

HOUSE BILL NO. 617

INTRODUCED BY J. SINRUD, ARNTZEN, BARRETT, HILBERT, L. JONES, MACLAREN, NOONEY,
PARKER, RIPLEY, SONJU, TAYLOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FILING REQUIREMENTS FOR CHILD SUPPORT DEBTS; REQUIRING THAT NOTICE OF A SUPPORT DEBT BE FILED WITH THE CLERK OF THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE MOST RECENT SUPPORT ORDER WAS ISSUED; ~~REQUIRING THE CLERK OF THE DISTRICT COURT TO GIVE NOTICE OF POSSIBLE CONTEMPT PROCEEDINGS TO THE OBLIGOR;~~ REQUIRING THE FILING OF A FINAL ADMINISTRATIVE ORDER FOR A SUPPORT DEBT WITH THE CLERK OF THE DISTRICT COURT; ~~AUTHORIZING~~ REQUIRING THE COMMENCEMENT OF CONTEMPT OF COURT PROCEEDINGS UPON THE FILING OF A FINAL ADMINISTRATIVE ORDER FOR A SUPPORT DEBT UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 40-5-222 AND 40-5-227, MCA."

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

Section 1. Section 40-5-222, MCA, is amended to read:

"40-5-222. Support debt based upon support order -- notice -- contents -- action to collect. (1) The department may issue a notice of a support debt accrued or accruing based upon a support order. The notice may be served upon the obligor, in the manner prescribed for the service of a summons in a civil action in accordance with the provisions of the Montana Rules of Civil Procedure, demanding payment within 20 days of the date of receipt.

(2) The notice of debt ~~shall~~ must include:

(a) a statement of the support debt accrued or accruing, computable on the amount required to be paid under any support order;

(b) a statement that the property of the debtor is subject to collection action;

(c) a statement that the property is subject to distraint and seizure and sale;

(d) a statement that the net proceeds will be applied to the satisfaction of the support debt; and

(e) a statement that the obligor is entitled to a fair hearing.

(3) Action to collect the support debt by distraint and seizure and sale is lawful after 20 days from the date of service upon the obligor or 20 days from the receipt or refusal by the debtor of the notice of debt.

(4) Within 20 days of the date of service of notice of support debt, the obligor may request a fair hearing as provided in 40-5-226.

(5) The department shall send a copy of the notice described in subsection (2) to the clerk of the district court for the judicial district in which the most recent support order was issued. Upon receipt of the notice, the clerk of the district court shall notify the obligor that if the support debt is not satisfied as provided in this part, the obligor may be subject to a contempt proceeding under 40-5-227."

Section 2. Section 40-5-227, MCA, is amended to read:

"40-5-227. Filing and docketing of final orders -- orders effective as district court decrees. (1) An abstract of any final administrative order under this chapter may be filed in the office of the clerk of the district court of any county of Montana and must be filed in the office of the clerk of the district court that received notice under 40-5-222(5). ~~Upon the request of the department, the~~ The order must be docketed in the judgment docket of the district court. The properly filed and docketed order has all the force, effect, and attributes of a docketed order or decree of the district court, including but not limited to lien effect and enforceability by supplemental proceedings, writs of execution, and contempt of court proceedings. A final administrative order of the department is effective and enforceable without filing and docketing the order in the district court. Contempt of court proceedings and writs of execution based on the administrative order may not be requested from the district court unless the administrative order is first docketed with the district court. The administrative order may not operate as a judgment lien; unless the order is first docketed with the district court or a lien is otherwise perfected under the laws of this state, including 40-5-248.

(2) A final administrative order that determines and sets periodic support payments in the absence of a district court order, when filed and docketed under this section, may be modified by a district court order only as to installments accruing after actual notice to the parties of any motion for modification. The standard for a modification is that set forth in 40-4-208.

(3) The department may issue a warrant for distraint based upon a properly filed and docketed order pursuant to 40-5-247.

~~(4) After an abstract has been filed pursuant to subsection (1), a district court may commence contempt proceedings pursuant to Title 3, chapter 1, part 5.~~

(4) IF THE DEPARTMENT HAS FILED AN ABSTRACT PURSUANT TO SUBSECTION (1) AFTER ISSUING A NOTICE OF A SUPPORT DEBT PURSUANT TO 40-5-222, THE DEPARTMENT SHALL PETITION THE DISTRICT COURT TO FIND THE OBLIGOR IN CONTEMPT IF THE OBLIGOR HAS NOT MADE A PAYMENT ON THE DEBT IN 30 DAYS."

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