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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3299**

March 1, 2010

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The bill was read for the first time and referred to the Committee on Civil Justice

March 11, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to child support enforcement; authorizing certain actions by a public
1.3 authority; requiring a notice; imposing certain duties; amending Minnesota
1.4 Statutes 2008, section 518A.46, subdivision 5, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2008, section 518A.46, subdivision 5, is amended to
1.7 read:

1.8 Subd. 5. **Administrative authority.** (a) The public authority may take the
1.9 following actions relating to establishment of paternity or to establishment, modification,
1.10 or enforcement of support orders, without the necessity of obtaining an order from any
1.11 judicial or administrative tribunal:

1.12 (1) recognize and enforce orders of child support agencies of other states;

1.13 (2) upon request for genetic testing by a child, parent, or any alleged parent, and
1.14 using the procedure in paragraph (b), order the child, parent, or alleged parent to submit to
1.15 blood or genetic testing for the purpose of establishing paternity;

1.16 (3) subpoena financial or other information needed to establish, modify, or enforce a
1.17 child support order and sanction a party for failure to respond to a subpoena;

1.18 (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor
1.19 or other payor to change the payee to the central collections unit under sections 518A.54
1.20 to 518A.56;

1.21 (5) order income withholding of child support under section 518A.53 and sanction
1.22 an employer or payor of funds pursuant to section 393.07, subdivision 9a, for failing to
1.23 comply with an income withholding notice;

2.1 (6) secure assets to satisfy the debt or arrearage in cases in which there is a support
2.2 debt or arrearage by:

2.3 (i) intercepting or seizing periodic or lump-sum payments from state or local
2.4 agencies, including unemployment benefits, workers' compensation payments, judgments,
2.5 settlements, lotteries, and other lump-sum payments;

2.6 (ii) attaching and seizing assets of the obligor held in financial institutions or public
2.7 or private retirement funds; and

2.8 (iii) imposing liens in accordance with section 548.091 and, in appropriate cases,
2.9 forcing the sale of property and the distribution of proceeds;

2.10 (7) for the purpose of securing overdue support, increase the amount of the monthly
2.11 support payments by an additional amount equal to 20 percent of the monthly support
2.12 payment to include amounts for debts or arrearages; ~~and~~

2.13 (8) subpoena an employer or payor of funds to provide promptly information on the
2.14 employment, compensation, and benefits of an individual employed by that employer as
2.15 an employee or contractor, and sanction an employer or payor of funds pursuant to section
2.16 393.07, subdivision 9a, for failure to respond to the subpoena; and

2.17 (9) redirect basic support, medical support, and child care support to a caregiver
2.18 using the procedures in subdivision 7. As used in this clause, "caregiver" means a person
2.19 or entity now caring for the child:

2.20 (i) as a result of a voluntary placement agreement under section 260C.212,
2.21 subdivision 8, that does not address redirection of child support;

2.22 (ii) as a result of a court-ordered placement that does not address redirection of
2.23 child support; or

2.24 (iii) receiving public assistance as defined in section 256.741, subdivision 1, for
2.25 the child.

2.26 (b) A request for genetic testing by a child, parent, or alleged parent must be
2.27 supported by a sworn statement by the person requesting genetic testing alleging paternity,
2.28 which sets forth facts establishing a reasonable possibility of the requisite sexual contact
2.29 between the parties, or denying paternity, and setting forth facts establishing a reasonable
2.30 possibility of the nonexistence of sexual contact between the alleged parties. The order for
2.31 genetic tests may be served anywhere within the state and served outside the state in the
2.32 same manner as prescribed by law for service of subpoenas issued by the district court of
2.33 this state. If the child, parent, or alleged parent fails to comply with the genetic testing
2.34 order, the public authority may seek to enforce that order in district court through a motion
2.35 to compel testing. No results obtained through genetic testing done in response to an order
2.36 issued under this section may be used in any criminal proceeding.

3.1 (c) Subpoenas may be served anywhere within the state and served outside the
3.2 state in the same manner as prescribed by law for service of process of subpoenas issued
3.3 by the district court of this state. When a subpoena under this subdivision is served on
3.4 a third-party record keeper, written notice of the subpoena shall be mailed to the person
3.5 who is the subject of the subpoenaed material at the person's last known address within
3.6 three days of the day the subpoena is served. This notice provision does not apply if there
3.7 is reasonable cause to believe the giving of the notice may lead to interference with the
3.8 production of the subpoenaed documents.

3.9 (d) A person served with a subpoena may make a written objection to the public
3.10 authority or court before the time specified in the subpoena for compliance. The public
3.11 authority or the court shall cancel or modify the subpoena, if appropriate. The public
3.12 authority shall pay the reasonable costs of producing the documents, if requested.

3.13 (e) Subpoenas are enforceable in the same manner as subpoenas of the district court.
3.14 Upon motion of the county attorney, the court may issue an order directing the production
3.15 of the records. Failure to comply with the court order may subject the person who fails to
3.16 comply to civil or criminal contempt of court.

3.17 (f) The administrative actions under this subdivision are subject to due process
3.18 safeguards, including requirements for notice, opportunity to contest the action, and
3.19 opportunity to appeal the order to the judge, judicial officer, or child support magistrate.

3.20 Sec. 2. Minnesota Statutes 2008, section 518A.46, is amended by adding a subdivision
3.21 to read:

3.22 Subd. 7. **Administrative redirection of support.** (a) The public authority must
3.23 provide written notice of redirection to the obligee, the obligor, and the caregiver. The
3.24 notice must be mailed to the obligor, obligee, and caregiver at the obligee's, the obligor's,
3.25 and the caregiver's respective last known address. The notice must state the name of
3.26 the child or children for whom support will be redirected, to whom the support will be
3.27 redirected, the date the support will be redirected, and the amount of the support that will
3.28 be redirected. The notice must also inform the parties of the right to contest the redirection
3.29 of support according to paragraph (c).

3.30 (b) If fewer than all of the children for whom the support is ordered reside with the
3.31 caregiver, the public authority must redirect the proportional share of the support for the
3.32 number of children residing with the caregiver.

3.33 (c) The obligee or obligor may contest the redirection of support on the limited
3.34 grounds that:

3.35 (1) the child or children do not reside or no longer reside with the caregiver;

4.1 (2) under an out-of-home placement plan under section 260C.212, subdivision 1,
4.2 that includes a plan for reunification, all or part of the support is needed to maintain the
4.3 obligee's home; or

4.4 (3) the redirection of child support is not in the best interests of the child or children.

4.5 (d) To contest the redirection, the obligee or obligor must make a written request for
4.6 a hearing to the public authority within 30 calendar days of the date of the written notice of
4.7 redirection. The hearing must be held at the earliest practicable time, but no later than 30
4.8 calendar days from the date the public authority receives the written request for a hearing.
4.9 If the public authority receives a timely written request for a hearing, the public authority
4.10 must schedule a hearing and serve the obligee and the obligor with a notice of hearing at
4.11 least 14 days before the date of the hearing. The notice must be served personally or by
4.12 mail at the obligee's and the obligor's respective last known address. The public authority
4.13 must file with the court the notice of hearing along with the notice of redirection at least
4.14 five days before the scheduled hearing. The court administrator must schedule these
4.15 hearings to be heard in the expedited process before a child support magistrate, but may
4.16 schedule these hearings in district court if the availability of a child support magistrate
4.17 does not permit a hearing to occur within the time frames of this subdivision.

4.18 (e) If neither the obligee nor the obligor contests the redirection of support under this
4.19 subdivision, support must be redirected to the caregiver effective the first day of the month
4.20 following the expiration of the time period to contest under paragraph (d). If the obligee
4.21 or the obligor contests the redirection of support under paragraph (d), the public authority
4.22 must not redirect support to the caregiver pending the outcome of the hearing.

4.23 (f) The redirection of the basic support, medical support, and child care support
4.24 terminates and the public authority must direct support to the obligee effective the first day
4.25 of the month following the date when the public authority determines:

4.26 (1) the caregiver for the child no longer receives public assistance for the child;

4.27 (2) the voluntary placement agreement expires; or

4.28 (3) the court order placing the child is no longer in effect.

4.29 (g) The public authority must provide the obligee, obligor, and caregiver with
4.30 14 calendar days notice of the termination of the redirection of basic support, medical
4.31 support, and child care support by mailing written notice to the parties and the caregiver at
4.32 their last known addresses. The termination of the redirection of basic support, medical
4.33 support, and child care support shall be effective the first day of the month following the
4.34 completion of the 14 calendar day period.

4.35 **Sec. 3. EFFECTIVE DATE.**

5.1 Sections 1 and 2 are effective January 1, 2011.