

HOUSE BILL NO. 78

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

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| JANUARY 5, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. |
| FEBRUARY 19, 1987 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| FEBRUARY 20, 1987 | PRINTING REPORT. |
| FEBRUARY 21, 1987 | SECOND READING, DO PASS. ENGROSSING REPORT. |
| FEBRUARY 23, 1987 | THIRD READING, PASSED. AYES, 94; NOES, 4. TRANSMITTED TO SENATE. |

IN THE SENATE

| | |
|----------------|--|
| MARCH 2, 1987 | INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. |
| MARCH 20, 1987 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 24, 1987 | SECOND READING, CONCURRED IN. |
| MARCH 26, 1987 | THIRD READING, CONCURRED IN. AYES, 50; NOES, 0. RETURNED TO HOUSE WITH AMENDMENTS. |

IN THE HOUSE

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| APRIL 7, 1987 | RECEIVED FROM SENATE. SECOND READING, AMENDMENTS CONCURRED IN. |
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APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HOUSE BILL NO. 78
2 INTRODUCED BY J. BROWN
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE
6 ATTACHMENT OR GARNISHMENT OF WORKERS' COMPENSATION BENEFITS
7 FOR THE PAYMENT OF CERTAIN CHILD SUPPORT OBLIGATIONS; AND
8 AMENDING SECTION 39-71-743, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 39-71-743, MCA, is amended to read:
12 "39-71-743. Assignment or attachment of payments. (1)
13 No payments under this chapter shall be assignable, subject
14 to attachment or garnishment, or be held liable in any way
15 for debts, except:
16 (a) as provided in 71-3-1118-; or
17 (b) to defray a monetary obligation for current or
18 past-due child support, subject to the limitations in
19 subsection (2), whenever:
20 (i) the support obligation is established by order of
21 a court of competent jurisdiction or by order rendered in an
22 administrative process authorized by state law; and
23 (ii) the order is being enforced by the department of
24 revenue or other public agency pursuant to Title IV-D of the
25 federal Social Security Act.

1 (2) Payments under this section are subject to
2 assignment, attachment, or garnishment for child support as
3 follows:
4 (a) The compensation recipient is entitled to the
5 first \$110 of every weekly payment.
6 (b) The Title IV-D agency under the federal Social
7 Security Act is entitled to the remainder of each weekly
8 payment up to a maximum of 50% of the total payment.
9 (c) The Title IV-D agency under the federal Social
10 Security Act is entitled to a maximum of 50% of any lump-sum
11 settlement payment.
12 ~~†2)†~~(3) After determination that the claim is covered
13 under the Workers' Compensation Act or Occupational Disease
14 Act of Montana, the liability for payment of the claim is
15 the responsibility of the appropriate workers' compensation
16 insurer. No fee or charge shall be payable by the injured
17 worker for treatment of injuries sustained if liability is
18 accepted by the insurer."
19 NEW SECTION. Section 2. Extension of authority. Any
20 existing authority of the department of revenue or the
21 department of labor to make rules on the subject of the
22 provisions of this act is extended to the provisions of this
23 act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB078, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to permit the attachment or garnishment of Workers' Compensation benefits for the payments of certain child support obligations; and amending Section 39-71-743, MCA.

ASSUMPTIONS:

- A. Current staff will be able to absorb the increased workload.
- B. 5% of compensation cases will require a payment to child support.
- C. The division's computerized compensation check-writing system will be operational by 7/1/87.
- D. The Statement of Benefits form and the computer program which prints the form must be changed.
- E. The AFDC match rate is 66.38% federal funds.

FISCAL IMPACT:Expenditures:

Workers Compensation Division:

| | FY88 | |
|--|-------------|--------------|
| | Current Law | Proposed Law |
| Data processing development costs (one time) | \$ 0 | \$ 2,720 |

Funding Source: Workers' Compensation Fund = \$2,720

Revenues:

Under the proposed law, the money received by the garnishment of the claim would be distributed to the general fund and federal fund in the same ratio as the AFDC claim is paid.

The Department of Revenue estimates \$20,000 to be returned per year under the proposed law. The breakout of the \$20,000 would be 66.38% or \$13,276 federal funds and 33.62% or \$6,724 general fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

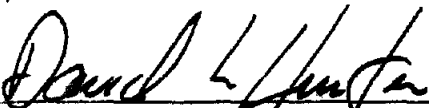
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

 DATE 1/10/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 1/12/87
JAN BROWN, PRIMARY SPONSOR

Fiscal Note for HB078, as introduced.

HB78

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 78

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE ATTACHMENT OR GARNISHMENT OF WORKERS' COMPENSATION LUMP-SUM BENEFITS FOR THE PAYMENT OF CERTAIN CHILD SUPPORT OBLIGATIONS; AND AMENDING SECTION 39-71-743, MCA."

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

Section 1. Section 39-71-743, MCA, is amended to read:

"39-71-743. Assignment or attachment of payments. (1)

No payments under this chapter shall be assignable, subject to attachment or garnishment, or be held liable in any way for debts, except:

(a) as provided in 71-3-1118; or

(b) to defray a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever:

(i) the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; and

(ii) the order is being enforced by the department of revenue or other public agency pursuant to Title IV-D of the federal Social Security Act.

(2) Payments A LUMP-SUM PAYMENT under this section are CHAPTER IS subject to assignment, attachment, or garnishment for child support as follows:

(a) The compensation recipient is entitled to the first 9118 of every weekly payment.

(b) The Title IV-D agency under the federal Social Security Act is entitled to the remainder of each weekly payment up to a maximum of 50% of the total payment.

(c) The Title IV-D agency under the federal Social Security Act is entitled to a maximum of 50% of any lump-sum settlement payment BY THE TITLE IV-D AGENCY UNDER THE FEDERAL SOCIAL SECURITY ACT IN THE AMOUNT THAT PART OF A LUMP SUM IS SPECIFICALLY GRANTED FOR THE PAYMENT OF PAST-DUE CHILD SUPPORT.

(2)(3) After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. No fee or charge shall be payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue or the department of labor to make rules on the subject of the provisions of this act is extended to the provisions of this

HB 0078/02

1 act.

-End-

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(a) as provided in 71-3-1118; or

(b) to defray a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever:

(i) the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; and

(ii) the order is being enforced by the department of revenue or other public agency pursuant to Title IV-D of the federal Social Security Act.

(2) Payments A LUMP-SUM PAYMENT under this section are CHAPTER IS subject to assignment, attachment, or garnishment for child support as follows:

(a) The compensation recipient is entitled to the first \$110 of every weekly payment;

(b) The Title IV-B agency under the federal Social Security Act is entitled to the remainder of each weekly payment up to a maximum of 50% of the total payment;

(c) The Title IV-B agency under the federal Social Security Act is entitled to a maximum of 50% of any lump-sum settlement payment BY THE TITLE IV-D AGENCY UNDER THE FEDERAL SOCIAL SECURITY ACT IN THE AMOUNT THAT PART OF A LUMP SUM IS SPECIFICALLY GRANTED FOR THE PAYMENT OF PAST-DUE CHILD SUPPORT.

{2}{3} After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. No fee or charge shall be payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer."

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(a) as provided in 71-3-1118; or

(b) to defray a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever:

{+} the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; and

{+} the order is being enforced by the department of revenue or other public agency pursuant to Title IV-D of the

federal Social Security Act.

(2) Payments A-LUMP-SUM-PAYMENT PAYMENTS under this section--are CHAPTER 18 ARE subject to assignment, attachment, or garnishment for child support as follows: AS FOLLOWS:

{a}--The--compensation--recipient--is--entitled--to--the first--\$110--of--every--weekly--payment;

{b}--The--Title--IV--D--agency--under--the--federal--Social Security--Act--is--entitled--to--the--remainder--of--each--weekly payment--up--to--a--maximum--of--50%--of--the--total--payment;

{c}--The--Title--IV--D--agency--under--the--federal--Social Security--Act--is--entitled--to--a--maximum--of--50%--of--any--lump-sum settlement--payment BY--THE--TITLE--IV--D--AGENCY--UNDER--THE FEDERAL--SOCIAL--SECURITY--ACT--IN--THE--AMOUNT--THAT--PART--OF--A LUMP-SUM--IS--SPECIFICALLY--GRANTED--FOR--THE--PAYMENT--OF--PAST-DUE CHILD-SUPPORT

(A) FOR ANY PERIODIC PAYMENT, AN AMOUNT UP TO THE PERCENTAGE AMOUNT ESTABLISHED IN THE GUIDELINES PROMULGATED IN SUPREME COURT ORDER NO. 86-223, DATED JANUARY 13, 1987; OR

(B) FOR ANY LUMP-SUM AWARD, AN AMOUNT UP TO THAT PORTION OF THE AWARD THAT IS APPROVED FOR PAYMENT ON THE BASIS OF A PAST-DUE CHILD SUPPORT OBLIGATION.

{2}{3} After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease

1 Act of Montana, the liability for payment of the claim is
2 the responsibility of the appropriate workers' compensation
3 insurer. No fee or charge shall be payable by the injured
4 worker for treatment of injuries sustained if liability is
5 accepted by the insurer."

6 NEW SECTION. Section 2. Extension of authority. Any
7 existing authority of the department of revenue or the
8 department of labor to make rules on the subject of the
9 provisions of this act is extended to the provisions of this
10 act.

-End-

STANDING COMMITTEE REPORT

SENATE

March 19

87

19

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 78

Third reading copy (blue)
color

Permit attachment or garnishment of workers' comp. to pay child support.
Brown (Halligan)

Respectfully report as follows: That HOUSE BILL No. 78

1. Title, line 6.
Following: "COMPENSATION"
Strike: "LUMP-SUM"

2. Page 1, line 17.
Following: "(b)"
Strike: "to defray"
Insert: "a portion of any lump-sum award or periodic payment to pay"

3. Page 1, lines 19 and 20.
Following: "whenever" on line 19
Strike: the remainder of line 19 through "(i)" on line 20


4. Page 1, lines 22 through 25.
Following: "law" on line 22
Strike: the remainder of line 22 through "Act" on line 25

5. Page 2, line 1.
Following: "Payments"
Strike: "A LUMP-SUM PAYMENT"
Insert: "Payments"

XXXXXX

XXXXXXXXXX

CONTINUED


Senator Mazurek

Chairman

SENATE JUDICIARY

HB 78

Page 2,

March 19


19 87


6. Page 2, line 2.
Following: "CHAPTER"
Strike: "IS"
Insert: "are"

7. Page 2, line 3.
Following: "follows."
Insert: "as follows:"

8. Page 2, lines 11 through 14.
Following: "payment" on line 11
Strike: the remainder of line 11 through "SUPPORT" on line 14
Insert: "(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated in supreme court Order No. 86-223, dated January 13, 1987; or
(b) for any lump-sum award, an amount up to that portion of the award that is approved for payment on the basis of a past-due child support obligation"

C:\LANE\WP\AMDHB78.

 AND AS AMENDED
BE CONCURRED IN


Senator Mazurek