

Proposal for Legislation -- 2009 Streamlining Child Support Enforcement

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1. What is the problem or issue?

The Child Support Enforcement Division has collected in one bill a number of provisions to streamline CSED processes, enable collections, assist employers in honoring withholding orders, comply with the distribution provisions of the 2005 Deficit Reduction Act and to ensure it receives the necessary information from court orders.

2. What do you want the legislation to do?

The TANF assignment provisions of the Deficit Reduction Act of 2005 necessitate an amendment to MCA 53-2-613(3) to delete the requirement for assignment of pre-TANF child support arrears. In addition, the CSED proposes other provisions to streamline and clarify various child support enforcement laws:

- Amend MCA 40-5-821 to allow service of the medical penalty notice by certified mail and to delete the requirement for a hearing, if no hearing is requested.
- Amend MCA 40-5-225(3-5) concerning temporary support orders to allow for CSED modification pending issuance of a district court support order.
- Amend MCA 40-5-403(4)(a) to further define deductions from income before application of an income withholding order. The provision would add "and other mandatory retirement and disability contributions, and union dues" to the list of deductions from income.
- Add a new section in Title 40, Chapter 5, Part 4 to allow an obligor to have funds deducted from a deposit account in lieu of or to satisfy an income withholding order.
- Amend MCA 53-2-110 to ensure that a payment with a notation "paid in full" or "final payment" is not full or final payment unless the debt is actually paid in full.
- Amend MCA 17-4-105(4)(b) to allow collection of debts through the state debt offset process when the debt owing the Department accrued through the CSED's Terms and Conditions of Service or statute.
- Amend MCA 40-5-907 and 908 to ensure the required abstract information is available to the CSED from the clerks of court or the district court. These amendments to 40-5-907 and 908 are necessitated by the Court's implementation of Full Court in lieu of JCMS and the new privacy rules.
- Amend MCA 40-5-601(7)(e) to correct the meaning of (e) to reflect that an obligated parent may be excused from contempt if the parent can produce evidence of a valid out-of-court agreement.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

MCA 53-2-613(3); MCA 40-5-821; MCA 40-5-225(3-5); MCA 40-5-403(4)(a); MCA 53-2-110; MCA 17-4-105(4)(b); MCA 40-5-907 and 908; MCA 40-5-601(7)(e), and a new section in Title 40, Chapter 5, Part 4.

4. If the proposed change requires additional funding, what funding sources do you propose?

N/A

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

Many states will be or have made changes to their TANF assignment provisions as a result of the changes made to that section of law in the Deficit Reduction Act of 2005. However, state statutes concerning assignment and application do not come from a model or uniform act so our amendments are unique to Montana.