

CHAPTER 548

JUDGMENTS

548.091 Support, maintenance, or county reimbursement judgments.

548.091 SUPPORT, MAINTENANCE, OR COUNTY REIMBURSEMENT JUDGMENTS.

[For text of subd 1, see M.S.1996]

Subd. 1a. Child support judgment by operation of law. (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.6111, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due and is entitled to full faith and credit in this state and any other state. Except as otherwise provided by paragraph (b), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, plus two percent, not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 36 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The commissioner of human services shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

[For text of subd 2, see M.S.1996]

Subd. 2a. Docketing of child support judgment. On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator, either electronically or by other means:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518C, an order under section 256.87, an order under section 260.251, or judgment, decree, or order for child support by a court in any other state, which provides for periodic installments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, the total amount of the judgments to the date of filing, and the amount and frequency of the periodic installments of child support that will continue to become due and payable subsequent to the date of filing; and

(3) an affidavit of service of a notice of intent to docket judgment and to recover attorney fees and collection costs on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated. Where ap-

plicable, a notice of interstate lien in the form promulgated under United States Code, title 42, section 652(a), is sufficient to satisfy the requirements of clauses (1) and (2).

[For text of subd 3, see M.S.1996]

Subd. 3a. Entry, docketing, and survival of child support judgment. Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the unpaid obligation identified in the affidavit of default and note the amount and frequency of the periodic installments of child support that will continue to become due and payable after the date of docketing. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor, but it is not a lien on registered land unless the obligee or the public authority causes a notice of judgment lien or certified copy of the judgment to be memorialized on the certificate of title or certificate of possessory title under section 508.63 or 508A.63. The judgment survives and the lien continues for ten years after the date the judgment was docketed. Child support judgments may be renewed by service of notice upon the debtor. Service shall be by certified mail at the last known address of the debtor or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service the court administrator shall renew the judgment for child support without any additional filing fee.

[For text of subd 4, see M.S.1996]

Subd. 5. Automatic increases; satisfaction. After docketing and until satisfied by the obligee, public authority, or the court administrator, the amount of the docketed judgment automatically increases by the total amount of periodic installments of child support that became due and payable subsequent to the date of docketing, plus attorney's fees and collection costs incurred by the public authority, and less any payment made by the obligor to partially satisfy the docketed judgment. The court administrator shall not satisfy any child support judgment without first obtaining a written judgment payoff statement from the public authority or obligee. If no such statement can be obtained within two business days, the court administrator shall only satisfy the judgment if the amount paid to the court administrator equals the judgment amount plus interest and costs, and the amount of the periodic installment times the number of payments due since the date of docketing of the judgment.

Subd. 6. Note on judgment roll. The court administrator shall note on the judgment roll which judgments are filed pursuant to this section and the amount and frequency of the periodic installment of child support that will continue to become due and payable after the date of docketing.

Subd. 7. Fees. The public authority is exempt from payment of fees when a judgment is docketed or a certified copy of a judgment is issued by a court administrator, or a notice of judgment lien or a certified copy of a judgment is presented to a registrar of titles for recording. If a notice or certified copy is recorded by the public authority under this subdivision, the registrar of titles may collect from a party presenting for recording a satisfaction or release of the notice or certified copy the fees for recording and memorializing both the notice or certified copy and the satisfaction or release.

Subd. 8. Registered land. If requested by the public authority and upon the public authority's providing a notice of judgment lien or a certified copy of a judgment for child support debt, together with a street address, tax parcel identifying number, or a legal description for a parcel of real property, the county recorder shall search the registered land records in that county and cause the notice of judgment lien or certified copy of the judgment to be memorialized on every certificate of title or certificate of possessory title of registered land in that county that can be reasonably identified as owned by the obligor who is named on a docketed judgment. The fees for memorializing the lien or judgment must be paid in the manner prescribed by subdivision 7. The county recorders and their employees and agents are not liable for any loss or damages arising from failure to identify a parcel of registered land owned by the obligor who is named on the docketed judgment.

Subd. 9. Payoff statement. The public authority shall issue to the obligor, attorneys, lenders, and closers, or their agents, a payoff statement setting forth conclusively the amount necessary to satisfy the lien. Payoff statements must be issued within three business days af-

ter receipt of a request by mail, personal delivery, telefacsimile, or electronic mail transmission, and must be delivered to the requester by telefacsimile or electronic mail transmission if requested and if appropriate technology is available to the public authority.

Subd. 10. Release of lien. Upon payment of the amount due under subdivision 5, the public authority shall execute and deliver a satisfaction of the judgment lien within five business days.

Subd. 11. Special procedures. The public authority shall negotiate a release of lien on specific property for less than the full amount due where the proceeds of a sale or financing, less reasonable and necessary closing expenses, are not sufficient to satisfy all encumbrances on the lien property. Partial releases do not release the obligor's personal liability for the amount unpaid.

Subd. 12. Correcting errors. The public authority shall maintain a process to review the identity of the obligor and to issue releases of lien in cases of misidentification. The public authority shall maintain a process to review the amount of child support determined to be delinquent and to issue amended notices of judgment lien in cases of incorrectly docketed judgments.

Subd. 13. Forms. The department of human services, after consultation with registrars of title, shall prescribe the notice of judgment lien. These forms are not subject to chapter 14.

History: 1997 c 203 art 6 s 72-83, 92; 1997 c 245 art 3 s 17

NOTE: Subdivisions 1a, 2a, and 3a, as amended by Laws 1997, chapter 203, article 6, sections 72 to 74, respectively, and subdivisions 6, 7, 8, 9, 10, 11, 12, and 13, as added by Laws 1997, chapter 203, article 6, sections 76 to 83, respectively, are effective July 1, 1998. Laws 1997, chapter 203, article 6, section 94, paragraph (c).

NOTE: Subdivision 5, as added by Laws 1997, chapter 203, article 6, section 75, is effective July 1, 1998, and applies only to judgments docketed on or after October 1, 1997. Laws 1997, chapter 203, article 6, section 94, as amended by Laws 1997, First Special Session chapter 5, section 19.