STATE OF MINNESOTA | IN DISTRICT COURT

COUNTY OF WINONA | THIRD JUDICIAL DISTRICT

In re: Court Procedure to Effectuate Income Withholding When a Court Order Does Not Include Provisions for Income Withholding

STANDING ORDER

WHEREAS, Minn. Stat. §518.53, subd. 3 requires that every child support order must address income withholding; that the full amount of the support order must be subject to income withholding from the obligor; that if either party applies for full IV-D services or for income withholding only services, the full amount of the support ordered must be withheld from the obligor's income and forwarded to the public authority;

WHEREAS, Minn. Stat. §518A.46, subd. 5(5) authorizes the public authority to order income withholding of child support under section 518A.53 in any action "relating to establishment of paternity, or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any judicial tribunal;"

WHEREAS, Minn. Stat. §518.53, subd. 7 provided for the administrative process that the public authority and parties must follow to effectuate income withholding when a support order erroneously failed to include provisions for income withholding or immediate withholding was waived;

WHEREAS, the 2014 Minnesota Legislature repealed Minn. Stat. §518A.53, subd. 7 as unnecessary (2014 Minn. Laws Ch. 262, Art. 1, Sec. 12 and 2014 Minn. Law Ch. 291, Art. 1, Sec. 12);

WHEREAS, federal law requires Minnesota to have a process for initiating income withholding when child support is not subject to immediate withholding (45 CFR 303.100(c));

WHEREAS, a standing order requiring the process set forth in Minn. Stat. §518A.53, subd. 7 will promote the efficient administration of justice and conserve resources;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. This ordered procedure applies to child support orders that do not contain provisions for income withholding or in which income withholding was waived.
    a. For cases in which the public authority is providing child support enforcement services to the parties, income withholding authorized under

Minn. Stat. §518A.53 shall take effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding shall result when:

(1) the obligor requests it in writing to the public authority;

(2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or

(3) the public authority commences withholding according to section 518A.46, subdivision 5, paragraph (a), clause (5).

b. Within two days after the public authority commences withholding under this subdivision, the public authority shall send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice shall include the information provided to the payor of funds in the notice of withholding.

2. This order shall remain in effect until August 1, 2015 or until the Minnesota Legislature reinstates Minn. Stat. §518A.53, subd. 7 or its equivalent, if that occurs earlier.

Date: 3/10/15

BY THE COURT

Jeffrey D. Thompson
Chief Judge
Third Judicial District