

House Research Act Summary

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Overview

This act addresses various issues relating to child support. Section 2 changes the county distribution formula for child support incentive funds. Section 12 relates to collecting past due child support through summary execution of funds at financial institutions. The act also makes other conforming, technical, and clarifying changes.

- 1 **Definitions.** By modifying the definition of "obligor," provides that an obligor who is in arrears at least five times the monthly support payment is subject to data matches whether or not the obligor is in compliance with a written payment agreement.
- 2 **Request for information.** Under previous language, the public authority could obtain information from the records of "all departments, boards, bureaus, or other agencies of this state" in order to establish or enforce a child support order. This amendment clarifies that the public authority may obtain necessary information from all state agencies *and* political subdivisions.
- 3 **Federal child support incentives.** (a) Requires federal incentive funds earned by the state for child support enforcement and paternity establishment to be distributed to counties based on federal methodology. Currently, Minnesota uses a different formula for distributing incentive funds to counties than the federal government uses for awarding the funds to Minnesota.
(b) Provides that the counties must use the incentive funds for child support enforcement.
- 4 **Provision of legal services by the public authority.** The amendment in this section addresses child support cases where a party needs to serve legal papers on another party but does not have access to the other party's address (such as in cases where the address is legally withheld because of domestic abuse concerns). In those cases, it provides a process whereby the public authority serves the papers instead of the moving party.
- 5 **Form.** Expedited process clean-up. Shifts responsibility for production of certain forms from DHS to the state court administrator.

6 **Contents.** Modifies the notice, commonly called Appendix A, given to parties subject to a support, maintenance, custody, or visitation order by: (1) clarifying procedures if an obligor is laid off; and (2) listing some possible child support enforcement tools. NOTE: this section does not change substantive law. It merely changes the suggested notice/warning given to parties that advises them of some aspects of the law.

7 **Delegation of powers by parent or guardian.** The changes in this section require a person delegating parental or guardian powers to notify the other parent of the delegation within 30 days in most circumstances.

8 **Judgment debtor.** For purposes of summary execution of support judgments, provides that a "judgment debtor" means an "obligor" instead of "a party."

9 **Judgment.** For purposes of summary execution of support judgments, defines "judgment" to include judgments that come into existence by default, also known as judgments "by operation of law," and judgments that are docketed.

10 **Scope of general and specific provisions.** Technical clarification.

11 **Notice and disclosure forms.** Technical changes; clean-up.

12 **Oral disclosure.** For purposes of summary execution of support judgments, exempts financial institutions that are complying with the summary execution law from being subpoenaed for a court examination under this subdivision.

13 **Bad faith claim.** Eliminates reference to a bad faith claim brought under a specific subdivision thereby making bad faith claims asserted under other theories subject to this subdivision as well. Clarifies that if the public authority acted in bad faith, the underlying judgment is not modified. However, the judgment debtor may still collect attorney's fees and other costs and damages.

14 **Priority of levy.** Technical clarification.

15 **Summary execution of support judgment upon funds at a financial institution.**

Subd. 1. Commencement of summary execution. (a) Provides that this section applies to judgment debtors owing at least five times the support order.

(b) Provides that section 518.5513 (relating to public authority procedures for child support orders) applies to this section, unless contradictory.

(c) Provides that inconsistent time frames in the rules of civil procedure do not apply to this section.

(d) Requires the public authority to try tax intercept first.

(e) Permits the public authority to send a notice of levy to a financial institution.

(f) Lists information that must accompany the levy.

(g) Provides that a levy may commence without notice to the judgment debtor and without a prior hearing.

(h) Requires the public authority to send the judgment debtor notice of the levy within three business days and lists information the notice must contain.

Subd. 2. Responsibilities of the financial institution. (a) Provides for seizure of funds up to the amount of arrears.

(b) Requires completion of the levy and disclosure form and forwarding of money to the public authority 45 days after receipt of the levy.

(c) Provides for release of seized funds in the event of informal resolution under subdivision 3.

(d) Requires the financial institution to hold seized funds if the matter is contested.

(e) Provides for seizure of multiple accounts.

(f) Provides for multiple levies.

(g) Clarifies that the federal Consumer Credit Protection Act does not apply to this section.

(h) Provides for a \$15 payment per levy by the public authority to the financial institution. Permits recovery of that fee from the judgment debtor.

(i) Provides immunity from damages to financial institutions complying with this section. Provides that financial institutions may rely on either the date of mailing or of delivery when computing time periods under this section.

Subd. 3. Informal resolutions of disputes. Provides for informal resolution. Clarifies that informal resolution discussions are not a contest and do not stay contest time limits.

Subd. 4. Responsibilities of the public authority. (a) Requires the public authority to notify the financial institution and the obligee if the seizure is contested.

(b) Requires the public authority to notify the financial institution of the final outcome of the matter and direct the transfer of funds.

(c) Requires the public authority to apply funds received to the judgment debt.

(d) Provides levy priorities when applying funds to judgment debts - first come, first serve.

Subd. 5. Exemption and contest. (a) Provides procedures for claiming an exemption. (Grounds for exemptions are listed in chapter 550.) Provides that the judgment debtor has 20 calendar days to claim an exemption, but that failure to do so does not constitute a waiver of a claimed right to an exemption.

(b) Provides procedures and grounds for a contest. Within 30 calendar days of the levy notice, requires the judgment debtor to: (1) file a motion with the court stating the grounds for the contest or the claimed exemption; (2) obtain a hearing date from the court; and (3) serve the public authority, either personally or by fax, no later than two business days after obtaining a hearing date.

(c) Requires a hearing as soon as possible, but no later than ten days. Provides that contests will be heard by child support magistrates if available.

Subd. 6. Form. Requires the state court administrator to produce a form to be used when a levy is contested.

16 **Instruction to revisor.** Instructs the revisor to make certain technical changes.

17 **Repealer.** Repeals current summary execution law. Repeals current rules relating to distribution of federal child support incentive funds October 1, 2001.