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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3390

03/05/2018 Authored by Scott
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

1.1 A bill for an act
1.2 relating to children; modifying interest charges on child support arrearages;
1.3 amending Minnesota Statutes 2016, sections 518.68, subdivision 2; 518A.53,
1.4 subdivision 4; 518A.59; 548.091, subdivision 1a.

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

1.6 Section 1. Minnesota Statutes 2016, section 518.68, subdivision 2, is amended to read:

1.7 Subd. 2. **Contents.** The required notices must be substantially as follows:

1.8 IMPORTANT NOTICE

1.9 1. PAYMENTS TO PUBLIC AGENCY

1.10 According to Minnesota Statutes, section 518A.50, payments ordered for maintenance
1.11 and support must be paid to the public agency responsible for child support enforcement
1.12 as long as the person entitled to receive the payments is receiving or has applied for
1.13 public assistance or has applied for support and maintenance collection services. MAIL
1.14 PAYMENTS TO:

1.15 2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

1.16 A person may be charged with a felony who conceals a minor child or takes, obtains,
1.17 retains, or fails to return a minor child from or to the child's parent (or person with
1.18 custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy
1.19 of that section is available from any district court clerk.

1.20 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

1.21 A person who fails to pay court-ordered child support or maintenance may be charged
1.22 with a crime, which may include misdemeanor, gross misdemeanor, or felony charges,

2.1 according to Minnesota Statutes, section 609.375. A copy of that section is available
2.2 from any district court clerk.

2.3 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

2.4 (a) Payment of support or spousal maintenance is to be as ordered, and the giving of
2.5 gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

2.6 (b) Payment of support must be made as it becomes due, and failure to secure or denial
2.7 of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek
2.8 relief through a proper motion filed with the court.

2.9 (c) Nonpayment of support is not grounds to deny parenting time. The party entitled to
2.10 receive support may apply for support and collection services, file a contempt motion,
2.11 or obtain a judgment as provided in Minnesota Statutes, section 548.091.

2.12 (d) The payment of support or spousal maintenance takes priority over payment of debts
2.13 and other obligations.

2.14 (e) A party who accepts additional obligations of support does so with the full knowledge
2.15 of the party's prior obligation under this proceeding.

2.16 (f) Child support or maintenance is based on annual income, and it is the responsibility
2.17 of a person with seasonal employment to budget income so that payments are made
2.18 throughout the year as ordered.

2.19 (g) Reasonable parenting time guidelines are contained in Appendix B, which is available
2.20 from the court administrator.

2.21 (h) The nonpayment of support may be enforced through the denial of student grants;
2.22 interception of state and federal tax refunds; suspension of driver's, recreational, and
2.23 occupational licenses; referral to the department of revenue or private collection agencies;
2.24 seizure of assets, including bank accounts and other assets held by financial institutions;
2.25 reporting to credit bureaus; interest charging, income withholding, and contempt
2.26 proceedings; and other enforcement methods allowed by law.

2.27 (i) The public authority may suspend or resume collection of the amount allocated for
2.28 child care expenses if the conditions of section 518A.40, subdivision 4, are met.

2.29 (j) The public authority may remove or resume a medical support offset if the conditions
2.30 of section 518A.41, subdivision 16, are met.

2.31 (k) The public authority may ~~suspend or resume~~ collect interest charging on child support
2.32 judgments if the conditions of section 548.091, subdivision 1a, are met.

3.1 5. MODIFYING CHILD SUPPORT

3.2 If either the obligor or obligee is laid off from employment or receives a pay reduction,
3.3 child support may be modified, increased, or decreased. Any modification will only take
3.4 effect when it is ordered by the court, and will only relate back to the time that a motion
3.5 is filed. Either the obligor or obligee may file a motion to modify child support, and may
3.6 request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD
3.7 SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE
3.8 COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

3.9 6. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
3.10 SUBDIVISION 3

3.11 Unless otherwise provided by the Court:

3.12 (a) Each party has the right of access to, and to receive copies of, school, medical, dental,
3.13 religious training, and other important records and information about the minor children.

3.14 Each party has the right of access to information regarding health or dental insurance
3.15 available to the minor children. Presentation of a copy of this order to the custodian of
3.16 a record or other information about the minor children constitutes sufficient authorization
3.17 for the release of the record or information to the requesting party.

3.18 (b) Each party shall keep the other informed as to the name and address of the school
3.19 of attendance of the minor children. Each party has the right to be informed by school
3.20 officials about the children's welfare, educational progress and status, and to attend
3.21 school and parent teacher conferences. The school is not required to hold a separate
3.22 conference for each party.

3.23 (c) In case of an accident or serious illness of a minor child, each party shall notify the
3.24 other party of the accident or illness, and the name of the health care provider and the
3.25 place of treatment.

3.26 (d) Each party has the right of reasonable access and telephone contact with the minor
3.27 children.

3.28 7. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

3.29 Child support and/or spousal maintenance may be withheld from income, with or without
3.30 notice to the person obligated to pay, when the conditions of Minnesota Statutes, section
3.31 518A.53 have been met. A copy of those sections is available from any district court
3.32 clerk.

3.33 8. CHANGE OF ADDRESS OR RESIDENCE

4.1 Unless otherwise ordered, each party shall notify the other party, the court, and the public
 4.2 authority responsible for collection, if applicable, of the following information within
 4.3 ten days of any change: the residential and mailing address, telephone number, driver's
 4.4 license number, Social Security number, and name, address, and telephone number of
 4.5 the employer.

4.6 9. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

4.7 Basic support and/or spousal maintenance may be adjusted every two years based upon
 4.8 a change in the cost of living (using Department of Labor Consumer Price Index,
 4.9 unless otherwise specified in this order) when the conditions of Minnesota Statutes,
 4.10 section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota
 4.11 Statutes, section 518A.75, and forms necessary to request or contest a cost of living
 4.12 increase are available from any district court clerk.

4.13 10. JUDGMENTS FOR UNPAID SUPPORT

4.14 If a person fails to make a child support payment, the payment owed becomes a judgment
 4.15 against the person responsible to make the payment by operation of law on or after the
 4.16 date the payment is due, and the person entitled to receive the payment or the public
 4.17 agency may obtain entry and docketing of the judgment ~~WITHOUT NOTICE~~ to the
 4.18 person responsible to make the payment under Minnesota Statutes, section 548.091.
 4.19 Interest begins to accrue on a payment or installment of child support whenever the
 4.20 unpaid amount due is greater than the current support due, according to Minnesota
 4.21 Statutes, section 548.091, subdivision 1a, but the public authority shall not calculate or
 4.22 collect interest that has accrued on a payment or installment of child support unless the
 4.23 court has calculated the interest and issued a judgment for a specific dollar value.

4.24 11. JUDGMENTS FOR UNPAID MAINTENANCE

4.25 A judgment for unpaid spousal maintenance may be entered when the conditions of
 4.26 Minnesota Statutes, section 548.091, are met. A copy of that section is available from
 4.27 any district court clerk.

4.28 12. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
 4.29 SUPPORT

4.30 A judgment for attorney fees and other collection costs incurred in enforcing a child
 4.31 support order will be entered against the person responsible to pay support when the
 4.32 conditions of section 518A.735, are met. A copy of sections 518.14 and 518A.735 and

5.1 forms necessary to request or contest these attorney fees and collection costs are available
5.2 from any district court clerk.

5.3 13. PARENTING TIME EXPEDITOR PROCESS

5.4 On request of either party or on its own motion, the court may appoint a parenting time
5.5 expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751.
5.6 A copy of that section and a description of the expeditor process is available from any
5.7 district court clerk.

5.8 14. PARENTING TIME REMEDIES AND PENALTIES

5.9 Remedies and penalties for the wrongful denial of parenting time are available under
5.10 Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting
5.11 time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of
5.12 that subdivision and forms for requesting relief are available from any district court
5.13 clerk.

5.14 Sec. 2. Minnesota Statutes 2016, section 518A.53, subdivision 4, is amended to read:

5.15 Subd. 4. **Collection services.** (a) The commissioner of human services shall prepare and
5.16 make available to the courts a notice of services that explains child support and maintenance
5.17 collection services available through the public authority, including income withholding,
5.18 and the fees for such services. Upon receiving a petition for dissolution of marriage or legal
5.19 separation, the court administrator shall promptly send the notice of services to the petitioner
5.20 and respondent at the addresses stated in the petition.

5.21 (b) Either the obligee or obligor may at any time apply to the public authority for either
5.22 full IV-D services or for income withholding only services.

5.23 (c) For those persons applying for income withholding only services, a monthly service
5.24 fee of \$15 must be charged to the obligor. This fee is in addition to the amount of the support
5.25 order and shall be withheld through income withholding. The public authority shall explain
5.26 the service options in this section to the affected parties and encourage the application for
5.27 full child support collection services.

5.28 (d) If the obligee is not a current recipient of public assistance as defined in section
5.29 256.741, the person who applied for services may at any time choose to terminate either
5.30 full IV-D services or income withholding only services regardless of whether income
5.31 withholding is currently in place. The obligee or obligor may reapply for either full IV-D
5.32 services or income withholding only services at any time.

6.1 (e) When a person terminates IV-D services, if an arrearage for public assistance as
6.2 defined in section 256.741 exists, the public authority may continue income withholding,
6.3 as well as use any other enforcement remedy for the collection of child support, until all
6.4 public assistance arrears are paid in full. Income withholding shall be in an amount equal
6.5 to 20 percent of the support order in effect at the time the services terminated, unless the
6.6 court has ordered a specific monthly payback amount to be applied toward the arrears. If a
6.7 support order includes a specific monthly payback amount, income withholding shall be
6.8 for the specific monthly payback amount ordered.

6.9 (f) Notwithstanding section 549.09, the public authority shall not calculate or collect
6.10 interest on child support arrearages except as allowed pursuant to section 548.091, subdivision
6.11 1a, paragraph (e).

6.12 Sec. 3. Minnesota Statutes 2016, section 518A.59, is amended to read:

6.13 **518A.59 NOTICE OF INTEREST ON LATE CHILD SUPPORT.**

6.14 Any judgment or decree of dissolution or legal separation containing a requirement of
6.15 child support and any determination of parentage, order under chapter 518C, order under
6.16 section 256.87, or order under section 260B.331 or 260C.331 must include a notice to the
6.17 parties that section 548.091, subdivision 1a, provides for interest to begin accruing on a
6.18 payment or installment of child support whenever the unpaid amount due is greater than
6.19 the current support due, but that the public authority shall not calculate or collect interest
6.20 that has accrued on a payment or installment of child support unless the court has calculated
6.21 the interest and issued a judgment for a specific dollar value.

6.22 Sec. 4. Minnesota Statutes 2016, section 548.091, subdivision 1a, is amended to read:

6.23 Subd. 1a. **Child support judgment by operation of law.** (a) Any payment or installment
6.24 of support required by a judgment or decree of dissolution or legal separation, determination
6.25 of parentage, an order under chapter 518C, an order under section 256.87, or an order under
6.26 section 260B.331 or 260C.331, that is not paid or withheld from the obligor's income as
6.27 required under section 518A.53, or which is ordered as child support by judgment, decree,
6.28 or order by a court in any other state, is a judgment by operation of law on and after the
6.29 date it is due, is entitled to full faith and credit in this state and any other state, and shall be
6.30 entered and docketed by the court administrator on the filing of affidavits as provided in
6.31 subdivision 2a. Except as otherwise provided by paragraphs (b) and (e), interest accrues
6.32 from the date the unpaid amount due is greater than the current support due at the annual
6.33 rate provided in section 549.09, subdivision 1, not to exceed an annual rate of 18 percent.

7.1 A payment or installment of support that becomes a judgment by operation of law between
 7.2 the date on which a party served notice of a motion for modification under section 518A.39,
 7.3 subdivision 2, and the date of the court's order on modification may be modified under that
 7.4 subdivision.

7.5 (b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon
 7.6 proof by the obligor of 12 consecutive months of complete and timely payments of both
 7.7 current support and court-ordered paybacks of a child support debt or arrearage, the court
 7.8 may order interest on the remaining debt or arrearage to stop accruing. Timely payments
 7.9 are those made in the month in which they are due. If, after that time, the obligor fails to
 7.10 make complete and timely payments of both current support and court-ordered paybacks
 7.11 of child support debt or arrearage, the public authority or the obligee may move the court
 7.12 for the reinstatement of interest as of the month in which the obligor ceased making complete
 7.13 and timely payments.

7.14 The court shall provide copies of all orders issued under this section to the public
 7.15 authority. The state court administrator shall prepare and make available to the court and
 7.16 the parties forms to be submitted by the parties in support of a motion under this paragraph.

7.17 (c) Notwithstanding the provisions of section 549.09, upon motion to the court, the court
 7.18 may order interest on a child support debt or arrearage to stop accruing where the court
 7.19 finds that the obligor is:

7.20 (1) unable to pay support because of a significant physical or mental disability;

7.21 (2) a recipient of Supplemental Security Income (SSI), Title II Older Americans Survivor's
 7.22 Disability Insurance (OASDI), other disability benefits, or public assistance based upon
 7.23 need; or

7.24 (3) institutionalized or incarcerated for at least 30 days for an offense other than
 7.25 nonsupport of the child or children involved, and is otherwise financially unable to pay
 7.26 support.

7.27 (d) If the conditions in paragraph (c) no longer exist, upon motion to the court, the court
 7.28 may order interest accrual to resume retroactively from the date of service of the motion to
 7.29 resume the accrual of interest.

7.30 (e) Notwithstanding section 549.09, the public authority ~~must suspend the charging of~~
 7.31 ~~interest when:~~

7.32 ~~(1) the obligor makes a request to the public authority that the public authority suspend~~
 7.33 ~~the charging of interest;~~

8.1 ~~(2) the public authority provides full IV-D child support services; and~~

8.2 ~~(3) the obligor has made, through the public authority, 12 consecutive months of complete~~
8.3 ~~and timely payments of both current support and court-ordered paybacks of a child support~~
8.4 ~~debt or arrearage.~~

8.5 ~~Timely payments are those made in the month in which they are due.~~

8.6 ~~Interest charging must be suspended on the first of the month following the date of the~~
8.7 ~~written notice of the public authority's action to suspend the charging of interest. If, after~~
8.8 ~~interest charging has been suspended, the obligor fails to make complete and timely payments~~
8.9 ~~of both current support and court-ordered paybacks of child support debt or arrearage, the~~
8.10 ~~public authority may resume the charging of interest as of the first day of the month in which~~
8.11 ~~the obligor ceased making complete and timely payments.~~

8.12 ~~The public authority must provide written notice to the parties of the public authority's~~
8.13 ~~action to suspend or resume the charging of interest. The notice must inform the parties of~~
8.14 ~~the right to request a hearing to contest the public authority's action. The notice must be~~
8.15 ~~sent by first class mail to the parties' last known addresses.~~

8.16 ~~A party may contest the public authority's action to suspend or resume the charging of~~
8.17 ~~interest if the party makes a written request for a hearing within 30 days of the date of written~~
8.18 ~~notice. If a party makes a timely request for a hearing, the public authority must schedule~~
8.19 ~~a hearing and send written notice of the hearing to the parties by mail to the parties' last~~
8.20 ~~known addresses at least 14 days before the hearing. The hearing must be conducted in~~
8.21 ~~district court or in the expedited child support process if section 484.702 applies. The district~~
8.22 ~~court or child support magistrate must determine whether suspending or resuming the interest~~
8.23 ~~charging is appropriate and, if appropriate, the effective date. shall not calculate or charge~~
8.24 ~~interest on any child support arrearage unless the court has calculated interest on the arrearage~~
8.25 ~~and issued a judgment for a specific dollar amount.~~