

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 543

February 5, 2009

Authored by Scott, Draskowski, Shimanski, Loon, Sterner and others
The bill was read for the first time and referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to child support; changing certain provisions and deadlines; redirecting
1.3 payment of child support; amending Minnesota Statutes 2008, sections 518A.46,
1.4 subdivision 5, by adding a subdivision; 541.04; 548.09, subdivision 1, by adding
1.5 a subdivision; repealing Minnesota Statutes 2008, sections 548.091, subdivision
1.6 3b; 548.092.

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

1.8 Section 1. Minnesota Statutes 2008, section 518A.46, subdivision 5, is amended to
1.9 read:

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

1.14 (1) recognize and enforce orders of child support agencies of other states;

1.15 (2) upon request for genetic testing by a child, parent, or any alleged parent, and
1.16 using the procedure in paragraph (b), order the child, parent, or alleged parent to submit to
1.17 blood or genetic testing for the purpose of establishing paternity;

1.18 (3) subpoena financial or other information needed to establish, modify, or enforce a
1.19 child support order and sanction a party for failure to respond to a subpoena;

1.20 (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor
1.21 or other payor to change the payee to the central collections unit under sections 518A.54
1.22 to 518A.56;

1.23 (5) order income withholding of child support under section 518A.53 and sanction
1.24 an employer or payor of funds pursuant to section 393.07, subdivision 9a, for failing to
1.25 comply with an income withholding notice;

2.1 (6) secure assets to satisfy the debt or arrearage in cases in which there is a support
2.2 debt or arrearage by:

2.3 (i) intercepting or seizing periodic or lump-sum payments from state or local
2.4 agencies, including unemployment benefits, workers' compensation payments, judgments,
2.5 settlements, lotteries, and other lump-sum payments;

2.6 (ii) attaching and seizing assets of the obligor held in financial institutions or public
2.7 or private retirement funds; and

2.8 (iii) imposing liens in accordance with section 548.091 and, in appropriate cases,
2.9 forcing the sale of property and the distribution of proceeds;

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

2.13 (8) subpoena an employer or payor of funds to provide promptly information on the
2.14 employment, compensation, and benefits of an individual employed by that employer as
2.15 an employee or contractor, and sanction an employer or payor of funds pursuant to section
2.16 393.07, subdivision 9a, for failure to respond to the subpoena; and

2.17 (9) redirect basic support, medical support, and child care support to a caregiver
2.18 using the procedures in subdivision 7. A caregiver is a person or entity now caring for
2.19 the child who:

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

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

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

2.27 (b) A request for genetic testing by a child, parent, or alleged parent must be
2.28 supported by a sworn statement by the person requesting genetic testing alleging paternity,
2.29 which sets forth facts establishing a reasonable possibility of the requisite sexual contact
2.30 between the parties, or denying paternity, and setting forth facts establishing a reasonable
2.31 possibility of the nonexistence of sexual contact between the alleged parties. The order for
2.32 genetic tests may be served anywhere within the state and served outside the state in the
2.33 same manner as prescribed by law for service of subpoenas issued by the district court of
2.34 this state. If the child, parent, or alleged parent fails to comply with the genetic testing
2.35 order, the public authority may seek to enforce that order in district court through a motion

3.1 to compel testing. No results obtained through genetic testing done in response to an order
3.2 issued under this section may be used in any criminal proceeding.

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

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

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

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

3.22 Sec. 2. Minnesota Statutes 2008, section 518A.46, is amended by adding a subdivision
3.23 to read:

3.24 Subd. 7. **Administrative redirection of support** (a) The public authority must
3.25 provide notice of redirection to the parties and the caregiver and give the parties 30
3.26 calendar days to contest the redirection. The notice must be mailed to the obligor, obligee,
3.27 and caregiver at their last known addresses. The notice must state the name of the child
3.28 for whom support will be redirected, to whom the support will be redirected, when support
3.29 will be redirected, and the amount of the support that will be redirected. The notice must
3.30 also inform the parties of the right to contest the redirection of support.

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

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

- 4.1 (1) the child is not residing with the caregiver; or
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
4.4 the obligee's home.
- 4.5 (d) To contest the redirection, the obligee or obligor must make a written request
4.6 for a hearing to the public authority within 30 calendar days of the date of the notice of
4.7 redirection. The hearing must be held at the earliest practicable time, but no later than 30
4.8 calendar days from the date of the request for a hearing. The public authority shall serve
4.9 the parties with a notice of hearing at least 14 days before the date of the hearing. The
4.10 notice must be served personally or by mail at the parties' last known addresses. The public
4.11 authority shall file with the court the notice of hearing along with the notice of redirection
4.12 at least five days before the scheduled hearing. The court administrator shall schedule
4.13 these hearings to be heard in the expedited process before a child support magistrate,
4.14 but may schedule these hearings in district court if the availability of a child support
4.15 magistrate does not permit a hearing to occur within the time frames of this subdivision.
- 4.16 (e) If there is no contest, support must be redirected the first day of the month
4.17 following the expiration of the time period to contest. If there is a contest, support must
4.18 not be redirected pending the outcome of the hearing.
- 4.19 (f) The redirection of the basic support, medical support, and child care support
4.20 must be terminated and support must be directed to the obligee effective the first day
4.21 of the month following the date:
- 4.22 (1) the caregiver for the child no longer receives public assistance for the child;
4.23 (2) the voluntary placement agreement has expired; or
4.24 (3) the court order placing the child is no longer in effect.

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

4.26 Sec. 3. Minnesota Statutes 2008, section 541.04, is amended to read:

4.27 **541.04 JUDGMENTS, TEN YEARS.**

4.28 No action shall be maintained upon a judgment or decree of a court of the United
4.29 States, or of any state or territory thereof, unless begun within ten years after the entry
4.30 of such judgment. This section does not apply to child support judgments, including
4.31 judgments by operation of law, which are governed by section 548.09, subdivision 1a.

4.32 Sec. 4. Minnesota Statutes 2008, section 548.09, subdivision 1, is amended to read:

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

5.11 Sec. 5. Minnesota Statutes 2008, section 548.09, is amended by adding a subdivision
5.12 to read:

5.13 Subd. 1a. **Survival of child support judgment.** Notwithstanding the provisions
5.14 of subdivision 1, or any other provision of law, the child support judgments, including
5.15 judgments by operation of law, do not expire and may be enforced in any manner provided
5.16 by law until paid in full or otherwise satisfied, without limitation as to time. This
5.17 subdivision applies retroactively to any child support judgments, including judgments
5.18 by operation of law, that have not expired on or before the date of enactment of this
5.19 subdivision.

5.20 Sec. 6. **REPEALER.**

5.21 Minnesota Statutes 2008, sections 548.091, subdivision 3b; and 548.092, are
5.22 repealed.

**548.091 SUPPORT, MAINTENANCE, OR COUNTY REIMBURSEMENT
JUDGMENTS.**

Subd. 3b. **Child support judgment administrative renewals.** Child support judgments may be renewed by service of notice upon the debtor. Service must be by first class mail at the last known address of the debtor, with service deemed complete upon mailing in the manner designated, 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 administratively renew the judgment for child support without any additional filing fee in the same court file as the original child support judgment. The judgment must be renewed in an amount equal to the unpaid principal plus the accrued unpaid interest. Child support judgments may be renewed multiple times until paid.

**548.092 CHILD SUPPORT JUDGMENT BY OPERATION OF LAW;
APPLICATION.**

Section 548.091, subdivision 1a, applies retroactively to any child support arrearage that accrued before August 1, 1988, except that no arrearage may be docketed under section 548.091, subdivision 2a, if the arrearage is more than ten years past due at the time of docketing.