

SENATE BILL NO. 22

INTRODUCED BY ECK

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 11, 1989	PRINTING REPORT.
JANUARY 12, 1989	SECOND READING, DO PASS.
JANUARY 13, 1989	ENGROSSING REPORT.
JANUARY 14, 1989	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 96; NOES, 0.
	RETURNED TO SENATE.

MARCH 14, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 22
2 INTRODUCED BY ECK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPEDITE THE
6 DETERMINATION OF CHILD SUPPORT OBLIGATIONS FOR INTERSTATE
7 CASES BY ESTABLISHING A CENTRAL CASE CLEARINGHOUSE AND AN
8 ADMINISTRATIVE RESOLUTION PROCESS; TO PROVIDE FOR
9 COOPERATIVE AGREEMENTS TO COLLECT CHILD SUPPORT; AND
10 AMENDING SECTION 40-5-201, MCA."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 **Section 1.** Section 40-5-201, MCA, is amended to read:
14 "40-5-201. Definitions. As used in this part, the
15 following definitions apply:
16 (1) "Child" or "dependent child" means any person
17 under 18 years of age who is not otherwise emancipated,
18 self-supporting, married, or a member of the armed forces of
19 the United States.
20 (2) "Department" means the department of revenue.
21 (3) "Director" means the director of the department of
22 revenue or his authorized representative.
23 (4) "Disposable earnings" means that part of the
24 earnings of any individual remaining after the deduction
25 from those earnings of any amount required by law to be

1 withheld.

2 (5) "District court order" means any judgment or order
3 of the district court of the state of Montana or an order of
4 a court of appropriate jurisdiction of another state
5 ordering payment of a set or determinable amount of support
6 money.

7 (6) "Earnings" means compensation paid or payable for
8 personal services, whether denominated as wages, salary,
9 commission, bonus, or otherwise, and specifically includes
10 periodic payments under pension or retirement programs or
11 insurance policies of any type. "Earnings" specifically
12 includes all gain derived from capital, labor, or both
13 combined, including profit gained through sale or conversion
14 of capital assets.

15 (7) "Need" means the necessary costs of food,
16 clothing, shelter, and medical care for the support of a
17 dependent child or children.

18 (8) "Public assistance" means any type of monetary or
19 other assistance, including medical and foster care
20 benefits, furnished to a person by a state or county agency,
21 regardless of the original source of the assistance.

22 (9) "Responsible parent" means the natural or adoptive
23 parent of a dependent child.

24 (10) "Support debt" or "support obligation" means:

25 (a) the sum created by the failure to provide support

1 to a dependent child under the laws of this state or the
2 decree of any court of appropriate jurisdiction ordering a
3 sum to be paid as child support; or

4 (b) the sum created by a decree or order of any court
5 of appropriate jurisdiction ordering a sum to be paid as
6 spousal maintenance under chapter 4, part 2, of this title
7 when the judgment or order requiring payment of maintenance
8 also contains a judgment or order requiring payment of child
9 support for a child of whom the person awarded maintenance
10 is the custodial parent.

11 (11) "IV-D" means the provisions of Title IV-D of the
12 Social Security Act and the regulations promulgated
13 thereunder."

14 **Section 2. Central clearinghouse -- interstate**
15 **enforcement services -- powers and duties of the department.**

16 (1) The department shall establish a clearinghouse for the
17 registration of all interstate IV-D cases referred to the
18 department by other states. The clearinghouse shall serve
19 as the central point for the receipt and dissemination of
20 information regarding interstate enforcement requests,
21 including but not limited to:

22 (a) petitions under the Revised Uniform Reciprocal
23 Enforcement of Support Act; and

24 (b) wage withholding requests under part 4 of this
25 chapter.

1 (2) (a) A case must be referred to the clearinghouse
2 to be processed as a IV-D case and receive the benefits of
3 IV-D status and clearinghouse services.

4 (b) The clearinghouse may accept any interstate IV-D
5 referral made by interstate application or by petition under
6 the Revised Uniform Reciprocal Enforcement of Support Act.
7 An application must be made on forms prescribed by the
8 department.

9 (3) Upon certification by the initiating state that a
10 case filed in the registry of foreign support orders,
11 including a petition under the Revised Uniform Reciprocal
12 Enforcement of Support Act, is eligible for IV-D services
13 and that the obligor resides, has property, or derives
14 income in this state, the department may establish or
15 enforce a child support obligation by any appropriate
16 statute, including the remedies in this chapter.

17 (4) If necessary, the department shall establish the
18 paternity of the child.

19 (5) The clearinghouse shall:

20 (a) review and acknowledge receipt of any interstate
21 IV-D referral;

22 (b) request missing information from the initiating
23 state;

24 (c) determine appropriate enforcement remedies and
25 forward the referral to the appropriate enforcement unit;

1 (d) provide status updates to the initiating state,
2 including the location of the responsible enforcement unit;

3 (e) locate an obligor and the obligor's assets, if
4 necessary; and

5 (f) initiate a IV-D referral if services are provided
6 by the department to a resident of this state and the
7 obligor resides outside the state.

8 (6) If the department is providing support enforcement
9 services to a resident of this state, the director or his
10 designee may certify any interstate petition, application,
11 and referral, including a petition under part 1 of this
12 chapter.

13 **Section 3. Cooperative agreements.** (1) The department
14 may enter into cooperative agreements with any person, firm,
15 corporation, association, political subdivision, or
16 department of this state as a cooperating contractor to
17 provide enforcement services.

18 (2) A cooperating contractor:

19 (a) shall act as an independent support enforcement
20 contractor if the cooperating contractor provides
21 enforcement services; and

22 (b) may pursue any remedy available to the department,
23 as limited by the terms of the cooperative agreement.

24 (3) The department may refer an enforcement case to a
25 cooperating contractor in the county where the obligor

1 resides.

2 **Section 4. Codification instruction.** [Sections 2 and
3 3] are intended to be codified as an integral part of Title
4 40, chapter 5, part 2, and the provisions of Title 40,
5 chapter 5, part 2, apply to [sections 2 and 3].

6 **Section 5. Extension of authority.** Any existing
7 authority to make rules on the subject of the provisions of
8 [this act] is extended to the provisions of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB022, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to expedite the determination of child support obligations for interstate cases by establishing a central case clearinghouse and an administrative resolution process; to provide for cooperative agreements to collect child support.

ASSUMPTIONS:

1. Currently a portion of interstate enforcement services are being contracted out to the counties. It is assumed that due to the additional federal mandatory requirements the counties will choose to return the interstate cases to the state for handling.
2. The state's caseload will increase by 2000.
3. Two additional FTE are required; one position at Grade 12, Step 2; one position at Grade 9, step 2. (These positions are included in the department's budget modification request.)
4. Funding is 34% general fund and 66% federal funds. (The additional administrative expense shown below reflects the state general fund portion only.)
5. Department collections will be the same as those currently collected by the counties; \$661,990 per year.
6. Federal government incentive payments (which are based on cost-effectiveness ratios) are computed at 8.1% of collections; federal government incentive payments will be \$53,932 per year, the amount currently going to the counties.
7. Preliminary audit results (concluded 10/87) indicate non-compliance in county services. Graduated federal sanctions from 1% to 5% of the federal share of AFDC program funds can be applied if full services are not provided to all cases. It is presumed that state assumption of services currently provided by counties will help the state more fully comply with federal requirements. If a 1% sanction is applied, it would represent a reduction of \$270,663 in federal AFDC funding. If a 5% sanction is applied, it would represent a reduction of \$1,353,314 in funding.



RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

11/9/89



DOROTHY ECK, PRIMARY SPONSOR, DATE

Fiscal Note for SB022, as introduced

SB 22

Fiscal Note Request, SB022 as introduced

Form BD-15

Page 2

FISCAL IMPACT:

	<u>FY '90</u>		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Fed. Govt. Incentive Payment (General Fund)	\$ 0	\$ 53,932	\$ 53,932

	<u>FY '91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
	\$ 0	\$ 53,932	\$ 53,932

<u>General Fund</u>	<u>FY '90</u>		
<u>Expenditure Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ 0	\$ 13,469	\$ 13,469
Operating Expense	0	4,420	4,420
Capital Outlay	0	480	480
Total	\$ 0	\$ 18,369	\$ 18,369

	<u>FY '91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
	\$ 0	\$ 13,479	\$ 13,479
	0	4,420	4,420
	0	0	0
	\$ 0	\$ 17,899	\$ 17,899

SB 22

APPROVED BY COMMITTEE
ON JUDICIARY

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(b) The clearinghouse may accept any interstate IV-D referral made by interstate application or by petition under the Revised Uniform Reciprocal Enforcement of Support Act. An application must be made on forms prescribed by the department.

(3) Upon certification by the initiating state that a case filed in the registry of foreign support orders, including a petition under the Revised Uniform Reciprocal Enforcement of Support Act, is eligible for IV-D services and that the obligor resides, has property, or derives income in this state, the department may establish or enforce a child support obligation by any appropriate statute, including the remedies in this chapter.

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(3) Upon certification by the initiating state that a case filed in the registry of foreign support orders, including a petition under the Revised Uniform Reciprocal Enforcement of Support Act, is eligible for IV-D services and that the obligor resides, has property, or derives income in this state, the department may establish or enforce a child support obligation by any appropriate statute, including the remedies in this chapter.

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