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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1436

02/22/2021 Authored by Hanson, J., The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying child support provisions; amending
1.3 Minnesota Statutes 2020, section 256.741, by adding subdivisions; proposing
1.4 coding for new law in Minnesota Statutes, chapter 518A.

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

1.6 Section 1. Minnesota Statutes 2020, section 256.741, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 12a. Appeals of good cause determinations. According to section 256.045, an
1.9 individual may appeal the determination or redetermination of good cause under this section.
1.10 To initiate an appeal of a good cause determination or redetermination, the individual must
1.11 make a request for a state agency hearing in writing within 30 calendar days after the date
1.12 that a notice of denial for good cause is mailed or otherwise transmitted to the individual.
1.13 Until a human services judge issues a decision under section 256.0451, subdivision 22, the
1.14 child support agency shall cease all child support enforcement efforts and shall not report
1.15 the individual's noncooperation to public assistance agencies.

1.16 Sec. 2. Minnesota Statutes 2020, section 256.741, is amended by adding a subdivision to
1.17 read:

1.18 Subd. 12b. Reporting noncooperation. The public authority may issue a notice of the
1.19 individual's noncooperation to each public assistance agency providing public assistance
1.20 to the individual if:

1.21 (1) 30 calendar days have passed since the later of the initial county denial or the date
1.22 of the denial following the state agency hearing; or

2.1 (2) the individual has not cooperated with the child support agency as required in
 2.2 subdivision 5.

2.3 **Sec. 3. [518A.80] MOTION TO TRANSFER TO TRIBAL COURT.**

2.4 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
 2.5 subdivision have the meanings given.

2.6 (b) "Case participant" means a person who is a party to the case.

2.7 (c) "District court" means a district court of the state of Minnesota.

2.8 (d) "Party" means a person or entity named or admitted as a party or seeking to be
 2.9 admitted as a party in the district court action, including the county IV-D agency, regardless
 2.10 of whether the person or entity is named in the caption.

2.11 (e) "Tribal court" means a tribal court of a federally recognized Indian tribe located in
 2.12 Minnesota that is receiving funding from the federal government to operate a child support
 2.13 program under United States Code, title 42, chapter 7, subchapter IV, part D, sections 654
 2.14 to 669b.

2.15 (f) "Tribal IV-D agency" has the meaning given in Code of Federal Regulations, title
 2.16 45, part 309.05.

2.17 (g) "Title IV-D child support case" has the meaning given in section 518A.26, subdivision
 2.18 10.

2.19 Subd. 2. **Actions eligible for transfer.** Under this section, a postjudgment child support,
 2.20 custody, or parenting time action is eligible for transfer to a tribal court. This section does
 2.21 not apply to a child protection action or a dissolution action involving a child.

2.22 Subd. 3. **Motion to transfer.** (a) A party's or tribal IV-D agency's motion to transfer a
 2.23 child support, custody, or parenting time action to a tribal court shall include:

2.24 (1) the address of each case participant;

2.25 (2) the tribal affiliation of each case participant, if applicable;

2.26 (3) the name, tribal affiliation if applicable, and date of birth of each living minor or
 2.27 dependent child of a case participant who is subject to the action; and

2.28 (4) the legal and factual basis for the court to find that the district court and a tribal court
 2.29 have concurrent jurisdiction in the case.

2.30 (b) A party or tribal IV-D agency bringing a motion to transfer a child support, custody,
 2.31 or parenting time action to a tribal court must file the motion with the district court and

3.1 serve the required documents on each party and the tribal IV-D agency, regardless of whether
3.2 the tribal IV-D agency is a party to the action.

3.3 (c) A party's or tribal IV-D agency's motion to transfer a child support, custody, or
3.4 parenting time action to a tribal court must be accompanied by an affidavit setting forth
3.5 facts in support of the motion.

3.6 (d) When a party other than the tribal IV-D agency has filed a motion to transfer a child
3.7 support, custody, or parenting time action to a tribal court, an affidavit of the tribal IV-D
3.8 agency stating whether the tribal IV-D agency provides services to a party must be filed
3.9 and served on each party within 15 days from the date of service of the motion to transfer
3.10 the action.

3.11 Subd. 4. **Order to transfer to tribal court.** (a) Unless a district court holds a hearing
3.12 under subdivision 6, upon motion of a party or a tribal IV-D agency, a district court must
3.13 transfer a postjudgment child support, custody, or parenting time action to a tribal court
3.14 when the district court finds that:

3.15 (1) the district court and tribal court have concurrent jurisdiction of the action;

3.16 (2) a case participant in the action is receiving services from the tribal IV-D agency; and

3.17 (3) no party or tribal IV-D agency files and serves a timely objection to transferring the
3.18 action to a tribal court.

3.19 (b) When the district court finds that each requirement of this subdivision is satisfied,
3.20 the district court is not required to hold a hearing on the motion to transfer the action to a
3.21 tribal court. The district court's order transferring the action to a tribal court must include
3.22 written findings that describe how each requirement of this subdivision is met.

3.23 Subd. 5. **Objection to motion to transfer.** (a) To object to a motion to transfer a child
3.24 support, custody, or parenting time action to a tribal court, a party or tribal IV-D agency
3.25 must file with the court and serve on each party and the tribal IV-D agency a responsive
3.26 motion objecting to the motion to transfer within 30 days of the motion to transfer's date of
3.27 service.

3.28 (b) If a party or tribal IV-D agency files with the district court and properly serves a
3.29 timely objection to the motion to transfer a child support, custody, or parenting time action
3.30 to a tribal court, the district court must hold a hearing on the motion.

3.31 Subd. 6. **Hearing.** If a district court holds a hearing under this section, the district court
3.32 must evaluate and make written findings about all relevant factors, including:

4.1 (1) whether an issue requires interpretation of tribal law, including the tribal constitution,
4.2 statutes, bylaws, ordinances, resolutions, treaties, or case law;

4.3 (2) whether the action involves tribal traditional or cultural matters;

4.4 (3) whether the tribe is a party to the action;

4.5 (4) whether tribal sovereignty, jurisdiction, or territory is an issue in the action;

4.6 (5) the tribal membership status of each case participant in the action;

4.7 (6) where the claim arises that forms the basis of the action;

4.8 (7) the location of the residence of each case participant in the action and each child
4.9 who is a subject of the action;

4.10 (8) whether the parties have by contract chosen a forum or the law to be applied in the
4.11 event of a dispute;

4.12 (9) the timing of any motion to transfer the action to a tribal court, each party's
4.13 expenditure of time and resources, the court's expenditure of time and resources, and the
4.14 district court's scheduling order;

4.15 (10) which court will hear and decide the action more expeditiously;

4.16 (11) the burden on each party if the court transfers the action to a tribal court, including
4.17 costs, access to and admissibility of evidence, and matters of procedure; and

4.18 (12) any other factor that the court determines to be relevant.

4.19 Subd. 7. **Future exercise of jurisdiction.** Nothing in this section shall be construed to
4.20 limit the district court's exercise of jurisdiction when the tribal court waives jurisdiction,
4.21 transfers the action back to district court, or otherwise declines to exercise jurisdiction over
4.22 the action.

4.23 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D
4.24 agency brings a motion to transfer a child support, custody, or parenting time action to the
4.25 Red Lake Nation Tribal Court, the court must transfer the action to the Red Lake Nation
4.26 Tribal Court if the case participants and child resided within the boundaries of the Red Lake
4.27 Reservation for six months preceding the motion to transfer the action to the Red Lake
4.28 Nation Tribal Court.

4.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.