

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2458

(SENATE AUTHORS: JOHNSON and Hoffman)

DATE	D-PG	OFFICIAL STATUS
03/10/2014	6068	Introduction and first reading Referred to Judiciary

1.1

A bill for an act

1.2

relating to family law; child support; modifying withholding requirements for

1.3

child support obligors in arrears; amending Minnesota Statutes 2012, section

1.4

518A.53, subdivisions 1, 4, 10; Minnesota Statutes 2013 Supplement, section

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518A.60.

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

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Section 1. Minnesota Statutes 2012, section 518A.53, subdivision 1, is amended to read:

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Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms

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have the meanings provided in this subdivision unless otherwise stated.

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(b) "Payor of funds" means any person or entity that provides funds to an obligor,

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including an employer as defined under chapter 24 of the Internal Revenue Code,

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section 3401(d), an independent contractor, payor of worker's compensation benefits or

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unemployment benefits, or a financial institution as defined in section 13B.06.

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(c) "Business day" means a day on which state offices are open for regular business.

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(d) "Arrears" ~~means amounts owed under a support order that are past due~~ has the

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meaning given in section 518A.26, subdivision 3.

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Sec. 2. Minnesota Statutes 2012, section 518A.53, subdivision 4, is amended to read:

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Subd. 4. **Collection services.** (a) The commissioner of human services shall prepare

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and make available to the courts a notice of services that explains child support and

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maintenance collection services available through the public authority, including income

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withholding, and the fees for such services. Upon receiving a petition for dissolution of

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marriage or legal separation, the court administrator shall promptly send the notice of

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services to the petitioner and respondent at the addresses stated in the petition.

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

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

(d) If the obligee is not a current recipient of public assistance as defined in section 256.741, the person who applied for services may at any time choose to terminate either full IV-D services or income withholding only services regardless of whether income withholding is currently in place. The obligee or obligor may reapply for either full IV-D services or income withholding only services at any time. Unless the applicant is a recipient of public assistance as defined in section 256.741, a \$25 application fee shall be charged at the time of each application.

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

Sec. 3. Minnesota Statutes 2012, section 518A.53, subdivision 10, is amended to read:

Subd. 10. **Arrearage order.** (a) This section does not prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in support order payments. This remedy shall not operate to exclude availability of other remedies to enforce judgments. The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid, unless the court has ordered a specific monthly payback amount toward the arrears. If a support order includes a specific monthly payback amount, the employer or payor of funds shall withhold from the obligor's income an additional amount equal to the specific monthly payback amount ordered until all arrearages are paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 518A.26, subdivision 8, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearage.

(c) Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 4. Minnesota Statutes 2013 Supplement, section 518A.60, is amended to read:

518A.60 COLLECTION; ARREARS ONLY.

(a) Remedies available for the collection and enforcement of support in this chapter and chapters 256, 257, 518, and 518C also apply to cases in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation. Child support arrearages under this section include arrearages for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 518A.41, subdivision 1, paragraph (h).

(b) This section applies retroactively to any support arrearage that accrued on or before June 3, 1997, and to all arrearages accruing after June 3, 1997.

(c) Past support or pregnancy and confinement expenses ordered for which the obligor has specific court ordered terms for repayment may not be enforced using drivers' and occupational or professional license suspension, and credit bureau reporting, and ~~additional income withholding under section 518A.53, subdivision 10, paragraph (a),~~ unless the obligor fails to comply with the terms of the court order for repayment.

(d) If an arrearage exists at the time a support order would otherwise terminate and section 518A.53, subdivision 10, paragraph (c), does not apply to this section, the arrearage shall be repaid in an amount equal to the current support order until all arrears have been paid in full, absent a court order to the contrary.

(e) If an arrearage exists according to a support order which fails to establish a monthly support obligation in a specific dollar amount, the public authority, if it provides child support services, or the obligee, may establish a payment agreement which shall equal what the obligor would pay for current support after application of section 518A.34, plus an additional 20 percent of the current support obligation, until all arrears have been paid in full. If the obligor fails to enter into or comply with a payment agreement, the public authority, if it provides child support services, or the obligee, may move the district

4.1 court or child support magistrate, if section 484.702 applies, for an order establishing
4.2 repayment terms.

4.3 (f) If there is no longer a current support order because all of the children of the
4.4 order are emancipated, the public authority may discontinue child support services and
4.5 close its case under title IV-D of the Social Security Act if:

4.6 (1) the arrearage is under \$500; or

4.7 (2) the arrearage is considered unenforceable by the public authority because there
4.8 have been no collections for three years, and all administrative and legal remedies have
4.9 been attempted or are determined by the public authority to be ineffective because the
4.10 obligor is unable to pay, the obligor has no known income or assets, and there is no
4.11 reasonable prospect that the obligor will be able to pay in the foreseeable future.

4.12 (g) At least 60 calendar days before the discontinuation of services under paragraph
4.13 (f), the public authority must mail a written notice to the obligee and obligor at the
4.14 obligee's and obligor's last known addresses that the public authority intends to close the
4.15 child support enforcement case and explaining each party's rights. Seven calendar days
4.16 after the first notice is mailed, the public authority must mail a second notice under this
4.17 paragraph to the obligee.

4.18 (h) The case must be kept open if the obligee responds before case closure and
4.19 provides information that could reasonably lead to collection of arrears. If the case is
4.20 closed, the obligee may later request that the case be reopened by completing a new
4.21 application for services, if there is a change in circumstances that could reasonably lead to
4.22 the collection of arrears.