

MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2017 ANNUAL CONFERENCE




### The Exciting World Of Judgments: What You Need To Know

Presenters

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Julie Thompson, Chisago County Child Support Officer

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### History



Judgments has always been an area of the law that has been confusing for both attorneys and child support staff. When the Comprehensive Legal Vision Group (CLV) group started, issues were sent in and disbursed to one of the three CLV groups depending on topic area. Judgments was one of the very first issues to come to the CLV Enforcement group.

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### History



The original issue presented to the CLV group was:

“Are arrears that are in the form of a Judgment by Operation of Law (never entered or docketed as a formal judgment) expired after 10 years or do they ever expire?”

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**History**



The CLV Enforcement Group decided that this was a high level issue and formed a sub-committee. The members of this committee were as follows:

- Jennifer Stanfield- Chair
- Susan Hanstad
- Julie Thompson
- Scott Orrey
- Geneva Finn
- Jill Olson
- Kirsten Simonds
- Leah Bruch
- Alesia Jammick

Guests: Melissa Rossow, Trish Skophammer and Sandra Torgerson

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**History**



After the first initial meetings, the group reviewed the DHS SIR Manual and noticed it was extremely out of date. Clerical errors, the legal authority section included repealed statutes, and inconsistent recommendations.

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**History**



In March, 2014 the group also ranked a list of issues and items that presented itself. It became very apparent that trying to answer the original question presented was more difficult than initially thought. As a result, DHS staff sent a statewide survey to DHS email, MFSRC and MCAA email lists.

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**History**



Some of the issues presented from the survey results were:

- The handling of judgments varies widely among counties. For instance, some counties do not have a policy regarding how often and whether to enter and docket judgments.
- Other counties treat judgments obtained privately different than those obtained by the public authority.
- The method and practice for satisfying judgments differs.
- There was a lot of confusion regarding how to handle judgments once a case is set to close and how a change of venue or involvement of a different state affects the judgment process.
- Some of the PRISM forms created for use for judgments had rarely been used in many years.

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**History**



As a result, the workgroup decided that this project should not only focus on the original issue presented but also focus on revamping the entire DHS policy manual on judgments.

The group spent two years working through the DHS policy manual. As part of this effort, the group rewrote the manual to include case law and authority (which adds hyperlinks), deleted outdated PRISM forms, recommended that new PRISM forms be added (in the meantime created word documents for use), and also clarified policy as to when to enter/docket judgments.

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**History**



The CLV Enforcement Group asked the CLV Executive Committee in the Fall of 2016 to approve the following:

- Approve the new re-write of the judgment topic of the DHS policy manual.
- DHS to create the following new PRISM forms:
  - a. Ex parte motion and accompanying legal documents to correct a clerical error in a judgment that has been ordered and/or entered and docketed with the court.
  - b. Summons and Complaint to renew spousal maintenance judgments.
  - c. Affidavit of default
- Approve newly-created WORD forms to be used on an interim basis until PRISM forms are published.
- Implement statewide training on the attached work product of the subcommittee.

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## History



The CLV Executive Committee approved the recommendations in their entirety in January, 2017 and DHS staff are currently working to update and implement it.

DHS is hopeful that it will be completed prior to the end of 2017. In the meantime, the CLV Enforcement Group has been given permission to provide trainings state-wide on changes adopted.

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## Why is a Judgment an Important Enforcement Tool?



Entering and docketing a judgment is an easy and important enforcement tool which allows the county to collect on arrears that are owed by an obligor.

Failure to enter and docket judgments on IV-D cases may prevent collection on unpaid arrears where an obligor has property in or out of the State of Minnesota or is applying for a loan.

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## Why is a Judgment an Important Enforcement Tool?



An entered and docketed judgment allows for the following enforcement remedies including but not limited to:

- Creates a lien on abstract real property owned by the obligor in the county in which it is docketed
- Appears as a judgment on credit reports so when an obligor seeks to obtain a loan or a mortgage (small business, home, personal, etc.) this judgment will need to be paid in full.
- Creates a priority of creditors.
- Court administration destroys support files 20 years after the final support obligation expires and there are no outstanding judgments. To avoid destruction of the court file, timely obtain and renew judgments so long as arrears are owed.

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**Authority\***

- [Minn. Stat. § 485.07\(2\)](#)
- [Minn. Stat. § 508.63](#)
- [Minn. Stat. § 508A.63](#)
- [Minn. Stat. § 518A.735 \(d\)](#)
- [Minn. Stat. § 518C.605 \(b\)](#)
- [Minn. Stat. § 541.04](#)
- [Minn. Stat. Chapter 548 Judgments](#)
- [Minn. Stat. § 549.09, subd. 1 and 2](#)
- [Minn. Stat. § 550.01](#)
- [Minnesota State Chapter 551](#)
- [Minn. Stat. § 552.01](#)
- [Minn. R. Civ. Pro. 58.01](#)
- [Minn. Stat. 253.01 subd. 1](#)
- [42 U.S.C. § 666 \(a\)\(9\)](#)
- [Minn. Stat. § 518A.49](#)

\*The manual also has a case law section.




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**Definitions**

**Abstract or Unregistered Property:**

Abstract property is:

- Real property for which history of ownership, transactions, claims and liens on the property are recorded at the county recorder's office.
- Abstract of title must be prepared for each sale.
- Summarizes the entire history of the property.
- At the time of docketing, judgment becomes a lien on all abstract property owned by debtor in the county the judgment is docketed.
- See Minn. Stat. §548.09, subd. 1 and Minn. Stat. §548.091, subd. 2a(b).




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**Definitions**

**Registered Property:** Also known as "Torrens" property.

- Ownership is determined by a special procedure. See Minn. Ch. 508 or 508A.
- Certificate of Title is issued which contains the history of ownership, transactions, claims and liens on the property. Certificate is kept by the County Registrar of Titles Office.
- Only current information listed on the Certificate of Title. A docketed judgment must be properly filed so as to be noted on the certificate to become a lien.
- See Minn. Stat. §§508.63, 508A.63, 548.091, subd. 1 and 548.091, subd. 8.

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**Definitions**



**Arrears:**  
Anything that is:

- Not paid within the month it is due;
- Past support and pregnancy and confinement costs if the court does not order a specific payback amount, or;
- Past support and pregnancy and confinement costs with a court ordered payback if a payment is missed.
- See Minn. Stat. §518A.26.

**Debt:** A debt is an obligation for past support, pregnancy and confinement costs or both and that the obligor is in compliance with court ordered repayment terms.

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**Definitions**



**Entry of Judgment:** The court administrator adds the money judgment to the court's judgment roll. The statute of limitations (SOL) time period starts from the date of entry, not date of docketing of a judgment. Payment priority amongst creditors is based on the date of entry.

**Docketing of Judgment:** After entry of a judgment, the court administrator adds the money judgment with details of the amounts owing on the court's docket. **Note:** The docketing date might be later than the entry date or not have occurred at all.

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**Definitions**



**Judgment (multiple meanings):**

- **Money Judgment:** An amount awarded by a court order. See Minn. Stats. §548.09 and §548.091, subd. 2a.
- **Judgment:** Official decision of the court.
- **Judgment Lien:** An entered and docketed judgment creates a judgment lien. A judgment lien is a debt repayment security for one or more creditors when a court order places a claim on a debtor's property situated within the court's jurisdiction. Before an obligor can get a loan or refinance a loan anywhere in the state the amount of judgment lien must be paid in full, part of, or negotiated with the judgment creditor. Judgment liens are an interest in debtor's real estate property in the county where the lien is entered and docketed (in some cases, the lien must also be recorded). In most cases, the obligor cannot legally sell or transfer the property without paying off (satisfying) the judgment.
- **Judgments by Operation of Law (JOL):** Any payment or installment of support ordered by a court that is not paid or withheld from the obligor's income as required under section 518A.53 is a judgment by operation of law on and after the date it is due. A JOL is entitled to full faith and credit in this state and any other state, and shall be entered and docketed by the court administrator on the filing of affidavits as provided in subdivision 2a. See Minn. Stat. §548.091, subd. 2 .

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### Definitions



**Judgment Transcript:** A document obtained from the court administrator setting forth the details of an entered judgment for purposes of entering and docketing a judgment in another County where the Obligor has property or venue of the IV-D case has been transferred.

**Statute of Limitations (SOL):** Statutes of limitation bars court actions. For example a money judgment that was entered but not timely renewed limits enforcement remedies. Please consult your county attorney for further questions.

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### Definitions



**Stay of Entry and Docketing:** Staying the entry and docketing of child support debt or arrears that have accumulated. Typically done as a condition of continued payments, and if a payment is missed a child support officer will then enter and docket as a judgment.

**Satisfaction of Judgment:** A document used to permanently release a judgment lien. When that judgment has been satisfied it is considered paid in full by the Obligor and no enforcement remedies can be used for that satisfied judgment. See Minn. Stat. §548.15 and §548.091, subd. 10.

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### What Happens to Expired Judgments?



A child support officer (CSO) must renew an entered support judgment that is nearing the ten-year statute of limitations to maintain the judgment status of the obligation. An entered judgment creates a lien for ten years after the date of entry. If a CSO does not renew the judgment before the ten year statute of limitations expires, the judgment ceases to exist and enforcement remedies moving forward are limited. See Minn. Stat. 549.09, subd. 1.

A CSO may renew child support judgments multiple times.

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### What Happens to Expired Judgments?



Timely renewal of a judgment is critical for ongoing judicial enforcement on a judgment obligation. If a CSO allows a judgment to expire, the enforcement remedies available to collect the remaining principal and interest balances of the obligation are limited. However, the arrears owed do not expire.

Below is a list of enforcement actions that may be affected if a judgment was not duly renewed within ten years. If you have a case where the qualifying arrears stem from an expired judgment the county cannot take the following actions in court:

- Civil Contempt
- State and Federal Criminal Charges
- Court ordered Resumption of Interest
- Lien on property

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### Why did the CLV Enforcement Group not Recommend Counties Enter Judgments as a Regular Course of Business?



- The group brought in guests for this discussion who were considered experts on specific areas of judgments.
- The group discussed this multiple times over a two year time frame.
- The initial thought was to make a formal policy to have counties enter and docket judgments as a regular enforcement tool. However after reviewing survey results, looking at economic impact, looking at employment resources, PRISM capabilities and whether the statute mandated this action, the group felt that it was better to make a policy recommendation and propose guidelines to use.
- Overall the CLV enforcement and executive committee believes that this is an effective enforcement tool and encourages Counties to use it as much as they can.

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### Judgment Entry and Docketing Guidelines Proposed



If you have cases where there are no entered and docketed judgments and arrears are approaching ten years old, the following chart is provided as a **guideline** to assist in determining when to enter and docket a judgment.

Arrears accrual begin date	When to Take Action to Enter and Docket a Judgment – Best Practice Suggestions
Greater than 10 years	No action
Less than 10 years- greater than 9 years	Immediate entry and docketing of arrears as a judgment.
Less than 9 years	Enter and docket the arrears as a judgment if the arrears are either at least \$5000.00 and twelve (12) months in arrears

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### Spousal Maintenance Judgments



- Can be entered, docketed and renewed by Public Authority only on IV-D cases.
- Survive for 10 years after entry (MN Stat. 548.09, Subd 1 and 548.091, Subd 2.)
- Are not Judgments by Operation of Law (JOLs) like child support.
- No method for administrative renewal.

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### Renewing Spousal Maintenance Judgments



- Requires “entry of judgment in a new civil action commenced within statutory limitations period for enforcement of the original judgment.” *Shamrock Dev. Inc. v. Smith, 754 N.W.2d 377 (Minn. 2008).*
- Personal service required.
- Must be brought in district court; not expedited process.

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### Renewing S.M. Judgments Cont.



- Necessary legal documents are not available on PRISM. County Attorney must prepare.
- DHS agreed to create PRISM docs. In the interim, WORD docs will be made available.

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### Case Closure/Conversion



- If a judgment is not fully satisfied at the time the IV-D case closes or converts to a Non-IV-D case, agency should notify CP of responsibility to timely renew and/or satisfy judgments.
- Existing PRISM notice will be updated to include this reminder.

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### Satisfaction of Judgments



#### Full or Partial Satisfactions

IV-D agency should consider filing partial satisfactions in certain situations:

- Credit Bureau Reporting by district court and IV-D agency.
- Upon request of Obligor.

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### Satisfactions Cont.



- Federal Tax Refund Intercepts
  - Satisfaction should be filed upon release of money to the IV-D account.
  - Beware refunds for joint returns and possibility of injured spouse claim.
- Remember to file satisfactions in every county where the judgment has been entered and docketed, transcribed or memorialized with Registrar of Titles. This includes change of venue counties.

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### Satisfactions Cont.



- Minn. Stat. § 548.091, Subd. 10 requires execution and delivery of satisfaction within 5 business days after the payment.
- Ct. Admin. does not notify parties that satisfaction has been filed with court.

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### Satisfactions Cont.



- Who signs? County Attorney or CSO?
    - Current practice varies by county.
    - Business document or legal document debate.
    - Rule 11 requirements.
    - Signer must have actual knowledge that the amount has been paid in full.
- After much discussion and legal research, the group decided to leave this decision to each individual County.

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### Correcting Judgment Errors



- Three Common Problems:
  - Incorrect amount
  - Misidentification of Obligor
  - Failure of court admin. to enter/docket as ordered.

Remedy depends on how error happened:  
 If administrative, letter to court admin.  
 If order, motion to correct. (Forms will be available)

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### Judgments Within Minnesota



- Can be transcribed in any county and becomes lien against real property.
- Will be entered by court administrator receiving a case upon a transfer of venue. Entry date is same as original. Docket date is date of receipt.
- Can be memorialized with Registrar of Titles in any county where obligor holds Torrens real estate.

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### Judgments on Foreign Orders



- Underlying support order must first be registered for enforcement before judgment can be entered and docketed (§518C.601).
- Judgment tracking is the responsibility of entering state.
- Uniform Interstate Family Support Act (UIFSA) and Uniform Enforcement of Foreign Judgments Act (UEFJA) apply.

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### QUESTIONS?




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