERNATIVE DISPUTE RESOLUTION, IN SOME COUNTIES, ASSISTANCE MAY BE AVAILABLE TO YOU THROUGH A NONPROFIT PROVIDER OR A COURT PROGRAM. IF YOU ARE A VICTIM OF DOMESTIC ABUSE OR THREATS OF ABUSE AS DEFINED IN MINNESOTA STATUTES, CHAPTER 518B, YOU ARE NOT REQUIRED TO TRY MEDIATION AND YOU WILL NOT BE PENALIZED BY THE COURT IN LATER PROCEEDINGS.

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

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Subd. 2.**Parent education program requirements.**

Every summons involving custody or parenting time of a minor child must include the notice in this subdivision.

NOTICE OF PARENT EDUCATION PROGRAM REQUIREMENTS

UNDER MINNESOTA STATUTES, SECTION 518.157, IN A CONTESTED PROCEEDING INVOLVING CUSTODY OR PARENTING TIME OF A MINOR CHILD, THE PARTIES MUST BEGIN PARTICIPATION IN A PARENT EDUCATION PROGRAM THAT MEETS MINIMUM STANDARDS PROMULGATED BY THE MINNESOTA SUPREME COURT WITHIN 30 DAYS AFTER THE FIRST FILING WITH THE COURT. IN SOME DISTRICTS, PARENTING EDUCATION MAY BE REQUIRED IN ALL CUSTODY OR PARENTING PROCEEDINGS. YOU MAY CONTACT THE DISTRICT COURT ADMINISTRATOR FOR ADDITIONAL INFORMATION REGARDING THIS REQUIREMENT AND THE AVAILABILITY OF PARENT EDUCATION PROGRAMS.

518.13 FAILURE TO ANSWER; FINDINGS; HEARING.

Subdivision 1.**Default.**

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

Subd. 2.**Dispute over irretrievable breakdown.**

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

A finding of irretrievable breakdown under this subdivision is a determination that there is no reasonable prospect of reconciliation. The finding must be supported by evidence that

(i) the parties have lived separate and apart for a period of not less than 180 days immediately preceding the commencement of the proceeding, or (ii) there is serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage.

Subd. 3.**Agreement over irretrievable breakdown.**

If both parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding that the marriage is irretrievably broken.

Subd. 4.**Referee; open court.**

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

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Subd. 5.**Approval without hearing.**

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

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

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

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

518.156 COMMENCEMENT OF CUSTODY PROCEEDING.

Subdivision 1.**Procedure.**

In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced by one or both parents:

(1) by filing a petition or a joint petition for dissolution or a petition or a joint petition for legal separation in the county where either spouse resides pursuant to section 518.09;

(2) where paternity has been recognized under section 257.75, by filing a petition, or if the parties agree on all issues related to custody, parenting time, and child support, by filing a joint petition, agreement, and proposed order establishing custody, parenting time, and child support, in the county where the child is permanently a resident or where the child is found or where an earlier order for custody of the child has been entered; or

(3) where a decree of dissolution or legal separation has been entered or paternity has been adjudicated under section 257.66, by filing a motion seeking custody or parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered.

Subd. 2.**Required notice.**

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

Subd. 3.**Summons; joint petition.**

No summons shall be required if a joint petition is filed and no summons is needed where a decree of dissolution or legal separation has been entered or paternity has been adjudicated under section 257.66.

Subd. 4.**Social Security numbers; financial documents.**

(a) In a proceeding where child support will be addressed, the petition, joint petition, or motion under subdivision 1 must be accompanied by a separate document that contains the Social Security number of each party and child. The Social Security number document must be maintained in a portion of the court file or records that are not accessible to the general public.

(b) In a proceeding where child support will be addressed, the petition, joint petition, or motion under subdivision 1 must be accompanied by separate documentation providing evidence of income for each party in accordance with section 518A.28. The income information shall be maintained in a portion of the court file or records that are not accessible to the general public.

Subd. 5.**Requirements; joint petition; recognition of parentage.**

(a) Where paternity has been recognized under section 257.75, no other alleged or presumed father exists, and the parties agree to all issues regarding custody, parenting time, and child support, the parties may proceed using a joint petition, agreement, and proposed order. A copy of the properly executed recognition of parentage form that was filed with the state registrar of vital records shall be attached to the joint petition. Chapter 518A applies to a proposed child support order in a joint petition. Parties filing a joint petition may incorporate a parenting plan subject to the requirements of section 518.1705.

(b) The joint petition shall state and allege:

(1) the name and address of each petitioner and any prior or other name used by each petitioner;

(2) that a petitioner has or both of the petitioners have:

(i) resided in this state for not less than 180 days immediately preceding the commencement of the proceeding;

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

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

(3) the name at the time of the joint petition and any prior or other name, age, and date of birth of each living minor or dependent child of the parties for whom paternity has been recognized under section 257.75;

(4) that the parties properly executed a recognition of parentage under section 257.75, which was properly filed with the state registrar of vital records, and no other alleged or presumed father exists;

(5) whether or not a separate proceeding for custody, parenting time, or child support is pending in a court in this state or elsewhere or whether a separate order for custody, parenting time, or child support exists and, if section 518A.44 applies, the public authority is in agreement with the child support petition;

(6) any temporary or permanent child support, child custody, parenting time, attorney fees, costs, and disbursements applied for without setting forth the amounts;

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

(8) the employer of each party and income from all sources for each party and whether either of the parties or child receives public assistance as defined in section 256.741 or Supplemental Security Income;

(9) whether the child has medical and dental health insurance coverage, the cost of the insurance, and which party pays for the insurance;

(10) whether there are child care expenses for the child, the cost of the expenses, and which party pays the expenses;

(11) whether either party pays child support for a nonjoint child in accordance with a court order and the amount of the support;

(12) whether either party is legally responsible for a nonjoint child as provided in section 518A.33;

(13) whether either party pays or receives spousal maintenance to or from another party, and the amount of the spousal maintenance; and

(14) whether Social Security or veterans' benefit payments are received on behalf of the child, the amount of the benefit, and which parent receives the benefit on behalf of the child.

The joint petition shall be verified by each party, and the petition's allegations established by competent evidence.

(c) The agreement must reflect an agreement on all issues of custody, parenting time, and child support, including the reasons for any deviation from the child support guidelines, and be signed by each petitioner and the public authority if section 518A.44 applies. The agreement must include a waiver to the statutory right to counsel on the issue of parentage if it applies and, if either of the parties is not represented by counsel, a waiver to the rights to genetic testing or a jury trial to determine parentage, if applicable. After issuance of the order, the issue of parentage may only be reopened by the parties in accordance with section 518.145, subdivision 2.

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Subd. 6.**Approval.**

If the joint petition, agreement, and proposed order meet the requirements of this section, filing, review, and approval by the court is determined by the provisions of section 518.13, subdivision 5.

518.157 PARENT EDUCATION PROGRAM IN PROCEEDINGS INVOLVING CHILDREN.

Subdivision 1.**Implementation; administration.**

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

Subd. 2.**Minimum standards; plan.**

The Minnesota Supreme Court should promulgate minimum standards for the implementation and administration of a parent education program.

Subd. 3.**Attendance.**

In a proceeding under this chapter where custody or parenting time is contested, the parents of a minor child shall attend a minimum of eight hours in an orientation and education program that meets the minimum standards promulgated by the Minnesota Supreme Court. In all other proceedings involving custody, support, or parenting time the

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

Subd. 4.**Sanctions.**

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

Subd. 5.**Confidentiality.**

Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors shall not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

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Subd. 6.**Fee.**

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

518.165 GUARDIANS AD LITEM FOR MINOR CHILDREN.

Subdivision 1.**Permissive appointment of guardian ad litem.**

In all proceedings for child custody or for dissolution or legal separation where custody or parenting time with a minor child is in issue, the court may appoint a guardian ad litem to represent the interests of the child. The guardian ad litem shall advise the court with respect to custody and parenting time.

Subd. 2.**Required appointment of guardian ad litem.**

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

Subd. 2a.**Responsibilities of guardian ad litem.**

A guardian ad litem shall carry out the following responsibilities:

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

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

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

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

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

Subd. 3.**Fees.**

(a) If a guardian ad litem is appointed on a fee basis, the court shall enter an order for costs, fees, and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, or disbursements which the court finds the parties are incapable of paying shall be borne by the State Guardian Ad Litem Board. In no event may the court order that costs, fees, or disbursements be paid by a party receiving public assistance or legal assistance or by a party whose annual income falls below the poverty line as established under United States Code, title 42, section 9902(2).

(b) In each fiscal year, the commissioner of management and budget shall deposit guardian ad litem reimbursements in the special revenue fund and credit them to a separate

account with the State Guardian Ad Litem Board. The balance of this account is appropriated to the State Guardian Ad Litem Board and does not cancel but is available until expended. Revenue from this account must be spent in the judicial district in which the reimbursement is collected.

Subd. 4.**Background study of guardian ad litem.**

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

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

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

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

Subd. 5.**Procedure, criminal history, and maltreatment records background study.**

(a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

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

(c) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under section 626.556, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the

Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section 626.556, subdivision 10f, or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data. When the commissioner finds no criminal history or substantiated maltreatment on a background study subject, the commissioner shall make these results available to the court electronically through the secure online background study system.

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

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Subd. 6.**Rights.**

The court shall notify the subject of a background study that the subject has the following rights:

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

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

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

518.166 INTERVIEWS.

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

In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian requests, the court may seek the recommendations of professional personnel

whether or not they are employed on a regular basis by the court. The recommendations given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination of professional personnel consulted by the court.

518.167 INVESTIGATIONS AND REPORTS.

Subdivision 1.**Court order.**

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

Subd. 2.**Preparation.**

(a) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the potential custodial arrangements except for persons involved in mediation efforts between the parties. Mediation personnel may disclose to investigators and evaluators information collected during mediation only if agreed to in writing by all parties. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, school personnel, or other expert persons who have served the child in the past after obtaining the consent of the parents or the child's custodian or guardian.

(b) The report submitted by the investigator must:

(1) state the position of each party;

(2) consider and evaluate the factors in section 518.17, subdivision 1;

(3) include a detailed analysis of all information considered for each factor;

(4) state the investigator's recommendation and the reason for the recommendation; and

(5) reference established means for dispute resolution between the parties.

Subd. 3.**Availability to counsel.**

The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days before the hearing. The investigator shall maintain and, upon request, make available to counsel and to a party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subdivision 2, and the names and addresses of all persons whom the investigator has consulted. The investigator and any person the investigator has consulted is subject to other pretrial discovery in accordance with the requirements of the Minnesota Rules of Civil Procedure. Mediation proceedings are not

subject to discovery without written consent of both parties. A party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the right of cross-examination before the hearing.

Subd. 4.**Use at hearing.**

The investigator's report may be received in evidence at the hearing.

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Subd. 5.**Costs.**

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

518.168 HEARINGS.

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

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

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

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

(e) At the first hearing or at an initial appearance before the court under this chapter, the court shall provide an information sheet to the parties explaining:

(1) in cases where alternative dispute resolution is required under General Rules of Practice, rule 310.01, that the parties have the choice of using alternative dispute resolution methods including mediation, arbitration, and other processes to resolve the divorce or custody matter;

(2) how mediation and other available forms of alternative dispute resolution for family law cases work;

(3) that the parties may choose which method of alternative dispute resolution to use; and

(4) that the court administrator is able to provide additional information about resources for alternative dispute resolution.

Each party who is present at the first hearing or at an initial appearance must receive a copy of the information sheet from the court.

(f) The state court administrator shall prepare an alternative dispute resolution information sheet that the court must use to satisfy the requirements of paragraph (e).

518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.

Subdivision 1.**Best interests of the child.**

(a) In evaluating the best interests of the child for purposes of determining issues of custody and parenting time, the court must consider and evaluate all relevant factors, including:

(1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;

(2) any special medical, mental health, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;

(3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;

(4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;

(5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;

(6) the history and nature of each parent's participation in providing care for the child;

(7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;

(8) the effect on the child's well-being and development of changes to home, school, and community;

(9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;

(10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;

(11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and

(12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.

(b) Clauses (1) to (9) govern the application of the best interests of the child factors by the court:

(1) The court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time. The court may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated.

(2) The court shall consider that it is in the best interests of the child to promote the child's healthy growth and development through safe, stable, nurturing relationships between a child and both parents.

(3) The court shall consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise. In assessing whether parents are capable of sustaining nurturing relationships with their children, the court shall recognize that there are many ways that parents can respond to a child's needs with sensitivity and provide the child love and guidance, and these may differ between parents and among cultures.

(4) The court shall not consider conduct of a party that does not affect the party's relationship with the child.

(5) Disability alone, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child.

(6) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(7) There is no presumption for or against joint physical custody, except as provided in clause (9).

(8) Joint physical custody does not require an absolutely equal division of time.

(9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement

alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).

(c) In a proceeding involving the custodial responsibility of a service member's child, a court may not consider only a parent's past deployment or possible future deployment in determining the best interests of the child. For purposes of this paragraph, "custodial responsibility" has the meaning given in section 518E.102, paragraph (f).

518.1705 PARENTING PLANS.

Subdivision 1.**Definition.**

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

Subd. 2.**Plan elements.**

(a) A parenting plan must include the following:

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

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

(3) a method of dispute resolution.

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

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

Subd. 3.**Creating parenting plan; restrictions on creation; alternative.**

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

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

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

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

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

Subd. 4.**Custody designation.**

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

Subd. 5.**Role of court.**

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

Subd. 6.**Restrictions on preparation of parenting plan.**

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

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

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

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

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

518.175 PARENTING TIME.

Subdivision 1.**General.**

(a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child. The court, when issuing a parenting time order, may reserve a determination as to the future establishment or expansion of a parent's parenting time. In that event, the best interest standard set forth in subdivision 5, paragraph (a), shall be applied to a subsequent motion to establish or expand parenting time.

(b) 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.

(c) 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.

(d) 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.

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

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

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

Subd. 1a.**Domestic abuse; supervised parenting time.**

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

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

518.1751 PARENTING TIME DISPUTE RESOLUTION.

Subdivision 1.**Parenting time expeditor.**

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

Subd. 1a.**Exceptions.**

A party may not be required to refer a parenting time dispute to a parenting time expeditor under this section if:

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

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

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

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

Subd. 1b.**Purpose; definitions.**

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

(b) For purposes of this section, "parenting time dispute" means a disagreement among parties about parenting time with a child, including a dispute about an anticipated denial of

future scheduled parenting time. "Parenting time dispute" includes a claim by a parent that the other parent is not spending time with a child as well as a claim by a parent that the other parent is denying or interfering with parenting time.

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

Subd. 2.**Appointment.**

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

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

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

Subd. 2a.**Fees.**

Prior to appointing the parenting time expeditor, the court shall give the parties notice that the fees of the expeditor will be apportioned among the parties. In its order appointing the expeditor, the court shall apportion the fees of the expeditor among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is

not a court order that provides for apportionment of the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the fees of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the fees of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Subd. 2b.**Roster of parenting time expeditors.**

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

Subd. 2c.**Training and continuing education requirements.**

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

Subd. 3.**Agreement or decision.**

(a) Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting time expeditor shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. If a parenting time dispute requires immediate resolution, the parenting time expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a

party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

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

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

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

Subd. 4.**Other agreements.**

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

Subd. 4a.**Confidentiality.**

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

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

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

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

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

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

Subd. 5.**Immunity.**

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

Subd. 5a.**Removal.**

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

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Subd. 6.**Mandatory parenting time dispute resolution.**

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

518.1752 GRANDPARENT VISITATION.

In all proceedings for dissolution or legal separation, after the commencement of the proceeding or at any time after completion of the proceedings, and continuing during the minority of the child, the court may make an order granting visitation rights to grandparents under section 257C.08, subdivision 2.

518.176 JUDICIAL SUPERVISION.

Subdivision 1.**Limits on parent's authority; hearing.**

Except as otherwise agreed by the parties in writing at the time of the custody order, the parent with whom the child resides may determine the child's upbringing, including

education, health care, and religious training, unless the court after hearing, finds, upon motion by the other parent, that in the absence of a specific limitation of the authority of the parent with whom the child resides, the child's physical or emotional health is likely to be endangered or the child's emotional development impaired.

Subd. 2.**Court order.**

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

518.1781 SIX-MONTH REVIEW.

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

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

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

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

(1) whether child support is current; and

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

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

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

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

518.179 PARTICIPATION IN CUSTODY OR PARENTING TIME WHEN PERSON CONVICTED OF CERTAIN OFFENSES.

Subdivision 1.**Seeking custody or parenting time.**

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

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

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

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

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

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Subd. 2.**Applicable crimes.**

This section applies to the following crimes or similar crimes under the laws of the United States, or any other state:

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

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

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

(4) kidnapping under section 609.25;

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

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

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

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

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

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

(11) incest under section 609.365;

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

(13) neglect of a child under section 609.378;

(14) terroristic threats under section 609.713;

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

(16) domestic assault by strangulation under section 609.2247.

518.18 MODIFICATION OF ORDER.

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

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

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

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

(ii) both parties agree to the modification;

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

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

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

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

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

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

518.619 CUSTODY OR VISITATION; MEDIATION SERVICES.

Subdivision 1.**Mediation proceeding.**

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

Subd. 2.**Exception.**

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

Subd. 3.**Mediator appointment.**

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

Subd. 4.**Mediator qualifications.**

A mediator who performs mediation in contested child custody matters shall meet the following minimum qualifications:

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

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

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

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

Subd. 5.**Records; private data.**

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

Subd. 6.**Mediator recommendations.**

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

Subd. 7.**Mediation agreement.**

An agreement reached by the parties as a result of mediation shall be discussed by the parties with their attorneys, if any, and the approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. An agreement reached

by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.

Subd. 8.**Rules.**

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