

CHAPTER 238—S.F.No. 2562

An act relating to child support enforcement; updating provisions on access to certain information; authorizing certain actions by a public authority; requiring a notice; imposing certain duties; providing for survival of certain child support judgments; amending Minnesota Statutes 2008, sections 256.978, subdivision 2; 518A.46, subdivision 5, by adding a subdivision; 541.04; 548.09, subdivision 1; repealing Minnesota Statutes 2008, section 548.092.

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

Section 1. Minnesota Statutes 2008, section 256.978, subdivision 2, is amended to read:

Subd. 2. **Access to information.** (a) A request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers of employees is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, employment status, wage or payment information, benefit information, and Social Security number. Information to be released by employers of independent contractors is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, contract status, payment information, benefit information, and Social Security number or identification number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, source of income, employer and place of employment, and Social Security number;

(3) insurance companies when there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, employer, Social Security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, Social Security number, and current and past employment information; and

(5) financial institutions when there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information

to be released by the financial institution is limited to place of residence or address, home telephone, work telephone, mobile telephone, e-mail address, identifying information on the type of financial relationships, Social Security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision section, utility companies include telephone companies, as defined in section 325F.675, subdivision 3, clause (3), radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable or satellite television services to retail customers, and Internet service providers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

(c) For purposes of this section, the public authority may request or obtain information from any person or entity enumerated in this section, or from any third party who contracts with any such person or entity to obtain or retain information that may be requested by the public authority.

Sec. 2. Minnesota Statutes 2008, section 518A.46, subdivision 5, is amended to read:

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

- (1) recognize and enforce orders of child support agencies of other states;
- (2) upon request for genetic testing by a child, parent, or any alleged parent, and using the procedure in paragraph (b), order the child, parent, or alleged parent to submit to blood or genetic testing for the purpose of establishing paternity;
- (3) subpoena financial or other information needed to establish, modify, or enforce a child support order and sanction a party for failure to respond to a subpoena;
- (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor or other payor to change the payee to the central collections unit under sections 518A.54 to 518A.56;
- (5) order income withholding of child support under section 518A.53 and sanction an employer or payor of funds pursuant to section 393.07, subdivision 9a, for failing to comply with an income withholding notice;
- (6) secure assets to satisfy the debt or arrearage in cases in which there is a support debt or arrearage by:
 - (i) intercepting or seizing periodic or lump-sum payments from state or local agencies, including unemployment benefits, workers' compensation payments, judgments, settlements, lotteries, and other lump-sum payments;
 - (ii) attaching and seizing assets of the obligor held in financial institutions or public or private retirement funds; and
 - (iii) imposing liens in accordance with section 548.091 and, in appropriate cases, forcing the sale of property and the distribution of proceeds;

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2008, section 518A.46, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

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

(f) The redirection of the basic support, medical support, and child care support terminates and the public authority must direct support to the obligee if the public authority determines that:

- (1) the caregiver for the child no longer receives public assistance for the child;
- (2) the voluntary placement agreement expires; or
- (3) the court order placing the child is no longer in effect.

(g) The public authority must notify the obligee, obligor, and caregiver of a termination of the redirection of support by mailing a written notice to each of them at their last known address. The termination is effective the first day of the month that occurs at least 14 calendar days after the date the notice is mailed.

Sec. 4. Minnesota Statutes 2008, section 541.04, is amended to read:

541.04 JUDGMENTS, TEN OR 20 YEARS.

No action shall be maintained upon a judgment or decree of a court of the United States, or of any state or territory thereof, unless begun within ten years after the entry of such judgment or, in the case of a judgment for child support, including a judgment by operation of law, unless begun within 20 years after entry of the judgment.

Sec. 5. Minnesota Statutes 2008, section 548.09, subdivision 1, is amended to read:

Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided in section 548.091, every judgment requiring the payment of money shall be entered by the court administrator when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry or, in the case of a judgment for child support, including a judgment by operation of law, for 20 years after its entry. Child support judgments may be renewed pursuant to section 548.091.

Sec. 6. **REPEALER.**

Minnesota Statutes 2008, section 548.092, is repealed.

Sec. 7. **EFFECTIVE DATE; APPLICATION.**

Sections 2 to 6 are effective January 1, 2011. Sections 4 to 6 apply retroactively to child support judgments, including judgments by operation of law, that have not expired before January 1, 2011.

Presented to the governor April 12, 2010

Signed by the governor April 15, 2010, 11:56 a.m.