



AN ACT EXTENDING THE PERIOD OF CHILD SUPPORT OBLIGATION FOR A CHILD WITH A DISABILITY WHEN THE CUSTODIAL PARENT IS THE CAREGIVER; PROVIDING AN APPROPRIATION; AMENDING SECTION 40-4-208, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Section 40-4-208, MCA, is amended to read:

**"40-4-208. Modification and termination of provisions for maintenance, support, and property disposition.** (1) Except as otherwise provided in 40-4-201(6), a decree may be modified by a court as to maintenance or support only as to installments accruing subsequent to actual notice to the parties of the motion for modification.

(2) (a) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification does not contain provisions relating to maintenance or support, modification under subsection (1) may only be made within 2 years of the date of the decree.

(b) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification contains provisions relating to maintenance or support, modification under subsection (1) may only be made:

(i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable;

(ii) upon written consent of the parties; or

(iii) upon application by the department of public health and human services, whenever the department of public health and human services is providing services under Title IV-D of the federal Social Security Act. The support obligation must be modified, as appropriate, in accordance with the guidelines promulgated under 40-5-209. Except as provided in 40-4-251 through 40-4-258, a modification under this subsection may not be made within 12 months after the establishment of the order or the most recent modification.

(c) The nonexistence of a medical support order, as defined in 40-5-804, or a violation of a medical support order justifies an immediate modification of child support in order to:

(i) provide for the actual or anticipated costs of the child's medical care;  
 (ii) provide or maintain a health benefit plan or individual health insurance coverage for the child; or  
 (iii) eliminate any credit for a medical support obligation when it has been permitted or used as a credit in the determination of the child support obligation.

(3) The provisions as to property disposition may not be revoked or modified by a court except:

(a) upon written consent of the parties; or

(b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(5) ~~Provisions~~ Except as provided in subsection (6), provisions for the support of a child are terminated by emancipation of the child or the child's graduation from high school if the child is enrolled in high school, whichever occurs later, but in no event later than the child's 19th birthday, unless the termination date is extended or knowingly waived by written agreement or by an express provision of the decree.

(6) (a) Provisions for the support of a child who has not been emancipated by the court are not terminated solely on the basis of the child's age if the child has a disability that causes the child to be financially dependent on the custodial parent and the custodial parent is the child's primary caregiver.

(b) The obligation to pay child support for the individual with a disability continues until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent if:

(i) the decree ordering provisions for the support of a child is issued on or after [the effective date of this act]; or

(ii) the decree ordering provisions for the support of a child is already in effect on [the effective date of this act] and has not been terminated.

(c) If a decree ordering provisions for the support of a child has been terminated prior to [the effective date of this act] on the basis that the individual with a disability has turned 19 years of age but the individual remains financially dependent on the custodial parent and the custodial parent continues to serve as the individual's primary caregiver, the custodial parent may petition the court to issue a new child support order or reinstate the terminated child support order until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent.

(d) In assessing the amount of the continuing financial obligation of the noncustodial parent under this subsection (6), the court shall consider the child's eligibility for public benefits and services and other factors enumerated in this section.

(7) Provisions for the support of a child do not terminate upon the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

~~(6)~~(8) The decree may be modified, as provided in 40-4-251 through 40-4-258, for failure to disclose assets and liabilities."

**Section 2. Appropriation.** There is appropriated \$5,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2019, for the purpose of hiring staff to implement and enforce [this act], in combination with federal matching grant funds. The appropriation is to be considered as part of the ongoing base for the next legislative session. Any unexpended portion of this appropriation reverts to the general fund.

**Section 3. Effective date.** [This act] is effective July 1, 2019.

- END -

I hereby certify that the within bill,  
HB 0726, originated in the House.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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Chief Clerk of the House

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

HOUSE BILL NO. 726

INTRODUCED BY M. CAFERRO, J. BACHMEIER

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