

HOUSE BILL NO. 446

1/23 Introduced
1/23 Referred to Judiciary
1/30 Hearing
2/05 Committee Report-Bill Pass As Amended
2/08 2nd Reading Pass
2/09 3rd Reading Pass

Transmitted to Senate

2/11 Referred to Judiciary
3/27 Hearing
3/29 Adverse Committee Report
3/29 Bill Killed

1 HOUSE BILL NO. 446
 2 INTRODUCTION BY J. Brown Director
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A LIEN
 6 AGAINST REAL AND PERSONAL PROPERTY FOR UNPAID CHILD
 7 SUPPORT."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Lien for unpaid child support. (1) Every
 11 judgment or order for child support issued by a district
 12 court under this chapter becomes a lien upon all real and
 13 personal property of the obligor not exempt from execution,
 14 owned by the obligor or which he may afterward acquire,
 15 until the lien ceases. This lien is in addition to any
 16 other lien created by the judgment or order.

17 (2) The lien has the priority granted a secured
 18 creditor and is limited to the amount of due and unpaid
 19 child support arrearages.

20 (3) The person or public agency authorized to collect
 21 or enforce the child support order may serve notice of the
 22 support lien upon any person, firm, corporation,
 23 association, political subdivision, or state agency in
 24 possession of real or personal property due to or owned by
 25 the obligor and to which the lien applies. After personal

1 service or service by certified mail of the notice of
 2 support lien, such property may not be paid over, released,
 3 sold, transferred, encumbered, or conveyed until:

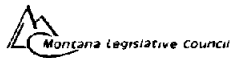
4 (a) a written release or waiver signed by the lienor
 5 or lienor's assignee or successor in interest is received;

6 (b) an order of the court is received ordering the
 7 release of such support lien on the basis that the lien is
 8 invalid, has ceased to exist, or that there are no unpaid
 9 child support arrearages; or

10 (c) the lien is foreclosed in the manner provided for
 11 the foreclosure of judgment liens.

12 (4) Any person, firm, corporation, association,
 13 political subdivision, or state agency who, after service of
 14 the notice of support lien, pays over, releases, sells,
 15 transfers, or conveys real or personal property subject to
 16 a support lien to or for the benefit of the obligor is
 17 liable to the lienor or the lienor's assignee or successor
 18 in interest, in an amount equal to 100% of the value of the
 19 unpaid child support which is the basis of the lien.

20 (5) If child support provided in the judgment or order
 21 is directed to be paid to the clerk of court and such
 22 direction is set forth in the judgment order, the clerk of
 23 court's payment records are prima facie evidence of the
 24 amount of the lien for unpaid child support and conclusive
 25 in favor of any person dealing in good faith and for a



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1 valuable consideration with the obligor.

2 (6) A lien created under this section may be cancelled
3 and discharged upon full satisfaction. Such lien is not
4 satisfied in full until the obligation to support each minor
5 has ceased under the laws of this state and until all
6 arrearages for unpaid child support have been satisfied.

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

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 446

INTRODUCED BY J. BROWN, CHRISTIAENS

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCEDURE TO IMPOSE A LIEN AGAINST REAL AND PERSONAL PROPERTY FOR UNPAID CHILD SUPPORT."

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

Section 1. Lien for unpaid child support. (1) Every judgment or order for child support issued by a district court under this chapter becomes a lien upon all real and personal property of the obligor not exempt from execution, owned by the obligor or which he may afterward acquire, until the lien ceases. This lien is in addition to any other lien created by the judgment or order.

(2) The lien has the priority granted a secured creditor and is limited to the amount of due and unpaid child support arrearages.

(3) The person or public agency authorized to collect or enforce the child support order may serve notice of the support lien upon any person, firm, corporation, association, political subdivision, or state agency in possession of real or personal property due to or owned by the obligor and to which the lien applies. After personal

service or service by certified mail of the notice of support lien, such property may not be paid over, released, sold, transferred, encumbered, or conveyed until:

(a) a written release or waiver signed by the lienor or lienor's assignee or successor-in-interest is received;

(b) an order of the court is received ordering the release of such support lien on the basis that the lien is invalid, has ceased to exist, or that there are no unpaid child support arrearages; or

(c) the lien is foreclosed in the manner provided for the foreclosure of judgment liens. (1) WHEN THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET, THE AMOUNT OF DUE AND UNPAID CHILD SUPPORT ARREARAGES ACCRUED UNDER ANY JUDGMENT OR ORDER FOR CHILD SUPPORT ISSUED BY A DISTRICT COURT UNDER THIS CHAPTER BECOMES A GENERAL LIEN UPON ALL REAL AND PERSONAL PROPERTY OF THE OBLIGOR NOT EXEMPT FROM EXECUTION. THIS LIEN IS IN ADDITION TO ANY OTHER LIEN CREATED BY THE JUDGMENT OR ORDER AND HAS THE PRIORITY GRANTED A SECURED CREDITOR.

(2) UPON A VERIFIED APPLICATION BY A PERSON AUTHORIZED TO ENFORCE OR COLLECT A CHILD SUPPORT OBLIGATION, BY THE DEPARTMENT OF REVENUE, OR BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES SHOWING THAT A PERSON OBLIGATED TO PAY CHILD SUPPORT PURSUANT TO A JUDGMENT OR ORDER OF A DISTRICT COURT IS DELINQUENT IN AN AMOUNT EQUAL TO 3 MONTHS'

1 SUPPORT PAYMENTS, THE COURT SHALL DIRECT THE OBLIGATED
 2 PERSON TO APPEAR AND SHOW CAUSE WHY A LIEN SHOULD NOT BE
 3 IMPOSED UPON THE OBLIGOR'S REAL AND PERSONAL PROPERTY.

4 (3) IF THE COURT FINDS THAT A DELINQUENCY EQUAL TO OR
 5 GREATER THAN THE TOTAL OF 3 MONTHS' SUPPORT IS OWED AND THE
 6 COURT DETERMINES THAT THE OBLIGATED PERSON HAS REAL OR
 7 PERSONAL PROPERTY UPON WHICH A LIEN MAY BE IMPOSED, THE
 8 COURT MAY ENTER AN ORDER IMPOSING A LIEN IN THE AMOUNT OF
 9 THE SUPPORT ARREARAGES. THE ORDER IMPOSING THE LIEN MUST BE
 10 DOCKETED IN THE JUDGMENT BOOK OF THE CLERK OF COURT.

11 (4) Any person, firm, corporation, association,
 12 political subdivision, or state agency who, after service of
 13 the notice of support lien, pays over, releases, sells,
 14 transfers, or conveys real or personal property subject to
 15 a support lien to or for the benefit of the obligor is
 16 liable to the lienor or the lienor's assignee or successor
 17 in interest, in an amount equal to 100% of the value of the
 18 unpaid child support which is the basis of the lien.

19 (5) If child support provided in the judgment or order
 20 is directed to be paid to the clerk of court and such
 21 direction is set forth in the judgment order, the clerk of
 22 court's payment records are prima facie evidence of the
 23 amount of the lien for unpaid child support ~~and-conclusive~~
 24 ~~in-favor-of-any-person-dealing--in--good--faith--and--for--a~~
 25 ~~valuable-consideration-with-the-obligor.~~

1 (6) A lien created under this section may be cancelled
 2 and discharged upon full satisfaction. Such lien is not
 3 satisfied in full until the obligation to support each minor
 4 has ceased under the laws of this state and until all
 5 arrearages for unpaid child support have been satisfied.

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

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

Section 1. Lien for unpaid child support. {1}--Every judgment--or--order--for--child-support-issued-by-a-district court-under-this-chapter-becomes-a-lien-upon--all--real--and personal--property-of-the-obligor-not-exempt-from-execution, owned-by-the-obligor-or-which--he--may--afterward--acquire, until--the--lien--ceases.---This--lien-is-in-addition-to-any other-lien-created-by-the-judgment-or-order:

{2}--The--lien--has--the--priority--granted--a--secured creditor--and--is--limited--to--the-amount-of-due-and-unpaid child-support-arrearages:

{3}--The-person-or-public-agency-authorized-to--collect or--enforce--the-child-support-order-may-serve-notice-of-the support---lien---upon---any---person,---firm,---corporation, association,---political--subdivision,---or--state--agency--in possession-of-real-or-personal-property-due-to-or-owned-by the--obligor--and-to-which-the-lien-applies.---After-personal

service-or-service--by--certified--mail--of--the--notice--of support--lien,--such-property-may-not-be-paid-over,--released, sold,--transferred,--encumbered,--or--conveyed-until:

(a)--a-written-release-or-waiver-signed-by--the--lienor or--lienor's--assignee-or-successor-in-interest-is-received;

(b)--an-order-of-the-court--is--received--ordering--the release--of--such-support-lien-on-the-basis-that-the-lien-is invalid,--has-ceased-to-exist,--or--that--there--are--no--unpaid child-support-arrearages;--or

(c)--the--lien-is-foreclosed-in-the-manner-provided-for the---foreclosure---of---judgment---liens: (1) WHEN THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET, THE AMOUNT OF DUE AND UNPAID CHILD SUPPORT ARREARAGES ACCRUED UNDER ANY JUDGMENT OR ORDER FOR CHILD SUPPORT ISSUED BY A DISTRICT COURT UNDER THIS CHAPTER BECOMES A GENERAL LIEN UPON ALL REAL AND PERSONAL PROPERTY OF THE OBLIGOR NOT EXEMPT FROM EXECUTION. THIS LIEN IS IN ADDITION TO ANY OTHER LIEN CREATED BY THE JUDGMENT OR ORDER AND HAS THE PRIORITY GRANTED A SECURED CREDITOR.

(2) UPON A VERIFIED APPLICATION BY A PERSON AUTHORIZED TO ENFORCE OR COLLECT A CHILD SUPPORT OBLIGATION, BY THE DEPARTMENT OF REVENUE, OR BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES SHOWING THAT A PERSON OBLIGATED TO PAY CHILD SUPPORT PURSUANT TO A JUDGMENT OR ORDER OF A DISTRICT COURT IS DELINQUENT IN AN AMOUNT EQUAL TO 3 MONTHS'



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 2 PERSON TO APPEAR AND SHOW CAUSE WHY A LIEN SHOULD NOT BE
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4 (3) IF THE COURT FINDS THAT A DELINQUENCY EQUAL TO OR
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 8 COURT MAY ENTER AN ORDER IMPOSING A LIEN IN THE AMOUNT OF
 9 THE SUPPORT ARREARAGES. THE ORDER IMPOSING THE LIEN MUST BE
 10 DOCKETED IN THE JUDGMENT BOOK OF THE CLERK OF COURT.

11 (4) Any person, firm, corporation, association,
 12 political subdivision, or state agency who, after service of
 13 the notice of support lien, pays over, releases, sells,
 14 transfers, or conveys real or personal property subject to
 15 a support lien to or for the benefit of the obligor is
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 21 direction is set forth in the judgment order, the clerk of
 22 court's payment records are prima facie evidence of the
 23 amount of the lien for unpaid child support and ~~conclusive~~
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