

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **446**

01/29/2015 Authored by Mahoney, Scott, Norton and Laine
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

02/25/2015 Adoption of Report: Re-referred to the Committee on Taxes

03/09/2015 Adoption of Report: Re-referred to the Committee on Public Safety and Crime Prevention Policy and Finance

03/23/2015 Adoption of Report: Placed on the General Register as Amended
Read Second Time

1.1 A bill for an act
1.2 relating to family law; allowing allocation of income tax dependency exemptions
1.3 in child support matters; amending Minnesota Statutes 2014, section 518A.38,
1.4 by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2014, section 518A.38, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 7. **Income tax dependency exemptions.** (a) The court may allocate income
1.9 tax dependency exemptions for a child and require a party who has the child in the
1.10 party's physical custody for more than one-half of the calendar year to provide a properly
1.11 executed declaration that releases the party's claim to the child as a dependent under
1.12 section 152(e) of the Internal Revenue Code of 1986, as amended, to the other parent.

1.13 (b) In determining the allocation under paragraph (a), the court shall consider the
1.14 following:

1.15 (1) the financial resources of each party;

1.16 (2) if not awarding the dependency exemption negatively impacts a parent's ability
1.17 to provide for the needs of the child;

1.18 (3) if only one party or both parties would receive a tax benefit from the dependency
1.19 exemption; and

1.20 (4) the impact of the dependent exemption on either party's ability to claim a
1.21 premium tax credit or a premium subsidy under the federal Patient Protection and
1.22 Affordable Care Act, Public Law 111-148, as amended, including the federal Health Care
1.23 and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to,
1.24 and any federal guidance or regulations issued under, these acts.

2.1 (c) The court may place reasonable conditions on a party's right to claim an
2.2 exemption, including a requirement that the party remains in compliance with a child
2.3 support obligation.

2.4 (d) A party with less than ten percent of court-ordered parenting time shall not be
2.5 entitled to receive a dependency exemption except by agreement of the parties.

2.6 (e) The court may issue an order to modify a prior allocation of an income tax
2.7 dependency exemption upon a showing of substantial change in the factors under
2.8 paragraph (b).

2.9 (f) If allocation of an exemption is contested, the court must make findings
2.10 supporting its decision on the allocation.

2.11 (g) When a party has claimed an income tax dependency exemption in violation of
2.12 a court order or applicable law, or has failed or refused to provide a properly executed
2.13 written declaration that releases the party's claim to a child as a dependent to the other
2.14 party as required by a court order, the court may issue an order requiring compensation in
2.15 the amount of the lost benefit and costs and reasonable attorney fees, to the party who
2.16 was wrongfully deprived of the income tax dependency exemption. A motion for such
2.17 relief must be brought within a reasonable time, but in no event later than three years from
2.18 the date of the filing of the return in which the exemption was claimed or could have
2.19 been claimed. A party who brings a meritless motion for such relief may be ordered to
2.20 pay costs and reasonable attorney fees to the other party.