

A bill for an act

relating to child support; changing certain provisions; redirecting payment of child support; amending Minnesota Statutes 2008, section 518A.46, subdivision 5, by adding a subdivision.

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

Section 1. 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. A caregiver is a person or entity now caring for the child who:

(i) receives public assistance, as defined in section 256.741, subdivision 1, for the child;

(ii) has legal responsibility for the placement of the child through a voluntary placement agreement under section 260C.212, subdivision 8, that does not address redirection of child support; or

(iii) has custody of the child through a court-ordered placement that does not address redirection of child support.

(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. 2. 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 notice of redirection to the parties and the caregiver and give the parties 30 calendar days to contest the redirection. The notice must be mailed to the obligor, obligee, and caregiver at their last known addresses. The notice must state the name of the child for whom support will be redirected, to whom the support will be redirected, when 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.

(b) If fewer than all of the children for whom the support is ordered are with the caregiver, the proportional share of the support for the number of children with the caregiver must be redirected.

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

4.1 (1) the child is not residing with the caregiver;

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

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

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

4.17 (e) If there is no contest, support must be redirected the first day of the month
4.18 following the expiration of the time period to contest. If there is a contest, support must
4.19 not be redirected pending the outcome of the hearing.

4.20 (f) The redirection of the basic support, medical support, and child care support
4.21 must be terminated and support must be directed to the obligee effective the first day of
4.22 the month following 14 days' notice to the obligee, obligor, and caretaker. The public
4.23 authority shall provide this notice after determining that:

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

4.25 (2) the voluntary placement agreement has expired; or

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

4.27 **EFFECTIVE DATE.** This section is effective January 1, 2010.