

Position Statement

2020

Child Support Equity – Eliminate Interest on Child Support Arrears

Proposal

Issue:	Federal law provides that States can opt to charge interest on child support arrears. Minnesota elected to do so with the assumption that interest charging would encourage the obligor would pay timely. Instead, interest has complicated the child support financial system and for many obligors has made their arrears payments nearly impossible to meet, sometimes having interest payments being higher than monthly obligations. DHS has proposed this in the past but faced objections from various partners. Most partners have changed their view.
Implementation Strategy:	The statute should be amended to eliminate interest in child support arrears. There are many partners that will need to support this (or at least not oppose this), including the courts, the Family Bar, the Real Estate Bar, and other advocacy groups, The Association is asked for general support and assistance in engaging and identifying partners, and moving the legislation, but Ramsey County intends to be the lead in this effort.

Systemic Priority Alignment (check all that apply and explain why)

Equity Service Integration Fiscal Framework

Comments: For IV-D Child Support cases in Minnesota, the application of interest has proven not to be a helpful collections tool. To the contrary, Minnesota's interest on arrears system often negatively impacts children and families, particularly families living in poverty. Additionally, interest charging creates complexity in Minnesota's automated child support enforcement system (PRISM). Eliminating interest charging from the child support program may be an opportunity to have a simplified and more efficient process for collecting child support.

Interest charging contributes to unpayable support obligations and mounting debts. Some child support payers fall behind in their obligations because the order exceeds their ability to pay. The reasons the support amount ordered may exceed ability to pay are varied but may include periods of unemployment or under-employment, changes in income, or orders that were unrealistic when set. There are cases with amounts that exceed the income withholding limits, the court ordered amount, and the terms of payment agreements for other enforcement tools.

Operational Priority Alignment (check all that apply and explain why)

Behavioral Health Case Management Child Well Being Community Based Settings & Services
 Health Care Housing & Transportation Modernization Self Sufficiency

Comments:

Rationale/Background:

Under Minn. Stat. § 549.09, the interest on child support judgments and arrears, spousal maintenance judgments and judgments for genetic testing and fees is calculated at the same rate as it is for all other civil judgments. We propose eliminating interest charging in Minnesota on child support debt and focus on collecting current support and arrears.

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The accrual of interest on arrears only adds to the payers' inability to meet the obligation.

Interest accrual may lead to strained relationships in the family and with the obligor and the IV-D Child Support program. Interest accrual also adds unnecessary complexity to the child support program. Because of the complexity of interest, child support workers are required spend time calculating and determining interest and explaining interest. This is time that could be better spent working proactively with parents.

As of 2019, just under 50% of the IV-D Child Support cases with orders in Minnesota have interest accruing. The most recent major study of how interest on child support payments effects child support arrears was issued in 2007 by the United States Department of Health and Human Services. The study recommended that states revise policies governing interest on child support arrears to ensure application of interest does not result in ever-increasing arrears balances that can never be paid in full. The report, called *Assessing Child Support Arrears in Nine Large States and the Nation*, found that in the states studied:

- Almost 75 percent of high debtors (\$30,000 or more in arrears) had no reported income or reported incomes of \$10,000 a year or less. In contrast, 20 percent of child support payers who have no arrears had reported low incomes.
- 70 percent of the arrears were owed by child support payers who had either no reported income or reported income of \$10,000 a year or less
- 40 percent of the arrears owed will be collected over 10 years because the majority of arrears are owed by low-income child support payers

Minnesota is a 100% pass through state, meaning that any child support collected is passed through to the family first, and debts or arrears owed to the government (public assistance) is collected second. However, a child support obligor must pay interest before arrears are paid based on the distribution of payments in Minnesota are:

- Current support
- Non-public assistance Interest (up to the balance due)
- Non-public assistance Arrears (up to the balance due)
- Public assistance Interest (up to the balance due)
- Public assistance Arrears

This distribution model keeps child support obligors accruing interest and requiring them to pay longer because the arrears are the last to be paid.

Counties began to implement an arrears forgiveness program upon passage of the child support debt and arrearage management statute in 2005 (See Minn. Stat. § 518A.62). This statute allows counties to forgive public assistance debt and arrears that is assigned to the state, including interest. This statute also allows the parent to whom the debt is owed to forgive non-public assistance debt and arrears. In implementing and monitoring arrears management, cases stand out where the monthly interest payment has become as much as, if not more than, the payment on current child support or the principle.

Additionally, many counties frequently agree to stay interest for so long as current payments are made as part of the order establishment process. Counties also encourage staying interest when a child support payer has met the statutory criteria of paying for 12 consecutive months pursuant to Minn. Stat. § 548.091, subd. 1a(b).

Because counties and the courts have discretion to stay interest, this is not something that is implemented consistently in cases across the state. Additionally, these efforts have not proven to meet the needs of our community. When receiving public comment, the Child Support Guidelines Task Force that was created by the Legislature in 2016, heard how detrimental interest charging was to families.

To not accrue interest on public assistance debt or arrears, or to not collect interest on public assistance debt or arrears would be a step in the right direction of encouraging current support payments.

As of 2019, 32 States charge interest. In the past several years, some states have either eliminated or have moved towards eliminating interest charging. Most recently, on September 16, 2019, the California Legislature passed a bill that prohibits the collection of interest on public assistance child support debt or arrears.

Opportunities from this proposal include:

- Simplification and cost savings for the IV-D Child Support program
 - System simplifications
 - Less mailings
 - Less enforcement on debt
 - Relationships between parents and the program
 - Arrears management
 - Consistency from county to county
- Less unpayable debt for obligors to focus on paying current support
- The number of obligors paying regularly may increase since balances owed may decrease faster without interest accrual.

Known concerns about this proposal include:

- Child support obligors will choose to pay on debts that accrue interest, and if child support does not have interest accruing, child support will not be paid or be the last in the line of debts to be paid.
- Child support obligees are often required to go into debt themselves to care for their children when not receiving support from the obligors, and thus required to pay interest on loans and credit cards. The concept is that interest charging on child support arrears helps the obligees eliminate some of their own interest that has accrued for lack of support paid.
- Taking away the interest charging removes the negotiation ability to encourage payment of current support, and there is worry that current support payments will drop without that encouragement.

Supporters – This comes from the Ramsey County Attorney’s Office and Child Support Program. MFSRC voted to support this proposal on November 21, 2019. In the past, the Minnesota State Bar Association Family Law Section and Real Estate Section and the Courts have supported similar proposals but would need to be brought into the discussion.

Opponents - Legal Aid has concerns about this proposal, but is open to talking about limiting when or how elimination of interest applies.

Additional Information:



Submitted by: Melissa Rossow, Director, Human Services Legal Division, Ramsey County Attorney’s Office and Trish Skophammer, Director, Child Support Services Division, Ramsey County Attorney’s Office

Approved on: [insert date position was approved]