

SENATE BILL NO. 164

INTRODUCED BY S. BROWN, TOWE, REGAN, B. BROWN

IN THE SENATE

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| January 17, 1981 | Introduced and referred to Committee on Judiciary. |
| February 9, 1981 | Committee recommend bill do pass as amended. Report adopted. |
| February 10, 1981 | Bill printed and placed on members' desks. |
| February 11, 1981 | Second reading, do pass. Bill segregated. |
| February 12, 1981 | Second reading, do pass as amended. |
| February 14, 1981 | Correctly engrossed. Third reading, passed. Ayes, 42; Noes, 7. Transmitted to House. |

IN THE HOUSE

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| February 16, 1981 | Introduced and referred to Committee on Judiciary. |
| March 12, 1981 | Committee recommend bill be concurred in. Report adopted. |
| March 19, 1981 | Second reading, concurred in. |
| March 21, 1981 | Third reading, concurred in. Ayes, 83; Noes, 5. |

IN THE SENATE

March 21, 1981

**Returned from House. Concurred
in. Sent to enrolling.**

Reported correctly enrolled.

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INTRODUCED BY Steve Brown Don Flynn Bob Brown
SENATE BILL NO. 164

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE PAYMENT OF DELINQUENT COURT-ORDERED CHILD SUPPORT BY DEDUCTION OF PAYMENTS FROM THE INCOME OF THE OBLIGOR."

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

Section 1. Short title. [This act] may be cited as the "Child Support Income Deduction Act of 1981".

Section 2. Purpose. The purpose of [this act] is to provide a direct method of deducting money from a person's income for the payment of child support if that person has been delinquent in the payment of court-ordered child support.

Section 3. Petition for income deduction -- who may initiate. A petition for an income deduction for the payment of delinquent child support payments may be made by:

- (1) the person named as the recipient of the child support payments in the child support order;
- (2) the child or the guardian of the child named in the child support order; or
- (3) the state of Montana.

Section 4. When child support payments considered delinquent. (1) Nonpayment of child support required by any

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order of a district court or by a similar order of a court of another jurisdiction becomes delinquent under [this act] when the amount owed is equal to 6 months of child support payments.

(2) Child support payments may be considered delinquent under [this act] only in reference to a court order setting child support payments.

Section 5. Notice. On petition for income deductions for payment of delinquent child support, the district court shall cause notice to be served upon the obligor, stating that if the delinquency is not discharged within 15 days, the court will order an income deduction for the payment of the delinquent child support and for the payment of current child support as it becomes due and payable. The notice shall also state that the obligor may contest the allegation that child support payments are delinquent.

Section 6. Discharge of delinquency. If the obligor pays the total amount of child support due and payable within the 15 days specified in [section 5], no order for deduction may issue. This discharge of delinquency does not affect or otherwise limit any action as a result of any subsequent delinquencies.

Section 7. Delinquency of child support denied -- hearing. If the obligor responds to the notice and denies that child support payments are delinquent, the district

1 court shall hold a hearing to determine whether or not there
2 is a deficiency in child support payments sufficient to be
3 delinquent under [section 4].

4 Section 8. Order for deduction from income for child
5 support payments. (1) If the obligor fails to respond to
6 notice within 15 days or if the district court determines
7 that the obligor is delinquent in payment of child support
8 as provided in [section 4], the district court shall issue
9 an order to the obligor's employer ordering a deduction from
10 the obligor's wages or salary for the payment of child
11 support.

12 (2) The order shall state:

13 (a) the action involved;

14 (b) the total amount of back child support due and the
15 amount of each court-ordered installment of child support;

16 (c) the amount to be deducted from the wages or salary
17 of the obligor each pay period and the amount, if any,
18 allowed to the employer under subsection (2) of [section 9]
19 as a fee for handling the deduction;

20 (d) the length of time the order is to remain in
21 effect, if ascertainable;

22 (e) to whom the deduction is to be made payable and
23 where it is to be forwarded by the employer;

24 (f) that it is unlawful for an employer to discharge
25 an employee because an income deduction for child support is

1 being made against the employee's wages or salary; and

2 (g) that a failure or refusal by the employer to
3 deduct money as ordered will result in the employer being
4 held liable for the entire amount of the child support due
5 and payable.

6 Section 9. Amount to be deducted from income. (1) The
7 amount of money to be deducted each pay period from the
8 obligor's income shall be:

9 (a) (i) the amount of money necessary to pay current
10 installments of child support as they become due and
11 payable; plus

12 (ii) the amount of money which, when deducted in equal
13 amounts each pay day, will pay off all outstanding child
14 support payments delinquent within 1 year; or

15 (b) the maximum amount allowable by federal
16 garnishment law if the sum provided in subsection (1)(a)
17 exceeds that amount.

18 (2) The district court may allow a fee of \$1 per
19 deduction, which the employer may deduct from the obligor's
20 wages or salary for the expense of administering the
21 deduction.

22 (3) The child support income deduction shall cease
23 when there is no past-due child support owing unless the
24 district court orders continued income deductions for
25 payment of child support installments as they become due and

1 payable.

1 child support.

-End-

2 Section 10. Priority of income deduction. An order for
3 the deduction of income for the payment of delinquent child
4 support payments takes precedence over any:

- 5 (1) assignment of wages or salary;
6 (2) voluntary deductions from the obligor's wages or
7 salary; and
8 (3) other court-ordered garnishment of wages or
9 salary.

10 Section 11. Failure of employer to deduct --
11 liability. If any person, firm, corporation, association, or
12 political subdivision or department of the state fails or
13 refuses to deduct from the obligor's income as provided by
14 court order, he or it is liable to the petitioner initiating
15 the action in an amount equal to 100% of the value of the
16 debt that is the basis of the income deduction, together
17 with costs, interest, and reasonable attorney fees.

18 Section 12. Discharge of employee prohibited. An
19 employer may not discharge an employee because the employer
20 is ordered to deduct money from the employee's wages or
21 salary for payment of child support.

22 Section 13. Remedy not exclusive. The remedy provided
23 in [this act] for the collection of unpaid child support is
24 not exclusive. [This act] provides a remedy in addition to
25 all other remedies in law available to obligees of unpaid

Approved by Committee
on Judiciary

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INTRODUCED BY S. BROWN, TOWE, REGAN, B. BROWN

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Section 1. Short title. [This act] may be cited as the
"Child Support Income Deduction Act of 1981".

Section 2. Purpose. The purpose of [this act] is to
provide a direct method of deducting money from a person's
income for the payment of child support if that person has
been delinquent in the payment of court-ordered child
support.

Section 3. Petition for income deduction -- who may
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of delinquent child support payments may be made by:

(1) the person named as the recipient of the child
support payments in the child support order;

(2) the child or the guardian of the child named in
the child support order; or

(3) THE DEPARTMENT OF REVENUE OR THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES OF the state of Montana.

Section 4. When child support payments considered

delinquent. (1) Nonpayment of child support required by any
order of a district court or by a similar order of a court
of another jurisdiction becomes delinquent under [this act]
when the amount owed is equal to 6 3 months of child support
payments.

(2) Child support payments may be considered
delinquent under [this act] only in reference to a court
order setting child support payments.

Section 5. Notice. On petition for income deductions
for payment of delinquent child support, the district court
shall cause notice to be served upon the obligor, stating
that if the delinquency is not discharged within 15 days,
the court will order an income deduction for the payment of
the delinquent child support and for the payment of current
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that child support payments are delinquent.

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affect or otherwise limit any action as a result of any
subsequent delinquencies.

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hearing. If the obligor responds to the notice and denies

1 that child support payments are delinquent, the district
2 court shall hold a hearing to determine whether or not there
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6 support payments. (1) If the obligor fails to respond to
7 notice within 15 days or if the district court determines
8 that the obligor is delinquent in payment of child support
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10 an order to the obligor's employer ordering a deduction from
11 the obligor's wages or salary for the payment of child
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14 (a) the action involved;

15 (b) the total amount of back child support due and the
16 amount of each court-ordered installment of child support;

17 (c) the amount to be deducted from the wages or salary
18 of the obligor each pay period and the amount, if any,
19 allowed to the employer under subsection (2) of [section 9]
20 as a fee for handling the deduction;

21 (d) the length of time the order is to remain in
22 effect, if ascertainable;

23 (e) to whom the deduction is to be made payable and
24 where it is to be forwarded by the employer; AND

25 (f) that it is unlawful for an employer to discharge

1 an employee because an income deduction for child support is
2 being made against the employee's wages or salary; and

3 ~~(g) that a failure or refusal by the employer to~~
4 ~~deduct money as ordered will result in the employer being~~
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9 obligor's income shall be:

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11 installments of child support as they become due and
12 payable; plus

13 (ii) the amount of money which, when deducted in equal
14 amounts each pay day, will pay off all outstanding child
15 support payments delinquent within ±-year 2 YEARS; or

16 (b) the maximum amount allowable by federal
17 garnishment law if the sum provided in subsection (1)(a)
18 exceeds that amount.

19 (2) The district court may allow a fee of ± NOT TO
20 EXCEED \$5 per deduction, which the employer may deduct from
21 the obligor's wages or salary for the expense of
22 administering the deduction.

23 (3) The child support income deduction shall cease
24 when there is no past-due child support owing unless the
25 district court orders continued income deductions for

1 payment of child support installments as they become due and
2 payable.

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4 the deduction of income for the payment of delinquent child
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10 salary.

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20 employer may not discharge an employee because the employer
21 is ordered to deduct money from the employee's wages or
22 salary for payment of child support.

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24 in [this act] for the collection of unpaid child support is
25 not exclusive. [This act] provides a remedy in addition to

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