

a discriminatory act was committed against an employee he shall bring an action against the employer in the district court in the county where the alleged discrimination occurred or in a county where the employer transacts business refer the matter to the office of administrative hearings for a hearing before an administrative law judge pursuant to the provisions of chapter 14. The district court administrative law judge may order rehiring of the employee, reinstatement of his former position, fringe benefits, seniority rights, back pay, recovery of compensatory damages, and reasonable attorney fees, or other appropriate relief. Nothing in this section precludes an employee from bringing an action for relief under this section or any other provision of law.

Sec. 15. **EFFECTIVE DATE.**

The repeal of the small business exemption in section 3 is effective May 25, 1986.

Approved May 17, 1985

**CHAPTER 131 — S.F.No. 901**

*An act relating to human services; increasing incentives for enforcing and collecting child support; requiring child support or maintenance obligors to file address or residence changes; amending Minnesota Statutes 1984, sections 256.74, subdivisions 1 and 5; 256.87, subdivisions 1a and 3; 257.58, subdivision 1; 518.55, by adding a subdivision; 518.551, subdivision 7; 518.611, subdivisions 2, 3, 4, and 6, and by adding a subdivision; 518.645; 543.20; repealing Minnesota Statutes 1984, section 257.62, subdivision 4.*

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

Section 1. Minnesota Statutes 1984, section 256.74, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT.** The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law No. 97-35, Section 2315, 42 U.S.C. 602, as amended and federal regulations at 45 C.F.R. Section 233. In making its determination the county agency shall disregard the following from family income:

(1) All of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time student,

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and not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

(2) All educational grants and loans awarded pursuant to a federal law when public assistance was considered in making the award and the award was made on the basis of financial need; and that part of any other educational grant or loan which is used for educational purposes, such as tuition, fees, equipment, transportation and child care expenses necessary for school attendance;

(3) The first \$75 of each individual's earned income. In the case of an individual not engaged in full-time employment or not employed throughout the month the commissioner shall prescribe by rule a lesser amount to be disregarded. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) An amount equal to the actual expenditures but not to exceed \$160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded; and

(5) Thirty dollars plus one-third of the remainder of each individual's earned income not already disregarded for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has:

(a) Reduced his earned income without good cause within 30 days preceding any month in which an assistance payment is made; or

(b) Refused without good cause to accept an offer of suitable employment;  
or

(c) Left employment or reduced his earnings without good cause and applied for assistance so that he might later return to employment with the advantage of the income disregard; or

(d) Failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services.

Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the

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four preceding months their needs were met in whole or in part by a grant payment.

The disregard of \$30 and one-third of the remainder of earned income described in clause (5) shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of clause (5)(a) to (5)(d) shall be considered as one of the four months. To again qualify for this earned income disregard, the individual must not be a recipient of aid for a period of 12 consecutive months. If an individual becomes ineligible for aid because this earned income disregard has been applied to income for four consecutive months and will no longer be applied to income, the local agency shall inform the individual of the medical assistance program, its standards of eligibility, and the circumstances under which the individual would be eligible for medical assistance.

(6) The commissioner shall increase the standard of need for persons with earned income in effect on January 1, 1982, by 35 percent for each assistance unit. The maximum amount paid to an assistance unit shall be no more than 74 percent of the increased standard of need. Whenever the commissioner increases the maximum payment amount for all assistance units, the commissioner shall increase the maximum standard of need by an equal percentage.

To determine the amount of assistance to be paid to an assistance unit, net income shall be determined in a manner consistent with this chapter and applicable federal law. Net earned income shall be subtracted from the increased standard of need for an assistance unit of the appropriate size and composition to determine the grant amount, except that the grant shall not exceed the standard of need in effect on January 1, 1982 for an assistance unit of the same size and composition. Unearned income shall be subtracted from the maximum payment amount for an assistance unit of the appropriate size and composition to determine the grant amount.

Medical assistance eligibility for medically needy persons who are eligible for aid to families with dependent children shall be determined according to the standard of need in effect on January 1, 1982.

The first \$50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days of the collection of such periodic support payments and shall be disregarded in determining the amount of assistance.

Sec. 2. Minnesota Statutes 1984, section 256.74, subdivision 5, is amended to read:

Subd. 5. **ASSIGNMENT OF SUPPORT AND MAINTENANCE RIGHTS.** An applicant for assistance, or a recipient of assistance, under sections 256.72 to 256.87 or an applicant or recipient for whom foster care

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maintenance is provided under Title IV-E of the Social Security Act is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in his own behalf or in the behalf of any other family member for whom application is made under sections 256.72 to 256.87 or Title IV-E. The assignment:

(1) is effective as to both current and accrued child support and maintenance obligations;

(2) takes effect upon a determination that the applicant is eligible for assistance under sections 256.72 to 256.87 or that the applicant or family member is eligible for foster care maintenance under Title IV-E of the Social Security Act;

(3) terminates when an applicant ceases to receive assistance under sections 256.72 to 256.87 or when the applicant or family member ceases to receive foster care maintenance under Title IV-E of the Social Security Act, except with respect to the amount of any unpaid support or maintenance obligation, or both, ~~accrued~~ under the assignment.

Sec. 3. Minnesota Statutes 1984, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. **CONTINUING SUPPORT CONTRIBUTIONS.** In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. Except as provided in subdivision 4, the order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and for 90 days five months thereafter the order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 4. Minnesota Statutes 1984, section 256.87, subdivision 3, is amended to read:

Subd. 3. **CONTINUING CONTRIBUTIONS TO FORMER RECIPIENT.** The order for continuing support contributions shall remain in effect following the 90 day five-month period after public assistance granted under sections 256.72 to 256.87 is terminated if:

(a) the former recipient files an affidavit with the court within 90 days five months of the termination of assistance requesting that the support order remain in effect;

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(b) the public authority serves written notice of the filing by mail on the parent responsible for making the support payments at that parent's last known address and notice that the parent may move the court under section 518.64 to modify the order respecting the amount of support or maintenance; and

(c) the former recipient ~~makes an application to~~ authorizes use of the public authority's collection services.

Sec. 5. Minnesota Statutes 1984, section 257.58, subdivision 1, is amended to read:

Subdivision 1. **ACTIONS FOR CHILDREN WITHOUT A PRESUMED FATHER.** ~~Except for (a) an action brought by or on behalf of a child whose paternity has not been determined, and (b) an action brought by the public authority responsible for child support enforcement, if a child is over three years old when he or she first receives public assistance in the state of Minnesota, An action to determine the existence of the father and child relationship as to a child who has no presumed father under section 257.55 may not be brought later than three years after the birth of the child, or later than three years after August 1, 1980, whichever is later. An action brought by or on behalf of a child whose paternity has not been determined is not barred until one year after the child reaches the age of majority. If a child is over three years old when he or she first receives public assistance in the state of Minnesota, an action brought by the public authority responsible for child support enforcement is not barred until three years after the public assistance is first provided in this state.~~

Sec. 6. Minnesota Statutes 1984, section 518.55, is amended by adding a subdivision to read:

Subd. 3. NOTICE OF ADDRESS OR RESIDENCE CHANGE. Every obligor shall notify the obligee and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change. Every order for support or maintenance must contain a conspicuous notice of the requirements of this subdivision. The court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.

Sec. 7. Minnesota Statutes 1984, section 518.551, subdivision 7, is amended to read:

Subd. 7. **SERVICE FEE.** When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and

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shall not be assessed to obligors who are current in payment of the monthly court ordered child support. ~~No fee shall be imposed on the party who requests child support collection services~~ An application fee not to exceed \$5 shall be paid by the person who applies for child support and maintenance collection services, except persons who transfer from public assistance to nonpublic assistance status. Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, 42 U.S.C. 601 to 613 and 42 U.S.C. 651 to 662.

Sec. 8. Minnesota Statutes 1984, section 518.611, subdivision 2, is amended to read:

Subd. 2. **NOTICE TO OBLIGOR OF CONDITIONS OF INCOME WITHHOLDING.** Each order for withholding shall provide for a conspicuous notice to the obligor that:

(a) Withholding may shall result if the obligor fails to make the maintenance or support payments, and that no withholding shall be made until the following conditions are met:

(a) (1) ~~The obligee or the public authority determines that the obligor is at least 30 days in arrears;~~

(b) (2) The obligee or the public authority serves written notice of its determination of income withholding, showing arrearage, on the obligor at least 15 days before service of the determination notice of income withholding and a copy of the court's order for withholding on the payor of funds;

(c) (3) Within the 15-day period, the obligor has either failed to pay all arrearages or fails to move the court, under section 518.64, to modify the order respecting the amount of maintenance or support to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to modify deny withholding is heard. Within 45 days from the date of the notice of income withholding, the court shall hold the hearing on the motion to deny withholding and notify the parties of its decision; and

(d) (4) The obligee or the public authority serves a copy of the determination of arrearage notice of income withholding and a copy of the court's withholding order on the payor of funds; and

(e) (5) The obligee shall also serve serves on the public authority a copy of the determination of arrearage notice of income withholding, a copy of the court's

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withholding order ~~and~~, an application and the fee to use the public authority's collection services.

(b) To pay the arrearage specified in the notice of income withholding, 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.

(c) The obligor may, at any time, waive the written notice required by this subdivision.

(d) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

Sec. 9. Minnesota Statutes 1984, section 518.611, subdivision 3, is amended to read:

**Subd. 3. MODIFICATION ORDERS WITHHOLDING HEARING.**

An order issued after the hearing on the motion to modify under subdivision 2, paragraph (c), of this section, shall provide that payments be made outright by withholding. ~~The conditions precedent to withholding of subdivision 2 do not apply~~ At the hearing to deny withholding, if the court finds that there was no mistake of fact, the court shall order income withholding to begin no later than the first pay period that occurs after 14 days following the date of the hearing. If the court finds that an arrearage of at least 30 days existed as of the date of the notice of income withholding, but finds a mistake in the amount of arrearage, the court shall order income withholding, but it shall correct the amount of arrearage to be withheld under subdivision 2, paragraph (b).

Sec. 10. Minnesota Statutes 1984, section 518.611, subdivision 4, is amended to read:

**Subd. 4. EFFECT OF ORDER.** Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds ~~upon when service upon him of notice that it under subdivision 2~~ has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2, paragraph (b) and shall remit, monthly or more frequently ~~remit~~, the amounts withheld to the public authority. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld.

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Sec. 11. Minnesota Statutes 1984, section 518.611, subdivision 6, is amended to read:

Subd. 6. **PRIORITY.** An order for withholding under this section or execution or garnishment upon a judgment for child support arrearages or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment ~~unless otherwise ordered by the court~~ and shall not be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b)(2). If there is more than one withholding order on a single employee, the employer shall put them into effect in the order received up to the maximum allowed in the Consumer Credit Protection Act.

Sec. 12. Minnesota Statutes 1984, section 518.611, is amended by adding a subdivision to read:

Subd. 9. **FORMS.** The commissioner of human services shall prepare and make available to courts and obligors a form to be submitted by the obligor in support of a motion to deny withholding under this section. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Sec. 13. Minnesota Statutes 1984, section 518.645, is amended to read:  
518.645 **FORM OF ORDER.**

Unless otherwise ordered by the court, an order for withholding of support or maintenance payments issued under this chapter shall be substantially in the following form:

**IT IS ORDERED THAT:**

1. The sum of ..... per ....., representing child support and/or spousal maintenance, ordered by the Court, shall be withheld from the (Husband/Wife Respondent/Petitioner)'s income on ..... by (his/her) present employer or other payor of funds, ....., and any future employer or other payor of funds, and shall be remitted to: ....., monthly or more frequently, in accordance with the provisions of Minnesota Statutes, Chapter 518. The file number above and the Obligor's name shall be included with each remittance.

2. An additional amount equal to 20 percent of the amount required to be withheld by paragraph 1 shall be withheld from the income of the Obligor by the employer or payor until the entire arrearage in paragraph 3(b) is paid.

3. The parties are notified that **CHILD SUPPORT AND/OR MAINTENANCE WILL BE WITHHELD FROM INCOME ONLY AFTER ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:**

(a) ..... or the Obligee determines that the Obligor is at least thirty days in arrears in the payment of child support and/or spousal maintenance;

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(b) ..... or the Obligee serves written notice of income withholding on the Obligor of its showing the determination that child support and/or maintenance payments are thirty days in arrears;

(c) Within fifteen days after service of the notice of income withholding, the Obligor either fails to pay all past due payments or to move the Court, Minnesota Statutes, Section 518.64, to modify the order respecting the amount of child support and/or spousal maintenance to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding or on other grounds limited to mistakes of fact and, ex parte, to stay service of withholding on the employer or other payor of funds until the motion to modify deny withholding is heard. Within 45 days from the date of the notice of income withholding, the court shall hold the hearing on the motion to deny withholding and notify the parties of its decision; and

(d) Not sooner than fifteen 15 days after service of written notice in paragraph (b) of income withholding on the Obligor, ..... or the Obligee serves a copy of its determination of a thirty-day delinquency the notice of income withholding and a copy of the Court's withholding order on the employer or other payor of funds, who will then be obligated to withhold payments from income and forward the amount withheld to .....

3, 4. The parties and the employer or other payor of funds are further notified that **NO EMPLOYER MAY DISCHARGE, SUSPEND, OR OTHERWISE PENALIZE OR DISCIPLINE AN EMPLOYEE BECAUSE THE EMPLOYER MUST WITHHOLD SUPPORT OR MAINTENANCE MONEY.** Minnesota Statutes, section 518.611.

5. The payments shall begin to be withheld no later than the first pay period that occurs after 14 days following the date of mailing of the notice to the employer or other payor of funds in paragraph 3(d) and from that date the employer or other payor of funds is liable for amounts required to be withheld.

6. This order for withholding takes priority over any attachment, execution, garnishment, or wage assignment levied against the income of the Obligor. Amounts withheld are not subject to other statutory limitations on amounts levied against the income of the Obligor but must not exceed the maximum permitted under the federal Consumer Credit Protection Act, United States Code, title 15, section 1673(b)(2). If there is more than one withholding order on a single Obligor, the employer or other payor of funds shall put them into effect in the order received, up to the maximum allowed under the Consumer Credit Protection Act.

7. When the Obligor's employment is terminated or the periodic payment ends, the employer or other payor of funds is required to notify ..... within 30 days of the termination date. The notice must include the Obligor's home address of record and, if known, the name and address of the Obligor's new employer or other payor of funds.

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4. 8. If the Obligee serves the employer or other payor of funds under paragraph 2 ~~3~~(d), the Obligee shall also serve the determination and order on ....., together with an application and fee to use collection services.

5. 9. Service of this Order shall be.....

Sec. 14. Minnesota Statutes 1984, section 543.20, is amended to read:

**543.20 PERSONAL JURISDICTION IN SUPPORT ENFORCEMENT CASES AND PATERNITY SUITS.**

Subdivision 1. **SERVICE.** In addition to the methods of service of process provided in the rules of civil procedure, service of a summons, an order to show cause, or an order or judgment within this state may also be made upon an individual by delivering a copy to him or her personally at his or her place of employment or at a post-secondary education institution in which he or she is enrolled. The employer shall make the individual available for the purpose of delivering a copy. The post-secondary education institution must make the individual's class schedule available to the process server or make the individual available for the purpose of delivering a copy. No employer or post-secondary education institution shall deny a process server admittance to the employer's or post-secondary education institution's premises for the purpose of making service under this section.

No service shall be allowed under this section unless such service is made personally on the individual.

Subd. 2. **APPLICABILITY.** Service of an employee at a place of employment or of a student at a post-secondary education institution applies only to: (a) summons in an action for dissolution, annulment, legal separation, or under the parentage act and under section 256.87; (b) orders to show cause under both section 256.87 and the revised uniform Reciprocal Enforcement of Support Act as well as for contempt of court for failure to pay child support; (c) petitions under the Domestic Abuse Act; and (d) motions, orders and judgments for the payment of child support when the court orders personal service.

Subd. 3. **RETALIATION PROHIBITED.** An employer shall not discharge or otherwise discipline an employee, nor shall a post-secondary education institution dismiss or discipline a student as a result of service under this section.

Subd. 4. **DEFINITION.** For purposes of this section "post-secondary education institution" means any state university, community college, area vocational technical institution, private college, private post-secondary school, or the University of Minnesota.

Sec. 15. **REPEALER.**

Minnesota Statutes 1984, section 257.62, subdivision 4, is repealed.

Approved May 17, 1985

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