

HOUSE BILL NO. 439

INTRODUCED BY J. BROWN, BERGENE

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Judiciary.
January 29, 1985	Committee recommend bill do pass. Report adopted. Statement of Intent attached.
January 30, 1985	Bill printed and placed on members' desks.
February 2, 1985	Second reading, do pass. Considered correctly engrossed.
February 4, 1985	Third reading, passed. Ayes, 98; Noes, 1. Transmitted to Senate.

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Judiciary.
March 28, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 30, 1985	Second reading, concurrred in.
April 1, 1985	Third reading, concurrred in. Ayes, 46; Noes, 1. Returned to House with amendments.

IN THE HOUSE

April 2, 1985

Received from Senate.

April 5, 1985

Second reading, amendments
concurrent in.

April 8, 1985

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 439
 2 INTRODUCTION BY J. Brown Bayne
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
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5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING CONSUMER
 6 REPORTING AGENCIES TO OBTAIN PERSONAL CHILD SUPPORT
 7 INFORMATION FROM CHILD SUPPORT AGENCIES; PROVIDING THAT THE
 8 CONSUMER REPORTING AGENCY NOTIFY ANY PERSON ABOUT WHOM
 9 CHILD SUPPORT DEBT INFORMATION HAS BEEN REQUESTED; REQUIRING
 10 THE DEPARTMENT TO ADOPT RULES PROVIDING AN OPPORTUNITY TO
 11 CONTEST THE DEBT AMOUNT OF RECORD; AMENDING SECTIONS
 12 31-3-152, 40-5-206, AND 53-2-504, MCA; AND PROVIDING AN
 13 IMMEDIATE EFFECTIVE DATE."
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Consumer credit reports --
 17 use of child support obligation information. (1) For the
 18 purposes of this section, "child support agency" means the
 19 department of revenue or a public agency with whom the
 20 department has contracted to carry out any of the
 21 department's child support enforcement authority set forth
 22 in Title 40, chapter 5.

23 (2) A consumer reporting agency may request and
 24 receive from any child support agency personal or
 25 confidential information concerning an individual's overdue

1 child support debt. However, if the debt is less than
 2 \$1,000, the information regarding the amount may be made
 3 available only at the option of the child support agency.
 4 The child support agency shall charge the consumer reporting
 5 agency a fee, commensurate with the cost of providing the
 6 information.

7 (3) Prior to requesting the information, the consumer
 8 reporting agency must serve the individual with notice,
 9 either in person or by certified mail. The notice must
 10 state:

11 (a) the nature and substance of the information to be
 12 requested from the child support enforcement agency;

13 (b) the name and address of the child support agency;

14 (c) that the individual may inspect the child support
 15 debt records in person or obtain a copy by mail from the
 16 child support agency; and

17 (d) that if, within 30 days of service, the individual
 18 does not respond to the notice or otherwise initiate steps
 19 to contest the accuracy of the information under procedures
 20 established by the child support agency, the requested
 21 information will be forwarded to the consumer reporting
 22 agency for inclusion in the individual's investigative
 23 consumer report.

24 (4) Upon receipt of the request for information,
 25 together with proof of service of the notice in compliance

1 with subsection (3), the child support agency must provide
 2 the appropriate information under this section to the
 3 consumer reporting agency. However, any debt amount that is
 4 in dispute may not be provided until the dispute has been
 5 determined by agreement or court or administrative decision.

6 (5) The department of revenue shall adopt rules to
 7 implement this section, including rules establishing a
 8 procedure for contesting the accuracy of the information
 9 contained in the child support records of the child support
 10 agency and rules establishing a schedule of fees charged
 11 pursuant to subsection (2) of this section.

12 Section 2. Section 31-3-152, MCA, is amended to read:

13 "31-3-152. Rules. The department of commerce shall
 14 enforce this part, except [section 1], and promulgate rules
 15 necessary to carry out the intent of this part, except
 16 [section 1]."

17 Section 3. Section 40-5-206, MCA, is amended to read:

18 "40-5-206. Central unit for information and
 19 administration -- cooperation enjoined -- availability of
 20 records. (1) The department shall establish a central unit
 21 to serve as a registry for the receipt of information, for
 22 answering interstate inquiries concerning deserting parents,
 23 to coordinate and supervise departmental activities in
 24 relation to deserting parents, and to assure effective
 25 cooperation with law enforcement agencies.

1 (2) To effectuate the purposes of this section, the
 2 director may request from state, county, and local agencies
 3 all information and assistance as authorized by this part.
 4 All state, county, and city agencies, officers, and
 5 employees shall cooperate in the location of parents who
 6 have abandoned or deserted or are failing to support
 7 children receiving public assistance and shall on request
 8 supply the department with all information available
 9 relative to the location, income, and property of the
 10 parents.

11 (3) Any Except as provided in [section 1], any records
 12 established pursuant to the provisions of this section are
 13 available only to the department, county attorneys, and
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 17 authorized by the rules of the department and by the
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19 Section 4. Section 53-2-504, MCA, is amended to read:

20 "53-2-504. Unauthorized disclosure of information
 21 obtained in department of revenue investigations a criminal
 22 act. (1) No information obtained by the department of
 23 revenue or its agents and attorneys as a result of an
 24 investigation shall be disclosed except in accordance with
 25 the laws applicable to the source of information, provided,

1 however, such information may be used or disclosed under
2 [section 1] or as necessary in any court action.

3 (2) Each employee violating the disclosure provisions
4 shall be subject to the criminal charge and penalties
5 applicable to the source of information."

6 NEW SECTION. Section 5. Codification instruction.
7 Section 1 is intended to be codified as an integral part of
8 Title 31, chapter 3, part 1.

9 NEW SECTION. Section 6. Effective date. This act is
10 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

STATEMENT OF INTENT

HOUSE BILL 439

House Judiciary Committee

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A statement of intent is required for this bill because it grants rulemaking authority to the department of revenue.

The purpose of this bill, and Public Law 93-378 on which it is based, is to make available to consumer credit reporting agencies information concerning an individual's delinquent support obligation. The intent of such disclosure is twofold:

(1) to preclude a parent from taking on additional financial burdens inconsistent with the child support obligation; and

(2) to protect other general creditors of the parent by making them aware that a child support debt exists which may subject the assets and wages of the parent to garnishment, seizure, and sale, and the imposition of liens on the parent's real and personal property. However, before disclosure of such sensitive information and because of the potential harm if inaccurate information is disclosed, the department of revenue shall adopt rules and procedures to preserve the privacy of such information until the parent has had an opportunity to examine the information and to contest its accuracy.

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It is intended that the department of revenue should respond within a reasonable time to any request for information. Therefore, to expedite the release of such information, any dispute with the parent over its accuracy should be resolved, whenever possible, under the contested case provisions of the Montana Administrative Procedure Act. The department of revenue is authorized to adopt and enforce such rules as may be necessary to implement such procedures.

The department of revenue is permitted to prescribe a reasonable fee to be paid by the consumer credit reporting agencies to compensate the child support agency for its administrative costs incurred in providing the requested information under this bill. It is intended that the fees should not exceed the actual costs of providing this information, which may be a uniform fee to be applied in all cases or a fee schedule based on the volume of the requests.



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HOUSE BILL 439

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THIRD READING

HB 439



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-End-

STANDING COMMITTEE REPORT

SENATE

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 439

third reading copy (blue)
color

(Senator Towe)

CONSUMER CREDIT REPORTING AGENCIES ACCESS TO CHILD SUPPORT DEBT INFORMATION

Respectfully report as follows: That HOUSE BILL No. 439

be amended as follows:

1. Page 3, line 6.

Following: line 5

Insert: "If the individual does not agree with the administrative decision, he is entitled to have a statement of dispute, as provided in 31-3-124, included in the information provided to the consumer reporting agency."

2. Page 3, line 11.

Following: "section."

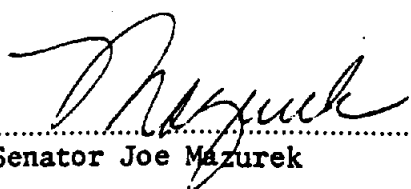
Insert: "The department shall adopt guidelines which take into account the payment record of the individual, the availability of other remedies, and other considerations which it determines relevant for determining whether use of the procedures provided in [this act] would carry out the purpose of enforcing payment of child support or would be appropriate in the circumstances. If after application of the guidelines to the request for information the department determines the procedures provided in [this act] are not appropriate, it may deny the request."

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXX~~


Senator Joe Mazurek

Chairman.

STATEMENT OF INTENT

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House Judiciary Committee

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1 with subsection (3), the child support agency must provide
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 5 determined by agreement or court or administrative decision.
 6 IF THE INDIVIDUAL DOES NOT AGREE WITH THE ADMINISTRATIVE
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 15 pursuant to subsection (2) of this section. THE DEPARTMENT
 16 SHALL ADOPT GUIDELINES WHICH TAKE INTO ACCOUNT THE PAYMENT
 17 RECORD OF THE INDIVIDUAL, THE AVAILABILITY OF OTHER
 18 REMEDIES, AND OTHER CONSIDERATIONS WHICH IT DETERMINES
 19 RELEVANT FOR DETERMINING WHETHER USE OF THE PROCEDURES
 20 PROVIDED IN [THIS ACT] WOULD CARRY OUT THE PURPOSE OF
 21 ENFORCING PAYMENT OF CHILD SUPPORT OR WOULD BE APPROPRIATE
 22 IN THE CIRCUMSTANCES. IF AFTER APPLICATION OF THE GUIDELINES
 23 TO THE REQUEST FOR INFORMATION THE DEPARTMENT DETERMINES THE
 24 PROCEDURES PROVIDED IN [THIS ACT] ARE NOT APPROPRIATE, IT
 25 MAY DENY THE REQUEST.

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18 shall be subject to the criminal charge and penalties
19 applicable to the source of information."

20 NEW SECTION. Section 5. Codification instruction.
21 Section 1 is intended to be codified as an integral part of
22 Title 31, chapter 3, part 1.

23 NEW SECTION. Section 6. Effective date. This act is
24 effective on passage and approval.

-End-