

HOUSE BILL NO. 445

INTRODUCED BY J. BROWN, CHRISTIAENS

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Judiciary.
January 30, 1985	Committee recommend bill do pass as amended. Report adopted.
January 31, 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, 97; Noes, 3. 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, 43; Noes, 4. 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.

HOUSE BILL NO. 445INTRODUCED BY J. Brown

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A PERSON OBLIGATED TO PAY CHILD SUPPORT BECOMES DELINQUENT IN AN AMOUNT EQUAL TO THE TOTAL OF 3 MONTHS' SUPPORT PAYMENTS, THE COURT SHALL ORDER THE OBLIGATED PERSON TO POST BOND OR OTHER SECURITY IN AN AMOUNT EQUAL TO THE TOTAL OF 2 YEARS' SUPPORT PAYMENTS."

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

Section 1. Security or guarantee to secure support.

(1) Upon verified application by a person authorized to enforce or collect a child support obligation, the department of revenue, or the department of social and rehabilitation services showing that a person obligated to pay child support or maintenance pursuant to court or administrative order is delinquent in an amount equal to the total of 3 months' support payments, the court shall direct the obligated person to appear and show cause why an order should not be entered ordering that he post bond, give a mortgage, or provide other security or guarantee for the payment of the delinquency.

(2) If the court finds that a delinquency greater than

the total of 3 months of support is owed and that the obligated person has the ability to post bond, give a mortgage, or provide security or other guarantee, the court shall enter an order requiring him to post bond, give a mortgage, or provide security or guarantee for so long as there is a support delinquency.

(3) The bond or other security must be in the amount of the total support due for a 2-year period and must be approved by the court. The bond must include the name and address of the issuer. Any person issuing a bond under this section must, if the bond is cancelled, notify the court and the person or public agency entitled to receive payments under the support order.

(4) If the person obligated to pay child support or maintenance fails to make payments as required by the court or administrative order, the person or public agency entitled to receive payment may recover on the bond or other security. The amount recovered on the bond or other security must first be applied toward satisfaction of any support arrearages.

(5) Failure to comply with a court order to obtain and maintain a bond or other security may be treated as contempt of court.

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

LC 0438/01

1 chapter 4, part 2.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 445

INTRODUCED BY J. BROWN, CHRISTIAENS

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(2) If the court finds that a delinquency greater than

the total of 3 months of support is owed and that the obligated person has the ability to post bond, give a mortgage, or provide security or other guarantee, the court shall enter an order requiring him to post bond, give a mortgage, or provide security or guarantee for so long as there is a support delinquency.

(3) The bond or other security must MAY be in the AN amount of UP TO the total support due for a 2-year period and must be approved by the court. The bond must include the name and address of the issuer. Any person issuing a bond under this section must, if the bond is cancelled, notify the court and the person or public agency entitled to receive payments under the support order.

(4) If the person obligated to pay child support or maintenance fails to make payments as required by the court or administrative order, the person or public agency entitled to receive payment may recover on the bond or other security. The amount recovered on the bond or other security must first be applied toward satisfaction of any support arrearages.

~~(5) --Failure-to-comply-with-a-court-order-to-obtain-and-maintain-a-bond-or-other-security-may-be-treated-as-contempt-of-court--~~

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



HB 0445/02

1 chapter 4, part 2.

-End-

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3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
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8 THE COURT SHALL ORDER THE OBLIGATED PERSON TO POST BOND OR  
9 OTHER SECURITY IN AN AMOUNT EQUAL UP TO THE TOTAL OF 2  
10 YEARS' SUPPORT PAYMENTS."

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

13 Section 1. Security or guarantee to secure support.

14 (1) Upon verified application by a person authorized to  
15 enforce or collect a child support obligation, the  
16 department of revenue, or the department of social and  
17 rehabilitation services showing that a person obligated to  
18 pay child support or maintenance pursuant to court or  
19 administrative order is delinquent in an amount equal to the  
20 total of 3 months' support payments, the court shall direct  
21 the obligated person to appear and show cause why an order  
22 should not be entered ordering that he post bond, give a  
23 mortgage, or provide other security or guarantee for the  
24 payment of the delinquency.

25 (2) If the court finds that a delinquency greater than

1 the total of 3 months of support is owed and that the  
2 obligated person has the ability to post bond, give a  
3 mortgage, or provide security or other guarantee, the court  
4 shall enter an order requiring him to post bond, give a  
5 mortgage, or provide security or guarantee for so long as  
6 there is a support delinquency.

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8 amount of UP TO the total support due for a 2-year period  
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10 name and address of the issuer. Any person issuing a bond  
11 under this section must, if the bond is cancelled, notify  
12 the court and the person or public agency entitled to  
13 receive payments under the support order.

14 (4) If the person obligated to pay child support or  
15 maintenance fails to make payments as required by the court  
16 or administrative order, the person or public agency  
17 entitled to receive payment may recover on the bond or other  
18 security. The amount recovered on the bond or other security  
19 must first be applied toward satisfaction of any support  
20 arrearages.

21 ~~(5) -- Failure to comply with a court order to obtain and~~  
22 ~~maintain a bond or other security may be treated as contempt~~  
23 ~~of court.~~

24 Section 2. Codification instruction. Section 1 is  
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HB 0445/02

1 chapter 4, part 2.

-End-



STANDING COMMITTEE REPORT

SENATE

Page 1 of 2

March 28 19 85

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 445

third reading copy (blue color)

(Senator Daniels)

REQUIRING PERSON DELINQUENT IN CHILD SUPPORT PAYMENTS TO POST BOND

Respectfully report as follows: That HOUSE BILL No. 445

be amended as follows:

1. Title, line 7. Following: "OF" Strike: "3" Insert: "6"

2. Title, line 8. Following: "COURT" Strike: "SHALL" Insert: "MAY"

3. Page 1, line 20. Following: "of" Strike: "3" Insert: "6" Following: "court" Strike: "shall" Insert: "may"

4. Page 2, line 1. Following: "of" Strike: "3" Insert: "6"

MMXVXK

MMXVXK

CONTINUED

Chairman.

Page 2 of 2

HOUSE BILL NO. 445

5. Page 2, line 4. Following: line 3 Strike: "shall" Insert: "may"

6. Page 2, line 21. Following: line 20 Insert: "(5) The department shall adopt guidelines which take into account the payment record of the obligated person, the availability of other remedies, and other considerations which it determines relevant for determining whether the procedure provided in this section would carry out the purpose of enforcing payments of child support or would be appropriate in the circumstances. If after application of the guidelines the department determines an application for an order requiring security is not appropriate, it may not request the order."

AND AS AMENDED

BE CONCURRED IN

Senator Joe Mazurek, Chairman

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4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A  
6 PERSON OBLIGATED TO PAY CHILD SUPPORT BECOMES DELINQUENT IN  
7 AN AMOUNT EQUAL TO THE TOTAL OF 3 6 MONTHS' SUPPORT  
8 PAYMENTS, THE COURT SHALL MAY ORDER THE OBLIGATED PERSON TO  
9 POST BOND OR OTHER SECURITY IN AN AMOUNT EQUAL UP TO THE  
10 TOTAL OF 2 YEARS' SUPPORT PAYMENTS."

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

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15 enforce or collect a child support obligation, the  
16 department of revenue, or the department of social and  
17 rehabilitation services showing that a person obligated to  
18 pay child support or maintenance pursuant to court or  
19 administrative order is delinquent in an amount equal to the  
20 total of 3 6 months' support payments, the court shall MAY  
21 direct the obligated person to appear and show cause why an  
22 order should not be entered ordering that he post bond, give  
23 a mortgage, or provide other security or guarantee for the  
24 payment of the delinquency.

25 (2) If the court finds that a delinquency greater than

1 the total of 3 6 months of support is owed and that the  
2 obligated person has the ability to post bond, give a  
3 mortgage, or provide security or other guarantee, the court  
4 shall MAY enter an order requiring him to post bond, give a  
5 mortgage, or provide security or guarantee for so long as  
6 there is a support delinquency.

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8 amount of UP TO the total support due for a 2-year period  
9 and must be approved by the court. The bond must include the  
10 name and address of the issuer. Any person issuing a bond  
11 under this section must, if the bond is cancelled, notify  
12 the court and the person or public agency entitled to  
13 receive payments under the support order.

14 (4) If the person obligated to pay child support or  
15 maintenance fails to make payments as required by the court  
16 or administrative order, the person or public agency  
17 entitled to receive payment may recover on the bond or other  
18 security. The amount recovered on the bond or other security  
19 must first be applied toward satisfaction of any support  
20 arrearages.

21 (5) THE DEPARTMENT SHALL ADOPT GUIDELINES WHICH TAKE  
22 INTO ACCOUNT THE PAYMENT RECORD OF THE OBLIGATED PERSON, THE  
23 AVAILABILITY OF OTHER REMEDIES, AND OTHER CONSIDERATIONS  
24 WHICH IT DETERMINES RELEVANT FOR DETERMINING WHETHER THE  
25 PROCEDURE PROVIDED IN THIS SECTION WOULD CARRY OUT THE

REFERENCE BILL  
HB 445

1 PURPOSE OF ENFORCING PAYMENTS OF CHILD SUPPORT OR WOULD BE  
2 APPROPRIATE IN THE CIRCUMSTANCES. IF AFTER APPLICATION OF  
3 THE GUIDELINES THE DEPARTMENT DETERMINES AN APPLICATION FOR  
4 AN ORDER REQUIRING SECURITY IS NOT APPROPRIATE, IT MAY NOT  
5 REQUEST THE ORDER.

6 ~~(5)--Failure-to-comply-with-a-court-order-to-obtain-and~~  
7 ~~maintain-a-bond-or-other-security-may-be-treated-as-contempt~~  
8 ~~of-court.~~

9 Section 2. Codification instruction. Section 1 is  
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