

HOUSE BILL NO. 441

INTRODUCED BY J. BROWN, BERGENE, CHRISTIAENS

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 as amended. Report adopted.
January 30, 1985	Bill printed and placed on members' desks.
February 2, 1985	Second reading, do pass as amended. Correctly engrossed.
February 4, 1985	Third reading, passed. Ayes, 99; Noes, 0. Transmitted to Senate.

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Judiciary.
March 28, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Ayes, 47; 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. 441
 2 INTRODUCED BY J. Brown Boyne
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DOCKETING AND
 6 ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS IN THE
 7 DISTRICT COURT AND TO LIMIT THE MODIFICATION OF THE SUPPORT
 8 ORDERS BY THE DISTRICT COURT."
 9

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

11 Section 1. Filing and docketing of final orders --
 12 orders effective as district court decrees. (1) An abstract
 13 of any final administrative order under this chapter may be
 14 filed in the office of the clerk of the district court of
 15 any county of Montana. The order must be docketed in the
 16 judgment docket of the district court. The properly filed
 17 and docketed order has all the force, effect, and attributes
 18 of a docketed order or decree of the district court,
 19 including but not limited to lien effect and enforceability
 20 by supplemental proceedings, writs of execution, and
 21 contempt of court proceedings.

22 (2) A final administrative order that determines and
 23 sets periodic support payments in the absence of a district
 24 court order, when filed and docketed under this section, may
 25 be modified by a district court order only as to

1 installments accruing after any motion for modification.
 2 The standard for any such modification is that set forth in
 3 40-4-208.

4 Section 2. Codification instruction. Section 1 is
 5 intended to be codified as an integral part of Title 40,
 6 chapter 5, part 2.

7 Section 3. Extension of authority. Any existing
 8 authority of the department of revenue to make rules on the
 9 subject of the provisions of this act is extended to the
 10 provisions of this act.

-End-



INTRODUCED BILL
 HB 441

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 441

INTRODUCED BY J. BROWN, BERGENE, CHRISTIAENS
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DOCKETING AND ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS IN THE DISTRICT COURT AND TO LIMIT THE MODIFICATION OF THE SUPPORT ORDERS BY THE DISTRICT COURT; TO ALLOW THE DEPARTMENT TO ISSUE A WARRANT FOR DISTRRAINT BASED UPON THE DOCKETED ADMINISTRATIVE CHILD SUPPORT ORDER; TO DELETE THE REQUIREMENT FOR A SECOND NOTICE AND HEARING PRIOR TO EXECUTION ON A FILED WARRANT FOR DISTRRAINT; AMENDING SECTION 40-5-241, MCA."

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

Section 1. 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. 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.

(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 any motion for modification. The standard for any such modification is that set forth in 40-4-208.

(3) THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRRAINT BASED UPON A PROPERLY FILED AND DOCKETED ORDER PURSUANT TO 40-5-241.

SECTION 2. SECTION 40-5-241, MCA, IS AMENDED TO READ:

"40-5-241. Warrant for distrainment. Thirty-one days after receipt or refusal of notice of debt under provisions of 40-5-222 or 31 days after service of notice of debt or as otherwise appropriate under the provisions of 40-5-223 and 40-5-224, the department may issue a warrant for distrainment based on the amount of the support debt. The warrant is subject to the provisions of 15-1-701, 15-1-704, 15-1-705, 15-1-708, and 15-1-709, with references to "tax" taken to mean "support debt" and references to "taxpayer" taken to mean "person owing the support debt", as well as the provisions of this part. Notwithstanding the provisions of subsection (3) of 15-1-705, an appeal from a hearing may be made directly to district court, as provided in 40-5-253,

1 and is not appealable to the state tax appeal board."

2 Section 3. Codification instruction. Section 1 is
3 intended to be codified as an integral part of Title 40,
4 chapter 5, part 2.

5 Section 4. Extension of authority. Any existing
6 authority of the department of revenue to make rules on the
7 subject of the provisions of this act is extended to the
8 provisions of this act.

-End-

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6 ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS IN THE
7 DISTRICT COURT AND TO LIMIT THE MODIFICATION OF THE SUPPORT
8 ORDERS BY THE DISTRICT COURT; TO ALLOW THE DEPARTMENT TO
9 ISSUE A WARRANT FOR DISTRAINT BASED UPON THE DOCKETED
10 ADMINISTRATIVE CHILD SUPPORT ORDER; TO DELETE THE
11 REQUIREMENT FOR A SECOND NOTICE AND HEARING PRIOR TO
12 EXECUTION ON A FILED WARRANT FOR DISTRAINT; AMENDING SECTION
13 40-5-241, MCA."

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

16 Section 1. Filing and docketing of final orders --
17 orders effective as district court decrees. (1) An abstract
18 of any final administrative order under this chapter may be
19 filed in the office of the clerk of the district court of
20 any county of Montana. The order must be docketed in the
21 judgment docket of the district court. The properly filed
22 and docketed order has all the force, effect, and attributes
23 of a docketed order or decree of the district court,
24 including but not limited to lien effect and enforceability
25 by supplemental proceedings, writs of execution, and

1 contempt of court proceedings.

2 (2) A final administrative order that determines and
3 sets periodic support payments in the absence of a district
4 court order, when filed and docketed under this section, may
5 be modified by a district court order only as to
6 installments accruing after any motion for modification.
7 The standard for any such modification is that set forth in
8 40-4-208.

9 (3) THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRAINT
10 BASED UPON A PROPERLY FILED AND DOCKETED ORDER PURSUANT TO
11 40-5-241.

12 SECTION 2. SECTION 40-5-241, MCA, IS AMENDED TO READ:

13 "40-5-241. Warrant for distraint. Thirty-one days
14 after receipt or refusal of notice of debt under provisions
15 of 40-5-222 or 31 days after service of notice of debt or as
16 otherwise appropriate under the provisions of 40-5-223 and
17 40-5-224, the department may issue a warrant for distraint
18 based on the amount of the support debt. The warrant is
19 subject to the provisions of 15-1-701, 15-1-704, ~~15-1-705,~~
20 15-1-708, and 15-1-709, with references to "tax" taken to
21 mean "support debt" and references to "taxpayer" taken to
22 mean "person owing the support debt", as well as the
23 provisions of this part. ~~Notwithstanding the provisions of~~
24 ~~subsection (3) of 15-1-705, an appeal from a hearing may be~~
25 ~~made directly to district court, as provided in 40-5-253,~~

1 ~~and-is-not-appealable-to-the-state-tax-appeal-board:"~~

2 Section 3. Codification instruction. Section 1 is
3 intended to be codified as an integral part of Title 40,
4 chapter 5, part 2.

5 Section 4. Extension of authority. Any existing
6 authority of the department of revenue to make rules on the
7 subject of the provisions of this act is extended to the
8 provisions of this act.

-End-

STANDING COMMITTEE REPORT

SENATE

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 441

third reading copy (blue)
color

(Senator Crippen)

ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS THROUGH DISTRICT COURT

Respectfully report as follows: That HOUSE BILL No. 441

be amended as follows:

Page 1, line 20.

Following: "Montana."

Insert: "If the administrative order has been entered by nonappearance or default on the part of the responsible parent, the court may reconsider the order on its merits."

Following: "order"

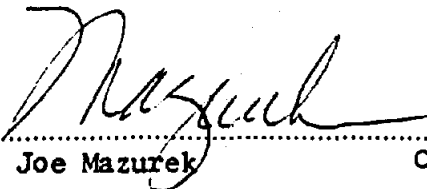
Insert: ", if approved,"

AND AS AMENDED

BE CONCURRED IN

~~CONCURRED~~

~~CONCURRED~~


.....
Senator Joe Mazurek Chairman.

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18 of any final administrative order under this chapter may be
19 filed in the office of the clerk of the district court of
20 any county of Montana. IF THE ADMINISTRATIVE ORDER HAS BEEN
21 ENTERED BY NONAPPEARANCE OR DEFAULT ON THE PART OF THE
22 RESPONSIBLE PARENT, THE COURT MAY RECONSIDER THE ORDER ON
23 ITS MERITS. The order, IF APPROVED, must be docketed in the
24 judgment docket of the district court. The properly filed
25 and docketed order has all the force, effect, and attributes

1 of a docketed order or decree of the district court,
2 including but not limited to lien effect and enforceability
3 by supplemental proceedings, writs of execution, and
4 contempt of court proceedings.

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6 sets periodic support payments in the absence of a district
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22 subject to the provisions of 15-1-701, 15-1-704, 15-1-705,
23 15-1-708, and 15-1-709, with references to "tax" taken to
24 mean "support debt" and references to "taxpayer" taken to
25 mean "person owing the support debt", as well as the

REFERENCE BILL
HB 441

HB 0441/04

1 provisions of this part. Notwithstanding the provisions of
2 subsection (3) of 15-1-705, an appeal from a hearing may be
3 made directly to district court, as provided in 40-5-253,
4 and is not appealable to the state tax appeal board."

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11 provisions of this act.

-End-