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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3880**

02/27/2020 Authored by Pryor and Noor
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division
03/12/2020 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; children; modifying policy provisions governing
1.3 children and families services; amending Minnesota Statutes 2018, sections 256.87,
1.4 subdivision 8; 257.70; 518.005, subdivision 5; 518A.53, subdivision 11; 518A.68;
1.5 518A.685; proposing coding for new law in Minnesota Statutes, chapter 518A.

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

1.7 Section 1. Minnesota Statutes 2018, section 256.87, subdivision 8, is amended to read:

1.8 Subd. 8. **Disclosure prohibited.** ~~Notwithstanding statutory or other authorization for~~
1.9 The public authority ~~to~~ shall not release private data on the location of a party to the action;
1.10 ~~information on the location of one party may not be released to the other party by the public~~
1.11 ~~authority or the joint child~~ if:

1.12 (1) the public authority has knowledge that ~~a~~ one party is currently subject to a protective
1.13 order with respect to the other party ~~has been entered~~ or the joint child, and the protected
1.14 party or guardian of the joint child has not authorized disclosure; or

1.15 (2) the public authority has reason to believe that the release of the information may
1.16 result in physical or emotional harm to ~~the other~~ a party or the joint child.

1.17 Sec. 2. Minnesota Statutes 2018, section 257.70, is amended to read:

1.18 **257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.**

1.19 (a) Notwithstanding any other law concerning public hearings and records, any hearing
1.20 or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance
1.21 of any person other than those necessary to the action or proceeding. All papers and records,
1.22 other than the final judgment, pertaining to the action or proceeding, whether part of the

2.1 permanent record of the court or of a file in the state Department of Human Services or
2.2 elsewhere, are subject to inspection only upon consent of the court and all interested persons,
2.3 or in exceptional cases only upon an order of the court for good cause shown.

2.4 (b) In all actions under this chapter in which public assistance is assigned under section
2.5 256.741 or the public authority provides services to a party or parties to the action,
2.6 ~~notwithstanding statutory or other authorization for the public authority to~~ shall not release
2.7 private data ~~on the location of a party to the action, information on the location of one a~~
2.8 party ~~may not be released by the public authority to the other party to the action or the joint~~
2.9 child if:

2.10 (1) the public authority has knowledge that one party is currently subject to a protective
2.11 order with respect to the other party ~~has been entered~~ or the joint child, and the protected
2.12 party or guardian of the joint child has not authorized disclosure; or

2.13 (2) the public authority has reason to believe that the release of the information may
2.14 result in physical or emotional harm to ~~the other~~ a party or the joint child.

2.15 Sec. 3. Minnesota Statutes 2018, section 518.005, subdivision 5, is amended to read:

2.16 Subd. 5. **Prohibited disclosure.** In all proceedings under this chapter and chapter 518A
2.17 in which public assistance is assigned under section 256.741 or the public authority provides
2.18 services to a party or parties to the proceedings, ~~notwithstanding statutory or other~~
2.19 ~~authorization for the public authority to~~ shall not release private data on the location of a
2.20 party to the action, ~~information on the location of one party may not be released by the~~
2.21 ~~public authority to the other party~~ or the joint child if:

2.22 (1) the public authority has knowledge that one party is currently subject to a protective
2.23 order with respect to the other party ~~has been entered~~ or the joint child, and the protected
2.24 party or guardian of the joint child has not authorized disclosure; or

2.25 (2) the public authority has reason to believe that the release of the information may
2.26 result in physical or emotional harm to ~~the other~~ a party or the joint child.

2.27 Sec. 4. Minnesota Statutes 2018, section 518A.53, subdivision 11, is amended to read:

2.28 Subd. 11. **Lump-sum payments.** Before transmittal to the obligor of a lump-sum payment
2.29 of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation
2.30 pay, bonuses, commissions, or other pay or benefits, a payor of funds:

2.31 (1) who has been served with an order for or notice of income withholding under this
2.32 section shall:

3.1 (i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

3.2 (ii) hold the lump-sum payment for 30 days after the date on which the lump-sum payment
3.3 would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225,
3.4 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145; and

3.5 (iii) upon order of the court, and after a showing of past willful nonpayment of support,
3.6 pay any specified amount of the lump-sum payment to the public authority for future support;
3.7 or

3.8 (2) shall pay the lessor of the amount of the lump-sum payment or the total amount of
3.9 the judgment and arrearages upon service by United States mail of a sworn affidavit from
3.10 the public authority or a court order that includes the following information:

3.11 (i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against
3.12 the obligor, or that other support arrearages exist;

3.13 (ii) the current balance of the judgment or arrearage; and

3.14 (iii) that a portion of the judgment or arrearage remains unpaid.

3.15 ~~The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b),~~
3.16 ~~does not apply to lump-sum payments.~~

3.17 Sec. 5. Minnesota Statutes 2018, section 518A.68, is amended to read:

3.18 **518A.68 RECREATIONAL LICENSE SUSPENSION.**

3.19 (a) Upon motion of an obligee or the public authority, ~~which has been properly served~~
3.20 ~~on the obligor by first class mail at the last known address or in person,~~ and if at a hearing,
3.21 the court finds that (1) the obligor is in arrears in court-ordered child support or maintenance
3.22 payments, or both, in an amount equal to or greater than six times the obligor's total monthly
3.23 support and maintenance payments and is not in compliance with a written payment
3.24 agreement pursuant to section 518A.69, or (2) has failed, after receiving notice, to comply
3.25 with a subpoena relating to a paternity or child support proceeding, the court may direct the
3.26 commissioner of natural resources to suspend or bar receipt of the obligor's recreational
3.27 license or licenses. Prior to utilizing this section, the court must find that other substantial
3.28 enforcement mechanisms have been attempted but have not resulted in compliance.

3.29 (b) For purposes of this section, a recreational license includes all licenses, permits, and
3.30 stamps issued centrally by the commissioner of natural resources under sections 97B.301,
3.31 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

4.1 (c) ~~An obligor whose recreational license or licenses have been suspended or barred~~
4.2 ~~may provide proof to the court that the obligor is in compliance with all written payment~~
4.3 ~~agreements pursuant to section 518A.69. A motion to reinstate a recreational license by the~~
4.4 ~~obligor, obligee, or public authority may be granted if the court finds:~~

4.5 (1) the reason for the suspension was accrual of arrears and the obligor is in compliance
4.6 with all written payment agreements pursuant to section 518A.69 or has paid the arrears in
4.7 full;

4.8 (2) the reason for the suspension was failure to comply with a subpoena and the obligor
4.9 has complied with the subpoena; or

4.10 (3) the original motion to suspend was brought by the public authority and the public
4.11 authority attests that the IV-D case is eligible for closure.

4.12 Within 15 days of receipt of that proof issuance of an order to reinstate the recreational
4.13 license, the court shall notify the commissioner of natural resources that the obligor's
4.14 recreational license or licenses should no longer be suspended nor should receipt be barred.

4.15 Sec. 6. Minnesota Statutes 2018, section 518A.685, is amended to read:

4.16 **518A.685 CONSUMER REPORTING AGENCY; REPORTING ARREARS.**

4.17 (a) If a public authority determines that an obligor has not paid the current monthly
4.18 support obligation plus any required arrearage payment for three months, the public authority
4.19 must report this information to a consumer reporting agency.

4.20 (b) Before reporting that an obligor is in arrears for court-ordered child support, the
4.21 public authority must:

4.22 (1) provide written notice to the obligor that the public authority intends to report the
4.23 arrears to a consumer reporting agency; and

4.24 (2) mail the written notice to the obligor's last known mailing address at least 30 days
4.25 before the public authority reports the arrears to a consumer reporting agency.

4.26 (c) The obligor may, within 21 days of receipt of the notice, do the following to prevent
4.27 the public authority from reporting the arrears to a consumer reporting agency:

4.28 (1) pay the arrears in full; or

4.29 (2) request an administrative review. An administrative review is limited to issues of
4.30 mistaken identity, a pending legal action involving the arrears, or an incorrect arrears balance.

5.1 ~~(d) If the public authority has reported that an obligor is in arrears for court-ordered~~
5.2 ~~child support and subsequently determines that the obligor has paid the court-ordered child~~
5.3 ~~support arrears in full, or is paying the current monthly support obligation plus any required~~
5.4 ~~arrearage payment, the public authority must report to the consumer reporting agency that~~
5.5 ~~the obligor is currently paying child support as ordered by the court.~~

5.6 ~~(e)~~ (d) A public authority that reports arrearage information under this section must
5.7 make monthly reports to a consumer reporting agency. The monthly report must be consistent
5.8 with credit reporting industry standards for child support.

5.9 ~~(f)~~ (e) For purposes of this section, "consumer reporting agency" has the meaning given
5.10 in section 13C.001, subdivision 4, and United States Code, title 15, section 1681a(f).

5.11 **Sec. 7. [518A.80] MOTION TO TRANSFER TO TRIBAL COURT.**

5.12 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
5.13 subdivision have the meanings given them.

5.14 (b) "Case participant" means a party to the case that is a natural person.

5.15 (c) "District court" means a district court of the state of Minnesota.

5.16 (d) "Party" means a person or entity named or admitted as a party or seeking to be
5.17 admitted as a party in the district court action, including the county IV-D agency, whether
5.18 or not named in the caption.

5.19 (e) "Tribal court" means a tribal court of a federally recognized Indian tribe located in
5.20 Minnesota that is receiving funding from the federal government to operate a child support
5.21 program under United States Code, title 42, chapter 7, subchapter IV, part D, sections 654
5.22 to 669b.

5.23 (f) "Tribal IV-D agency" has the meaning given to "tribal IV-D agency" in Code of
5.24 Federal Regulations, title 45, part 309.05.

5.25 (g) "Title IV-D child support case" has the meaning given to "IV-D case" in section
5.26 518A.26, subdivision 10.

5.27 Subd. 2. **Actions eligible for transfer.** For purposes of this section, a postjudgment
5.28 child support, custody, or parenting time action is eligible for transfer to tribal court. A child
5.29 protection action or a dissolution action involving a child is not eligible for transfer to tribal
5.30 court pursuant to this section.

5.31 Subd. 3. **Motion to transfer.** (a) A party's or tribal IV-D agency's motion to transfer to
5.32 tribal court shall state and allege:

6.1 (1) the address of each case participant;

6.2 (2) the tribal affiliation of each case participant, if any;

6.3 (3) the name, tribal affiliation, if any, and date of birth of each living minor or dependent
6.4 child of a case participant who is subject to the action; and

6.5 (4) the legal and factual basis for the court to make a finding that there is concurrent
6.6 jurisdiction in the case.

6.7 (b) A party or tribal IV-D agency bringing a motion to transfer to tribal court must file
6.8 with the court and serve the required documents on each party and the tribal IV-D agency,
6.9 regardless of whether the tribal IV-D agency is a party.

6.10 (c) A party's or tribal IV-D agency's motion to transfer must be accompanied by an
6.11 affidavit setting forth facts in support of its motion.

6.12 (d) When the tribal IV-D agency has not filed a motion to transfer to tribal court, an
6.13 affidavit of the tribal IV-D agency stating whether the tribal IV-D agency provides services
6.14 to a party must be filed and served on each party within 15 days from the date of service of
6.15 the motion.

6.16 **Subd. 4. Order to transfer to tribal court.** (a) Unless a hearing is held under subdivision
6.17 6, upon motion of a party or a tribal IV-D agency, a district court must transfer a
6.18 postjudgment child support, custody, or parenting time action to a tribal court when the
6.19 district court finds that:

6.20 (1) the district court and tribal court have concurrent jurisdiction;

6.21 (2) a case participant is receiving services from the tribal IV-D agency; and

6.22 (3) no party or tribal IV-D agency files and serves a timely objection to the transfer.

6.23 (b) When the requirements of this subdivision are satisfied, the district court is not
6.24 required to hold a hearing. The district court's order transferring the action to tribal court
6.25 must contain written findings fulfilling each requirement of this subdivision.

6.26 **Subd. 5. Objection to motion to transfer.** (a) To object to a motion to transfer to a
6.27 tribal court, a party or tribal IV-D agency must file with the court and serve on each party
6.28 and the tribal IV-D agency a responsive motion objecting to the motion to transfer within
6.29 30 days of the motion to transfer's date of service.

6.30 (b) If a party or tribal IV-D agency files with the court and properly serves a timely
6.31 objection to the motion to transfer to a tribal court, the district court must conduct a hearing.

7.1 Subd. 6. **Hearing.** If a hearing is held under this section, the district court must evaluate
7.2 and make written findings on all relevant factors, including:

7.3 (1) whether an issue requires interpretation of tribal law, including the tribal constitution,
7.4 statutes, bylaws, ordinances, resolutions, treaties, or case law;

7.5 (2) whether the action involves tribal traditional or cultural matters;

7.6 (3) whether the tribe is a party;

7.7 (4) whether tribal sovereignty, jurisdiction, or territory is an issue;

7.8 (5) the tribal membership status of each case participant;

7.9 (6) where the claim arises;

7.10 (7) the location of the residence of each case participant and the child;

7.11 (8) whether the parties have by contract chosen a forum or the law to be applied in the
7.12 event of a dispute;

7.13 (9) the timing of any motion to transfer to tribal court, considering each party's and the
7.14 court's expenditure of time and resources, and the district court's scheduling order;

7.15 (10) the court in which the action can be heard and decided most expeditiously;

7.16 (11) the burdens on each party, including cost, access to and admissibility of evidence,
7.17 and matters of procedure; and

7.18 (12) any other factor that the court determines relevant.

7.19 Subd. 7. **Future exercise of jurisdiction.** Nothing in this section shall be construed to
7.20 limit the district court's exercise of jurisdiction where the tribal court waives jurisdiction,
7.21 transfers the action back to district court, or otherwise declines to exercise jurisdiction over
7.22 the action.

7.23 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D
7.24 agency brings a motion to transfer to the Red Lake Nation Tribal Court, the court must
7.25 transfer the action if the case participants and child resided within the boundaries of the
7.26 Red Lake Reservation for the preceding six months.

7.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.