

STATE OF MINNESOTA

IN SUPREME COURT

CX-89-1863, C6-84-2134

PROMULGATION OF AMENDMENTS
TO THE MINNESOTA GENERAL RULES OF PRACTICE
FOR THE DISTRICT COURTS, TITLE IV, RULES OF
FAMILY COURT, FORM 3--APPENDIX A

ORDER

WHEREAS, a *Parental Guide for Making Child-Focused Visitation Decisions* was recently prepared by the Minnesota Supreme Court Advisory Task Force on Visitation and Child Support Enforcement and approved by the Minnesota Conference of Chief Judges; and

WHEREAS, pursuant to 1999 Minnesota Session Laws, chapter 245, article 7, sections 12 - 21, the legislature made procedural and substantive changes regarding the entry and docketing of judgments for child support and spousal maintenance; and

WHEREAS, pursuant to Pub.L. No. 105-34, 111 Stat. 836, Congress made changes to the exclusion of capital gain on the sale of a principal residence set forth in 26 U.S.C. § 121;


WHEREAS, the above require modification to the advisory codified in the General Rules of Practice for the District Courts, Title IV, Rules of Family Court, Form 3--Appendix A; and

WHEREAS, the Supreme Court is fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached amendments to the General Rules of Practice for the District Courts, Title IV, Rules of Family Court, Form 3--Appendix A, be, and the same hereby are, prescribed and promulgated to be effective immediately.

DATED: August 6, 1999

BY THE COURT:



Kathleen M. Blatz
Chief Justice

OFFICE OF
APPELLATE COURTS

AUG - 6 1999

FILED

FORM 3. APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. ACCORDING TO MINNESOTA STATUTES, SECTION 518.551, SUBDIVISION 1, PAYMENTS ORDERED FOR MAINTENANCE AND SUPPORT MUST BE PAID TO THE PUBLIC AGENCY RESPONSIBLE FOR CHILD SUPPORT ENFORCEMENT AS LONG AS THE PERSON ENTITLED TO RECEIVE THE PAYMENTS IS RECEIVING OR HAS APPLIED FOR PUBLIC ASSISTANCE OR HAS APPLIED FOR SUPPORT AND MAINTENANCE COLLECTION SERVICES. MAIL PAYMENTS TO: _____

AT _____

(public authority)

(address)

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY. A PERSON MAY BE CHARGED WITH A FELONY WHO CONCEALS A MINOR CHILD OR TAKES, OBTAINS, RETAINS, OR FAILS TO RETURN A MINOR CHILD FROM OR TO THE CHILD'S PARENT (OR PERSON WITH CUSTODIAL OR VISITATION RIGHTS), ACCORDING TO MINNESOTA STATUTES, SECTION 609.26. A COPY OF THAT SECTION IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

III. RULES OF SUPPORT, MAINTENANCE, VISITATION.

- A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.
- B. 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 nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.
- C. Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.
- D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.
- E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.
- F. Child support or 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 throughout the year as ordered.
- G. If there is a layoff or pay reduction, support may be reduced as of the time of the layoff or reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, part (ed).
- H. A Parental Guide to Making Child-Focused Visitation Decisions is available from any court administrator.

IV. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

- A. 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. Each party has the right of access to information regarding health or dental insurance available to 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.
- B. Each party shall keep the other 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.
- C. 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.
- D. Each party has the right of reasonable access and telephone contact with the minor children.

V. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. CHILD SUPPORT AND / OR SPOUSAL MAINTENANCE MAY BE WITHHELD FROM INCOME, WITH OR WITHOUT NOTICE TO THE PERSON OBLIGATED TO PAY, WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 518.6111, HAVE BEEN MET. A COPY OF THAT SECTION IS AVAILABLE FROM ANY COURT

ADMINISTRATOR.

VI. CHANGE OF ADDRESS OR RESIDENCE. UNLESS OTHERWISE ORDERED, EACH PARTY SHALL NOTIFY THE OTHER PARTY, THE COURT, AND THE PUBLIC AUTHORITY RESPONSIBLE FOR COLLECTION, IF APPLICABLE, OF THE FOLLOWING INFORMATION WITHIN TEN DAYS OF ANY CHANGE: ~~THE~~ RESIDENTIAL AND MAILING ADDRESS, TELEPHONE NUMBER, DRIVER'S LICENSE NUMBER, SOCIAL SECURITY NUMBER, AND NAME, ADDRESS, AND TELEPHONE NUMBER OF THE EMPLOYER.

VII. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. CHILD SUPPORT AND / OR SPOUSAL MAINTENANCE MAY BE ADJUSTED EVERY TWO YEARS BASED UPON A CHANGE IN THE COST OF LIVING (USING THE U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX MPLS. ST. PAUL, FOR ALL URBAN CONSUMERS (CPI-U), UNLESS OTHERWISE SPECIFIED IN THIS ORDER) WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 518.641, ARE MET. COST OF LIVING INCREASES ARE COMPOUNDED. A COPY OF MINNESOTA STATUTES, SECTION 518.641, AND FORMS NECESSARY TO REQUEST OR CONTEST A COST OF LIVING INCREASE ARE AVAILABLE FROM ANY COURT ADMINISTRATOR.

VIII. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. ACCORDING TO MINNESOTA STATUTES, SECTION 548.091:

- A. If 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 or 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 judgement without notice to the person responsible to make the payment.
- B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

IX. JUDGMENTS FOR UNPAID MAINTENANCE. A JUDGMENT FOR UNPAID SPOUSAL MAINTENANCE MAY BE ENTERED AND DOCKETED WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 548.091, ARE MET. A COPY OF THAT SECTION IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

X. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A JUDGMENT FOR ATTORNEY FEES AND OTHER COLLECTION COSTS INCURRED IN ENFORCING A CHILD SUPPORT ORDER WILL BE ENTERED AGAINST THE PERSON RESPONSIBLE TO PAY SUPPORT WHEN THE CONDITIONS OF MINNESOTA STATUTES, SECTION 518.14, SUBDIVISION 2, ARE MET. A COPY OF THAT SECTION AND FORMS NECESSARY TO REQUEST OR CONTEST THESE ATTORNEY FEES AND COLLECTION COSTS ARE AVAILABLE FROM ANY COURT ADMINISTRATOR.

XI. CAPITAL GAIN ON SALE OF PRINCIPAL RESIDENCE. INCOME TAX LAWS REGARDING THE CAPITAL GAIN TAX MAY APPLY TO THE SALE OF THE PARTIES' PRINCIPAL RESIDENCE AND THE PARTIES MAY WISH TO CONSULT WITH AN ATTORNEY OR TAX ADVISOR CONCERNING THE APPLICABLE LAWS. THESE LAWS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE EXCLUSION AVAILABLE ON THE SALE OF A PRINCIPAL RESIDENCE ~~FOR THOSE OVER A CERTAIN AGE UNDER SECTION 121 OF THE INTERNAL REVENUE CODE OF 1986~~ FEDERAL LAW, INCLUDING TITLE 26, UNITED STATES CODE, SECTION 121, OR OTHER APPLICABLE LAW.

XII. VISITATION EXPEDITER PROCESS. ON REQUEST OF EITHER PARTY OR ON ITS OWN MOTION, THE COURT MAY APPOINT A VISITATION EXPEDITER TO RESOLVE VISITATION DISPUTES UNDER MINNESOTA STATUTES, SECTION 518.1751. A COPY OF THAT SECTION AND A DESCRIPTION OF THE EXPEDITER PROCESS IS AVAILABLE FROM ANY COURT ADMINISTRATOR.

XIII. VISITATION REMEDIES AND PENALTIES. REMEDIES AND PENALTIES FOR WRONGFUL DENIAL OF VISITATION RIGHTS ARE AVAILABLE UNDER MINNESOTA STATUTES, SECTION 518.175, SUBDIVISION 6. THESE INCLUDE COMPENSATORY VISITATION; CIVIL PENALTIES; BOND

REQUIREMENTS; CONTEMPT; AND REVERSAL OF CUSTODY. A COPY OF THAT SUBDIVISION AND FORMS FOR REQUESTING RELIEF ARE AVAILABLE FROM ANY COURT ADMINISTRATOR.